



City Of
BOONVILLE

City of Boonville

Council Meeting Agenda

December 6, 2021

7:00 p.m.

City Council Chambers

525 E. Spring Street

Boonville MO 65233

Meeting Live streamed <https://www.youtube.com/user/cityofboonvillemo> & Channel 3 with Suddenlink Cable TV

DANGEROUS BUILDING HEARING

AGENDA

6:30 p.m.

Evidentiary Hearing for 521 Tenth Street

I. Call to order – Pledge and Prayer (Steve Young)

II. Roll call

III. Hearing of Citizens' Comments

IV. Approval of the Minutes of the November 15, 2021 Council Meeting

V. Consent Items.

A. Consider Pay Request Order No. 3 from Rhad Baker Construction LLC in the amount of \$88,598.92 for Kemper Library Parking Lot Improvements.

B. Consider Change Order No. 1 from Rhad Baker Construction LLC the amount of <\$0.00> for Kemper Library Parking Lot Improvements.

VI. Presentation of Accounts and Claims

VII. Unfinished Business

- A) Second Reading of Bill No. 2021-031 Approving an Agreement with COMO Electric Cooperative Franchise Agreement
- B) Second Reading of Bill No. 2021-032 Approving a Development Agreement with Thurman Construction Company
- C) Fifth Reading of Bill No. 2021-009 Approving Annexation for Fox Hollow Subdivision
- D) Fifth Reading of Bill No. 2021-010 Approving Project and Preliminary Site Plan for Fox Hollow Subdivision

VIII. New Business

- A) First Reading of Bill No. 2021-033 An Ordinance Authorizing an Amendment to the Waste Collection, Disposal, and Transfer Station Agreement between Waste Management of Missouri, INC and The City of Boonville
- B) Consider Resolution R2021-17 Authorizing and Approving an Agreement between Greis Trucking and The City Of Boonville for FEMA/SEMA Stormwater project

IX. Reports of Standing Committees

- A) Board of Public Works- Andrew Cowherd

X. Reports of City Officials

- A) City Administrator
- B) Mayor
- C) City Clerk

XI. Miscellaneous

XII. Adjourn

NOTICE: The City of Boonville will comply with the Americans with Disabilities Act (ADA). Individuals who require an accommodation due to disability to attend this meeting should contact our office at (660) 882-2332 or Relay Missouri, 1-800-735-2966 TTY at least 48 hours in advance.

DRAFT COPY PENDING COUNCIL REVIEW AND APPROVAL

City of Boonville
City Council Meeting Minutes
November 15, 2021

PUBLIC HEARING 7:00 P.M. – To consider Proposed Annexation and Zoning on 216.81 Acres Along Missouri Highway 87 and Missouri Highway 98 formerly known as Gross Brothers Farm, now known as Troy Thurman Construction Co. Inc. Property.

This public hearing was recorded by Lisa M. Banks, Certified Court Reporter of Tiger Court Reporting, LLC of Columbia Missouri. A copy of the transcript of this hearing is herein attached (**Attachment A**) and incorporated by reference to these minutes.

Please note the following people came forth and spoke during the Public Hearing:

- Danny Fuemmeler,
- Alex Smith,
- Megan McGuire
- Ken Hirlinger
- Lori Imhoff
- Mike Conway
- Vaughn Sell
- Susie Thoma
- Gigi Quinlan McAreavy
- Don Baragary
- Charlie Melkersman
- Tom Baslee
- Jerry Quinlan

The Boonville City Council met in Regular Session on November 15, 2021, at 7:00 p.m. in the Council Chambers located at 525 East Spring Street, Boonville Missouri. The following officers were present: Ned Beach, Mayor; Kate Fjell, City Administrator; Amber Davis, City Clerk; and Randy Ayers, Sergeant at Arms.

NOTICE POSTED: Thursday, November 11,2021 at 8:45 A.M.

CALL TO ORDER – PLEDGE AND PRAYER

The meeting was called to order and Michael Stock led the prayer, after the pledge of allegiance.

ROLL CALL

The following Council Representatives were present: Michael Stock, Susan Meadows, Andrew Cowherd, Theresa Hurt, Barry Elbert, Whitney Venable, Albert Turner, Council Representative Steve Young was absent.

HEARING OF CITIZENS' COMMENTS

Gigi Quinlan- McAreavy stated that there are people in town who are in favor of the Fox Hollow project. Some citizens are just not aware, but when the project was explained they were supportive. Legends West is still for sale and that no one has been willing to take the risk to develop. Many of the new developments are occurring in the County on 3+ acre lots. These houses are not affordable, as the lot development including lot price, wells and septic systems are expensive. Big home prices are what is going in and we need affordable housing for the workers of Kawasaki and the CMMG expansion.

APPROVAL OF THE MINUTES OF THE NOVEMBER 01, 2021 COUNCIL MEETING

The Minutes were approved as presented

CONSENT ITEMS

The Following Consent Items were presented for approval

- A. Consider Change Order No. 1 from Insituform in the amount of <\$0.00> for Sanitary Sewer Improvements 2021

Ms. Meadows moved and Mr. Stock seconded the motion to approve the Consent Items. Roll call was taken. Ayes: Stock, Meadows, Cowherd, Hurt, Elbert, Venable, and Turner Total (7) Opposed: Total (0) Absent: Total (1) Steve Young. Motion Carried

PRESENTATION OF ACCOUNTS AND CLAIMS

Ms. Davis read the ordinance appropriating money, in its entirety, and a second time, by title only since a copy of the ordinance had been made available prior to the meeting. Ms. Meadows moved, and Mr. Venable seconded the motion to approve the appropriations. Roll call was taken. Ayes: Stock, Meadows, Cowherd, Hurt, Elbert, Venable, and Turner Total (7) Opposed: Total (0) Absent: Total (1) Steve Young. Moton Carried

UNFINISHED BUSINESS

SECOND READING OF BILL NO. 2021-029 AMENDING CHAPTER 4 ANIMALS AND FOWL

Ms. Davis read, by title only, a copy of the bill. Mr. Cowherd moved and Mr. Venable seconded the motion to approve the bill. Roll call was taken. Stock, Meadows, Cowherd, Hurt, Elbert, Venable, and Turner Total (7) Opposed: Total (0) Absent: Total (1) Steve Young. Moton Carried

Ms. Fjell stated chicken permits will be available starting December 1, 2021. Mr. Turner inquired if the ordinance addresses farm animals. Ms. Fjell stated the section 4-29 covers farm animals and prohibited animals.

