



**AGENDA
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
REGULAR MEETING
CITY HALL
DECEMBER 7, 2015
7:00 PM**

- 1. Call to Order & Pledge of Allegiance**
- 2. Roll Call**
 - A. Roll Call**
- 3. Ceremonial Matters**
 - A. A Service Award for John Thulin, Water Department, for Ten Years of Loyal Service to the City of Harrisonville, Missouri**
- 4. Public Participation**
- 5. Approval of Minutes**
 - A. Board of Aldermen - Special Meeting - Sep 16, 2015 6:00 PM**
 - B. Board of Aldermen - Special Meeting - Oct 26, 2015 6:00 PM**
 - C. Board of Aldermen - Regular Meeting - Nov 16, 2015 7:00 PM**
- 6. Agenda Items**
 - A. Public Hearing to Vacate a Portion of Brookhart Drive Adjacent to Love's Development**
 - B. Council Bill 091: AN ORDINANCE VACATING A PORTION OF BROOKHART DRIVE, ADJACENT TO THE LOVE'S DEVELOPMENT, IN HARRISONVILLE, CASS COUNTY, MISSOURI.**
 - C. Council Bill 092: AN ORDINANCE TO ACCEPT THE FINAL PLAT OF LOVE'S ADDITION, A SUBDIVISION OF LAND IN SECTIONS 4 AND 5, IN TOWNSHIP 44 NORTH, RANGE 31 WEST, IN THE CITY OF HARRISONVILLE, CASS COUNTY, MISSOURI**
 - D. Council Bill 093: AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A DEVELOPMENT AGREEMENT IN CONNECTION WITH THE LOVE'S ADDITION GENERALLY**

LOCATED AT BROOKHART ROAD AND SOUTH COMMERCIAL STREET

- E. Council Bill 094: A Resolution of the Harrisonville Board of Aldermen authorizing the City Administrator to Execute a Preliminary Design Build Agreement with Burns and McDonnell for Emergency Repairs at the Wastewater Treatment Plant in an Amount not to exceed \$15,000**
 - F. Council Bill 095: A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO RESTORE FUNDING FOR AN IT SPECIALIST POSITION IN THE 2016 BUDGET AND TO ACCEPT AMENDMENTS TO THE PAY COMPENSATION STRUCTURE**
 - G. Council Bill 096: A Resolution of the Board of Aldermen to Approve Change Order #8 to the Lehman Construction contract with the Highway 71/291 Partners in Progress Transportation Development District in the amount of \$24,609.60**
 - H. Council Bill 097: A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH BOWERS ENGINEERING FOR ENGINEERING DESIGN SERVICES IN AN AMOUNT NOT TO EXCEED \$40,000**
 - I. Council Bill 098: A Resolution Authorizing the City Administrator to Execute a Settlement Agreement with CenturyLink**
 - J. Council Bill 099: An Ordinance to Amend Chapter 105, Elections, of the Harrisonville Municipal Code of Ordinances**
 - K. Council Bill 100: AN ORDINANCE TO REPEAL ORDINANCE 3304 AND TO PROHIBIT UTILITY VEHICLES FROM BEING DRIVEN ON STREETS WITHIN THE CITY LIMITS OF HARRISONVILLE**
- 7. Aldermen and Committee Reports**
 - 8. Report from the City Administrator**
 - 9. Report from the Mayor**
 - 10. Questions from the Media**
 - 11. Adjourn to Executive Session**
 - 12. Adjourn From Regular Session**

Posted on City Hall Bulletin Board this 3rd day of December 2015

Kim Hubbard, City Clerk

The Board of Aldermen meeting is an open meeting but is not a meeting of the public. There is a place on the agenda for comments of citizens under PUBLIC PARTICIPATION. Our rule is that comments by any individual or group shall not exceed (4) minutes. The Board of Aldermen request that concerns be initially addressed at the appropriate action level before coming to the Board of Alderman



TO: Board of Aldermen
FROM: Sheryl Stanley, Deputy City Clerk
DATE: November 24, 2015
SUBJECT: Service Award for John Thulin

Type of Item: *Presentation*

John Thulin, Water Department employee, joined the city on November 21, 2005. This month, he is celebrating his tenth anniversary with the City of Harrisonville.

A. Action Item (ID # 2063)

A Service Award for John Thulin, Water Department, for Ten Years of Loyal Service to the City of Harrisonville, Missouri

Attachments:

John Thulin (PDF)

Presented by the Mayor and the Harrisonville Board of Aldermen to

John Thulin

In Grateful Appreciation for

10 Years

Of Dedicated Service to



December 7, 2015

Brian Hasek, Mayor



DRAFT
MINUTES
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
SPECIAL MEETING
POLICE DEPARTMENT
SEPTEMBER 16, 2015
6:00 PM

1. Call to Order

The meeting was called to order at 6:00 PM by Mayor Brian Hasek

Attendee Name	Title	Status	Arrived
Judy Bowman	Board Member	Present	
Clint Long	Board Member	Present	
Josh Stafford	Board Member	Present	
David Dickerson	Board Member	Present	
Ivan Stull	Board Member	Absent	
Marcia Milner	Board Member	Present	
Morris Coburn	Board Member	Present	
Stacey Dahlman	Board Member	Present	
Brian Hasek	Mayor	Present	

Others Present: Finance Director Mike Tholen, City Attorney Steve Mauer and City Clerk Kim Hubbard.

2. Adjourn to Executive Session

Alderman Coburn moved to adjourn to Executive Session for the purpose of Section 610.021 (3) Personnel. Alderman Milner seconded the motion which was approved with the following roll call vote:

Ayes: Aldermen Bowman, Dahlman, Milner, Coburn, Dickerson, Long and Stafford

Nays: None

Abstain: None

Absent: Alderman Stull

The Board adjourned to Executive Session at 6:04 PM

The Board reconvened to regular session at 7:31 M

3. Adjourn From Regular Session

Brian Hasek, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

Minutes Acceptance: Minutes of Sep 16, 2015 6:00 PM (Approval of Minutes)



DRAFT
MINUTES
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
SPECIAL MEETING
CITY HALL
OCTOBER 26, 2015
6:00 PM

I. Call to Order & Pledge of Allegiance

II. Roll Call

Attendee Name	Title	Status	Arrived
Judy Bowman	Board Member	Absent	
Clint Long	Board Member	Present	
Josh Stafford	Board Member	Present	
David Dickerson	Board Member	Present	
Ivan Stull	Board Member	Present	
Marcia Milner	Board Member	Present	
Morris Coburn	Board Member	Present	
Stacey Dahlman	Board Member	Present	
Brian Hasek	Mayor	Present	

Others present: Interim City Administrator Mike Tholen and City Clerk Kim Hubbard.

III. Adjourn to Executive Session

Alderman Stull moved to adjourn to Executive Session for the purpose of Section 610.021 (3) Personnel. Alderman Milner seconded the motion which was approved with the following roll call vote:

Ayes: Aldermen Dahlman, Milner, Coburn, Dickerson, Long, Stull, and Stafford

Nays: None

Abstain: None

Absent: Alderman Bowman.

The Board adjourned to Executive Session at 6:09 PM

The Board reconvened to regular session at 7:56 M

IV. Adjourn from Regular Session

Alerman Milner moved to adjourn the regular meeting, Alderman Dahlman seconded the motion and it was approved by a voice vote. The meeting adjourned at 7:57 pm.

Brian Hasek, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

Minutes Acceptance: Minutes of Oct 26, 2015 6:00 PM (Approval of Minutes)



DRAFT
MINUTES
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
REGULAR MEETING
CITY HALL
NOVEMBER 16, 2015
7:00 PM

1. **Call to Order & Pledge of Allegiance**
2. **Roll Call**

Attendee Name	Title	Status	Arrived
Judy Bowman	Board Member	Present	
Clint Long	Board Member	Present	
Josh Stafford	Board Member	Present	
David Dickerson	Board Member	Present	
Ivan Stull	Board Member	Present	
Marcia Milner	Board Member	Present	
Morris Coburn	Board Member	Present	
Stacey Dahlman	Board Member	Present	
Brian Hasek	Mayor	Present	

Others attending: Interim City Administrator Mike Tholen, City Attorney Steve Mauer, Finance Director Marcella McCoy, Community Development Director Rick DeLuca, Police Chief John Hofer, City Clerk Kim Hubbard, Public Information Officer Sheryl Stanley, Parks & Recreation Director Chris Deal, Street Superintendent Rodney Jacobs, Public Works Director Jerry Gibbs, and Assistant Public Works Director Eric Patterson.

3. **Ceremonial Matters**

- A. **Service Award, Rodney Jacobs, Streets, 40 Years**

Mayor Hasek recognized Street Superintendent Rodney Jacobs for his 40 years of service to the City.

- B. **Boards and Commissions Appointments**

Mayor Hasek made the recommendation to appoint Shannon Sipple and Cary Corley to the BZA. Alderman Milner moved to approve the appointments. Alderman Dickerson seconded the motion and it was approved unanimously by a voice vote.

Mayor Hasek made the recommendation to re-appoint Scott Milner to the Planning and Zoning Commission. Alderman Dickerson made a motion to approve the

Minutes Acceptance: Minutes of Nov 16, 2015 7:00 PM (Approval of Minutes)

recommendation, Alderman Long seconded the motion and it was approved unanimously by a voice vote.

4. Public Participation

Andy Barton, Regional Sales Manager and Bill Rose, District Manager with WCA introduced themselves to the Board and let them know that WCA had acquired Town and Country Disposal.

Alderman Milner welcomed them to Harrisonville.

John Teague, 501 Younger, inquired whether a decision had been made regarding the city taking over the lights on the inside of the square. Mayor Hasek stated he would get back to him.

5. Approval of Minutes

A. Board of Aldermen - Regular Meeting - Oct 5, 2015 7:00 PM

Mayor Hasek noted the minutes had been revised to reflect the following vote on Council Bill 077, the ordinance to adopt the budget. Ayes: Aldermen Bowman, Stafford, Stull, Milner and Dahlman, Nays: Aldermen Long, Dickerson and Coburn.

Minutes were approved.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Marcia Milner, Board Member
SECONDER:	Judy Bowman, Board Member
AYES:	Bowman, Long, Stafford, Dickerson, Stull, Milner, Coburn, Dahlman

B. Board of Aldermen - Regular Meeting - Nov 2, 2015 7:00 PM

Minutes were approved.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Josh Stafford, Board Member
SECONDER:	Marcia Milner, Board Member
AYES:	Bowman, Long, Stafford, Dickerson, Stull, Milner, Coburn, Dahlman

6. Agenda Items

A. Christmas on the Square Event Permit

Chief Hofer reviewed the event permit and reported staff recommended approval and noted staff's recommendation that the carriage and train rides remain behind the barricades and not mix with vehicular traffic. Chief Hofer also noted the Rotary Club has insurance for the train. Event permit was approved.

Minutes Acceptance: Minutes of Nov 16, 2015 7:00 PM (Approval of Minutes)

RESULT:	RECOMMENDED [UNANIMOUS]
MOVER:	Morris Coburn, Board Member
SECONDER:	David Dickerson, Board Member
AYES:	Bowman, Long, Stafford, Dickerson, Stull, Milner, Coburn, Dahlman

B. Update on Trap & Skeet Lease Agreement

Director Deal updated the Board that the Heartland Trap & Wobble Skeet, Inc is unable to meet the expectations of the lease agreement and has turned in their notice to terminate the agreement. Mr. Deal also reported there are two trap throwers that are missing and has been turned into the county sheriff. Mr. Deal reported he will be requesting proposals for a new lease agreement, the monthly fee at this time is \$115 monthly, he will look at what other organizations charge and there is no penalty for early termination with a 60 day notice which was provided. Mr. Deal pointed out the improvements that have been made by Heartland over the years.

C. AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF HARRISONVILLE AS FOLLOWS: CHAPTER 700, SECTION 700.460 AND SECTION 700.480 BY ESTABLISHING NEW RATES FOR MUNICIPAL WATER SERVICES AND SEWER SERVICES AND TO ESTABLISH A NEW SOLID WASTE COLLECTION SERVICE FEE AS AUTHORIZED BY CHAPTER 240, SECTION 240.250.

City Attorney Mauer read Council Bill 076 by title only.

Mr. Tholen reported at the November 9 work session water and sewer rates and solid waste rates were discussed and staff presented new rates which were less than what had been originally proposed. The consensus of the board was to present the new proposed rates at the next board meeting.

Alderman Bowman made the motion to amend Council Bill 076 to reflect the rate structure. Alderman Milner seconded the motion and it was approved by a voice vote.

Council Bill 076 became Ordinance 3340.

RESULT:	ADOPTED AS AMENDED [5 TO 3]
AYES:	Bowman, Stafford, Stull, Milner, Dahlman
NAYS:	Clint Long, David Dickerson, Morris Coburn

D. An Ordinance to Amend Chapter 405, Sections 405.275 and 405.315 of the Zoning Regulations regarding Permitted Uses of the City of Harrisonville, Missouri

City Attorney Mauer read Council Bill 088 by title only. Chris Brewster, of Gould Evans went through a power point presentation and explained the process and the recommended changes.

Council Bill 088 became Ordinance 3341.

RESULT:	ADOPTED [UNANIMOUS]
AYES:	Bowman, Long, Stafford, Dickerson, Stull, Milner, Coburn, Dahlman

7. Aldermen and Committee Reports

Alderman Bowman stated she stands with France and her heart goes out to them. Alderman Bowman reported that she attended the Annual Prairie Foundation Dinner and took a tour of Snowball Hill. Alderman Bowman asked the board members to explain their reasons when they vote no on an agenda item as she felt it would be helpful to the audience and other members of the board.

Alderman Coburn reported he and his son had went to lunch at Applebee's on Veteran's Day and how much he enjoyed it.

Alderman Milner reported that during the Christmas on the Square event the Bright Futures Organization will have a store open to students so they can purchase Christmas gifts for their family members. Alderman Milner explained no item would cost over \$.025, there will be a wrapping station, and if anyone would like to donate items that they no longer need it would be greatly appreciated.

Alderman Stull asked Street Superintendent Jacobs why employees where pushing leaves into a ditch on Bird Street. Mr. Jacobs explained this was not policy and would look into it.

Alderman Stafford reported he went with a Cass County Elks Lodge member and served pulled pork sandwiches to veterans last week and commented on how appreciative they were and how much he enjoyed it.

Alderman Long congratulated Street Superintendent Jacobs on his 40 years of service to the city.

8. Report from the City Administrator

Mr. Tholen extended his congratualations to Mr. Jacobs on his 40 years of services, reminded the Board that city offices will be closed next Thursday and Friday in observance of Thanksgiving. Mr. Tholen reported there may not be a Board meeting on the 21st of December as at this time there are no agenda items scheduled and gave an update on the old power and light building.

9. Report from the Mayor

Mayor Hasek echoed Alderman Bowmans comments on France, reported on the Chamber of Commerce Clue Dinner that he and his wife attended and how much fun they had and expressed his appreciation to Mr. Jacobs for his 40 years of service.

10. Questions from the Media

No questions.

11. Adjourn to Executive Session

Alderman Stull moved to adjourn to Executive Session for the purpose of Section 610.021 (1), legal actions. Alderman Milner seconded the motion which was approved with the following roll call vote:

Ayes: Aldermen Bowman, Dahlman, Coburn, Milner, Dickerson, Long, Stull and Stafford

Nays: None

Abstain: None

Absent: None

The Board adjourned to Executive Session at 7:48 PM

The Board reconvened to regular session at 8:00 PM

12. Adjourn From Regular Session

Alderman Dickerson made the motion to adjourn the meeting. Alderman Coburn seconded and it was approved unanimously by a voice vote. The meeting adjourned at 8:00 PM.

Brian Hasek, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

Minutes Acceptance: Minutes of Nov 16, 2015 7:00 PM (Approval of Minutes)



TO: Board of Aldermen
FROM: Rick Deluca, Director
DATE: December 2, 2015
SUBJECT: Public Hearing to Vacate a Portion of Brookhart Drive Adjacent to Love's Development

Type of Item: *Public Hearing*

Issue: Brookhart Road Vacation.

Background:

Location: Brookhart Road & South Commercial Street

Applicant: Love's Travel Stop and Country Store

Owner: Love's Travel Stop and Country Store

Overview:

Love's Travel Stop and Country Store is currently developing the area located north of the South Commercial and Brookhart Intersection. The Love's site would be approximately 12 acres. A total of 5 lots would be developed in the first phase. The Love's site, Lot 1, would include a McDonalds and a Subway (tenants within the primary structure). Furthermore, a Tire Shop (affiliated with Michelin) would also be located north of the primary structure.

This vacation will vacate the unused right-of-way of Brookhart road. The right-of-way for the relocated roadway is being dedicated with the final plat. The logistics surrounding the relocation of the existing roadway and relocation of an existing intersection are challenging. The City cannot vacate the ROW prior to opening/completion of the relocated roadway. However, we don't want to delay the project by waiting for Board of Aldermen action. (Public hearings, public notices and passage of an ordinance are required by State and local law.) Therefore, staff recommends the Board of Aldermen conducting the necessary hearings and approving the

vacation ordinance, while having the effective date of the vacation ordinance concurrent with the Mayor's signature. This will minimize any delays while fulfilling City and State requirements.

Options:

The City may:

- Approve.
- Conditionally approve
- Deny.