SECOND READING OF BILL NO. 2021-030 APPROVING AN OPTION FOR EASEMENT AGREEMENT WITH ROBINSON REAL ESTATE EASMENT COMPANY, LLC

Ms. Davis read, by title only, a copy of the bill. Mr. Venable moved and Mr. Stock seconded the motion to approve the bill. Roll call was taken. Stock, Meadows, Cowherd, Hurt, Elbert, Venable, and Turner Total (7) Opposed: Total (0) Absent: Total (1) Steve Young. Moton Carried

Mr. Turner inquired about a permanent easement. Ms. Fjell stated that she left it permanent since it was standard and because there isn't a life span on the billboard. Mr. Elbert inquired about who would maintain the sign. Ms. Fjell stated Robinson Outdoor will maintain the billboard and the city will maintain the digital sign at the soccer fields.

FOURTH READING OF BILL NO. 2021-009 APPROVING ANNEXATION FOR FOX HOLLOW SUBDIVISION

Ms. Davis read, by title only, a copy of the bill

FOURTH READING OF BILL NO. 2021-010 APPROVING PROJECT AND PRELIMINARY SITE PLANE FOR FOX HOLLOW SUBDIVISION

Ms. Davis read, by title only, a copy of the bill

FOX HOLLOW DISCUSSION

Ms. Fjell pointed out the memo she added in the packet outlining the development and the costs. Ms. Fjell made a clarification about her memo she meant to say the costs of the park are not clear NOT the cost of the project. Ms. Fjell stated she hasn't done a lot of planning on the park because she does not want to do that without professional help.

Mr. Elbert asked if the lift station size is adequate for fox hollow and future growth. Ms. Fjell believed the size allowed for future growth but would confirm with Scott Vogler, City Engineer. Mr. Turner asked is meant by professional services. Ms. Fjell stated the professional services is the engineering on the project. Ms. Meadows stated she has heard a lot of people question the ARPA Funds and she wanted verification on the use of the funds. Ms. Fjell stated that ARPA funds have a wide variety of use, but the most effective use of the funds would be for the water, sewer, and wastewater. Ms. Fjell stated that it is beneficial to all citizens. Ms. Fjell intends to use most of the ARPA funds on the waterline extension from the hospital water tower to the golf course. Ms. Meadows asked if there would be any more opportunities for the council to discuss amongst themselves on Fox Hollow. Ms. Fjell stated there could be discussion Dec 6th before the vote but if there are any more questions or concerns, please email them to her.

NEW BUSINESS

FIRST READING OF BILL NO. 2021-031 APPROVING AN AGREEMENT WITH COMO ELECTRIC COOPERATIVE FRANCHISE AGREEMENT

Ms. Davis read by title only, a copy of the bill.

FIRST READING OF BILL NO. 2021-032 APPROVING A DEVELOPMENT AGREEMENT WITH THURMAN CONSTRUCTION COMPANY

Ms. Davis read by title only, a copy of the bill.

CONSIDER RESOLUTION R2021-15 APPROVING A TEMPORARY LEASE WITH FISHER CONCRETE CO., LLC.

Ms. Davis read the resolution in its entirety. Mr. Venable moved and Mr. Stock seconded the motion to approve the bill. Roll call was taken. Stock, Meadows, Cowherd, Hurt, Elbert, Venable, and Turner Total (7) Opposed: Total (0) Absent: Total (1) Steve Young. Motion Carried.

***CONSIDER RESOLUTION R2021-16 APPROVING A CONTRCT FOR
REMSELEXCAVATING FOR BOONE POINT WATER LINE BORE AND TIE-IN***

Ms. Davis read the resolution in its entirety. Mr. Venable moved and Ms. Hurt seconded the motion to approve the bill. Roll call was taken. Stock, Meadows, Cowherd, Hurt, Elbert, Venable, and Turner Total (7) Opposed: Total (0) Absent: Total (1) Steve Young. Moton Carried.

REPORTS OF STANDING COMMITTEES

PLANNING AND ZONING- NOVEMBER 9,2021 (WHITNEY VENABLE)

Mr. Venable stated the meeting was cancelled

REPORTS OF CITY OFFICIALS

CITY ADMINISTRATOR

None

MAYOR

Mr. Mayor pointed out to the council the thank you letter from Howard County Prosecuting Attorney for giving them gaming funds. Mr. Mayor also pointed out a letter from Linda Overton

CITY CLERK

Ms. Davis reminded the council the next meeting is December 6th, due to the month of November having 5 Mondays.

Ms. Davis also told the council about the candidate filing period for the upcoming April 5, 2022, Municipal Election. The Filing period will run from Dec 7th to December 28th. Ms. Davis also pointed out the candidates that will be up for reelection.

MISCELLANEOUS

None

ADJOURN

With no further discussion, Mr. Venable moved, and Ms. Meadows seconded the motion to adjourn at 7:36 p.m. and the voice vote was unanimous.

Respectfully Submitted,

Amber Davis, City Clerk

Approved:

Ned Beach, Mayor

APPLICATION AND CERTIFICATE FOR PAYMENT (PAY ESTIMATE)

Original _____ of 6
Page _____ of

PROJECT NO: 454-287 Kemper Library Parking Lot Improvements

CONTRACTOR: Rhad Baker Construction LLC

OWNER: City Of Boonville MO

APPLICATION NO: _____

3

APPLICATION DATE: _____

6-Dec-21

PERIOD FROM: _____

ORIGINAL CONTRACT SUM:

\$522,720.00

NET CHANGE BY CHANGE ORDERS:

\$0.00

CONTRACT SUM TO DATE:

\$522,720.00

TOTAL COMPLETED & STORED TO DATE:

\$310,721.05

RETAINAGE 10%:

\$31,072.11

TOTAL EARNED LESS RETAINAGE:

\$279,648.94

LESS PREVIOUS CERTIFICATES OF PAYMENT:

\$191,050.02

CURRENT PAYMENT DUE:

\$88,598.92

CONTRACT TIME LIMIT DATE:

February 12, 2022

ORDER NO.	DATE APPROVED	ADDITIONS	DEDUCTIONS
1	11/1/2021	\$0.00	
TOTALS		\$0.00	\$0.00

NET CHANGE BY CHANGE ORDERS:

\$0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due

CONTRACTOR:

BY: _____

DATE: 11-30-2021

OWNER:

BY: _____

ENGINEER:

BY: _____



MECO ENGINEERING COMPANY, INC.
ENGINEERS * SURVEYORS

2701 INDUSTRIAL DRIVE
JEFFERSON CITY, MO 65109

(573)893-5558

Pay Estimate No.3

Item No.	Description	Contract Quantity	Unit	Unit Price	Total	In Place Prev. Pay App	Installed This Period	\$ Installed This Pay App	Total in Place	Left to Finish	Unit
1	1 Mobilization	1	LS	\$ 50,000.00	\$ 50,000.00	1	0	\$0.00	\$50,000.00	0 LS	0 LS
2	2 Traffic Control	1	LS	\$ 2,000.00	\$ 2,000.00	1	0	\$0.00	\$2,000.00	0 LS	0 LS
3	3 Permanent Signs	21.75	SF	\$ 40.00	\$ 870.00	0	0	\$0.00	\$0.00	22 SF	22 SF
4	4 Removal of Improvements	1	LS	\$ 20,000.00	\$ 20,000.00	1	0	\$0.00	\$20,000.00	0 LS	0 LS
5	5 Excavation, Filling & Grading	1	LS	\$ 20,000.00	\$ 20,000.00	0.5	0.5	\$10,000.00	\$20,000.00	0 LS	0 LS
6	6 Subgrade Compaction	2761	SY	\$ 3.00	\$ 8,283.00	1500	630	\$1,890.00	\$6,390.00	631 SY	631 SY
7	7 Type 5 Aggregate Base	48	TON	\$ 25.00	\$ 1,200.00	48	0	\$0.00	\$1,200.00	0 TON	0 TON
8	8 4" PCC Concrete Sidewalk	176	SY	\$ 45.00	\$ 7,920.00	0	176	\$7,920.00	\$7,920.00	0 SY	0 SY
9	9 8" PCC Concrete Parking Lot and Drives	1,738	SY	\$ 48.00	\$ 83,424.00	0	869	\$41,712.00	\$41,712.00	869 SY	869 SY
10	10 8" PCC Concrete Road	847	SY	\$ 49.00	\$ 41,503.00	0	590	\$28,910.00	\$28,910.00	257 SY	257 SY
11	11 30" Type "A" Curb and Gutter including 4" Type 5 Base rock	1,212	LF	\$ 35.00	\$ 42,420.00	1126	86	\$3,010.00	\$42,420.00	0 LF	0 LF
12	12 Aggregate Surface and Base	16	TON	\$ 25.00	\$ 400.00	16	0	\$0.00	\$400.00	0 TON	0 TON
13	13 Utility and Storm Sewer Adjustment	1	LS	\$ 300.00	\$ 300.00	1	0	\$0.00	\$300.00	0 LS	0 LS
14	14 Erosion Control Mat	353	SY	\$ 10.00	\$ 3,530.00	0	0	\$0.00	\$0.00	353 SY	353 SY
15	15 Fertilize, Seeding and Mulching	1	LS	\$ 2,500.00	\$ 2,500.00	0	0	\$0.00	\$0.00	1 LS	1 LS
16	16 Parking Blocks	17	EA	\$ 120.00	\$ 2,040.00	0	0	\$0.00	\$0.00	17 EA	17 EA
17	17 Handrail - Parking Lot & Ramp	1	LS	\$ 25,000.00	\$ 25,000.00	0	0	\$0.00	\$0.00	1 LS	1 LS
18	18 Handrail - Steps South Entrance	1	LS	\$ 38,000.00	\$ 38,000.00	0	0	\$0.00	\$0.00	1 LS	1 LS
19	19 Concrete Ramp - West Side	1	LS	\$ 28,000.00	\$ 28,000.00	1	0	\$0.00	\$28,000.00	0 LS	0 LS
20	20 Concrete Steps - South Side (including concrete pad and 4" base)	1	LS	\$ 22,000.00	\$ 22,000.00	1	0	\$0.00	\$22,000.00	0 LS	0 LS
21	21 Doors, Openers, and Repairs	1	LS	\$ 18,400.00	\$ 18,400.00	0	0	\$0.00	\$0.00	1 LS	1 LS
22	22 Electrical and CCTV	1	LS	\$ 74,930.00	\$ 74,930.00	0.46	0	\$0.00	\$34,467.80	1 LS	1 LS
23	23 Contingency	1	LS	\$ 30,000.00	\$ 30,000.00	0	0	\$0.00	\$0.00	1 LS	1 LS
24	24 Decorative Block Wall CO#1	1	LS	\$ 5,001.25	\$ 5,001.25	0	1	\$5,001.25	\$5,001.25	0 LS	0 LS
Contract Total					\$ 527,721.25			\$98,443.25	\$310,721.05		

**CONTRACT CHANGE ORDER
SECTION 00941**

Change Order No. 2
Project No. 454-287 Kemper Library Parking Lot Improvements

Sheet of
Original _ of 6

Recommended: MECO Engineering Co., Inc.
(Engineer)

To: Rhad Baker Construction LLC
(Contractor)

From: City of Boonville MO

(Owner)

You are hereby directed to make the following changes:

- I. Reason for change and effect on completion time (if any):
- Line item 4 Extra Removals needed to be done for drainage on the roadway and ADA compliance for the sidewalk
 - Line item 6 goes with Line Item 8 and 10
 - Line item 7 was over the original bid item
 - Line item 8 was extra sidewalk to make ADA compliance
 - Line item 10 extra roadway was removed and replaced for drainage
 - Line item 23 Contingency was used
 - Line item 25 was due to the Existing Inlets being to high for the curb and gutter to match
 - Line item 26 was due to an unforeseen utility that was not on the plans to be filled in.

II. Cost of work affected by this Change Order:

Item No.	Item Description	Bid Amount			Previous Change Orders		This Change Order		Revised Contract
		Quantity/Units	Unit Price	Value	C.O. #	Quantity Changed	Increase Qty. Decrease Qty.	Amount Added or Deducted	Quantity/Unit
4	Removal of Improvements	1 LS	\$20,000.00	\$20,000.00			1 LS	\$3,810.65	1 LS
6	Subgrade Compaction	2,761 SY	\$3.00	\$8,283.00			25 SY	\$75.00	2,786 SY
7	Type 5 Aggregate Base	48 TON	\$25.00	\$1,200.00			676 TON	\$16,900.00	724 TON
8	4" PCC Concrete Sidewalk	176 SY	\$45.00	\$7,920.00			31 SY	\$1,395.00	207 SY
10	8" PCC Concrete Road	847 SY	\$49.00	\$41,503.00			20 SY	\$980.00	867 SY
23	Contingency	1 LS	\$30,000.00	\$30,000.00					
25	Lowering Existing Inlets Due to Elevation		\$860.00	\$0.00					
26	24 Ton of 1" Clean for Sunken Water Lines		\$480.00	\$0.00					
Total This Sheet:								\$0.00	

- | | | |
|---------------------------------------|--------|--------------|
| 1. Original Contract Amount: | | \$522,720.00 |
| 2. Add or Deduct This Order Totals: | \$0.00 | |
| 3. Add or Deduct Previous: | \$0.00 | |
| (Line 4 of previous order) | | |
| 4. Total Add or Deduct to Date (2+3): | | \$0.00 |
| 5. Revised Contract Amount (1+4): | | \$522,720.00 |

Recommended: Engineer - MECO Engineering Company

Date

Ordered: Owner

Date

Accepted: Contractor

Date

Change Order is subject to all provisions of the Contract Documents and is not in effect unless signed by all parties.