Staff Recommendation:

Approval

A. Discussion Item (ID # 2069)

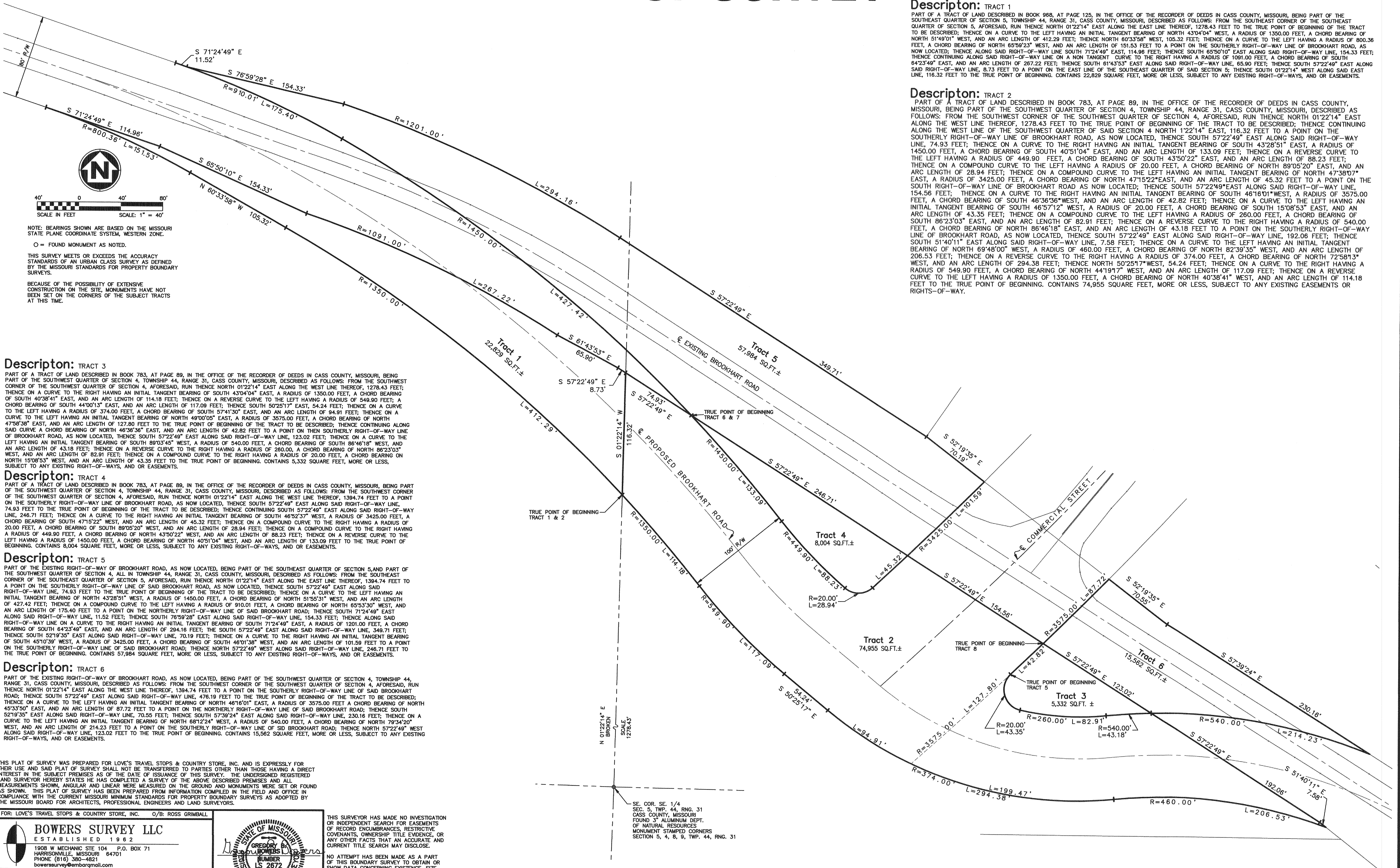
Public Hearing to Vacate a Portion of Brookhart Drive Adjacent to Love's Development

Attachments:

Brookhart_Commercial_Plat_of_Survey BOA 12-7-15 (PDF)

Relocated Brookhart Vacation Sketch BOA 12-7-15(PDF)

PLAT OF SURVEY



Description: TRACT 3
PART OF A TRACT OF LAND DESCRIBED IN BOOK 783, AT PAGE 89, IN THE OFFICE OF THE RECORDER OF DEEDS IN CASS COUNTY, MISSOURI, BEING PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 44, RANGE 31, CASS COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 4, AFORESAID, RUN THENCE NORTH 01°22'14" EAST ALONG THE WEST LINE THEREOF, 1278.43 FEET; THENCE ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 43°04'04" EAST, A RADIUS OF 1350.00 FEET, A CHORD BEARING OF SOUTH 40°38'41" EAST, AND AN ARC LENGTH OF 114.18 FEET; THENCE ON A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 549.90 FEET, A CHORD BEARING OF SOUTH 44°00'13" EAST, AND AN ARC LENGTH OF 117.09 FEET; THENCE SOUTH 57°22'49" EAST, 8.73 FEET; THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 374.00 FEET, A CHORD BEARING OF SOUTH 57°41'30" EAST, AND AN ARC LENGTH OF 94.91 FEET; THENCE ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF NORTH 49°00'05" EAST, A RADIUS OF 3575.00 FEET, A CHORD BEARING OF NORTH 47°58'38" EAST, AND AN ARC LENGTH OF 127.80 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE CONTINUING ALONG SAID CURVE A CHORD BEARING OF NORTH 46°38'36" EAST, AND AN ARC LENGTH OF 42.82 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BROOKHART ROAD, AS NOW LOCATED, THENCE SOUTH 57°22'49" EAST ALONG SAID RIGHT-OF-WAY LINE, 123.02 FEET; THENCE ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF SOUTH 89°03'45" WEST, A RADIUS OF 540.00 FEET, A CHORD BEARING OF SOUTH 86°46'18" WEST, AND AN ARC LENGTH OF 43.18 FEET; THENCE ON A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 260.00, A CHORD BEARING OF NORTH 86°23'03" WEST, AND AN ARC LENGTH OF 82.91 FEET; THENCE ON A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, A CHORD BEARING OF NORTH 15°08'53" WEST, AND AN ARC LENGTH OF 43.35 FEET TO THE TRUE POINT OF BEGINNING. CONTAINS 5,332 SQUARE FEET, MORE OR LESS, SUBJECT TO ANY EXISTING RIGHT-OF-WAYS, AND OR EASEMENTS.

Description: TRACT 4
PART OF A TRACT OF LAND DESCRIBED IN BOOK 783, AT PAGE 89, IN THE OFFICE OF THE RECORDER OF DEEDS IN CASS COUNTY, MISSOURI, BEING PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 44, RANGE 31, CASS COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 4, AFORESAID, RUN THENCE NORTH 01°22'14" EAST ALONG THE WEST LINE THEREOF, 1394.74 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BROOKHART ROAD, AS NOW LOCATED, THENCE SOUTH 57°22'49" EAST ALONG SAID RIGHT-OF-WAY LINE, 74.93 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE CONTINUING SOUTH 57°22'49" EAST ALONG SAID RIGHT-OF-WAY LINE, 246.71 FEET; THENCE ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 46°52'37" WEST, A RADIUS OF 3425.00 FEET, A CHORD BEARING OF SOUTH 47°15'22" WEST, AND AN ARC LENGTH OF 45.32 FEET; THENCE ON A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, A CHORD BEARING OF SOUTH 89°05'20" WEST, AND AN ARC LENGTH OF 28.94 FEET; THENCE ON A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 449.90 FEET, A CHORD BEARING OF NORTH 43°50'22" WEST, AND AN ARC LENGTH OF 88.23 FEET; THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 1450.00 FEET, A CHORD BEARING OF NORTH 40°51'04" WEST, AND AN ARC LENGTH OF 133.09 FEET TO THE TRUE POINT OF BEGINNING. CONTAINS 8,004 SQUARE FEET, MORE OR LESS, SUBJECT TO ANY EXISTING RIGHT-OF-WAYS, AND OR EASEMENTS.

Description: TRACT 5
PART OF THE EXISTING RIGHT-OF-WAY OF BROOKHART ROAD, AS NOW LOCATED, BEING PART OF THE SOUTHWEST QUARTER OF SECTION 5, AND PART OF THE SOUTHWEST QUARTER OF SECTION 4, ALL IN TOWNSHIP 44, RANGE 31, CASS COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 5, AFORESAID, RUN THENCE NORTH 01°22'14" EAST ALONG THE EAST LINE THEREOF, 1394.74 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID BROOKHART ROAD, AS NOW LOCATED, THENCE SOUTH 57°22'49" EAST ALONG SAID RIGHT-OF-WAY LINE, 74.93 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF NORTH 43°28'51" WEST, A RADIUS OF 1450.00 FEET, A CHORD BEARING OF NORTH 51°58'31" WEST, AND AN ARC LENGTH OF 427.42 FEET; THENCE ON A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 910.01 FEET, A CHORD BEARING OF NORTH 65°53'30" WEST, AND AN ARC LENGTH OF 175.40 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID BROOKHART ROAD; THENCE SOUTH 71°24'49" EAST ALONG SAID RIGHT-OF-WAY LINE, 11.52 FEET; THENCE SOUTH 76°59'28" EAST ALONG SAID RIGHT-OF-WAY LINE, 154.33 FEET; THENCE ALONG SAID RIGHT-OF-WAY LINE, 11.52 FEET; THENCE ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 71°24'49" EAST, A RADIUS OF 1201.00 FEET, A CHORD BEARING OF SOUTH 64°23'49" EAST, AND AN ARC LENGTH OF 294.16 FEET; THENCE ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 52°19'35" EAST ALONG SAID RIGHT-OF-WAY LINE, 70.19 FEET; THENCE ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 57°22'49" EAST ALONG SAID RIGHT-OF-WAY LINE, 192.06 FEET; THENCE ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF SOUTH 51°40'11" EAST ALONG SAID RIGHT-OF-WAY LINE, 7.58 FEET; THENCE ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF NORTH 69°48'00" WEST, A RADIUS OF 460.00 FEET, A CHORD BEARING OF NORTH 82°39'35" WEST, AND AN ARC LENGTH OF 206.53 FEET; THENCE ON A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 374.00 FEET, A CHORD BEARING OF NORTH 72°58'13" WEST, AND AN ARC LENGTH OF 294.38 FEET; THENCE NORTH 50°25'17" WEST, 54.24 FEET; THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 549.90 FEET, A CHORD BEARING OF NORTH 44°19'17" WEST, AND AN ARC LENGTH OF 117.09 FEET; THENCE ON A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 1350.00 FEET, A CHORD BEARING OF NORTH 40°38'41" WEST, AND AN ARC LENGTH OF 114.18 FEET TO THE TRUE POINT OF BEGINNING. CONTAINS 57,984 SQUARE FEET, MORE OR LESS, SUBJECT TO ANY EXISTING RIGHT-OF-WAYS, AND OR EASEMENTS.

Description: TRACT 6
PART OF THE EXISTING RIGHT-OF-WAY OF BROOKHART ROAD, AS NOW LOCATED, BEING PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 44, RANGE 31, CASS COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 4, AFORESAID, RUN THENCE NORTH 01°22'14" EAST ALONG THE WEST LINE THEREOF, 1394.74 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID BROOKHART ROAD; THENCE SOUTH 57°22'49" EAST ALONG SAID RIGHT-OF-WAY LINE, 476.19 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF NORTH 46°10'11" EAST, A RADIUS OF 3575.00 FEET, A CHORD BEARING OF NORTH 45°33'50" EAST, AND AN ARC LENGTH OF 87.72 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID BROOKHART ROAD; THENCE SOUTH 52°19'35" EAST ALONG SAID RIGHT-OF-WAY LINE, 70.55 FEET; THENCE SOUTH 57°39'24" EAST ALONG SAID RIGHT-OF-WAY LINE, 230.16 FEET; THENCE ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF NORTH 68°12'24" WEST, A RADIUS OF 540.00 FEET, A CHORD BEARING OF NORTH 79°34'20" WEST, AND AN ARC LENGTH OF 214.23 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID BROOKHART ROAD; THENCE NORTH 57°22'49" WEST ALONG SAID RIGHT-OF-WAY LINE, 123.02 FEET TO THE TRUE POINT OF BEGINNING. CONTAINS 15,562 SQUARE FEET, MORE OR LESS, SUBJECT TO ANY EXISTING RIGHT-OF-WAYS, AND OR EASEMENTS.

THIS PLAT OF SURVEY WAS PREPARED FOR LOVE'S TRAVEL STOPS & COUNTRY STORE, INC. AND IS EXPRESSLY FOR THEIR USE AND SAID PLAT OF SURVEY SHALL NOT BE TRANSFERRED TO PARTIES OTHER THAN THOSE HAVING A DIRECT INTEREST IN THE SUBJECT PREMISES AS OF THE DATE OF ISSUANCE OF THIS SURVEY. THE UNDERSIGNED REGISTERED LAND SURVEYOR HEREBY STATES HE HAS COMPLETED A SURVEY OF THE ABOVE DESCRIBED PREMISES AND ALL MEASUREMENTS SHOWN, ANGULAR AND LINEAR WERE MEASURED ON THE GROUND AND MONUMENTS WERE SET OR FOUND AS SHOWN. THIS PLAT OF SURVEY HAS BEEN PREPARED FROM INFORMATION COMPILED IN THE FIELD AND OFFICE IN COMPLIANCE WITH THE CURRENT MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AS ADOPTED BY THE MISSOURI BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

FOR: LOVE'S TRAVEL STOPS & COUNTRY STORE, INC. O/B: ROSS GRIMBALL

BOWERS SURVEY LLC
ESTABLISHED 1982
1908 W MECHANIC STE. 104 P.O. BOX 71
HARRISONVILLE, MISSOURI
PHONE (816) 380-4821
bowersurvey@emborgmail.com

SECTION	TOWNSHIP	RANGE	COUNTY	STATE	DATE	JOB NO.
4 & 5	44	31	CASS	MISSOURI	2/18/14	20862-14

DRAWING NO. 208622.DWG DRAWN BY: RB CHECKED BY:

THIS SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

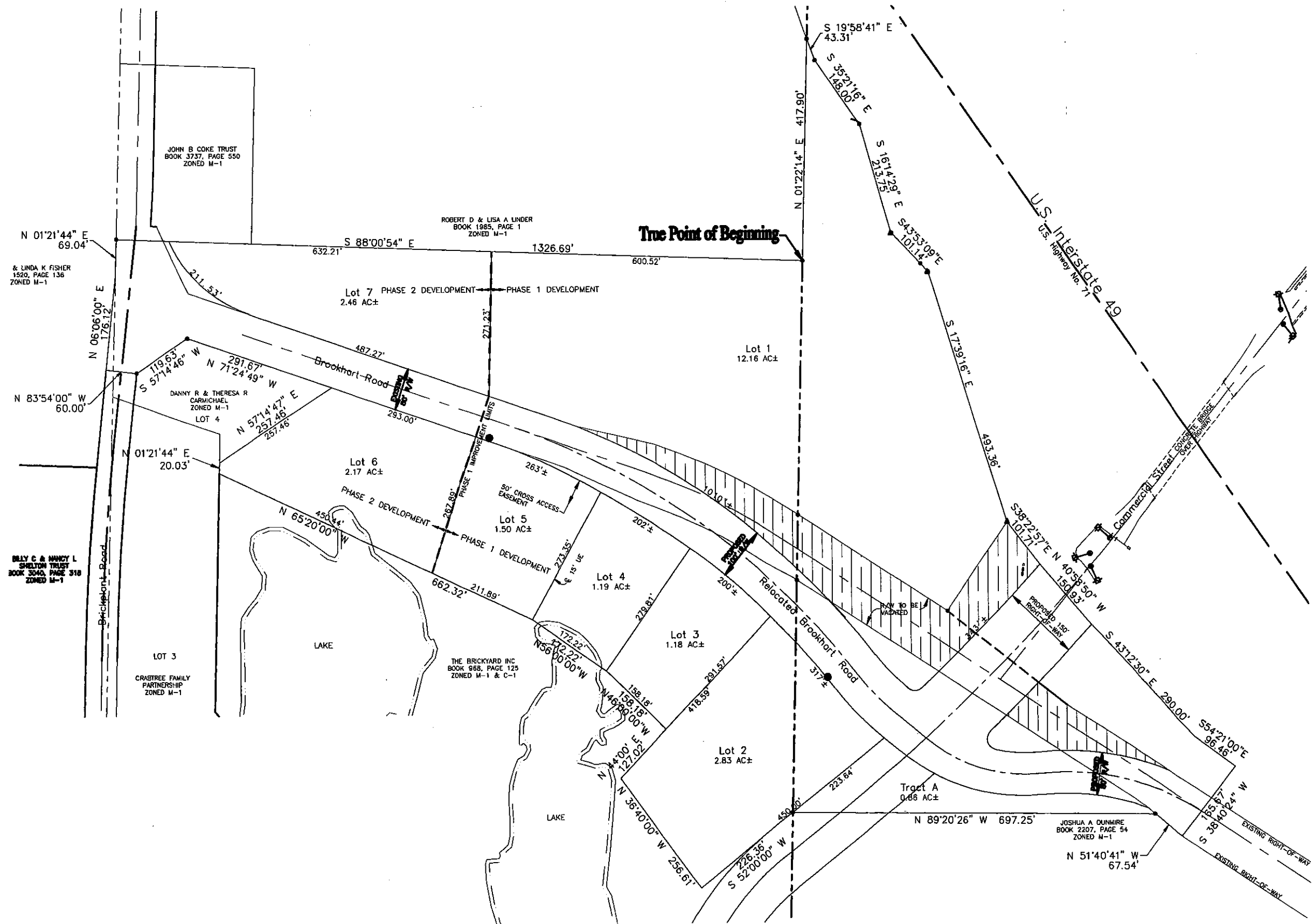
NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN OR SHOW DATA CONCERNING EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY UTILITY OR MUNICIPAL/PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES OR FACILITIES, CONTACT THE APPROPRIATE AGENCIES.

GREGORY B. BOWERS MO LS 2672

REVISED 5/16/14

Attachment: Brookhart Commercial Plat of Survey BOA 12-7-15 2069 - Public Hearing to Vacate a Portion of Brookhart Drive Adjacent to Love's Development

Relocated Brookhart Road Vacation Sketch



Attachment: Relocated Brookhart Vacation Sketch BOA 12-7-15 (2069 : Public Hearing to Vacate a Portion of Brookhart Drive Adjacent to



TO: Board of Aldermen
FROM: Rick Deluca, Director
DATE: December 2, 2015
**SUBJECT: AN ORDINANCE VACATING A PORTION OF BROOKHART DRIVE,
ADJACENT TO THE LOVE'S DEVELOPMENT**

Type of Item: *Approval*

Council Bill No. 091**Ordinance No.****AN ORDINANCE VACATING A PORTION OF BROOKHART DRIVE,
ADJACENT TO THE LOVE'S DEVELOPMENT, IN HARRISONVILLE, CASS
COUNTY, MISSOURI.**

WHEREAS, it has been shown to the Board of Aldermen of the City of Harrisonville, Missouri, that the owner of the land adjacent to and abutting upon the portion of Brookhart Drive has petitioned the Board of Aldermen to vacate right-of-way as a public street; and

WHEREAS, the Board of Aldermen, of the City of Harrisonville, Missouri, in accordance with the provision of Chapter 89 RSMo, has held a public hearing on December 7, 2015, and

WHEREAS, additional right-of-way will be dedicated with the final plat of Love's Addition for the relocation of that part of Brookhart road that is to be vacated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI AS FOLLOWS:

SECTION 1. The Board of Aldermen of Harrisonville, Missouri, hereby declares it necessary, reasonable and proper to discontinue as a right-of-way and forever vacate the following described right-of-way for a public street and forever vacate the following described street.

Tract 5

Part of the existing right-of-way of Brookhart Road, as now located, being part of the Southeast Quarter of Section 5, and part of the Southwest Quarter of Section 4, all in Township 44, Range 31, Cass County, Missouri, described as follows: From the Southeast Corner of the Southeast Quarter of Section 5, aforesaid, run thence North 01°22'14" East along the East line thereof, 1394.74 feet to a point on the Southerly right-of-way line of said Brookhart Road, as now located, thence South 57°22'49" East along said right-of-way line, 74.93 feet to the True Point of Beginning of the Tract to be described; thence on a curve to the left having an initial tangent bearing of North 43°28'51" West, a radius of 1450.00 feet, a chord bearing of North 51°55'31" West, and an arc length of 427.42 feet; thence on a compound curve to the left having a radius of 910.01 feet, a chord bearing of North 65°53'30" West, and an arc length of 175.40 feet to a point on the Northerly right-of-way line of said Brookhart Road; thence South 71°24'49" East along said right-of-way line, 11.52 feet; thence South 76°59'28" East along said right-of-way line, 154.33 feet; thence along said right-of-way line on a curve to the right having an initial tangent bearing of South 71°24'49" East, a radius of

1201.00 feet, a chord bearing of South 64°23'49" East, and an arc length of 294.16 feet; thence South 57°22'49" East along said right-of-way line, 349.71 feet; thence South 52°19'35" East along said right-of-way line, 70.19 feet; thence on a curve to the right having an initial tangent bearing of South 45°10'39" West, a radius of 3425.00 feet, a chord bearing of South 46°01'38" West, and an arc length of 101.59 feet to a point on the Southerly right-of-way line of said Brookhart Road; thence North 57°22'49" West along said right-of-way line, 246.71 feet to the True Point of Beginning. Contains 57,984 square feet, more or less, subject to any existing right-of-ways, and or easements.