MasterSpecForms Change Order # 2 11/29/2021

CONTRACT CHANGE ORDER

ORDINANCE APPROPRIATING MONEY

Be it Ordained by the Council of the City of Boonville as follows:

Section 1: For the purpose of paying salaries and various accounts against the City of Boonville, which have been allowed by the Council, at the regular meeting thereof on **December 6, 2021** the sum of **\$567,000.58**

General Fund	\$196,497.22
Sanitation	\$32,715.49
CIP Tax	\$24,352.77
Water Works	\$108,883.90
Capital Projects	\$0.00
Waste Water	\$134,846.99
Tourism	\$33,170.16
Gaming	\$18,715.25
Parks/Water	\$17,818.80
Kemper Sales Tax	\$0.00
Economic Development Projects	\$0.00

Section 2: The Accountant is hereby authorized and instructed to draw checks on the respective City bank accounts, in favor of the persons whose salaries and accounts have been allowed as above, amounting to **\$567,000.58** being the total amount of money above appropriated.

Section 3: This ordinance shall take effect and be in force from and after its passage. First reading on **December 6, 2021** read for the second time this **December 6, 2021** since a copy was made available prior to the meeting.

Approved **December 6, 2021** _____
Mayor

Endorsed **December 6, 2021** : I hereby certify that a sufficient sum of money stands to the credit of the City, unappropriated, in the various funds to meet the requirements of this ordinance.

Accountant



December 2, 2021

To: Mayor and City Council

From: Kate Fjell, City Administrator

A handwritten signature in black ink, appearing to be "KF", written over the name "Kate Fjell".

RE: Fox Hollow Subdivision, Development Agreement, and Land Purchase

Tonight, at the meeting you are scheduled to vote on the Fox Hollow subdivision project. There has been numerous discussions and information already shared about the various parts of the project. I do not intend to go over these same items again. A few items that have been asked since the last meeting, however that required some follow-up:

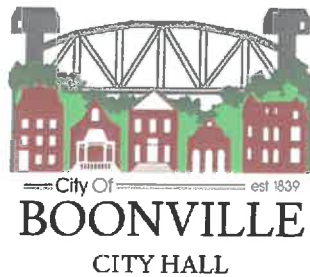
1. Use of the ARPA funds: Revenue replacement; COVID -19 expenditures (including assistance to small business, households, industries, and economic recovery); premium pay for essential workers; investments in water, sewer and broadband infrastructure.

It is my recommendation to use all the funds for infrastructure improvements, mostly to offset the cost of the water line extension to Hail Ridge and some to complete the necessary sewer, water, and stormwater improvements for the development at Fox Hollow and Hail Ridge. If the County takes applications from other entities for their funds, I intend to ask for an additional \$500,000 from them. In addition to the monies received by the County and cities, the schools also received funds. Their funds are called ESSER funds, and they will receive approximately 3.6M.

2. Land Purchase and development projects: The City is agreeing to pay \$300,000 to the Troy Thurman Construction Company, Inc. for the land. The development projects both outside and inside Fox Hollow will not be done by Troy Thurman Construction Company, Inc; we will do the work ourselves (sewer) and bid out the other projects, like any other capital project.
3. Sewer and water capacity: The proposed water line, sewer line and lift station have enough capacity to accommodate the Fox Hollow subdivision and other developments, such as more housing, hotel, convenience store, restaurant. The planned improvements are of an adequate size to accommodate the proposed growth.

In sum, this opportunity for growth along the Hwy 87 corridor presents a unique opportunity. Unlike the growth along Hwy B and Hwy 5 which occurred more haphazard and spotty, the HWY 87 corridor has been thoughtfully planned and laid out beginning with the comprehensive plan drafted in 2003 and further supported with the annexation in 2014. The City has undertaken capital planning and projects during this time to enable growth of this kind.

Participating in this project, will direct the City's sewer and water capital projects for the next couple years toward developing and improving infrastructure along Highway 87 and Hail Ridge. Additionally, the City will purchase property and build the necessary street, water, storm and sewer for a new community park in the



annexed area, providing an amenity not just for Fox Hollow but any future housing developments and citizens.

The City can financially complete this work, without raising taxes and without taking on debt. We have the manpower and capacity to add this area into the City in the phased manner proposed. At full build out (in 15-20 years), we will likely need to add one police officer and possibly one staff person to public works. The additional revenue at full build out (sales tax, property tax, personal property tax, phone, electricity, gas, etc.) will be approximately \$380,000 which will provide stable revenue source for the City's general fund- which can be used for salaries, capital purchases and other expenses, lessening our general fund reliance on the gaming revenues. Additionally, a development this size will help industrial attraction, support our small businesses and grow the tax base for other government entities (i.e. schools).

Finally, approving this annexation will create an opportunity for continued growth along that corridor toward I-70 and increase our water and sewer customer base which is important. For every 100 homes built in the City, we will receive approximately \$175,000 (at today's rates) in revenue. This is money that can be used to insulate us from losing major utility customers (as happened in 2020-21) and will also be banked for future capital projects, potentially limiting future debt obligations the city may incur.

AN ORDINANCE AUTHORIZING A DEVELOPMENT AGREEMENT, REAL ESTATE SALES CONTRACT AND RELATED DOCUMENTS IN CONNECTION WITH THE DEVELOPMENT OF THE FOX HOLLOW SUBDIVISION AND APPROVING CERTAIN DOCUMENTS AND OTHER ACTIONS.

WHEREAS, Troy Thurman Construction Co., Inc. (the “Developer”) has filed a petition for annexation of certain property for the development of a residential subdivision to be known as “Fox Hollow;” and

WHEREAS, the Developer and the City of Boonville, Missouri (the “City”) desire to enter into an agreement relating to the construction of streets, water and sewer to accommodate the development of the subdivision and to enter into a contract relating to the City’s acquisition of approximately 15 acres of land from the Developer for use as a park adjacent to the subdivision; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOONVILLE, MISSOURI, AS FOLLOWS:

Section 1. Approval of Documents. The City Council hereby approves the Development Agreement (attached as **Exhibit A**) and the Real Estate Sale Contract (attached as **Exhibit B**) in substantially the forms submitted to and reviewed by the City Council on the date hereof, with such changes therein as are approved by the officers of the City executing such documents, provided that such changes are in substantial conformity with the forms of documents approved by the City Council, such officers’ signatures thereon being conclusive evidence of their approval. The City Administrator is hereby authorized and directed to execute and deliver such documents on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to affix or imprint the City’s seal to such documents and attest said seal.

Section 2. Appropriation of Funds for Purchase of Park. The City Council hereby appropriates the sum of \$300,000 for the purchase of the land described in the Real Estate Sale Contract.

Section 3. Further Authority. The officials and agents of the City are hereby authorized and directed to take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the Development Agreement and the Real Estate Sale Contract.