Tract 6

Part of the existing right-of-way of Brookhart Road, as now located, being part of the Southwest Quarter of Section 4, Township 44, Range 31, Cass County, Missouri, described as follows: From the Southwest corner of the Southwest Quarter of Section 4, aforesaid, run thence North 01°22'14" East along the West line thereof, 1394.74 feet to a point on the Southerly right-of-way line of said Brookhart Road; thence South 57°22'49" East along said right-of-way line, 476.19 feet to the True Point of Beginning of the tract to be described; thence on a curve to the left having an initial tangent bearing of North 46°16'01" East, a radius of 3575.00 feet a chord bearing of North 45°33'50" East, and an arc length of 87.72 feet to a point on the Northerly right-of-way line of said Brookhart Road; thence South 52°19'35" East along said right-of-way line, 70.55 feet; thence South 57°39'24" East along said right-of-way line, 230.16 feet; thence on a curve to the left having an initial tangent bearing of North 68°12'24" West, a radius of 540.00 feet, a chord bearing of North 79°34'20" West, and an arc length of 214.23 feet to a point on the Southerly right-of-way line of said Brookhart Road; thence North 57°22'49" West along said right-of-way line, 123.02 feet to the True Point of Beginning. Contains 15,562 square feet, more or less, subject to any existing right-of-ways, and or easements.

SECTION 2. The statutory right of reversion in the owners of the abutting property is hereby confirmed as is provided by the laws of the State of Missouri, the Mayor and the City Clerk are hereby authorized to execute all necessary instruments required to confirm the reversionary rights of the owners of property abutting on the area vacated, as described in Section 1 of this ordinance.

SECTION 3. *Severability.* If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. *Effective Date.* The effective date of approval shall be coincidental with the Mayor's signature and attestation by the City Clerk.

READ TWO TIMES BY TITLE ONLY ON DECEMBER 7, 2015, AND PASSED BY THE BOARD OF ALDERMEN AND APPROVED BY THE MAYOR THE 7th DAY OF DECEMBER 2015.

Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

Kim Hubbard
City Clerk

APPROVED by the Mayor this 7th day of December 2015.



TO: Board of Aldermen
FROM: Rick Deluca, Director
DATE: December 2, 2015
SUBJECT: AN ORDINANCE TO ACCEPT THE FINAL PLAT OF LOVE'S ADDITION

Type of Item: *Approval*

Issue: The Applicant has requested approval of the Love's Addition Final Plat.

Background:

Location: Brookhart Road & South Commercial Street

Applicant: Love's Travel Stop and Country Store

Owner: Love's, Roberd's Manufacturing and Brickyard Inc.

Existing Zoning: "C-2" Service Business District

Adjacent Zoning: North: "M-1" Light Industrial District
South: "M-1" Light Industrial District
East: "C-2" Service Business District (I-49)
West: "M-1" Light Industrial District

Acres: 24.14 acres +/-

Number of Lots: 5 Lots

Overview:

Love's Travel Stop and Country Store is currently developing the area located north of the South Commercial and Brookhart Intersection. The Love's site would be approximately 12 acres. A total of 5 lots would be developed in the first phase. The Love's site, Lot 1, would include a McDonalds and a Subway (tenants within the primary structure). Furthermore, a Tire Shop (affiliated with Michelin) would also be located north of the primary structure.

It has been requested that the infrastructure and site improvements be constructed concurrently. Typically, the site improvements are constructed after acceptance of the infrastructure improvements. However, the City has allowed concurrent construction several times in the past (Marketplace, CRMC, Town Center) as long as a development agreement was in place.

Infrastructure:

The following is a summary of the infrastructure that would accompany this project.

Water. Approximately 2,700 feet of water main would be constructed with this project. The Missouri Department of Natural resources will have to approve the plans for all public water lines. Fire flows must meet the requirements of the 2012 International Fire Code for Commercial buildings. Demonstration of adequate fire flows will be provided with the submission of the construction plans. Additional fire hydrants will be placed along Brookhart Drive and on the site as needed. The ultimate plan for the area is to loop the proposed water line to the existing water line at 267th Street at Brickplant.

Sanitary Sewer. Approximately 1,600 feet of sanitary sewer main would be constructed with this project. The Missouri Department of Natural resources will have to approve the plans for all public sanitary sewer lines.

Electric. The electric line will have to be relocated due to the relocation of the roadway. Additional easements will be necessary to the transformers. Street lights will be incorporated along the roadway. The City will construct the additional infrastructure. The developer will be responsible for the cost of the transformer on the site. The City will install a junction cabinet along relocated Brookhart. Additional easements will be necessary along Brookhart and running up to the transformer. These will be dedicated with the final plat.

Stormwater & Floodplain. A state DNR Land Disturbance Permit will be required prior to construction. A storm water management plan must be developed with the construction plans. All

encroachments on the floodplain must have a Floodplain Development Permit and will require an Elevation Certificate on all buildings.

Roadways. The most notable infrastructure improvement would be the relocation of the Brookhart & Commercial Street intersection to the southwest. The South Harrisonville Conceptual Plan (see attached) further describes how the area would ultimately develop. The Commercial Street connection to 267th Street would not be constructed with this project, but is planned for the future. This roadway connection is critical to the development of the west side of Harrisonville. It is necessary in attracting industry and jobs and enhancing our chances of expanding our industrial base. Love's provided a traffic study that was submitted and approved with the Love's Travel Stop project. Some modifications to the geometrics around the interchange (at the off-ramps) will be required. Additional ROW may also be dedicated. MoDOT and FHA procedure will be followed.

Finally, the intersection of Brookhart and Brickplant (on the west side of Lot 7) would ultimately be reconfigured (not constructed at this time) and additional right-of-way dedicated when final platted. The existing intersection is not at 90 degrees and is not conducive to heavier traffic or trucks. The ultimate configuration of this intersection would be to incorporate a curve (300 foot radius) into north leg of Brickplant and transition into Brookhart. This portion of the roadway will ultimately handle the larger amount of traffic for both cars and trucks.

Vacations and Dedications:

Easements and rights-of-way are being dedicated with the final plat. A variety of easements and rights-of-way will need//have been vacated. The logistics surrounding the relocation of the existing roadway and relocation of an existing intersection are challenging. The City cannot vacate the ROW prior to opening/completion of the relocated roadway. However, we don't want to delay the project by waiting for Board of Aldermen action. (Public hearings, public notices and passage of an ordinance are required by State and local law.) Therefore, we anticipate the Board of Aldermen conducting the necessary hearings and approving the vacation ordinance, while having the effective date of the vacation ordinance concurrent with the Mayor's signature or the opening of the new rerouted portion of the roadway. This should minimize any delays while fulfilling City and State requirements.

Grading:

The topography makes this development unique and challenging. The plan is to have Commercial Street connect up with 267th Street. However, the maximum grade for an arterial roadway is 6%. Given the size and slope of the hill between Commercial and 267, a significant amount of the hill will eventually be removed. This will also be true for lots 2 and 3 when they develop.

Options:

The City may:

- Approve the plat.
- Conditionally approve the plat.
- Deny the plat.

Planning & Zoning Commission Recommendation:

(November 19, 2015)

Approval contingent upon:

1. The final copy (for recording) should be black and white.

Staff Recommendation:

Approval contingent upon:

2. The final copy (for recording) should be black and white.

Council Bill No. 092

Ordinance No.

**AN ORDINANCE TO ACCEPT THE FINAL PLAT OF LOVE'S ADDITION, A
SUBDIVISION OF LAND IN SECTIONS 4 AND 5, IN TOWNSHIP 44 NORTH,
RANGE 31 WEST, IN THE CITY OF HARRISONVILLE, CASS COUNTY,
MISSOURI**

WHEREAS, the Planning and Zoning Commission on November 19, 2015 recommended approval of the final plat, contingent upon staff recommendations; and

WHEREAS, after considering the property for the purpose of promoting the public health, safety, morals and considering the general welfare of the community, it is determined that this final plat be approved contingent upon staff recommendations.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE
CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:**

Section 1. That the final plat and dedication of easements of the City of Harrisonville for Love's Addition, as shown by the plat, filed with the City Clerk of the City of Harrisonville, is hereby accepted and approved contingent upon staff recommendations and any applicable agreements between the City and the applicant.

Section 2. That the final plat comprises the following described real estate in Harrisonville, Cass County, Missouri, to wit:

Part of the Southwest Quarter of Section 4 and Part of the Southeast Quarter of Section 5, in Township 44 North, Range 31 West, Cass County, Missouri, described as follows: Commencing at the Southeast corner of the Southeast Quarter of Section 5, aforesaid, run thence North 1°22'14" East along the East line thereof, 1992.86 feet to the True Point of Beginning of the tract to be described: Continuing thence North 1°22'14" East along the East line of said Southeast Quarter, 417.90 feet to a point on the Westerly right-of-way line of Interstate 49 as now located; thence South 19°58'41" East along said right-of-way line, 43.31 feet; thence South 35°21'16" East along said right-of-way line, 148.00 feet; thence South 16°14'29" East along said right-of-way line, 213.75 feet; thence South 43°53'09" East, 101.14 feet; thence South 17°39'16" East, 493.36 feet; thence South 38°22'57" East, 101.71 feet; thence South 50°25'17" East, 150.15 feet; thence along a curve to the right having a radius of 3575.00 feet, a chord bearing of South 44°30'58"

West, and an arc length of 304.14 feet; thence along a compound curve to the left having a radius of 20.00 feet, a chord bearing of South 15°08'53" East, and an arc length of 43.35 feet; thence along a compound curve to the left having a radius of 260.00 feet, a chord bearing of South 86°23'03" East, and an arc length of 82.91 feet; thence along a reverse curve having a radius of 540.00 feet, a chord bearing of South 81°51'46" East, and an arc length of 257.41 feet to a point on the Easterly right-of-way line of Brookhart Road, as now located; thence South 30°51'28" West, 81.19 feet to a point on the Westerly right-of-way line of Brookhart Road, as now located; thence South 51°40'41" East along said right-of-way line, 18.40 feet; thence North 89°20'26" West, 697.25 feet to a point on the West line of the Southwest Quarter of said Section 4; thence South 52°00'00" West, 226.36 feet; thence North 36°40'00" West, 256.61 feet; thence North 44°00'00" East, 127.02 feet; thence North 46°00'00" West, 158.18 feet; thence North 56°00'00" West, 172.22 feet; thence North 65°20'00" West, 211.89 feet; thence North 18°35'11" East, 347.89 feet to a point on the North right-of-way line of Brookhart Road, as now located; thence North 1°18'00" East, 271.23 feet; thence South 88°00'54" East, 600.52 feet to the True Point of Beginning. Contains 24.14 acres, more or less, subject to any existing easements or rights-of-way.

Section 3. *Effective Date.* The effective date of approval shall be coincidental with the Mayor's signature and attestation by the City Clerk.

Section 4. *Severability.* If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Vote taken as follows:

Ayes:

Nays:

Absent:

Abstain:

READ TWO TIMES BY TITLE ONLY ON DECEMBER 7, 2015 AND PASSED BY THE BOARD OF ALDERMEN THIS 7th DAY OF DECEMBER 2015.

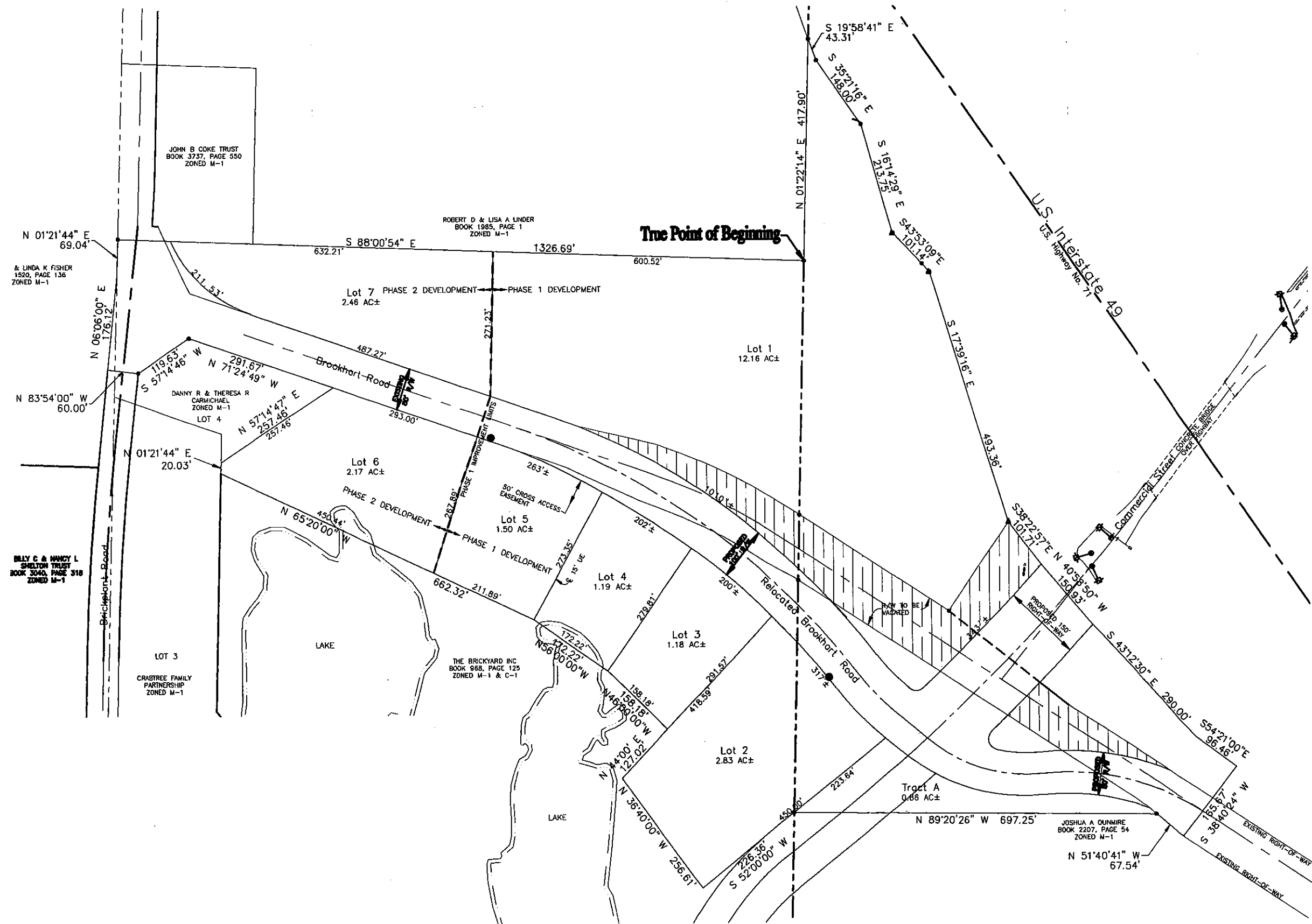
Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

APPROVED by the Mayor this 7th Day of December 2015.

Relocated Brookhart Road Vacation Sketch



FEE: _____
 REC'D BY: _____
 (STAFF USE ONLY)

**APPLICATION
 FOR
 PLATS
 CITY OF HARRISONVILLE**
 PLEASE PRINT

CASE NO.: _____
 PC DATE: _____
 (STAFF USE ONLY)

PLEASE ☒ APPLICABLE ☐ PRELIMINARY ☒ FINAL ☐ SMALL SUBDIVISION

NAME OF PROPOSED SUBDIVISION: Love's Addition
 LOCATION OR ADDRESS OF SUBJECT PROPERTY: INTERSECTION OF COMMERCIAL ST & BROOKHART RD.
 LEGAL DESCRIPTION: SEE ATTACHED
 ZONING ON SUBJECT PROPERTY: _____ CURRENT LAND USE: VACANT
 TOTAL ACREAGE: 24.14 NUMBER OF LOTS: 5

DEVELOPER'S NAME(S): Love's Travel Stops & Control Stores, Inc. PHONE: 405-302-6646
 COMPANY: _____ FAX: _____
 MAILING ADDRESS: 10601 N. PENNSYLVANIA OKLAHOMA CITY, OK
 STREET CITY STATE ZIP

PROPERTY OWNER'S NAME(S): Love's, The Brickyard, Inc. PHONE: _____
 COMPANY: C.J. ROBERTS MFG., INC. FAX: _____
 MAILING ADDRESS: _____
 STREET CITY STATE ZIP

ENGINEER'S NAME(S): ROSS GRIMBALL PHONE: 225-761-9909
 COMPANY: RESOURCE CONSULTING FAX: _____
 MAILING ADDRESS: 2223 QUAIL RUN DR STE 02 BATON ROUGE, LA 70808
 STREET CITY STATE ZIP

NOTES:

- SEE ATTACHED "GUIDE TO PLATTING" FOR INFORMATION REGARDING HARRISONVILLE'S PLATTING PROCESS.
- TEN (10) COPIES OF THE PROPOSED PLAT MUST ACCOMPANY THIS APPLICATION FOR STAFF REVIEW.
- AFTER STAFF REVIEW, FIVE (5) REVISED PLATS WILL BE REQUIRED INCLUDING A REVISED 8 1/2" X 11" COPY.
- IT IS RECOMMENDED THAT THE APPLICANT OBTAIN A COPY OF THE STAFF REPORT PRIOR TO THE PLANNING AND ZONING MEETING.
- IT IS THE APPLICANTS RESPONSIBILITY TO BECOME FAMILIAR WITH THE APPLICABLE CITY LAND USE ORDINANCES AND REQUIREMENTS PRIOR TO SUBMITTING AN APPLICATION FOR PLAT.

SIGNATURE OF APPLICANT: Rick Chappell DATE: 11-18-15

Attachment: Loves Final Plat Attachments (1) BOA 12-7-15 (2068 : AN ORDINANCE TO ACCEPT THE FINAL PLAT OF LOVE'S ADDITION)

DESCRIPTION:

PART OF THE SOUTHWEST QUARTER OF SECTION 4 AND PART OF THE SOUTHEAST QUARTER OF SECTION 5, IN TOWNSHIP 44 NORTH, RANGE 31 WEST, CASS COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 5, AFORESAID, RUN THENCE NORTH 1°22'14" EAST ALONG THE EAST LINE THEREOF, 1992.86 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED:

CONTINUING THENCE NORTH 1°22'14" EAST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 417.90 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 49 AS NOW LOCATED; THENCE SOUTH 19°58'41" EAST ALONG SAID RIGHT-OF-WAY LINE, 43.31 FEET; THENCE SOUTH 35°21'16" EAST ALONG SAID RIGHT-OF-WAY LINE, 148.00 FEET; THENCE SOUTH 16°14'29" EAST ALONG SAID RIGHT-OF-WAY LINE, 213.75 FEET; THENCE SOUTH 43°53'09" EAST, 101.14 FEET; THENCE SOUTH 17°39'16" EAST, 493.36 FEET; THENCE SOUTH 38°22'57" EAST, 101.71 FEET; THENCE SOUTH 50°25'17" EAST, 150.15 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 3575.00 FEET, A CHORD BEARING OF SOUTH 44°30'58" WEST, AND AN ARC LENGTH OF 304.14 FEET; THENCE ALONG A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 20.00 FEET, A CHORD BEARING OF SOUTH 15°08'53" EAST, AND AN ARC LENGTH OF 43.35 FEET; THENCE ALONG A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 260.00 FEET, A CHORD BEARING OF SOUTH 86°23'03" EAST, AND AN ARC LENGTH OF 82.91 FEET; THENCE ALONG A REVERSE CURVE HAVING A RADIUS OF 540.00 FEET, A CHORD BEARING OF SOUTH 81°51'46" EAST, AND AN ARC LENGTH OF 257.41 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BROOKHART ROAD, AS NOW LOCATED; THENCE SOUTH 30°51'28" WEST, 81.19 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF BROOKHART ROAD, AS NOW LOCATED; THENCE SOUTH 51°40'41" EAST ALONG SAID RIGHT-OF-WAY LINE, 18.40 FEET; THENCE NORTH 89°20'26" WEST, 697.25 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE SOUTH 52°00'00" WEST, 226.36 FEET; THENCE NORTH 36°40'00" WEST, 256.61 FEET; THENCE NORTH 44°00'00" EAST, 127.02 FEET; THENCE NORTH 46°00'00" WEST, 158.18 FEET; THENCE NORTH 56°00'00" WEST, 172.22 FEET; THENCE NORTH 65°20'00" WEST, 211.89 FEET; THENCE NORTH 18°35'11" EAST, 347.89 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF BROOKHART ROAD, AS NOW LOCATED; THENCE NORTH 1°18'00" EAST, 271.23 FEET; THENCE SOUTH 88°00'54" EAST, 600.52 FEET TO THE TRUE POINT OF BEGINNING. CONTAINS 24.14 ACRES, MORE OR LESS, SUBJECT TO ANY EXISTING EASEMENTS OR RIGHTS-OF-WAY.



TO: Board of Aldermen
FROM: Rick Deluca, Director
DATE: December 2, 2015
SUBJECT: Ordinance for Development Agreement in Connection with Love's Addition

Type of Item: *Approval*

Issue: Approval of development agreement.

The attached development agreement would allow for the development of the infrastructure and site improvements concurrently.

Options:

The City may:

- Approve.
- Conditionally approve
- Deny.

Staff Recommendation:

Approval

Council Bill No. 093**Ordinance No.**

**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO
EXECUTE A DEVELOPMENT AGREEMENT IN CONNECTION WITH THE
LOVE’S ADDITION GENERALLY LOCATED AT BROOKHART ROAD AND
SOUTH COMMERCIAL STREET**

WHEREAS, developer agrees to assume all development obligations of the City as described in the attached agreement; and

WHEREAS, the City of Harrisonville desired to ensure that developer will accomplish certain things in order to protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1: That the City Administrator of the City of Harrisonville is hereby authorized and directed to enter into an Agreement with developer for the installation of infrastructure and issuance of a building permit in connection with the development of Love’s Addition located at the intersection of Brookhart Road and South Commercial Street.

Section 2. *Effective Date.* That this ordinance shall become effective immediately upon its passage and approval.

Section 3. *Severability.* If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Vote taken as follows:

Ayes:

Nays:

Absent:

Abstain:

READ TWO TIMES BY TITLE ONLY ON DECEMBER 7, 2015 AND PASSED BY THE BOARD OF ALDERMEN THIS 7th DAY OF DECEMBER 2015.

Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

APPROVED by the Mayor this 7th day of December 2015.

DEVELOPMENT AGREEMENT

Love's Addition

THIS AGREEMENT, MADE THIS ____ day of _____, 2015, by and between, Love's Travel Stop and Country Store, hereinafter referred to as "Subdivider" and the City of Harrisonville, Missouri, a Municipal Corporation, hereinafter referred to as "City".

WHEREAS, subdivider seeks to obtain approval from the City a subdivision to be known as Love's Addition, which is located in the City of Harrisonville, Cass County, Missouri, and;

WHEREAS, the subdivider, herein defined, agrees to assume all subdivision development obligations of the City as described in this agreement, and;

WHEREAS, the subdivider desires to construct the private on-site improvements concurrently with the public infrastructure improvements, and;

WHEREAS, the City desires to ensure that the subdivider will accomplish certain things in order to protect the public health, safety and welfare.

NOW, THEREFORE, in consideration of the promises and covenants herein set forth, and receipt by the City of fees and costs as required by the City Of Harrisonville, the parties agree as follows:

GEOGRAPHIC LOCATION:

1. The terms of this agreement apply to the following property:

PART OF THE SOUTHWEST QUARTER OF SECTION 4 AND PART OF THE SOUTHEAST QUARTER OF SECTION 5, IN TOWNSHIP 44, RANGE 31, CASS COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 5, AFORESAID, RUN THENCE NORTH 1°22'14" EAST ALONG THE EAST LINE THEREOF, 1992.86 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED: CONTINUING THENCE NORTH 1°22'14" EAST ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, 417.90 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 49 AS NOW LOCATED; THENCE SOUTH 19°58'41" EAST ALONG SAID RIGHT-OF-WAY LINE, 43.31 FEET; THENCE SOUTH 35°21'16" EAST ALONG SAID RIGHT-OF-WAY LINE, 148.00 FEET; THENCE SOUTH 16°14'29" EAST ALONG SAID RIGHT-OF-WAY LINE, 213.75 FEET; THENCE SOUTH 43°53'09" EAST, 101.14 FEET; THENCE SOUTH 17°39'16" EAST, 493.36 FEET; THENCE SOUTH 38°22'57" EAST, 101.71 FEET; THENCE SOUTH 50°25'17" EAST, 150.15 FEET; THENCE ALONG A

CURVE TO THE RIGHT HAVING A RADIUS OF 3575.00 FEET, A CHORD BEARING OF SOUTH 44°30'58" WEST, AND AN ARC LENGTH OF 304.06 FEET; THENCE ALONG A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 20.00 FEET, A CHORD BEARING OF SOUTH 15°08'53" EAST, AND AN ARC LENGTH OF 43.35 FEET; THENCE ALONG A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 260.00 FEET, A CHORD BEARING OF SOUTH 86°23'03" EAST, AND AN ARC LENGTH OF 82.91 FEET; THENCE ALONG A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 540.00 FEET, A CHORD BEARING OF SOUTH 81°51'46" EAST, AND AN ARC LENGTH OF 257.41 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BROOKHART ROAD, AS NOW LOCATED; THENCE SOUTH 30°51'28" WEST, 81.19 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF BROOKHART ROAD, AS NOW LOCATED; THENCE SOUTH 51°40'41" EAST ALONG SAID RIGHT-OF-WAY LINE, 18.40 FEET; THENCE NORTH 89°20'26" WEST, 697.25 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE SOUTH 52°00'00" WEST, 226.36 FEET; THENCE NORTH 36°40'00" WEST, 256.61 FEET; THENCE NORTH 44°00'00" EAST, 127.02 FEET; THENCE NORTH 46°00'00" WEST, 158.18 FEET; THENCE NORTH 56°00'00" WEST, 172.22 FEET; THENCE NORTH 65°20'00" WEST, 662.32 FEET TO A POINT ON THE EAST LINE OF LOT 3 IN BRICKYARD INDUSTRIAL PARK, A SUBDIVISION OF LAND IN THE CITY OF HARRISONVILLE, MISSOURI, AS PREVIOUSLY PLATTED AND RECORDED; THENCE NORTH 1°21'44" EAST ALONG THE EAST LINE OF SAID LOT 3, 20.03 FEET TO A SOUTHERLY CORNER OF LOT 4 IN SAID BRICKYARD INDUSTRIAL PARK; THENCE NORTH 57°14'47" EAST ALONG THE EASTERLY LINE OF SAID LOT 4, 257.46 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 4, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF BROOKHART ROAD AS NOW LOCATED; THENCE NORTH 18°35'11" EAST, 80.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID BROOKHART ROAD; THENCE NORTH 71°24'49" WEST ALONG SAID RIGHT-OF-WAY LINE, 316.67 FEET; THENCE NORTH 25°50'06" WEST, 109.71 FEET; THENCE SOUTH 88°00'54" EAST, 1232.73 FEET TO THE TRUE POINT OF BEGINNING; CONTAINS 24.21 ACRES, MORE OR LESS, SUBJECT TO ANY EXISTING EASEMENTS OR RIGHTS-OF-WAY.

INSTALLATION OF INFRASTRUCTURE & ISSUANCE OF BUILDING PERMIT

1. The construction of the public infrastructure may be installed concurrently with the construction of the structure(s) (including parking areas, underground tanks and similar improvements) on the subject property with the following conditions.

- A land disturbance permit may be issued with the approval of a grading plan, storm water management plan and erosion control plan.
- Prior to the installation of any improvements/infrastructure or the issuance of building permit(s), the subdivider shall have all site development and infrastructure plans approved by the City of Harrisonville.
- A footing/foundation permit may be issued when a notice to proceed is given for the construction of the infrastructure and a site development plan is approved.
- A full building permit may be issued when adequate fire protection and access is provided to the site as determined by the Building Official.
- A temporary certificate of occupancy may be granted at the discretion of the Building Official.
- The subdivider shall install all public improvements, as shown on the approved construction plans (and the City must accept), prior to receiving a certificate of occupancy. Said improvements shall include, but shall not be limited to, any required off site improvements and/or any non-City infrastructure improvements (such as for MoDOT).

2. The subdivider shall be responsible for the installation of all improvements in accordance with the approved construction plans, subdivider hereby agrees to indemnify and hold harmless the City and its past, present and future employees, officers and agents from any and all claims arising from the construction of the improvements located on subdivider's property or off site improvement locations or from the City's plan review and inspection services, practices and policies relating to the improvements to be placed on the subdivider's property. Subdivider hereby agrees to pay to the City all damages, costs and reasonable attorney's fees incurred by the City and its employees, officers and agents in defending said claims.

3. The subdivider agrees to provide the City of Harrisonville "as-built" plans for all public improvements as required by the City Of Harrisonville subdivision regulations. Said plans shall be considered a part of the improvements for the purpose of acceptance by the City.

FEES & BONDS

1. The subdivider agrees to pay all fees as typically required by the City of Harrisonville.

2. The subdivider agrees to furnish performance bonds based on the estimated development costs of all public improvements as shown on the approved construction plans. The City Engineer shall review and determine that the costs, as presented, are reasonable.

3. Prior to issuance of the Certificate of Occupancy within said subdivision, subdivider will provide a guarantee in the form of a Maintenance Bond that is satisfactory to the City Attorney and consistent with what is required by City ordinances. This guarantee shall be based on 50% of the cost of all public improvements shown on approved construction plans and shall be for a period of one year after acceptance by the City.

GENERAL PROVISIONS

1. The parties agree that execution of this agreement in no way constitutes a waiver of any requirements of applicable City ordinances with which the subdivider must comply and does not in any way constitute prior approval of any future proposal for development.

2. The covenants herein shall run with the land described in this agreement and shall be binding and insure to the benefit of the parties hereto and their successors or assigns and on any future and subsequent purchasers.

3. This agreement shall constitute the complete agreement between the parties and any modification hereof shall be in writing, subject to the approval of the parties.

4. If, at any time, any part hereof has been breached by subdivider, the City may withhold or revoke approval of any or all building permits and/or certificates of occupancy applied for in the subdivision, until breach or breaches has or have been cured.

5. This agreement shall be enforced until the completion of the project.

6. Any provision of this agreement which is not enforceable according to law will be severed herefrom, and the remaining provisions shall be enforced to the fullest extent permitted by law.

7. The undersigned represent that they each have the authority and capacity from the respective parties to execute this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

Subdivider

Mike Tholen
City Administrator



TO: Board of Aldermen
FROM: Eric Patterson, Asst. Director
DATE: December 2, 2015
SUBJECT: original digester floor problem

Type of Item: *Contract*

In mid-November the Wastewater Treatment Plant staff started emptying the old digester to inspect the aeration piping; as they got the level down they noticed the piping was broken. They got in to inspect the broken pipe and noticed that the center of the basin floor had raised about a foot in the center. One of the possible causes of this is pressure under the tank building up and with the weight of the water gone it forced the floor up. We are not saying that this is what caused the problem, that will be determined with the engineering contract attached. We called Jeff Barnard with Burns & McDonnell to come in and inspect the tank on November 24, 2015. Jeff and his team came out and looked and have suggested the following course of action.

1. Enter into a "Preliminary Design-Build Agreement" with a not to exceed amount of \$15,000 (see attached)
 2. Do a more comprehensive inspection
 3. Develop a preliminary design, and cost estimate of construction
 4. Enter into a Construction Contract with Cas Constructors LLC (see attached)
- Cas Constructors LLC have done Sanitary Sewer work for the City in the past

This is not the City's normal course, but as it is an "emergency" the State does allow us to proceed without going thru the time consuming route of advertising for engineering service then advertising for Contractor after we get a design from the engineer. Going with Burns and McDonnell's course will save us months and get our Digester back in service.

Discussing with Burns & McDonnell they are fairly confident the repair will be between \$500,000 and \$1,000,000, we will be comparing the cost to repair with the cost to replace. Staff is talking with our insurance company to see if this might be covered and also have identified multiple sources of financing to pay for the construction repair; a couple of those options are:

1. CRG (Community Resource Group) Loan Fund (see attached)

2. MPUA (Missouri Public Utility Alliance)

Council Bill No. 094

Resolution No.

A Resolution of the Harrisonville Board of Aldermen authorizing the City Administrator to Execute a Preliminary Design Build Agreement with Burns and McDonnell for Emergency Repairs at the Wastewater Treatment Plant in an Amount not to exceed \$15,000

Whereas, the City of Harrisonville has need of the services of Burns & MacDonnell to effect emergency repairs to the wastewater treatment plant, and

Whereas, Burns and McDonnell agrees to perform such services

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1: That the City Administrator is authorized to execute the attached Preliminary Design Build Agreement with Burns and McDonnell in an amount not to exceed \$15,000,

Section 2: That this resolution shall become effective immediately for the City of Harrisonville.

PASSED AND RESOLVED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Harrisonville, Missouri, this 7th day of December 2015.

Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

WITNESS my hand and seal this 7th day of December 2015

HOW WE CAN HELP YOU

Founded in 1995 to deliver the first ever design-build municipal wastewater plant in the State of Kansas, Burns & McDonnell / CAS Constructors has become a design-build leader in the region. We have completed 22 design-build wastewater projects with a combined construction value of nearly \$150M, all with zero cost or schedule overruns, construction related claims, lost time injury accidents, or requested change orders. Having worked together on more design-build wastewater projects than any other design-builder in the region, our team structure consistently results in compressed schedules, higher quality, and lower lifecycle costs. With more than 6,300 design and construction professionals, our team brings specialized experience to deliver projects quickly and on budget.

20

years of experience designing and constructing wastewater treatment plants together

22

design-build wastewater projects together

100%

schedule compliance on all projects completed together

0

number of change orders, lost time accidents, or claims in our history working together

OUR RELEVANT EXPERIENCE

Simply put, there is no substitute for experience. The following are examples of how we've helped similar communities answer some of their most challenging wastewater projects.

Edgerton, Kansas

\$9.5 M (treatment) | 1.5 MGD

Beth Linn, City Administrator | 913-893-6231



Mulvane, Kansas

\$5.6 M (Phase 1) | 3 MGD

Galen Cummins, Dir. of Utilities (retired) | 316-213-9240



Eudora, Kansas

\$3.5 M | 3 MGD

Ron Conner, Former Mayor | 402-977-4558



Andover, Kansas

\$4.3 M | 5 MGD

Les Mangus, Dir. of Public Works | 316-733-1303 x 413



Basehor, Kansas

\$4.9 M | 4 MGD

Gene Myracle, Superintendent | 913-724-2000



Wichita, Kansas (Cowskin Creek)

\$2.9 M | 2 MGD

Rebecca Lewis, WW Division Manager | 316-303-8702



Attachment: CAS Construction (2066 : original digester floor problem)



**COMMUNITY
RESOURCE GROUP**
www.crg.org

CRG LOAN FUND

Water and Wastewater Lending

*Helping rural communities with their
water and wastewater needs*



Trouble financing a water or wastewater project?

The CRG Loan Fund for water and
wastewater lending can help.

PURPOSE

The purpose of the CRG Loan Fund is to help small, rural communities and tribal nations:

- Meet compliance requirements for public drinking water and wastewater regulations
- Improve public health and system security
- Extend service to new customers or improve service to existing customers
- Create opportunities for economic development
- Conduct pre-development activities that allow systems to qualify for longer-term financing

PRODUCTS

The CRG Loan Fund offers flexible products to meet your community's needs, including:

- Pre-development loans
- Interim financing
- Construction loans and system improvements
- Equipment loans

ELIGIBILITY

Nonprofit corporations or local government entities may borrow if they:

- Serve a significant number of low-income customers
- Are rural communities of less than 20,000
- Can repay the loan with system revenues or provide evidence of permanent take-out financing
- Are willing to accept no-cost technical assistance if it will improve the system's ability to repay the loan

LOAN TERMS AND CONDITIONS

Amounts up to \$250,000, terms up to 10 years
Please call for current interest rates

Security: Varies by customer, typically a pledge of revenues

Origination Fee: Two percent of the amount borrowed
- \$100 minimum

Other Costs: Out-of-pocket expenses for attorney's fees, filing fees, etc. (generally less than \$50 for most loans)

Since most small systems have outstanding long-term debt, the security available for the loans may be subordinate to existing debt.

APPLICATION PROCESS

To fill out an application for the CRG Loan Fund, visit www.crg.org and click: *Water/Wastewater Program*, then click *Water/Wastewater Lending*, then *Water/Wastewater Loan Application*.

To find a **Technical Assistance Provider** to assist you in filling out the application, if needed, visit the *Technical Field Assistance Page* under the *Water/Wastewater Program* section.

Once the application and supporting documentation are provided to CRG:

1. You will discuss the project with a Technical Assistance Provider, the Loan Officer or the Director of Lending.
2. The Loan Officer and Loan Committee will review your application package and make a decision within two weeks.
3. If approved, closing of the loan will take place as soon as possible.

NEED MORE INFORMATION?