Section 4. Severability. The sections of this Resolution shall be severable. If any section of this Resolution is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that (a) the valid sections are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council has or would have enacted the valid sections without the void ones, and (b) the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent. The invalid provision shall be omitted, and this Resolution shall be amended to the extent possible to conform to the original intent of the City.

Section 5. Effective Date. This Ordinance will take effect and be in full force from and after its adoption by the City Council and approval by the Mayor.

READ FOR THE FIRST TIME: 15th DAY OF NOVEMBER, 2021.

READ FOR THE SECOND TIME AND PASSED THIS 6th DAY OF DECEMBER, 2021 BY THE CITY COUNCIL OF THE CITY OF BOONVILLE, MISSOURI.

CITY OF BOONVILLE, MISSOURI

Name: Ned Beach

Title: Mayor

[SEAL]

ATTEST:

Name: Amber Davis

Title: City Clerk

EXHIBIT A
DEVELOPMENT AGREEMENT

[On file in the office of the City Clerk.]

EXHIBIT B
REAL ESTATE SALE CONTRACT

[On file in the office of the City Clerk.]

Development Agreement

THIS DEVELOPMENT AGREEMENT (this "**Agreement**") is made and entered into this _____ day of _____, 2021, (the "**Effective Date**") between **Troy Thurman Construction Co., Inc.**, a Missouri corporation (the "**Developer**") and the **City of Boonville**, a municipal corporation under the laws of the State of Missouri, whose address is 401 Main Street, Boonville, Missouri 65233 (the "**City**"), (individually hereinafter referred to as "**Party**" and collectively hereinafter referred to as the "**Parties**").

WHEREAS, Developer is the owner of certain tracts of land in Cooper County, State of Missouri, which is adjacent to the limits of the City (and which shall be within the boundaries of the City pursuant to the Annexation and Zoning Petition as defined below) and which is described on Exhibit A to this Agreement (the "**Developer Tract**"); and

WHEREAS, the Developer has pending a petition for annexation and designation of zoning classifications with the City (the "**Annexation and Zoning Petition**") for zoning classifications as generally shown on the depiction labeled as "FOX HOLLOW ZONING WITH INFRASTRUCTURE PHASING PLAN" (the "**Zoning Plan**") attached hereto as Exhibit B and incorporated herein by this reference; and

WHEREAS, the Developer desires to construct residential housing structures on the residentially zoned portion of the Developer Tract (the "**Project**") generally in the areas shown on the Zoning Plan and in the manner as permitted by the preliminary plats and plans, including the construction and design plans (collectively the "**Plans**") created by Crockett Engineering Consultants, L.L.C. (the "**Engineer**") on behalf of the Developer to be applicable to the Developer Tract. The finalized and approved preliminary Plans shall be attached hereto as Exhibit C and incorporated herein by this reference; and

WHEREAS, the Developer intends to excavate and grade the area starting immediately west of the airport's western boundary starting at Pearre Lane extending north through Phase 1 and Phase 2 to the southernmost portion of the land to be purchased by the City for park purposes in accordance with the Plans and to "rough grade" the area upon which the City shall construct street, water line, and sidewalk improvements as shown on the Plans from the southernmost portion of Phase 1 of the Developer Tract (at Pearre Lane) through the Developer Tract extending through Phase 1 and Phase 2 to the southernmost portion of the land to be purchased by the City for park purposes; and

WHEREAS, the Developer intends to convey at no charge to the City the Street Easements necessary for the City to construct street, water, and sanitary sewer utilities improvements within the Developer Tract as shown on the Plans; and

WHEREAS, the City intends to design and construct street, sidewalk, and water line improvements, as further defined in paragraph 5 of this Agreement (the "**City Constructed Street and Water Lines**") north from Pearre Lane as shown on the Plans within the Developer Tract to serve portions of the Project as described herein and sanitary sewer improvements, as further

defined in paragraph 4 of this Agreement (the “**City Constructed Sewer**”) inside and outside of the Development Tract to serve the Project pursuant to the terms of this Agreement; and

WHEREAS, the City intends to complete construction of the City Constructed Street and Water Lines necessary for Phase 1 of the Project (as shown on the Plans) no later than June 15, 2022; and

WHEREAS, the City intends to complete construction of the City Constructed Street and Water Lines for Phase 2 of the Project (as shown on the Plans) north and to the Park Land (as defined below and as shown on the Plans) promptly following submission of a final plat for Phase 2 of the Project; and

WHEREAS, the City plans to purchase approximately 15 acres within the Developer Tract (the “**Park Land**”) from Developer in the area shown on the Plans and on the Zoning Plan labeled as “15 Acre Park” and to develop and construct park-appropriate improvements within the Park Land, as further described herein; and

WHEREAS, the City intends to complete construction of the City Constructed Sewer necessary for the Project (including any necessary improvements to a City sanitary sewer lift station west of the Developer Tract and the extension of and improvements to sewer lines from said lift station as described in paragraph 4 of this Agreement and as shown on the Zoning Plan and the Plans, including the plans of the City’s engineer in consultation with the Developer and its Engineer(s) to assure adequate capacity as referenced in the Plans) no later than June 15, 2022; and

WHEREAS, the Developer desires to begin construction grading and infrastructure work on the Project as early as the 4th calendar quarter of 2021 and to begin construction of residential structures during 2nd calendar quarter of 2022 (the “**Project Schedule**”); and

WHEREAS, the Parties acknowledge that the Developer is under no obligation to complete the Project in accordance with the Project Schedule; and

WHEREAS, it is critical for Developer to receive the assurances and protections provided by this Agreement in order to proceed with the Project according to the Project Schedule; and

WHEREAS, the Parties desire to enter into this Agreement to memorialize certain rights and obligations with respect to implementation of the Plans together with construction and coordination of improvements within and adjacent to the Developer Tract in furtherance of developing the Project; and

WHEREAS, establishing the terms and conditions under which streets, utilities, and park land will be developed in conjunction with the Project will protect and benefit the health, safety, and general welfare of the City and is in the best interest of the public.

NOW, THEREFORE, in consideration of the recitals set forth above, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Definitions.**

“Affiliated Entity” means any other person directly or indirectly controlling, controlled by or under common control with, such person. For purposes of this definition, the term “control” (including the correlative meaning of the terms “controlling”, “controlled by” and “under common control with”), as applied with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such person whether through the ownership of voting securities or by contract or otherwise, provided (but without limiting the foregoing) that no pledge of voting securities of any person without the current right to exercise voting right with respect thereto shall by itself be deemed to constitute control over such person.

“Applicable Law” means those rules, regulations, official policies, standards and specifications, ordinances and resolutions which are controlled by the City and in force and effect from time to time.

“Governmental Authority” or **“Governmental Authorities”** means any municipal governmental authority, including all executive, legislative and administrative departments and bodies thereof having jurisdiction over the Developer, the Developer Tract, or the Project.

“Governmental Requirements” means all laws, ordinances, statutes, executive orders, rules, zoning requirements and agreements of any Governmental Authority that are applicable to the acquisition, renovation, demolition, development, and construction of the Developer Tract and/or Project including, without limitation, all required permits, approvals and any rules, guidelines or restrictions enacted or imposed by any Governmental Authorities.

“Street Easements” means the easements, dedicated right of way, or otherwise encumbered real estate that shall be conveyed, dedicated, or encumbered as shown on the Plans.

“Term” means the period of time beginning on the Effective Date and ending on the earlier of: (i) completion of the City Constructed Street and Water Lines and the City Constructed Sewer Improvements; or (ii) the date on which the Developer sends written notice of termination to the City.

2. **Project Development Contingency.** With respect to the use and development of the Project, the Developer’s obligations in this Agreement are contingent upon final approvals of the Annexation and Zoning Petition and the Plans in a manner that is acceptable to Developer in its sole discretion.

3. **Park Land Purchase and Development.** The City shall purchase the Park Land from the Developer pursuant to the terms substantially in the same form as the Real Estate Sale Contract (the **“Park Land Contract”**) attached hereto as Exhibit D and incorporated herein by

this reference. The City Administrator is hereby authorized to execute the Park Land Contract and to take all reasonable and necessary actions to close the purchase of the Park Land. Developer shall be responsible for requesting approvals from the Governmental Authorities to comply with the Governmental Requirements for the conveyance of the Park Land to the City. The City will provide a conceptual design for the Park improvements to the Developer prior to the construction of any improvements and will, at the Developer's request, meet with the Developer to discuss the conceptual design. The Developer shall have the right to consent to or reject the conceptual design within 30 days after presented, but any decision to reject must be commercially reasonable and the Developer's consent shall not be unreasonably withheld.

4. **Sanitary Sewer Improvements.** The City will construct the City Constructed Sewer improvements as described below in this paragraph 4 in accordance with the Plans and as identified on the Zoning Plan and in accordance with the plans of the City's engineer in consultation with the Engineer and referenced in the Plans as follows:

A. LIFT STATION IMPROVEMENTS (ITEM 4A) - No later than June 15, 2022, the City's sanitary sewer lift station located west (identified on the Zoning Plan as "LOWER LIFT STATION (ITEM 4A)" and referenced hereinafter as "(ITEM 4A)") of the Developer Tract shall be improved by the City pursuant to the Plans (as same references plans created by the City's engineer in consultation with the Engineer) such that the lift station shall be capable of serving the sanitary sewer needs of the Developer Tract as the Developer Tract is intended to be fully developed as the Project.

In conjunction with the City's improvements to said Lower Lift Station (ITEM 4A), the City shall extend and improve sewer lines from said lift station to a total of four locations, (identified on the Zoning Plan as "MANHOLE DEMARCATION M1", "MANHOLE DEMARCATION M2", "MANHOLE DEMARCATION M3", and "MANHOLE DEMARCATION M4" and each referenced herein individually as "M1", "M2", "M3" and "M4") as follows:

- (i) M1 and M2 no later than June 15, 2022 as further outlined below;
- (ii) M3 no later than June 15, 2022 as outlined below; and
- (iii) M4 no later than 180 days following submission of a final plat for Phase 2 of the Project as outlined below.

B. CITY SEWER EXTENSION (ITEM 4B) AND M1 - No later than June 15, 2022, the City shall extend and improve sewer lines from said lift station (ITEM 4A) to M1 as shown on the Zoning Plan as "CITY SEWER EXTENSION (ITEM 4B)".

C. CITY SEWER EXTENSION (ITEM 4C) AND M2 - No later than June 15, 2022, the City shall extend and improve sewer lines from said lift station (ITEM 4A) going northeast across a creek to the southwest corner of Developer Tract at M2 as shown on the Zoning Plan as "CITY SEWER EXTENSION (ITEM 4C)".

D. CITY SEWER EXTENSION (ITEM 4D) AND M3 - No later than 180 days following submission of a final plat for Phase 2 of the Project, the City shall construct and install

new sewer lines from said lift station (ITEM 4A) northeast through Hail Ridge Golf Course to M3 as shown on the Zoning Plan as “CITY SEWER EXTENSION (ITEM 4D)”.

E. CITY SEWER TO PARK (ITEM 4E) and M4 - No later than 180 days following submission of a final plat for Phase 2 of the Project, the City shall construct and install sewer lines through Development Tract (starting point being M3) northeast to the Park Land at M4 as shown on the Zoning Plan as “CITY SEWER TO PARK (ITEM 4E)”.

5. **City Street and Water Line Improvements.** The City agrees to construct the City Constructed Street and Water Lines in accordance with the Plans (including any sidewalks shown on the Plans) and as follows: (i) no later than June 15, 2022, the City shall construct the portion of the City Constructed Street and Water Lines necessary for Phase 1 of the Project (as shown on the Plans from Pearre Lane north through the Developer Tract for approximately 1500 feet and as shown on the Zoning Plan and labeled as “PHASE 1 WATER & STREET (ITEM 5A)”); and (ii) no later than June 30, 2023 the City shall construct the remaining portion of the City Constructed Street and Water Lines necessary for park entrance (as shown on the Plans consisting of approximately 1500 feet and as shown on the Plans north through the Developer Tract and to the Park Land and as shown on the Zoning Plan and labeled as “PHASE 2 WATER & STREET (ITEM 5B)”).

6. **Availability of Public Utility Services.** City and Developer acknowledge that the availability of public utility services, including without limitation, water and sanitary sewer capacity, is critical to the Project. The City has reviewed the proposed water and sanitary sewer lines and usage estimates and hereby commits that, in combination with the Developer commitments contained in this Agreement, the City will ensure there will be adequate capacity and pressure to support the Project and the intended uses set forth herein in accordance with the Project Schedule. If the Developer is not in default under this Agreement, the City will not deny Developer the ability to connect to such water and sewer lines to serve the Project. The City’s obligations in this regard shall survive termination of this Agreement.