If you have additional questions or need more information, please contact:

Holly Baker
Senior Loan Officer
Community Resource Group, Inc.
3 East Colt Square Drive
Fayetteville, AR 72703
PH: 479.443.2700, Ext. 114
Email: hbaker@crg.org

Bruce Darr
Director of Lending
Community Resource Group, Inc.
3 East Colt Square Drive
Fayetteville, AR 72703
PH: 479.443.2700, Ext. 111
Email: bdarr@crg.org



*Community Resource Group, Inc. is an
Equal Opportunity Lender*





PRELIMINARY DESIGN-BUILD AGREEMENT

This **AGREEMENT**, entered this _____ day of _____, 2015, between The City of Harrisonville, Missouri (hereinafter "Owner") and Burns & McDonnell / CAS Constructors, Harrisonville Joint Venture, (hereinafter "Design-Builder") for the preliminary design and development of a stipulated price Design-Build proposal for the Emergency Aerobic Digester Repair Project in the City of Harrisonville, Missouri (Project). The Parties anticipate that the project will be executed in two Phases; Phase I consists of preliminary design and development of the Stipulated Price Proposal for the detailed design and construction of the Project. Phase II consists of detailed design and construction of the improvements identified in Phase I. The parties further anticipate that a Phase II Agreement may be executed after the delivery of the Phase I Design Build Proposal. This Agreement creates no future obligation for the parties to execute a Phase II Agreement.

Until such time as an Agreement for Phase II is reached, the parties agree as follows:

The Design – Builder is authorized to proceed with preliminary design and pre-construction activities as stated below and for the Design- Builder to prepare a Stipulated Price Design- Build Proposal.

Preliminary design will be conducted in adequate detail to support the preparation of a Design-Build proposal and will include the following:

1. Make two (2) visits to the site to examine the failed digester.
2. Develop preliminary design of improvements and produce a schedule and cost.
3. Review preliminary design, schedule, and cost with Owner.
4. Provide a Basis of Design Memorandum documenting preliminary design.

Pre-Construction services to be provided by the Design-Builder include:

1. Facilitate one telephone call with Missouri Department of Natural Resources (MDNR) to facilitate conformance with MDNR requirements.
2. Based on the preliminary design and Owner's input and concurrence with design elements, Design-Builder will solicit competitive proposals for Owner's review and approval prior incorporating into the stipulated price.
3. Development of a stipulated price for the Project described to be used in the Phase II Design-Build Agreement upon approval of Owner.
4. Attend Board of Alderman at intervals requested by Owner to appraise the Governing body and public on the progress of the project.

Attachment: digester contract (2066 : original digester floor problem)



Payment

1. Joint Venture will be reimbursed as stated below for Phase I:
 - a. For time spent by personnel, payment at the hourly rates indicated in the attached "Schedule of Hourly Professional Service Billing Rates" Form HARRISONVILLE CAS 916. Such rates include overhead and profit. The schedule is effective to December 31, 2015, and will be revised thereafter.
 - b. For normal computer usage, computer aided drafting (CAD), telephone, fax, photography and mail services, a technology charge in accordance with the "Schedule of Hourly Professional Service Billing Rates" in effect at the time the service is provided. Specialty items are not included in the technology charge. For reproduction, printing and binding of documents, and vehicle and testing apparatus usage, amounts as determined from Joint Venture's schedule of rates in effect at the time the service is provided. For meals, lodging and other miscellaneous expenses, the cost to Joint Venture.
2. Total payment for the Scope of Services described herein shall not exceed fifteen thousand dollars (\$15,000) without written approval of Owner.
3. Invoices: See Notes on the attached "Schedule of Hourly Professional Service Billing Rates," Form HARRISONVILLE CAS 916.

Time of service

1. Time of service shall be 30 calendar days from Owners execution of this agreement and notice to proceed.

Miscellaneous

2. If the Owner should decide not to proceed with the Project, it will have no further obligation to Design-Builder other than the payment in full of the compensation set out above.
3. The attached Terms and Conditions shall apply.

Burns & McDonnell / CAS Constructors,
Harrisonville JV

City of Harrisonville, Missouri

By _____

By _____

Date _____

Date _____

Attachment: digester contract (2066 : original digester floor problem)



TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

Project: Emergency Aerobic Digester Repair	Date of Letter, Proposal, or Agreement: November 30, 2015
Client: City of Harrisonville, Missouri	Client Signature:

1. SCOPE OF SERVICES

For the above-referenced Project, Burns & McDonnell Engineering Company / CAS Constructors, Harrisonville Joint Venture (Design-Builder) will perform the services set forth in the above-referenced Letter, Proposal, or Agreement, in accordance with these Terms and Conditions. The Design-Builder has relied upon the information provided by Client in the preparation of the Proposal, and shall rely on the information provided by or through Client during the execution of this Project as complete and accurate without independent verification.

2. PAYMENTS TO THE Design-Builder

A. Compensation will be as stated in the above-referenced Letter, Proposal, or Agreement. Statements will be in The Design-Builder's standard format and are payable upon receipt. Time is of the essence in payment of statements, and timely payment is a material part of the consideration of this Agreement. A late payment charge will be added to all amounts not paid within 30 days of statement date and shall be calculated at 1.5 percent per month from statement date. Client shall reimburse any costs incurred by The Design-Builder in collecting any delinquent amount, including reasonable attorney's fees. If a portion of The Joint Venture's statement is disputed, Client shall pay the undisputed portion by the due date. Client shall advise The Design-Builder in writing of the basis for any disputed portion of any statement.

B. Taxes as may be imposed on Design-Builder's services by state or local authorities shall be in addition to the payment stated in the above-referenced Letter, Proposal, or Agreement.

3. INSURANCE

A. During the course of performance of its services, The Design-Builder thru its self or others will maintain Worker's Compensation insurance with limits as required by statute, Employer's Liability insurance with limits of \$1,000,000, and Commercial General Liability and Automobile Liability insurance each with combined single limits of \$1,000,000.

B. Client and The Design-Builder release each other and waive all rights of subrogation against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of The Design-Builder's services.

4. INDEMNIFICATION

A. Client may make and retain copies for information and reference in connection with the use and occupancy of the Project by Client and others; however, such documents are not intended or represented to be suitable for any use or reuse by Client or others outside of this agreement. Any reuse without written verification or adaptation by the Design-Builder for the specific purpose intended or construction of the intended project by parties other than the Design-Builder will be at Client's sole risk and without liability or legal exposure to the Design-Builder, or to the Design-Builder's independent professional associates or consultants, and Client shall indemnify and hold harmless the Design-Builder and the Design-Builder's independent professional associates and consultants from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle the Design-Builder to further compensation at rates to be agreed upon by Client and the Design-Builder.

5. PROFESSIONAL RESPONSIBILITY- LIMITATION OF REMEDIES

A. Design-Builder will exercise reasonable skill, care, and diligence in the performance of its services and will carry out its responsibilities in accordance with customarily accepted professional practices. If The Design-Builder fails to meet the foregoing standard, The Design-Builder will perform at its own cost, the professional services necessary to correct errors and omissions reported to The Design-Builder in writing within one year from the completion of The Design-Builder's services for the Project. No warranty, express or implied, is included in this Agreement or regarding any drawing, specification, or other work product or instrument of service.

B. In no event will The Design-Builder be liable for any special, indirect, or consequential damages including, without limitation, damages or losses in the nature of increased Project costs, loss of revenue or profit, lost production, claims by customers of Client, and/or governmental fines or penalties.

C. Design-Builder's aggregate liability for all damages connected with its services for the Project not excluded by the preceding subparagraph, whether or not covered by The Design-Builder's insurance, will not exceed \$15,000.

D. These mutually negotiated obligations and remedies stated in this Paragraph 5, Professional Responsibility – Limitation of Remedies, are the sole and exclusive obligations of The Design-Builder and remedies of Client, whether liability of The Design-Builder is based on contract, warranty, strict liability, tort (including negligence), indemnity, or otherwise.

6. PERIOD OF SERVICE AND SCHEDULE

The provisions of this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the services stated in the Proposal. The Design-Builder's obligation to render services hereunder will extend for a period that may reasonably be required for the completion of said services. The Design-Builder shall make reasonable efforts to comply with deliverable schedules (if any) and consistent with The Design-Builder's professional responsibility.

7. COMPUTER PROGRAMS OR MODELS

Any use, development, modification, or integration by The Design-Builder of computer models or programs does not constitute ownership or a license to Client to use or modify such computer models or programs.

8. ELECTRONIC MEDIA AND DATA TRANSMISSIONS

A. Any electronic media (computer disks, tapes, etc.) or data transmissions furnished (including Project Web Sites or CAD file transmissions) are for Client information and convenience only. Such media or transmissions are not to be considered part of The Design-Builder's instruments of service. The Design-Builder, at its option, may remove all indicia of its ownership and involvement from each electronic display.

B. Design-Builder shall not be liable for loss or damage directly or indirectly, arising out of Client's use of electronic media or data transmissions.

9. DOCUMENTS

A. All documents prepared by The Design-Builder pursuant to this Agreement are instruments of service in respect of the Project

specified herein. They are not intended or represented to be suitable for reuse by Client or others in extensions of the Project beyond that now contemplated or on any other Project. Any reuse, extension, or completion by Client or others without written verification, adaptation, and permission by The Design-Builder for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to The Design-Builder.

B. In the event that The Design-Builder is to reuse, copy or adapt all or portions of reports, plans, or specifications prepared by others, Client represents that Client either possesses or will obtain permission and necessary rights in copyright, patents, or other proprietary rights and will be responsible for any infringement claims by others. Client warrants the completeness, accuracy, and efficacy of the information, data, and design provided by or through Client (including prepared for Client by others), for which The Design-Builder shall rely on to perform and complete its services.

10. ESTIMATES, SCHEDULES, FORECASTS, AND PROJECTIONS

Estimates, schedules, forecasts, and projections prepared by The Design-Builder relating to loads, interest rates and other financial analysis parameters, construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are opinions based on The Design-Builder's experience, qualifications, and judgment as a professional. Since The Design-Builder has no control over weather, cost and availability of labor, cost and availability of material and equipment, cost of fuel or other utilities, labor productivity, construction contractor's procedures and methods, unavoidable delays, construction contractor's methods of determining prices, economic conditions, government regulations and laws (including the interpretation thereof), competitive bidding or market conditions, and other factors affecting such estimates or projections, The Design-Builder does not guarantee that actual rates, costs, quantities, performance, schedules, etc., will not vary significantly from estimates and projections prepared by The Design-Builder.

11. POLLUTION

In view of the uncertainty involved in investigating and recommending solutions to environmental problems and the abnormal degree of risk of claims imposed upon The Design-Builder in performing such services, notwithstanding the responsibility of The Design-Builder set forth in Paragraph 5A to the maximum extent allowed by law, Client agrees to release, defend, indemnify and hold harmless The Design-Builder and its officers, directors, employees, agents, consultants and subcontractors from all liability, claims, demands, damages, losses, and expenses including, but not limited to, claims of Client and other persons and organizations, reasonable fees and expenses of attorneys and consultants, and court costs, except where there has been a final adjudication that the damages were caused by The Joint Venture's wilful disregard of its obligations under this Agreement. Such indemnification includes claims arising out of, or in any way relating to, the actual, alleged, or threatened dispersal, escape, or release of, or failure to detect or contain chemicals, wastes, liquids, gases, or any other material, irritant, contaminant, or pollutant.

12. ON-SITE SERVICES

A. Client shall disclose to The Design-Builder the location and types of any known or suspected toxic, hazardous, or chemical materials or wastes existing on or near the premises upon which work is to be performed by The Design-Builder's employees or subcontractors. If any hazardous wastes not identified by Client are discovered after a Project is undertaken, Client and The Design-Builder agree that the scope of services, schedule, and compensation may be adjusted accordingly. Client agrees to release The Design-Builder from all damages related to any pre-existing pollutant, contaminant, toxic, or hazardous substance at the site.

13. CHANGES

Client shall have the right to make changes within the general scope of The Design-Builder's services, with an appropriate change in compensation and schedule, upon execution of a mutually acceptable amendment or change order signed by authorized representatives of Client and The Design-Builder.

14. TERMINATION

Services may be terminated by Client or The Design-Builder by seven (7) days' written notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of

the terminating party. If so terminated, Client shall pay The Design-Builder all amounts due The Design-Builder for all services properly rendered and expenses incurred to the date of receipt of notice of termination, plus reasonable costs incurred by The Design-Builder in terminating the services.

15. DISPUTES, NEGOTIATIONS, MEDIATION

A. If a dispute arises relating to the performance of the services to be provided and, should that dispute result in litigation, it is agreed that the substantially prevailing party (as determined in equity by the court) shall be entitled to recover all reasonable costs of litigation, including staff time, court costs, attorney's fees and other related expenses.

B. The parties shall participate in good faith negotiations to resolve any and all disputes. Should negotiations fail, the parties agree to submit to and participate in a third party-facilitated mediation as a condition precedent to resolution by litigation. Unless otherwise agreed to, mediation shall be conducted under the rules of the American Arbitration Association and shall be held in Kansas City, Missouri.

C. The parties agree that any dispute between them, including any action against an officer, director or employee of a party, arising out of or related to this Agreement, whether in contract or tort, not resolved through direct negotiation and mediation, shall be resolved by litigation in the state or federal courts located in Jackson County, Missouri, and each party expressly consents to jurisdiction therein. Any litigation to compel or enforce, or otherwise affect the mediation shall be in state or federal courts located in Jackson County, Missouri, and each party expressly consents to jurisdiction therein.

D. Causes of action between the parties shall accrue, and applicable statutes of limitation shall commence to run the date The Design-Builder's services are substantially complete.

16. WITNESS FEES

A. Design-Builder's employees shall not be retained as expert witnesses, except by separate written agreement.

B. Client agrees to pay The Design-Builder pursuant to The Design-Builder's then current schedule of hourly labor billing rates for time spent by any employee of The Design-Builder responding to any subpoena by any party in any dispute as an occurrence witness or to assemble and produce documents resulting from The Design-Builder's services under this Agreement.

17. CONTROLLING LAW

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Kansas without regard to any conflicts of law provisions.

18. RIGHTS AND BENEFITS – NO ASSIGNMENT

The Design-Builder's services will be performed solely for the benefit of Client and not for the benefit of any other persons or entities. Neither Client nor The Design-Builder shall assign or transfer interest in this Agreement without the written consent of the other.

19. ENTIRE CONTRACT

These Terms and Conditions and the above-referenced Letter, Proposal, or Agreement contain the entire agreement between The Design-Builder and Client relative to The Design-Builder's services for the Project herein. All previous or contemporaneous agreements, representations, promises, and conditions relating to The Design-Builder's services for the Project are superseded. In the event Client issues to The Design-Builder a purchase order, no preprinted terms thereon shall become part of this Agreement. Said purchase order documents, whether or not signed by The Design-Builder, shall be considered only as an internal document of Client to facilitate administrative requirements of Client's operations.

20. SEVERABILITY

Any unenforceable provision herein shall be amended to the extent necessary to make it enforceable; if not possible, it shall be deleted and all other provisions shall remain in full force and affect.

- END -

Attachment: digester contract (2066 : original digester floor problem)

Schedule of Hourly Professional Service Billing Rates

<u>Position Classification</u>	<u>Classification Level</u>	<u>Hourly Billing Rate</u>
Technician*	6	\$74.00
Assistant*	7	\$84.00
	8	\$116.00
	9	\$135.00
Staff*	10	\$151.00
	11	\$164.00
Senior	12	\$182.00
	13	\$201.00
Associate	14	\$210.00
	15	\$222.00
	16	\$227.00
	17	\$231.00

NOTES:

- Position classifications listed above refer to the Design Builder's internal classification system for employee compensation. For example, "Associate", "Senior", etc., refer to such positions as "Associate Engineer", "Senior Architect", etc.
- For any nonexempt personnel in positions marked with an asterisk (*), overtime will be billed at 1.5 times the hourly labor billing rates shown.
- Project time spent by corporate officers will be billed at Level 17 rate plus 25 percent.
- For outside expenses incurred by Design Builder, such as authorized travel and subsistence, and for services rendered by others such as subcontractors, the client shall pay the cost to Design Builder plus 10%.
- A technology charge of \$9.95 per labor hour will be billed for normal computer usage, computer aided drafting (CAD), long distance telephone, fax, photocopy and mail services. Specialty items (such as web and video conferencing) are not included in the technology charge.
- Monthly invoices will be submitted for payment covering services and expenses during the preceding month. Invoices are due upon receipt. A late payment charge of 1.5% per month will be added to all amounts not paid within 30 days of the invoice date.
- The services of contract/agency personnel shall be billed to Owner according to the rate sheet as if such contract/agency personnel is a direct employee of Design Builder.
- The rates shown above are effective for services through December 31, 2016, and are subject to revision thereafter.



STAFF REPORT

TO: Board of Aldermen
FROM: Jeremy Smith, Systems Administrator
DATE: November 25, 2015
SUBJECT: IT Staffing Pay levels

Type of Item: *Personnel*

At the 7/20/2015 Board of Aldermen meeting, “Review and Approval of Preliminary Objectives” was item 6.L and the addition of a second fulltime IT position was objective E.3. This objective was presented at a total cost estimated at \$78,000, which is an increase of approximately \$58,000 over the 2015 budget due to the currently budgeted part time position. This objective and all others were presented to the board for preliminary approval from City Administrator Moody. The board approved those objectives as written at that time.

Once the 2016 budget received board approval, staff began getting things in order to hire the position for the upcoming year. Staff found that the budgeted salary for the position had been cut to \$45k plus a cut to the benefits by the same % without the knowledge of staff or Finance Director Tholen. In reviewing the documents in MinuteTraq staff cannot find where the amended objective was taken to the board for review.

Staff is recommending that the position of “IT Specialist’s” pay scale level be adjusted to a level 7 with an estimated starting salary up to 58k depending on qualifications and experience. Driving the need to have a competitive salary for our IT staff is that we are competing for qualified candidates in a KC Metro area job pool with private companies. Staff has spoken to other public entities that have trouble filling entry level IT staff positions and almost never fill them at a salary much less than the mid-point.

Staff is also recommending that the position of Systems Administrator be retitled as IT Director and moved from a level 9 to a level 10 with no salary change.

Finance Director McCoy and Interim Administrator Tholen have identified unused salary within the Finance department personnel line item from the existing 2016 budget that will make this change have no impact on the 2016 budget.

Marc wage data for IT positions is listed below that staff believes is a sampling of jobs that will have similar roles and responsibilities.

IT Specialist

Kansas City IT technician \$44,520-69,744

Shawnee-Info Tech Specialist II \$49,896-\$74,845

Liberty IS Specialist II \$45,876-76,543

Lees Summit-Network Administrator \$46,769-76,794

IT Director

Blue Springs-Dir of IT \$70,717-106,069

Liberty-Info systems Dir \$67,800-\$113,064

Raymore-Mgr of Info Systems \$\$61,084-\$91,626

Council Bill No. 095

Resolution No.

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO
RESTORE FUNDING FOR AN IT SPECIALIST POSITION IN THE 2016
BUDGET AND TO ACCEPT AMENDMENTS TO THE PAY COMPENSATION
STRUCTURE**

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO RESTORE
FUNDING FOR AN IT SPECIALIST POSITION IN THE 2016 BUDGET AND TO
ACCEPT AMENDMENTS TO THE PAY COMPENSATION STRUCTURE**

WHEREAS, the City of Harrisonville wishes to hire one additional full time employee as an IT specialist in 2016, and

WHEREAS, \$78,000 was originally requested in the 2016 budget for such a position, and

WHEREAS, the amount was reduced to \$45,000 in the final form of the budget which was adopted by the Board of Aldermen on October 5, 2016.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE
CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:**

Section 1: That the City Administrator is hereby authorized and directed to restore funding for the IT Specialist position in the 2016 budget in the amount of \$78,000.

Section 2: That the Harrisonville Board of Aldermen accepts the ensuing amendment to the Pay Compensation Structure.

Section 3: That this resolution shall become effective immediately for the City of Harrisonville.

PASSED AND RESOLVED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Harrisonville, Missouri, this 7th day of December 2015

Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

WITNESS my hand and seal this 7th day of December 2015

Cost Estimate: \$99,000/yr. for 3 years **Account 07-6-0721-0318**

Completion Date: 2017

Responsible Party: Electric Department Director

2. Hire an Intern to Work with Historic Preservation Commission & Square Association

Justification: This Historic Preservation Commission (HPC) has requested funds to hire an intern to work on projects and a new association focused on promoting the square could benefit from the assistance of this intern. Projects that have been discussed include:

- Expanding the Historic Preservation/Harrisonville's presence on the City web page and/or establishing a web page link. This would allow the HPC to provide more historical information to the public.
- Having a guest speaker(s) attend their meeting(s), conducting professional development, and/or make a special presentation to the HPC and the public.
- Update Commission information with regards to CLG Requirements.

Cost Estimate: \$6,000 **Account 01-6-0608-0102**

Completion Date: October 15, 2015

Responsible Party: Director of Community Development

Submitted by: Director of Community Development / Historic Preservation Commission

3. Add a Second Fulltime IT position

Justification: The Systems Administrator position was created in 2002 out of a growing need for the reliability of in house IT support. The position was originally responsible for the single city hall server and pc's at city hall, fire, ems, and parks of approximately 30. At the time connectivity was with 10 dialup lines and 10 email addresses.

Today we have the original position plus 1 ever changing part time staff responsible for; 13 locations, 120 plus pc's, laptops, tablets, and cell phones, 9 production servers and support of 3 others, 15 varying internet connections with 13 hardware firewalls, 5 other varying network appliances, 12 major applications and countless smaller applications, and 174 current email addresses. We also migrated to a new phone system with the police department construction that we expect to expand to all city facilities that will be served by the ongoing fiber project.

We have implemented countless new software, services, and pieces

Attachment: 2016 Goals and Objectives- Draft (1956 : Review & Preliminary Approval of 2016 Objectives)

Attachment: DOC112515-11252015142238 (2065 : IT Staffing Pay levels)

of hardware that are more taxing on the staffs time and resources. The position has become a 24 hour a day 7 day a week position supporting our police and fire services as well as ongoing off hours maintenance of other existing systems.

The staff has also become point on phone and cell phone service and billing issues. Any issues pertaining to banking, credit card processing, PCI, HIPAA, and other security issues fall under the department's purview as well as any technical question any staff member may need guidance on.

As a stop gap, we had employed a strategy of defining a person in each dept. as the software administrator for their particular product. This was implemented because it is impossible for one person to keep up with the setup and day to day operations of each software. It is also helpful because people who do a job are more familiar with the business process of their department. This is still a solid strategy that has been hindered by turnover in some key positions and hiring replacements without those same skills or providing for their training. However, we have implemented a great deal more technology over the last 13 years than we can continue to maintain at the current staffing levels.

As we continue to move forward and look to add new services, maintain, and improve existing services, we will have to look to increase staffing as well as bolster our infrastructure as both are being pushed to their limits. We currently aren't capable of doing enough training, planning, security, policy, or compliance as the dept. has become reactive only. This is due to the amount of day to day workload just keeping everyone else working and project management. This was never more evident than when we were notified in January by the Highway Patrol that we would be receiving a FBI security audit of our Police dept. IT infrastructure because we have access to criminal history information. This caused us to make significant changes to our network infrastructure which also leads to more management time. We also spent countless hours on this project which left many other projects and problems on hold. This is the tip of the iceberg in the security realm and without additional staffing to work as another set of eyes on our security, backups, and updates, we are setting ourselves up for something to be missed and a failure to occur.

Staffing is the first step in bringing our IT Department forward; as we continue to evolve our infrastructure we have to realize that investments will have to be made in updating equipment and provide for higher levels of training.

Cost Estimate: \$78,000
Current part time salary: \$20,000
Net increase: \$58,000

Cost Estimate: \$58,000 Account 01-6-0203-01xx

Attachment: 2016 Goals and Objectives- Draft (1956 : Review & Preliminary Approval of 2016 Objectives)
Attachment: DOC112515-11252015142238 (2065 : IT Staffing Pay levels)



TO: Board of Aldermen
FROM: Jerry Gibbs, Director
DATE: November 19, 2015
SUBJECT: J4P1475 CHANGE ORDER (291)

Type of Item: *Change Order*

Staff Report

Background:

Lehman Construction was awarded the contract to complete the 291 Highway Project for \$13,729,930.04. The Partners in Progress TDD is responsible for all contract change orders. A term in the Phase 2 funding agreement between the TDD and City specifies the city will have an opportunity to review and approve all Phase 1 change orders that occur subsequent to the agreement.

Review:

MODOT is required to account for all quantity changes in the contract. Change order #8 for \$24,609.60 represents quantity changes in Class A excavation (over excavation) at the south Walmart entrance on 291. It is an increase, as the installed quantities were greater than the bid quantities. This amount is covered by the TDD and will count toward the advancing (loan) from the City. The current advance amount including change orders 1 through 7 stands at \$1,151,397.35 (the advance limit is \$1.5 million). The revised advance amount will become \$1,176,006.95. Unknowns from this point on in the project should be minimal. Staff is recommending approval of the change order.

Council Bill No. 096

Resolution No.

**A Resolution of the Board of Aldermen to Approve Change Order #8 to the Lehman
Construction contract with the Highway 71/291 Partners in Progress
Transportation Development District in the amount of \$24,609.60**

WHEREAS, the Class A excavation quantities by Lehman Construction exceeded their bid by \$24,609.60, and

WHEREAS, this amount will be paid by the Hwy. 71/291 Partners in Progress Transportation Development District, and

WHEREAS, the City, in Ordinance 3303 (05-15), adopted Feb. 17, 2015, has reserved for itself the right to review and approve any change orders which will be part of the amount advanced to the TDD, up to a limit of \$1.5 million, and

WHEREAS, the current advance amount, including Change Order Nos. 1 through 7, totals \$1,151,397.35,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1: That the Board of Aldermen hereby approves Change Order #8 to the Lehman Construction contract with the Highway 71/291 Partners in Progress Transportation Development District in the amount of \$24,609.60

Section 2: That this resolution shall become effective immediately upon its passage and approval.

PASSED AND RESOLVED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Harrisonville, Missouri, this 7th day of December 2015

Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

WITNESS my hand and seal this 7th day of December 2015

CHANGE ORDER

Date: November 17, 2015
Page 1 of 2

TO 0011540 Lehman Construction, LLC Contractor

YOU ARE HEREBY DIRECTED TO MAKE THE FOLLOWING CHANGES FROM THE CONTRACT:

form revised 20150710

Change Order No. 008
Contract ID 140523-C06
Federal Project No. I-71-(4)(20)
Route 49
County Cass
Change Order Type Resident Engineer Approval
Federal Oversight Yes

ESTIMATE OF COST OF WORK AFFECTED BY THIS CHANGE ORDER

PROJECT NUMBER	LINE ITEM NUMBER	ITEM CODE	CATEGORY NUMBER	DESCRIPTION	UNITS	UNITS PREVIOUSLY PROVIDED FOR	UNITS TO BE CONSTRUCTED	UNITS OVERRUN, UNDERRUN, CONTINGENT	CONTRACT OR AGREED UNIT PRICE	AMOUNT OF OVERRUN OR PLUS CONTINGENT	AMOUNT UNDER OR MINUS CONTINGENT
J4P1475	0030	2031000	0001	CLASS A EXCAVATION	CUYD	53,716.000	57,134.000	3,418.000	\$7.20000	\$24,609.60	
SETTLEMENT FOR COST OF THE ABOVE CHANGE TO BE MADE AT CONTRACT UNIT PRICES, EXCEPT AS NOTED:										\$24,609.60	

CONTRACT AMOUNT \$13,686,266.48
OVERRUN THIS ORDER \$24,609.60
OVERRUN PREVIOUS ORDERS \$100,673.33
TOTAL OVERRUN TO DATE \$125,282.93
TOTAL \$13,811,549.41

Signatures required on first page only.

THE TERMS OF SETTLEMENT OUTLINED ABOVE ARE HEREBY AGREED TO:

0011540 Lehman Construction, LLC
CONTRACTOR

Contractor's Authorized Representative

Approved - Resident Engineer
Jon G. Voss

Attachment: 140523-C06_J4P1475_Change Order 008 (Unsuitable Material) (2061 : J4P1475 CHANGE ORDER (291))

Change Order Reasons

Change Order No. 008

6.G.a

Contract ID 140523-C06

Line Item Number	Reason Code	Description and Reason for Change
0030	DF	DF - Line No. 0030 - Class A Excavation - Overrun: Unsuitable material was encountered while excavating for the new Westbound Route 291 from station 1361+00 to station 1365+00 (right of centerline). Organic material was removed and not used for embankment construction. This is a final field measured quantity.

Attachment: 140523-C06_J4P1475_Change Order 008 (Unsuitable Material) (2061 : J4P1475 CHANGE ORDER (291))



STAFF REPORT

TO: Board of Aldermen
FROM: Jerry Gibbs, Director
DATE: November 25, 2015
SUBJECT: PHASE 2 - 291 WATER MAIN ENGINEERING

Type of Item: *Policy***STAFF REPORT**

Phase 2 of the Highway 291 project is extending the three lane highway configuration to Waters Road. Funding has been secured from three different sources totaling \$3.684 million. One source of funding (Cost Share- \$2.3 million) is no longer offered and must be used by 2017 or be lost, another (STP Funds- \$1.1 million) would be lost if not used by 2018. A preliminary design has been completed and potential conflicts identified with existing utilities. Phase 2 is continuing the partnership approach between MODOT, the TDD and the City. Only the city utilities impacted by the construction will be required to be moved.

ISSUE

Bowers Engineering has submitted a proposal in the amount of \$37,700 and a not to exceed price of \$40,000 to develop plans and JSP's (Job Special Provisions) to include in the MODOT bid package for Project J4P3002 bidding letting in September 2016. The engineering is included in the 2015 Budget line item 08-6-0931-3056 in the amount of \$40,000 and construction cost (\$360,000) is included in the 2016 Budget 08-6-0931-3056.

Troy Bowers and city staff have met with Robert Rhodes, Utility Coordinator with MODOT to discuss allowable construction methods. One major cost savings method MODOT has allowed is open cutting to install the required casings & water lines under 291 Highway. There are a minimum of five water main crossings impacted.

Staff is recommending approval of an engineering design contract with Bowers Engineering to develop plans and JSP's to eliminate conflicts of water utility impacted by the MODOT J4P3002 Project.

Council Bill No. 097

Resolution No.

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER
INTO AN AGREEMENT WITH BOWERS ENGINEERING FOR
ENGINEERING DESIGN SERVICES IN AN AMOUNT NOT TO EXCEED
\$40,000**

Whereas, Phase 2 of the Highway 291 project will extend the 3-lane configuration to Waters Road, and

Whereas, certain components of the water utility will have to be moved before construction can be accomplished, and

Whereas, Bowers Engineering is capable of designing the plans and provisions related to the relocation to include in the MoDot bid package for Phase 2, and

Whereas, Bowers Engineering has submitted a proposal in the amount of \$37,700 to do so, with a not to exceed price of \$40,000

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE
CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:**

Section 1: That the City Administrator of the City of Harrisonville is hereby authorized and directed to enter into an Agreement with Bowers Engineering to provide design services for Phase 2 of the Highway 291 project in an amount not to exceed \$40,000

Section 2: That this resolution shall become effective immediately upon its passage and approval.

PASSED AND RESOLVED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Harrisonville, Missouri this 7th day of December 2015.

Brian Hasek, Mayor & Ex Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

WITNESS my hand and seal this 7th day of December 2015

November 30, 2015

Mr. Jerry Gibbs, P.E.
Public Works Director
City of Harrisonville
201 W. Chestnut
Harrisonville, MO 64701

Re: Proposal / Agreement for Engineering and Land Surveying Professional Services for Waterline Relocation Construction Plans along Route 291 Roadway Improvements, Harrisonville, Cass County, Missouri.

Dear Mr. Gibbs,

I am pleased to present to you our Cost Proposal / Agreement for engineering and land surveying services to provide Waterline Relocation Construction Plans along Route 291 Roadway Improvements, Sta: 1313+00 to 1361+30, Harrisonville, Cass County, Missouri. As shown on the MoDOT Highway Plans prepared by TranSystems Corporation, dated November 5, 2015.

Bowers Engineering & Surveying, Inc. (Engineer) shall provide engineering and land surveying services as described in the scope of services below. Services shall be provided upon receiving notice to proceed from the City of Harrisonville, (Client).

SCOPE OF SERVICES

1. Base Roadway Plan Coordination

- A. Setup of base design file of roadway topographical survey and proposed roadway improvements for use as the proposed waterline improvement base file. Base design file to be provided by TranSystems Corporation.

2. Preliminary Waterline Relocation Plans

- A. Contact Missouri One Call for existing utility locations along the corridor.
- B. Walk the corridor for a better understanding of the potential alignments and utility conflicts.
- C. Coordinate a site meeting and walk the corridor with City personnel to discuss the potential alignments and utility conflicts. The proposed waterline alignment will be flagged or painted at this meeting.
- D. Coordinate and witness excavation by pot holing to determine the depth of existing waterline crossings along the corridor. The excavation will need to be provided by City personnel. Any rock encountered will be located both horizontally and vertically so that it may be plotted on the plan and profile of the waterline. Or, field locate top of water valves (horizontal & vertical) for comparison to proposed storm sewer pipes. (Prefer to pothole waterlines at storm pipe crossings to locate top of existing waterlines.)
- E. The proposed waterline alignment shall be reviewed and a profile provided illustrating existing utility crossings and possible conflicts.
- F. Coordinate a meeting with City & MoDOT personnel to review the proposed waterline alignment and vertical profile.
- G. Coordinate a utility coordination meeting with City personnel and the utility owners having facilities along this corridor.
- H. Attend a meeting with City & MoDOT personnel to review the preliminary design, estimated construction cost and to confirm the proposed waterline alignment to be used in the final design.

3. Final Waterline Relocation Plans

- A. Develop final construction plans based on the Preliminary Plans with revisions per City and MoDOT comments.
- B. Provide Temporary Construction and/or Permanent Easements as required for the waterline project.
- C. Determine Final Project Quantities.
- D. Determine Final Cost Estimate for the waterline construction.
- E. Meet with City and MoDOT personnel to review the final construction plans.
- F. Provide waterline technical specifications for the bid documents.
- G. Prepare Missouri Department of Natural Resources Waterline Extension Construction Permit Application, if required.
- H. Submit construction documents to the City and/or TranSystems Corporation for inclusion of the waterline plans in the bid documents.

COMPENSATION

The estimated cost for the above services is \$37,700.00 with a not-to-exceed fee amount of \$40,000.00. Given the time frame of the project the estimated cost is based on our 2016 Hourly Rate Schedule, a copy of which is attached and made a part of this proposal.

INVOICES & PAYMENTS

Bowers Engineering & Surveying, Inc. shall submit its invoices to the Client on a monthly basis or upon completion of each work item. Invoices are due and payable upon receipt and shall be considered past due if not paid within 30 days. If Client fails to make any payment due Engineer for services and expenses within 30 days of Engineer's invoice date, then, amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth (30th) day.

ASSUMPTIONS / NOTES

The professional services that Bowers Engineering & Surveying, Inc. will provide under this Proposal / Agreement include, and are limited to, those described above. All other services are specifically excluded. Listed below are assumptions and notes related to this Proposal.

1. Reimbursable expenses not listed above shall be invoiced at cost.
2. Additional Services shall include surveying or engineering items not specifically listed above in this proposal agreement.
3. Refer to Exhibit "A" for Bowers Engineering & Surveying, Inc. Hourly Rate Schedule.

SCHEDULE

Bowers Engineering & Surveying, Inc. will schedule the work upon receipt of the signed Authorization to Proceed Form (attached to this proposal) or upon receipt of Notice to Proceed from the Client. As of the date of this proposal / agreement, we anticipate completion of the Waterline Relocation Plans by the end of May 2016. Standard provisions of agreement for professional services is attached and included hereof. Should you have any questions or require additional information, please do not hesitate to contact me at (816) 380-4821 or troy@bowersengineers.com.

Sincerely,

Troy S. Bowers, P.E., P.L.S.
Bowers Engineering & Surveying, Inc.

November 30, 2015

Mr. Jerry Gibbs, P.E.
Public Works Director
City of Harrisonville
201 W. Chestnut
Harrisonville, MO 64701

Re: Proposal / Agreement for Engineering and Land Surveying Professional Services for Waterline Relocation Construction Plans along Route 291 Roadway Improvements, Harrisonville, Cass County, Missouri.

Authorization for Professional Services

I/we hereby authorize Bowers Engineering & Surveying, Inc. to proceed with the services outlined within the Proposal for Engineering and/or Surveying Services and I will be responsible for the invoice of said services.

_____ Signature	_____ Title	_____ Date
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Print Name

Company Name

Billing Address

Attachment: Proposal - 291 Waterline Bowers Engineering (2064 : PHASE 2 - 291 WATER MAIN ENGINEERING)

EXHIBIT "A"**Bowers Engineering & Surveying, Inc.****2016 Hourly Rate Schedule**

Registered Professional Engineer	\$125.00/hour
Registered Professional Land Surveyor	\$100.00/hour
Land Survey Technician	\$85.00/hour
One Man Survey Field Crew	\$135.00/hour
Two Man Survey Field Crew	\$150.00/hour
Three Man Survey Field Crew	\$165.00/hour

Equipment

GPS Antennas	\$20.00/hour
ATV or UTV	\$20.00/hour

Reimbursable Expenses

24" x 36" Paper copies	\$ 4.00 / Sheet
24" x 36" Mylar copies	\$ 8.00 / Sheet
8.5" x 11" Project Manual or SWP3 Manual	\$50.00 / Manual
Ownership & Encumbrance Report	At Cost
Application Fees	At Cost
Recorder's Office Fees	At Cost
Field Materials	At Cost

Attachment: Proposal - 291 Waterline Bowers Engineering (2064 : PHASE 2 - 291 WATER MAIN ENGINEERING)

STANDARD PROVISIONS OF AGREEMENT FOR PROFESSIONAL SERVICES

Bowers Engineering & Surveying, Inc. shall perform the services outlined in this agreement for the stated fee arrangement.