7. **Street and Stormwater Improvements.** Developer agrees to dedicate all additional right-of-way, as shown on the Plans, to the City at no charge to the City. With respect to the construction obligations of the Parties, the City and Developer agree to coordinate activities to ensure there is no unwarranted or unreasonable disruption to the Project Schedule of the Developer. The City acknowledges and agrees that, upon completion of the City’s improvements within the Developer Tract (including without limitation the City Constructed Street and Water Lines), (i) the improvements constructed by the City shall be dedicated and accepted by the City and (ii) future maintenance of same shall be assumed by the City. During the time that the City and the City’s agents are engaged in construction activities on the Developer Tract, the City shall cause the Developer Tract and any portion thereof which may be disturbed or otherwise affected by the City’s construction activities (the “Affected Real Estate”) to be maintained in a manner that complies with all applicable federal, state or local laws, regulations, ordinances, permits or other authorizations, approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, such as are applicable to land and are related to land disturbances, erosion control, pollution, clearing, grubbing, excavating, grading or storm water, from regulatory bodies such as the City of Boonville, the Missouri Department of

Natural Resources, and the United States Environmental Protection Agency (the City's foregoing obligations hereinafter sometimes referred to as the "Storm Water Compliance Obligations"). The City shall cause the diligent performance of the Storm Water Compliance Obligations which shall include, without limiting any other obligation of the City (or the Developer as the Developer could become obligated as owner of the Affected Real Estate), performing the initial work and ongoing maintenance of the Affected Real Estate, such that the Affected Real Estate complies with all laws and regulations related to the Storm Water Compliance Obligations. Such work and maintenance shall include, as may be necessary, erecting erosion control fences, plantings, seedings, stabilization of disturbed areas, preserving existing stream channels, diverting flows from undisturbed areas away from disturbed areas, installing drainage swales, earthen diversion dikes, sediment traps, or rock check dams, protecting inlets and outlets, sodding, spreading of straw, placement of straw bales, completing erosion control and/or land disturbance plans, maintaining erosion control and/or land disturbance records, including any inspection records and logs, which is applicable to the Affected Real Estate and the City's work thereon. The City hereby agrees that it shall have "Operational Control" with respect to the Storm Water Compliance Obligations and shall be responsible for all matters of complying with such obligations with respect to the completion of the City's construction obligations within the Developer Tract. The City's obligations to provide ongoing maintenance and to perform its Storm Water Compliance Obligations with respect to the improvements constructed by the City on the Developer Tract shall end when the City shall have completed its construction obligations within the Developer Tract.

The City shall grant to Developer all necessary rights and easements for the Developer to construct and utilize two storm water basins ("Storm Water Basins") located outside the boundaries of the Project as shown on the Plans for the purpose of managing storm water from the Project. Such rights and easements shall include without limitation rights to construct storm water related facilities between the Project and the Storm Water Basins which are necessary for the Storm Water Basins to serve the storm water needs of the Project as shown on the Plans. Developer shall construct the Storm Water Basins, and associated structures and improvements necessary for the Storm Water Basins to serve the Project, in accordance with the Plans. The City shall maintain the Storm Water Basins in accordance with the City's storm water regulations in a manner that enables the Storm Water Basins to serve the storm water needs of the Project as determined by the Plans. Developer shall pay to the City \$1,000.00 per year to offset City's costs associated with maintaining the Storm Water Basins. The parties' obligations related to storm water in this paragraph shall survive termination of this Agreement.

8. **Grading.** The Developer shall perform its rough grading obligations for the area in which the City shall complete its City Constructed Street and Water Lines obligations in a timely manner such that the City can complete the City Constructed Street and Water Line obligations by the deadlines imposed by this Agreement. "Rough grade" or "rough grading" shall mean that the vertical elevation of Developer's grading shall be within 0.2 feet of the subgrade elevation shown on the Plans. The City shall promptly inspect Developer's rough grading work upon receipt of written notice from Developer (which written notice must be acknowledged in writing by the Mayor or City Administrator to be deemed delivered) that such work is ready for inspection. If the City determines that the grading is acceptable, the City shall so notify the Developer in writing. If the City fails to notify the Developer in writing of its acceptance or rejection of the grading within 5 days after receipt of written notice from the Developer, the City shall be deemed to have

accepted such work. Upon acceptance of the work by the City (whether in writing or by deemed acceptance), the Developer shall have no further obligations to construct, repair, or maintain any of such work. All testing of such work, including without limitation all testing related to materials, compaction, and density, shall be the sole responsibility of the City. Developer shall also grade land owned by the City, known as Hail Ridge Golf Course at “GRADING (ITEM 8A)” as shown on the Zoning Plan in accordance with the Plans, as same refer to grading plans created by the Engineer as approved by the City’s engineer. The Developer shall meet with the City and the golf course operator to discuss grading that will adversely affect the operation of the golf course, and will not undertake grading on the golf course without the City’s prior written consent.

9. **Electric Utility Preference.** To the extent that there are multiple electric service providers available to serve the Project, City agrees that Developer shall have the ability to choose which provider or providers shall serve the Project or any portion thereof.

10. **No Conflicting Enactments.** During the Term the City will not impose on the Project or Developer Tract by action of the City Council any Governmental Requirement (to the extent that the City has authority with respect to a Governmental Requirement), ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each individually, a “City Regulation” and collectively the “City Regulations”) that reduces the assurances provided by this Agreement with respect to the availability of public utilities for the development, maintenance, and operation of the Project. Nothing contained herein shall prohibit the City from enacting a Governmental Requirement and imposing the same on the Project and Developer Tract for protection of the health, safety and welfare of the public in the same manner and to the same extent as imposed on the general public. During the Term, any change in the following shall not be effective as applied to the Developer Tract without the express written agreement of Developer:

- a. The land use designation or permitted use of the Developer Tract as permitted under the Annexation and Zoning Petition which would prohibit or limit the use of the Developer Tract for the Project as described in this Agreement;
- b. Limitation or control of the availability of public utilities, services or facilities for the Project as described in this Agreement;
- c. Application to the Project of any City Regulation otherwise allowed by this Agreement that is not uniformly applied to all similar types of development projects and project sites within the City boundaries; and
- d. Establish, enact, increase, or impose against the Project or Developer Tract any fees, taxes (including without limitation general, special and excise taxes), assessments or other monetary obligations other than those imposed and applied on all similar types of development projects and project sites within the City boundaries.

Nothing herein shall limit the City’s authority to enact ordinances, resolutions, or otherwise pass laws or promulgate rules or regulations with regard to any matter, so long as same does not have the effect of limiting construction of the Project on the Developer Tract within the Term in substantially the same manner as set forth in this Agreement.

11. **Timing of Project Construction and Completion.** The Developer shall endeavor in good faith and with reasonable diligence to proceed with and construct the Project as described in this Agreement, but the timing, order, and rate of development shall be determined in Developer's sole discretion.

12. **Waiver.** Failure of any party to this Agreement to insist on the full performance of any of its provisions by the other Party shall not constitute a waiver of such performance unless the Party failing to insist on full performance of the provision declares in writing signed by it that it is waiving such performance. A waiver of any breach under this Agreement by any Party, unless otherwise expressly declared in writing, shall not be a continuing waiver or waiver of any subsequent breach of the same or other provision of this Agreement.

13. **Governing Law.** The laws of the State of Missouri (without regard to conflicts of law) shall govern the validity, construction, enforcement and interpretation of this Agreement.