Indemnification: *The Client shall, to the fullest extent permitted by law, indemnify and hold harmless Bowers Engineering & Surveying, Inc., his or her officers, directors, employees, agents and subconsultants from and against all damage, liability and cost, including reasonable attorney's fees and defense costs, arising out of or in any way connected with the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of Bowers Engineering & Surveying, Inc.*

Limitation of Liability: *In recognition of the relative risks, rewards and benefits of the project to both the Client and Bowers Engineering & Surveying, Inc., the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, Bowers Engineering & Surveying, Inc.'s total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claim expenses arising out of this agreement from any cause or causes, shall not exceed \$50,000 or the total fee for this contract, whichever is more. Such causes include, but are not limited to, Bowers Engineering & Surveying, Inc.'s negligence, errors, omissions, strict liability, breach of contract or breach of warranty.*

Access to Site: Unless otherwise stated, Bowers Engineering & Surveying, Inc. will have access to the site for activities, but has not included in the fee the cost of restoration of any resulting damage.

Information Provided By Others: Client shall furnish at the Client's expense, all information, requirements, reports, data, surveys and instructions required by this Agreement. Bowers Engineering & Surveying, Inc. may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. Bowers Engineering & Surveying, Inc. shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the Client and/or the Client's consultants and contractors.

Dispute Resolution: Any claims or disputes made during design, construction or post-construction between the Client and Bowers Engineering & Surveying, Inc. shall be submitted to non-binding mediation. Client and Bowers Engineering & Surveying, Inc. agree to include a similar mediation agreement with all contractors, subcontractors, sub consultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

Invoices/Payments: Invoices for Bowers Engineering & Surveying, Inc.'s services shall be submitted at Bowers Engineering & Surveying, Inc.'s option, either upon completion of such services or on a monthly basis. Invoices shall be due and payable upon presentment. If the invoice is not paid within the immediate 30 day period following presentment, Bowers Engineering & Surveying, Inc. may, without waiving any claim or right against Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoice. Bowers Engineering & Surveying, Inc. may suspend services under this Agreement until Client has paid in full all amounts due for services, expenses, and other related charges. Client waives any and all claims against Bowers Engineering & Surveying, Inc. for any such suspension. Client agrees that the remaining work items that are to be provided by Bowers Engineering & Surveying, Inc. (listed in the scope of services within this proposal agreement), shall be paid in full to Bowers Engineering & Surveying, Inc. prior to commencement of other services as a Retainer for services of Bowers Engineering & Surveying, Inc.

Late Payments: Accounts unpaid 30 days after the invoice date may be subject to a monthly service charge of 1.5% (18% Annual Percentage Rate) (or the legal rate) on the then unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees and said accounts may be assigned to a credit agency, be the basis for mechanics liens on any and all other debt collection remedies available.

Certifications, Guarantees and Warranties: Bowers Engineering & Surveying, Inc. shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence Bowers Engineering & Surveying, Inc. cannot ascertain.

Standard of Care: Services performed by Bowers Engineering & Surveying, Inc. under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other representation expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion document, or otherwise.

Termination of Services: This agreement may be terminated by the Client or Bowers Engineering & Surveying, Inc. should the other fail to perform its obligations hereunder. In the event of termination, the client shall pay Bowers Engineering & Surveying, Inc. for all services rendered to the date of termination, all-reimbursable expenses, and reimbursable termination services.

Attachment: Proposal - 291 Waterline Bowers Engineering (2064 : PHASE 2 - 291 WATER MAIN ENGINEERING)

Ownership of Documents: All documents, including electronic files, produced by Bowers Engineering & Surveying, Inc. under this agreement shall remain the property of Bowers Engineering & Surveying, Inc. and may not be used by the Client for any other endeavor without the written consent of Bowers Engineering & Surveying, Inc.

Hazardous Materials: The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless Bowers Engineering & Surveying, Inc., its officers, partners, employees and subconsultants (collectively, Bowers Engineering & Surveying, Inc.) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of Bowers Engineering & Surveying, Inc.

Jobsite Safety: Neither the professional activities of Bowers Engineering & Surveying, Inc., nor the presence of Bowers Engineering & Surveying, Inc. or its employees and subconsultants at a construction/project site, shall impose any duty on Bowers Engineering & Surveying, Inc., nor relieve the Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the Contract Documents and any health or safety precautions required by any regulatory agencies. Bowers Engineering & Surveying, Inc. and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Client agrees that the Contractor shall be solely responsible for jobsite and worker safety and warrants that this intent shall be carried out in the Client's contract with the Contractor. The Client also agrees that the Contractor shall defend and indemnify the Client, Bowers Engineering & Surveying, Inc. and Bowers Engineering & Surveying, Inc.'s subconsultants. The Client also agrees that the Client, Bowers Engineering & Surveying, Inc. and Bowers Engineering & Surveying, Inc.'s subconsultants shall be made additional insured under the Contractor's policies of general liability insurance.

Third-Party Beneficiaries: Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Bowers Engineering & Surveying, Inc. Bowers Engineering & Surveying, Inc.'s services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against Bowers Engineering & Surveying, Inc. because of this Agreement or the performance or nonperformance of services hereunder. The Client and Bowers Engineering & Surveying, Inc. agree to require similar provisions in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

Reimbursables: All expenses will be billed directly to the client and are in addition to the contract amount, unless indicated differently in the proposal.



TO: Board of Aldermen
FROM: Mike Tholen, City Administrator
DATE: December 2, 2015
SUBJECT: Resolution authorizing CenturyLink settlement

Type of Item: *Agreement*

This resolution would authorize the City to settle the CenturyLink litigation, releasing the taxes they had paid in protest, collecting the amounts previously disputed by CenturyLink, and preserving the City's rights to collect the authorized taxes in the future. The agreement complies with the settlement parameters the Board has outlined.

Staff recommends that this resolution be approved, with the hope of getting all approvals completed this year.

Council Bill No. 098

Resolution No.

**A Resolution Authorizing the City Administrator to Execute a Settlement
Agreement with CenturyLink**

WHEREAS, an agreement has been crafted which will end the litigation between the City of Harrisonville and CenturyLink;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF
THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:**

Section 1: That the City Administrator of Harrisonville, Missouri is hereby authorized and directed to enter into the attached agreement

Section 2: That this resolution shall become effective immediately for the City of Harrisonville.

PASSED AND RESOLVED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Harrisonville, Missouri, this 7th day of December 2015.

Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

WITNESS my hand and seal this 7th day of December 2015

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is made between CenturyLink, Inc.; CenturyTel of Missouri, LLC; CenturyTel Long Distance, LLC; Embarq Missouri, Inc.; Spectra Communications Group, LLC; and Embarq Communications, Inc. (collectively “CenturyLink Defendants”) and the City of Harrisonville, Missouri, a city of the fourth class (“Harrisonville”) (each a “Party” and collectively the “Parties”), and is effective on the date on which an ordinance duly passed by the city council of Harrisonville approving and adopting this Settlement Agreement becomes effective (“Effective Date”).

WHEREAS, one or more of the CenturyLink Defendants has provided various services, including but not limited to telephone service, within Harrisonville for at least the past ten years;

WHEREAS, a dispute has arisen between the CenturyLink Defendants and Harrisonville regarding the scope of Harrisonville’s telephone tax contained in, for example, Harrisonville Ordinance No. 506-B (1958), Harrisonville Ordinance No. 3119 (2009), and/or Chapter 665 of the Harrisonville City Code (“Harrisonville Telephone Tax”) as it relates to services provided by some of the CenturyLink Defendants;

WHEREAS, on or about May 10, 2012, an action was filed in the Circuit Court of the County of St. Louis, State of Missouri captioned *City of O’Fallon, Missouri, et al. v. CenturyLink, et al.*, Case No. 12SL-CC01723, in which the Missouri cities of O’Fallon, Troy and Orrick were plaintiffs and class representatives on behalf of a class of Missouri municipalities regarding the applicability of various municipalities’ respective business license tax ordinances and certain franchise agreements to receipts from certain of the CenturyLink Defendants’ products and services (“O’Fallon Action”);

WHEREAS, on or about July 27, 2012, Harrisonville joined with four other cities in filing their own action against the CenturyLink Defendants in the Circuit Court for the County of St.

Louis, State of Missouri captioned *City of Aurora, Missouri, et al. v. Spectra Communications Group, et al.*, Case No. 12SL-CC02896 (“Aurora Action”);

WHEREAS, in the Aurora Action, the plaintiffs make allegations concerning, *inter alia*, the scope of their respective business license taxes applicable to telephone service, right-of-way agreements and the history of CenturyLink’s payments under the various telephone business license taxes, including the Harrisonville Telephone Tax, and payments under the Harrisonville ROW Agreement;

WHEREAS, during the course of the Aurora Action, CenturyLink began remitting and paying certain amounts of taxes under protest pursuant to R.S. Mo. § 139.031 and initiating numerous actions to perfect those protest payments in the Circuit Court of Cass County, State of Missouri for the refund of those taxes paid under protest, with such actions all bearing the caption *Embarq Missouri, Inc. v. Village Collector, Village of Baldwin Park, et al.* and with such protest refund actions having been assigned the following cases numbers by the Cass County, Missouri Circuit Court: 13CA-CV01691, 13CA-CV02693, 13CA-CV03696, 14CA-CC00032, 14CA-CC00112, 14CA-CC00188, and 14CA-CC00273, or *Embarq Missouri, Inc. v. Donna Crow, City Collector and the City of Harrisonville, Missouri* and with such protest refund actions having been assigned the following case numbers by the Cass County, Missouri Circuit Court: 15CA-CC00021, 15CA-CC00090, 15CA-CC00153 and 15CA-CC00229 (collectively “Harrisonville Protest Tax Refund Actions”);

WHEREAS, on April 17, 2014 the trial court in the Aurora Action entered its Order granting partial summary judgment to plaintiffs, including Harrisonville, and against the CenturyLink Defendants on various but not all issues in the case such that the partial summary judgment order cannot yet be appealed and, among other things, ordered the payment of certain attorneys’ fees to plaintiffs;

WHEREAS, on December 12, 2014, the Circuit Court for the County of St. Louis, State of Missouri approved certification of a settlement class in the O'Fallon Action that expressly excluded the plaintiffs in the Aurora Action, including Harrisonville, and approved a settlement agreement between the CenturyLink Defendants and the settlement class in the O'Fallon Action ("O'Fallon Settlement Agreement");

WHEREAS, the CenturyLink Defendants have denied and continue to deny any and all liability with respect to the allegations raised against them in the various lawsuits involving the application of the Harrisonville Telephone Tax and the related Harrisonville ROW Agreement as it relates to the CenturyLink Defendants' products and services;

WHEREAS, the CenturyLink Defendants and Harrisonville wish to avoid the expense and uncertainty of continued litigation and desire to settle their disputes without further litigation, including all claims and issues that have been brought or could have been brought in the Aurora Action or Harrisonville Protest Tax Refund Actions, including by compromising any of the CenturyLink Defendants' alleged past tax or franchise fee or right-of-way liability owed to Harrisonville, and establishing and clarifying what taxes and franchise or right-of-way fees the CenturyLink Defendants are to pay on their future revenues to Harrisonville, all in accordance with the terms and conditions set forth in this Settlement Agreement;

NOW THEREFORE, it is hereby stipulated and agreed that, in consideration of the agreements, promises, and covenants set forth in this Settlement Agreement, Harrisonville's participation as a plaintiff in the Aurora Action shall be fully and finally settled and dismissed with prejudice and without costs or attorneys' fees to the CenturyLink Defendants except as provided for under the following terms and conditions:

1. Payment for Attorneys Fees' And Back Taxes; Release of Protest Payments.
Embarq Missouri, Inc. shall pay or cause to be paid to Harrisonville a total amount of \$325,000,

which amount constitutes payment for attorneys' fees incurred and for total unpaid back tax liability; \$200,000 represents the payment for attorneys' fees, and \$125,000 represents an amount for unpaid taxes and other charges associated with unpaid taxes. If the Effective Date is on or before December 7, 2015, Embarq Missouri, Inc. payment will be made on or before December 31, 2015. If the Effective Date is on or after December 8, 2015, payment will be made within thirty (30) calendar days of the Effective Date. In addition, Embarq Missouri, Inc. shall, contemporaneously with such payment, unconditionally release to Harrisonville all amounts previously paid to Harrisonville under protest, totaling \$143,544.98.

2. Dismissal of Harrisonville Claims and CenturyLink Defendants' Counterclaims In Aurora Action. Within ten (10) business days of Harrisonville's receipt of the payment identified in Section 1, above, Harrisonville shall file or cause to be filed a dismissal with prejudice of all of Harrisonville's claims in the Aurora Action, and the CenturyLink Defendants shall file or cause to be filed a dismissal with prejudice of all of the CenturyLink Defendants' counterclaims against Harrisonville in the Aurora Action.

3. Dismissal of Harrisonville Protest Tax Refund Actions. Within ten (10) business days of the dismissal referenced in Section 2, above, the CenturyLink Defendants shall dismiss or cause to be dismissed with prejudice the pending Harrisonville Protest Tax Refund Actions. Harrisonville agrees that it shall reasonably cooperate with the CenturyLink Defendants as necessary to accomplish dismissal of all of these lawsuits.

4. Prospective Telephone Business License Tax Base. The Parties agree that the Harrisonville Telephone Tax shall be interpreted, beginning on the Effective Date, to apply to the same revenues as agreed to be included in the tax base in the provision "Future Tax Benefit," and set forth in Section II.A.2.a., Section II.A.2.b., Section II.A.2.c., and Section I.C. of the O'Fallon Settlement Agreement, and to exclude the same revenues as excluded from the tax base as set forth

in the O'Fallon Settlement Agreement, all as approved by the court in the O'Fallon Action on December 12, 2014 (regardless of whether that court approval is affirmed, reversed or modified on appeal).

5. Change of Law and Most Favored Nation.

A. Change of Law for One City Applies to Harrisonville. In the event of:

(1) a settlement of or a final, non-appealable judgment in the Aurora Litigation, at any time, or

(2) a settlement of or a final, non-appealable judgment in another case within four years of the Effective Date of the Settlement, or

(3) a legislative change within four years of the Effective Date of the Settlement,

and pursuant to which the CenturyLink Defendants, individually or collectively, voluntarily or involuntarily, pay a business license tax to a Missouri municipality in the future, and include or are required to include receipts from a product or service excluded from this Settlement Agreement, then the CenturyLink Defendants agree that, to the extent Harrisonville has in effect substantially similar ordinances the same as the Missouri municipality being paid said additional tax, to also pay such tax to Harrisonville on the same receipt(s), at then-existing rates of the Harrisonville Telephone Tax, unless such receipts are specifically and expressly excluded from taxation by the Harrisonville Telephone Tax ordinance. Harrisonville shall not, in case of any settlement, final non-appealable judgment, or legislative change referred to above, be entitled to recover back taxes on receipts from a product or service excluded from this Settlement Agreement earned prior to the finality of such settlement, non-appealable judgment, or legislative change.

This provision shall not apply in the event a CenturyLink Defendants' payment of a business license tax to any Missouri municipality on revenues in addition to those listed in this Settlement

Agreement is the result of any municipality expanding the scope of its business license tax base through a legislative change or as otherwise authorized by law.

B. Change of Law Against Another City Binds Harrisonville. Similarly, in the event of:

- (1) a final, non-appealable judgment in the Aurora Litigation, at any time, or
- (2) a legislative change within four (4) years of the Effective Date of the Settlement,

and pursuant to which the CenturyLink Defendants, individually or collectively, are relieved from paying, or are determined not to owe, business license taxes on receipts from a product or service that is specifically included within this Settlement Agreement, then, to the extent the Harrisonville Telephone Tax has a provision which is substantially similar to those ordinances affected by such judgment or legislative change, the CenturyLink Defendants may conform their payments of the Harrisonville Telephone Tax to such judgment or legislative change, as the case may be, and may refrain from paying the Harrisonville Business License Tax on the same receipts.

C. Most Favored Nations Provision For Prospective Tax Payments. If the CenturyLink Defendants, individually or collectively, enter into a written agreement with a Missouri municipality within four (4) years of the date of the Effective Date, and such agreement includes terms that are materially more favorable to that Missouri municipality than the terms of this Settlement Agreement as it relates to the payment of taxes prospectively, then the CenturyLink Defendants shall promptly notify Harrisonville of such agreement, and Harrisonville shall, at its discretion, have the right to amend this Settlement Agreement to take advantage, as of the date of Harrisonville's election to take advantage of this provision, of such more favorable terms relating to the prospective payment of taxes.

6. Releases.

A. Release by Harrisonville. Upon both (i) the receipt of the payment described in section 1, above, and (ii) the dismissal with prejudice of the Harrisonville Protest Tax Refund Cases

and the CenturyLink Defendants' counterclaims against Harrisonville in the Aurora Action, described in sections 2 and 3, above, Harrisonville, on its own behalf and on behalf of any and all of its elected or appointed officials and employees (including without limitation its assessors, auditors, and collectors of taxes), assigns, insurers, agents, attorneys and representatives of any kind, past and/or present (hereinafter collectively the "Harrisonville Releasors") hereby release and forever discharge the CenturyLink Defendants, and any and all of their parent companies, direct and indirect subsidiaries, divisions, affiliates, merged companies, general and limited partners, sureties, insurers and reinsurers, successors, predecessors, assigns, directors, officers, shareholders, principals, servants, agents, attorneys, contractors, and employees, past and/or present (hereinafter collectively the "CenturyLink Releasees"), from any and all manner of claims, liabilities, demands, damages, causes of action, judgments and suits, whether known or unknown, suspected or unsuspected, contingent or liquidated, asserted or unasserted, which the Harrisonville Releasors now or in the future have or hold, or have at any time held, against the CenturyLink Releasees, or any of them, for any and all claims the Harrisonville Releasors have or may have against the CenturyLink Releasees, or any of them, that (i) were asserted or that could have been asserted by Harrisonville in the Aurora Action (including breach of contract allegations); (ii) were asserted or that could have been asserted by Harrisonville in the Harrisonville Protest Tax Refund Actions; (iii) are related to any of the CenturyLink Releasees' payment or non-payment of the Harrisonville Telephone Tax prior to the Effective Date; (iv) arise out of or are related to payments, non-payments, or other obligations alleged to be due from the CenturyLink Defendants, or any of them, prior to the Effective Date arising or asserted under the Harrisonville ROW Agreement; or (v) constitute Released Claims, as defined in Section I.AA of the O'Fallon Settlement Agreement; provided, however, that this Release does not apply to claims or rights arising out of this Settlement Agreement.

B. Release By CenturyLink Defendants. Upon the dismissal with prejudice of all claims asserted on behalf of Harrisonville in the Aurora Action as described in section 2, above, the CenturyLink Defendants, on their own behalf and on behalf of any and all of their parent companies, subsidiaries, divisions, affiliates, merged companies, general and limited partners, sureties, insurers and reinsurers, successors, predecessors, assigns, directors, officers, shareholders, principals, servants, agents, attorneys, contractors and employees, past and/or present (hereinafter collectively the “CenturyLink Releasers”) hereby release and forever discharge Harrisonville, and any and all of its elected or appointed officials and employees (including without limitation its assessors, auditors, and collectors of taxes), assigns, insurers, agents, attorneys and representatives of any kind, past and/or present, (hereinafter collectively the “Harrisonville Releasees”), from any and all manner of claims, liabilities, demands, damages, causes of action, judgments and suits, whether known or unknown, suspected or unsuspected, contingent or liquidated, asserted or unasserted, which the CenturyLink Releasers have at any time up to the Effective Date held, against the Harrison Releasees, or any of them, for any and all claims the CenturyLink Releasers have or may have against the Harrisonville Releasees and that were or are relating to the assertion of counterclaims against Harrisonville in the Aurora Action or relating to the assertion of claims against Harrisonville in the Harrisonville Protest Tax Refund Actions; provided, however, that this Release does not apply to claims or rights arising out of this Settlement Agreement.

7. Non-Admission. The parties to this Settlement Agreement agree that nothing herein is an admission by either Party hereto of any wrongdoing, either in violation of an applicable law or otherwise, and that nothing in this Settlement Agreement is to be construed as such by any person.

8. Not Precedent and No Evidentiary Use. The Parties agree that this Settlement Agreement will not be used as precedent by either Party, or Parties’ agents, attorneys or accountants, or any other associated person, in the Aurora Action or any other claim or suit, with the exception

of an action to enforce this Settlement Agreement. The Parties further agree that this Settlement Agreement shall not be used, offered or received into evidence in the Aurora Action for any purpose, other than to enforce or construe the terms of the Settlement Agreement (and then only in the event that the forum selection clause set forth in Section 10, below, is held to be ineffective). Neither this Settlement Agreement nor any of its terms shall be offered or received into evidence in any other action or proceeding.

9. No Third-Party Beneficiaries. This Settlement Agreement is intended to be for the exclusive benefit and convenience of the Parties and their respective Releasees and, with respect to the releases in Sections 6.A and 6.B, their respective Releasees as identified in those Sections. Nothing contained in this Agreement shall be construed as granting, vesting, creating, or conferring any right or benefit upon any other third party, including any of the Plaintiffs in the Aurora Action other than Harrisonville.

10. Choice of Law and Forum Selection. Construction and interpretation of the Agreement shall be determined in accordance with the laws of the State of Missouri, irrespective of the State of Missouri's choice of law principles. Venue and jurisdiction for the resolution of any claims, disputes, controversies, or disagreements that may arise among the Parties in relation to or in connection with this Settlement Agreement, or for its breach, shall be exclusively in the Circuit Court of St. Louis County, Missouri.

11. Entire Agreement, Modification and Severability. The Parties acknowledge that this Settlement Agreement constitutes the entire agreement among them, superseding any and all prior written and oral agreements, and that there are no other understandings or agreements, written or oral, among them on the subject. The Parties agree that this Settlement Agreement may not be modified, altered or changed except by a written agreement signed by the Parties. If any provision

of this Settlement Agreement is held to be invalid, the remaining provisions shall remain in full force and effect.

12. Authorized Signatories. Each individual executing this Settlement Agreement represents that he or she is doing so as the authorized representative of the respective Party, with full authority to represent and enter into this Settlement Agreement on behalf of said Party. Harrisonville and the individual executing this Settlement Agreement further represent that Harrisonville's collector of taxes in his or her official capacity is bound by the terms of this Settlement Agreement. Even if not properly authorized, any Party to this Settlement Agreement who gains knowledge of execution of the Settlement Agreement and fails to object within a reasonable time shall be deemed to have waived any objection to, and to be estopped from objecting to, the execution of the Settlement Agreement by the signatory.

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Release.

CITY OF HARRISONVILLE, MISSOURI By: _____ _____ Printed Name Title: _____ On this ____ day of December, 2015	CENTURYLINK, INC.; CENTURYTEL OF MISSOURI, LLC; EMBARQ MISSOURI, INC.; SPECTRA COMMUNICATIONS GROUP, LLC; CENTURYTEL LONG-DISTANCE, LLC; and EMBARQ COMMUNICATIONS, INC.; By: _____ _____ Printed Name Title: _____ On this ____ day of December, 2015
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TO: Board of Aldermen
FROM: Kim Hubbard, City Clerk
DATE: November 23, 2015
SUBJECT: Chapter 105. Election Amendment

Type of Item: *Amendment*

A new section has been added section 115.306 of the state statute which disqualifies any candidate for public office in Missouri who has been found guilty or pled guilty to a felony or misdemeanor under U.S. law. Attached is a copy of a redline version of Chapter 105.035 and Missouri Statute section 115.306.1.

I am asking for the Board's approval to amend our code to reflect state statute.

Council Bill No. 099

Ordinance No.

An Ordinance to Amend Chapter 105, Elections, of the Harrisonville Municipal Code of Ordinances

WHEREAS, the State of Missouri has amended Chapter 115.306.1 of Missouri Revised Statutes, regarding the disqualification of candidates for elective public office, and

WHEREAS, the City of Harrisonville wishes to mirror the state statutes in this matter,

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

Section 1: That Section 105.035 of the Municipal Code of Ordinances is hereby amended by inserting a new section A as follows:

A.

No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state.

Section 2: That a red-line version of Chapter 105.Elections is attached and becomes part of this ordinance.

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4: Effective Date. That this order shall become effective immediately upon its passage and approval.

Vote taken as follows:

Ayes:

Nays:

Absent:

Abstain:

READ ONE TIME BY TITLE ONLY ON DECEMBER 7, 2015. READ FOR A SECOND TIME BY TITLE ONLY ON DECEMBER 7, 2015 AND WAS DULY APPROVED BY THE BOARD OF ALDERMEN THIS 7TH DAY OF DECEMBER 2015.

Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

APPROVED by the Mayor this 7th day of December 2015

Chapter 105. Elections

Article I. In General

Section 105.035. Candidates For Municipal Office — ~~Disqualifications, No Arrearage For Filing of Affidavit, Tax Delinquency Municipal Taxes or User Fees Permitted.~~

[Ord. No. 3295 §1, 12-1-2014]

A.

No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state.

BA.

Any person who files as a candidate for election to a public office shall be disqualified from participation in the election for which the candidate has filed if such person is delinquent in the payment of any State income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the State.

CB.

Each potential candidate for election to a public office shall file an affidavit with the Department of Revenue and include a copy of the affidavit with the declaration of candidacy required under Section 115.34~~92~~. RSMo., and Section 105.050 of this Code. Such affidavit shall be in substantially the following form:

AFFIRMATION OF TAX PAYMENTS AND BONDING REQUIREMENTS:

I hereby declare under penalties of perjury that I am not currently aware of any delinquency in the filing or payment of any State income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or that I am a past or present corporate officer of any fee office that owes any taxes to the State, other than those taxes which may be in dispute. I declare under penalties of perjury that I am not aware of any information that would prohibit me from fulfilling any bonding requirements for the office for which I am filing.

Candidate's Signature

Printed Name of Candidate.

DG.

Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any State income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the State, the Department of Revenue shall investigate such potential candidate to verify the claim contained in the complaint. If the Department of Revenue finds a positive affirmation to be false, the Department shall contact the Secretary of State, or the election official who accepted such candidate's declaration of candidacy, and the potential candidate. The Department shall notify the candidate of the outstanding tax owed and give the candidate thirty (30) days to remit any such outstanding taxes owed which are not the subject of dispute between the Department and the candidate. If the candidate fails to remit such amounts in

full within thirty (30) days, the candidate shall be disqualified from participating in the current election and barred from refiling for an entire election cycle even if the individual pays all of the outstanding taxes that were the subject of the complaint.

Missouri Revised Statutes

Chapter 115 Election Authorities and Conduct of Elections

←115.305

Section 115.306.1

115.307→

August 28, 2015

Disqualification as candidate for elective public office, when--filing of affidavit, contents-- tax delinquency, effect of.

115.306. 1. No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state.

2. (1) Any person who files as a candidate for election to a public office shall be disqualified from participation in the election for which the candidate has filed if such person is delinquent in the payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state.

(2) Each potential candidate for election to a public office shall file an affidavit with the department of revenue and include a copy of the affidavit with the declaration of candidacy required under section 115.349. Such affidavit shall be in substantially the following form:

AFFIRMATION OF TAX PAYMENTS AND BONDING REQUIREMENTS:

I hereby declare under penalties of perjury that I am not currently aware of any delinquency in the filing or payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or that I am a past or present corporate officer of any fee office that owes any taxes to the state, other than those taxes which may be in dispute. I declare under penalties of perjury that I am not aware of any information that would prohibit me from fulfilling any bonding requirements for the office for which I am filing.

..... Candidate's Signature

..... Printed Name of Candidate

(3) Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state, the department of revenue shall investigate such potential candidate to verify the claim contained in the complaint. If the department of revenue finds a positive affirmation to be false, the department shall contact the

secretary of state, or the election official who accepted such candidate's declaration of candidacy, and the potential candidate. The department shall notify the candidate of the outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed which are not the subject of dispute between the department and the candidate. If the candidate fails to remit such amounts in full within thirty days, the candidate shall be disqualified from participating in the current election and barred from refiling for an entire election cycle even if the individual pays all of the outstanding taxes that were the subject of the complaint.

(L. 2015 S.B. 104)

[Top](#)



Missouri General Assembly

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Attachment: Chapter 105 Amendment.docx (2062 : Chapter 105. Election Amendment)

City of
Harrisonville
est. 1836
STAFF REPORT

TO: Board of Aldermen
FROM: John Hofer, Director
DATE: December 2, 2015
SUBJECT: Repeal UTV Ordinance

Type of Item: *Report*

In 2014 I was asked to look into an ordinance that would allow utility vehicles (UTVs) to drive on city streets in the City of Harrisonville. Currently under state law UTV's are prohibited from driving on highways.

According to RMSO 304.032(6) municipalities may by resolution or ordinance allow utility vehicle operation on streets or highways under the governing body's jurisdiction. Any person operating a utility vehicle pursuant to a municipal resolution or ordinance shall maintain proof of financial responsibility in accordance with section 303.160 or maintain any other insurance policy equivalent liability coverage for a utility vehicle. Cities are allowed to issue special permits for utility vehicles to be used on highways within the city to licensed drivers for a fee of \$15.

The definition of a utility vehicle is any motorized vehicle manufactured and used exclusively for off highway use which is sixty-three inches or less in width, with an unladed dry weight of one thousand eight hundred fifty pounds or less, traveling on four or six wheels, to be used primarily for landscaping, lawn care, or maintenance purposes.

Utility vehicles cannot operate upon the highways of this state unless they are:

- Owned and operated by governmental entity for official use:
- Operated for agricultural or industrial on-premises purposes, or
- Operated by handicapped persons for short distances on secondary road.

In March of 2015 the Board of Alderman approved this UTV ordinance (see attached) allowing UTV's to travel upon city streets with a permit license issued by the City. In May of 2015 the ordinance was amended to its current state to address some safety concerns.

Since that time we have issued one (1) license permit. The license permit stickers purchased in 2015 were approximately \$350.00 as the need to sequentially number to avoid transfer. As stated above, the City is only allowed to charge \$15 for the license permit so in 2015 we failed to recoup approximately \$335 on the permit stickers.

At the time the ordinance was adopted I did not support the passage of the UTV ordinance as I felt that UTVs are not safe to be operated on the street. They are off road vehicles by definition and numerous news specials reports have shown that. At this time I would recommend repealing the UTV ordinance and make the usage of UTVs on City streets prohibited again.

Council Bill No. 100**Ordinance No.****AN ORDINANCE TO REPEAL ORDINANCE 3304 AND TO PROHIBIT
UTILITY VEHICLES FROM BEING DRIVEN ON STREETS WITHIN THE
CITY LIMITS OF HARRISONVILLE**

WHEREAS, the Board of Aldermen of the City of Harrisonville wishes to repeal Ordinance 3304

**NOW THEREFORE BE IT ORDAINED AS FOLLOWS BY THE BOARD OF
ALDERMEN OF THE CITY OF HARRISONVILLE**

Section 1: That Ordinance 3304 of the Municipal Code of Ordinances is hereby repealed

Section 2: That utility vehicles (UTV's) are prohibited from being driven on the streets of Harrisonville, Missouri

Section 3: That a red-line copy of Ordinance 3304 is attached and becomes part of this ordinance

Section 4: That this ordinance shall become effective immediately upon its passage and approval.

Vote taken as follows:

AYES:

NAYS:

ABSENT:

ABSTAIN:

**READ FOR THE FIRST TIME BY TITLE ONLY ON THE 7TH DAY OF
DECEMBER 2015 AND READ FOR A SECOND TIME BY TITLE ONLY ON THE 7TH
DAY OF DECEMBER 2015 AND PASSED BY THE BOARD OF ALDERMEN THIS 7TH
DAY OF DECEMBER 2015.**

Brian Hasek, Mayor and Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

APPROVED by the Mayor this 7th day of December 2015.

BILL NO. _____
 VOTED FOR: _____
 VOTED AGAINST: _____

ORDINANCE NO. _____
 FIRST READING: _____
 SECOND READING: _____

AN ORDINANCE TO AMEND SECTION 385.120 OF THE HARRISONVILLE CITY CODE PROHIBITING UTILITY VEHICLES ON CITY STREETS.

WHEREAS, the Board of Aldermen for the City of Harrisonville desire to amend its Code to create Section 385.120 regarding the use of Utility Vehicles within City Limits.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF HARRISONVILLE, MISSOURI, AS FOLLOWS:

That Section 385.120 shall be created to read as follows:

SECTION 385.120: UTILITY VEHICLES, PROHIBITED – EXCEPTIONS – OPERATION OF UNDER AN EXCEPTION – PROHIBITED USES – PENALTY.

A. DEFINITION – UTILITY VEHICLE: Any motorized vehicle manufactured and used exclusively for off-highway use which is sixty-three inches or less in width, with an unladen dry weight of one thousand eight hundred fifty pounds or less, traveling on four or six wheels, to be used primarily for landscaping, lawn care, or maintenance purposes.

1. No person shall operate a utility vehicle, as defined in section ~~340~~1.010 of RSMo., upon the streets of this city, except pursuant to Section 304.032 RSMo., and as follows:

- (1) The Chief of Police may issue a special permit, pursuant to Section 304.032, RSMo., for utility vehicles to be used on streets within the city limits by licensed drivers.
- (2) Said permit to be issued upon proof that the applicant has a valid operator's or chauffeur's license, that the applicant has liability insurance, covering the operation of said vehicle in an amount meeting the Missouri minimum standards for automobile insurance; and
- (3) the payment of a fee of fifteen dollars;

2. No person shall operate a utility vehicle within any stream or river in this state, except that utility vehicles may be operated within waterways which flow within the boundaries of land which a utility vehicle operator owns, or for agricultural purposes within the boundaries of land which a utility vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials shall enforce the provisions of this subsection within the City.

3. A person operating a utility vehicle shall have a valid operator's or chauffeur's license, but shall not be required to have passed an examination for the

operation of a motorcycle, ~~and. Intermediate licensed drivers are prohibited from operating UTVs.~~ Utility vehicles shall be operated at a speed no greater than the posted or established speed limit for the street which they are on, but in no case shall they operate at a speed in excess of ~~forty~~thirty-five miles per hour.

4. Operation of a utility vehicle is prohibited along the following roadways:

- (1) ~~South Street or~~ State Highway 2;
- (2) ~~Mechanic Street or~~ State Highways 2 and 7;
- (3) State Highway 291;
- (2) Commercial Street; and
- (3) Interstate 49/Highway 71.

The only use allowed on the above roadways is limited to crossing said roadway.

5. No persons shall operate a utility vehicle:

- (1) In any careless way so as to endanger the person or property of another; or
- (2) While under the influence of alcohol or any controlled substance.

6. No operator of a utility vehicle shall carry a passenger, except for a utility vehicle in which the seat of such vehicle is designed to carry more than one person. Any driver and/or passenger must wear a seatbelt at all times the vehicle is in operation.

7. A violation of this section shall be a misdemeanor. In addition to other legal remedies, the City may institute a civil action in a court of competent jurisdiction for injunctive relief to prevent such violation or future violations and for the assessment of a civil penalty not to exceed one hundred dollars per day of violation.

B. DISPLAY OF PERMIT

The UTV permit shall be ~~permanently affixed to the driver's side front post approximately 12 inches below the roof line, to be visible to any authorized public official or police officer, carried at all times by the applicant to whom issued while operating the UTV in the City and shall be exhibited by such applicant whenever he/she shall be requested to do so by any authorized public official or police officer.~~

C. SAFETY REQUIREMENTS

All utility vehicles are subject to the following safety requirements, in addition to any other requirements identified in RSMo Chapter 304:

- (1) must be equipped with a manufacture's installed safety cage with a minimum of four posts;
- (2) have either a full windshield or the operator and passenger will be required eye protection;
- (3) be equipped with operational mechanical turn signals.

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1.5"

- (4) all operators and all occupants shall wear protective headgear as defined in 380.190;
- (5) seat belts shall be required by all occupants as stated in 380.160; and
- (6) lights shall be required on all vehicles after dark. Specifically, utility vehicle as defined in 301.010 RSMo, shall be equipped with at least two (2) approved headlamps mounted at the same level with at least one (1) on each side of the front of the vehicle. Every motorcycle shall be equipped with at least one (1) and not more than two (2) approved headlamps. Any utility vehicle without proper headlights shall be prohibited from dusk to dawn as defined by 380.010.

D. TRAFFIC LAWS

Operation of any utility vehicle shall be subject to all provisions of RSMo Chapter 304, which is adopted as a part of this ordinance by reference. Operators of said utility vehicles shall adhere to all traffic laws identified therein.

BILL NO. _____
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1. No person shall operate a utility vehicle, as defined in section 310.010 of RSMo., upon the streets of this city, except pursuant to Section 304.032 RSMo., and as follows:

- (1) The Chief of Police may issue a special permit, pursuant to Section 304.032, RSMo., for utility vehicles to be used on streets within the city limits by licensed drivers.
- (2) Said permit to be issued upon proof that the applicant has a valid operator's or chauffeur's license, that the applicant has liability insurance, covering the operation of said vehicle in an amount meeting the Missouri minimum standards for automobile insurance; and
- (3) the payment of a fee of fifteen dollars;

2. No person shall operate a utility vehicle within any stream or river in this state, except that utility vehicles may be operated within waterways which flow within the boundaries of land which a utility vehicle operator owns, or for agricultural purposes within the boundaries of land which a utility vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials shall enforce the provisions of this subsection within the City.

3. A person operating a utility vehicle shall have a valid operator's or chauffeur's license, but shall not be required to have passed an examination for the

operation of a motorcycle, and the vehicle shall be operated at a speed no greater than the posted or established speed limit for the street which they are on, but in no case shall they operate at a speed in excess of forty-five miles per hour.

4. Operation of a utility vehicle is prohibited along the following roadways:
 - (1) State Highway 2, State Highway 7, State Highway 291;
 - (2) Commercial Street; and
 - (3) Interstate 49/Highway 71.

The only use allowed on the above roadways is limited to crossing said roadway.

5. No persons shall operate a utility vehicle:
 - (1) In any careless way so as to endanger the person or property of another; or
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B. DISPLAY OF PERMIT

The UTV permit shall be carried at all times by the applicant to whom issued while operating the UTV in the City and shall be exhibited by such applicant whenever he/she shall be requested to do so by any authorized public official or police officer.