14. **Headings.** All section headings in this Agreement are for the convenience of the reader only and are not intended, nor shall they be deemed, to define or limit the scope of any provision of this Agreement.

15. **Notices.** All notices, demands, requests, and other communications required or permitted hereunder shall be in writing shall be considered delivered: (a) upon personal delivery to the party to whom the notice is directed; or (b) two (2) business days after deposit in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid, addressed as follows (or to such other address as the Parties may specify by notice given pursuant to this section):

To Developer: Troy Thurman Construction Co., Inc.
Attn: Troy Thurman
15400 J Hwy
Bunceton, MO 65237

With a Copy to: Robert Hollis
Van Matre Law Firm, P.C.
1103 East Broadway
Columbia, MO 65201

To City: City of Boonville
401 Main Street
Boonville, MO 65233
Attn: City Administrator

With a Copy to: City of Boonville
401 Main Street
Boonville, MO 65233
Attn: City Attorney

and

Gilmore & Bell, P.C.
One Metropolitan Square
211 N. Broadway, Suite 2000
St. Louis, MO 63102
Attn: Mark Grimm

16. **No Adverse Inference.** This Agreement shall not be construed more strongly against one Party or the other. The Parties had equal access to input with respect to, and influence over, the provisions of this Agreement. Accordingly, no rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this Agreement.

17. **Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement.

18. **Jurisdiction and Venue.** Legal action concerning any dispute, claim or matter arising out of the Agreement shall be brought only in the Circuit Court of Cooper County, Missouri.

19. **Severability or Partial Invalidity.** This Agreement is to be considered in its entirety and both parties acknowledge the assurances granted herein are dependent upon each other. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, such provision shall render the entire agreement invalid and unenforceable.

20. **Gender and Number.** Pronouns and any reference to a person or persons, wherever used herein, and of whatever gender, shall include natural persons, corporations, associations, partnerships and other entities of every kind and character, and the singular shall include the plural and vice versa, wherever and as often as may be appropriate.

21. **Failure or Delay to Enforce.** No failure to exercise or delay in exercising any right hereunder on the part of any Party to this Agreement shall operate as a waiver thereof, and no single or partial exercise of any right of such Party shall preclude any other or further exercise of such right or the exercise of any other right.

22. **Force Majeure.** Notwithstanding any provision of this Agreement to the contrary, if either Party is delayed, hindered in or prevented from the performance of any act required hereunder by reason of weather, strikes, lock-outs, labor troubles, inability to procure materials in a timely fashion, failure of power, riots, insurrection, the act, failure to act, delay in performance or default of the other Party, war or other reason beyond their control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

23. **Priority and Recording.** This Agreement shall be recorded in the records of Cooper County, Missouri and the covenants, rights and obligations contained herein shall run with the Developer Tract. By the recordation of this Agreement, all conditions, terms and obligations of this Agreement are effective as to and binding on the Parties, their successors and assigns with the intention that this Agreement will, in addition to the Parties hereto, govern all future and subsequent owners of all or any portion of the Developer Tract unless and until this Agreement is amended or terminated in accordance with the terms hereof.

24. **Binding Effect; Assignment.** This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective heirs, administrators, executors, personal representatives, successors and assigns. Either Party may assign this Agreement without the prior written consent of the other Party.

25. **Power of the City.** Notwithstanding anything set forth in this Agreement to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the City to act in its capacity as a public body. All financial obligations of the City shall be subject to future appropriation of the City in accordance with Applicable Laws and Governmental Requirements. Further, nothing herein shall relieve Developer from complying with all Applicable Laws and Governmental Requirements.

26. **Time.** Time is of the essence in this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

27. **Sovereign Immunity.** Nothing in this Agreement shall constitute or be construed as a waiver of the City's governmental or official immunity or its officers or employees from liability or suit pursuant to Section 537.600 RSMo.

28. **Entire Agreement; Amendment.** It is agreed and understood by the Parties that this Agreement embodies the entire understanding and represents the full and final agreement among the Parties with respect to the subject matter hereof and supersedes any and all prior commitments, agreements, discussions, representations, and understandings, whether written or oral, relating to the subject matter hereof; that this Agreement may not be contradicted or varied by evidence of prior or contemporaneous written or oral agreements or discussions of the parties, or subsequent oral agreements or discussions of the parties; that there are no oral agreements among the parties, and no representations, agreements or promises not set forth herein have been made. Without limiting the foregoing, Developer acknowledges that: (i) no promise or commitment has been made to it by or on behalf of the City other than as set forth in this Agreement; and (ii) except as otherwise expressly provided herein, this Agreement supersedes and replaces any and all proposals, letters of intent and approval and commitment letters relating to the subject matter hereof, none of which shall be considered a part of this Agreement unless expressly incorporated into this Agreement. This Agreement shall be amended only in writing and effective when signed by the Parties. The exhibits attached to the Agreement are incorporated herein by reference.

29. **Representatives Not Personally Liable.** No elected or appointed official, agent, employee or representative of the City shall be personally liable to the Developer in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

30. **Consents.** Whenever the consent or approval of either Party is required under this Agreement, such consent shall not be unreasonably withheld or delayed.

31. **Counterparts.** This Agreement may be executed in several counterparts, each of which is an original and all of which together constitute but one and the same document.

32. **Remedies.** The terms and conditions of this Agreement shall be enforceable by equitable remedies, and Developer and City stipulate and agree that the damages which would be suffered in the event of a breach of the terms and conditions of this Agreement would be substantial, but would not be capable of valuing in terms of money or monies worth. Accordingly, Developer and City may enforce the terms and conditions of this Agreement by the equitable remedies of injunction or specific performance. If City fails to comply with or defaults under any obligations set forth in this Agreement, then following written notice from Developer to City and a reasonable period of time (no less than fifteen (15) business days and no greater than sixty (60) calendar days) for City to cure such failure or default Developer may (but shall not be obligated to) cure such failure at Developer's sole cost and expense, and City shall, upon demand, pay to Developer all reasonable costs incurred by Developer in curing such failure together with interest at a rate equal to the lesser of ten percent (10%) per annum or the maximum lawful rate from the date so paid until fully reimbursed.

33. **Indemnification.**

(a) City hereby agrees, to the extent permitted by law, to indemnify, defend, and to hold harmless the Developer (and any and all of its affiliates, and their respective directors, stockholders, members, managers, trustees, beneficiaries, officers, employees, agents, engineers, attorneys, tenants, guests, invitees, consultants, representatives, successors, transferees and assigns (collectively, the "Developer Indemnified Parties")) from any and all Damages (as defined below) arising from any and all claims of any kind or nature (including, without limiting the foregoing, damages and claims resulting from death, personal injury, property damage, or any violation of any law, statute, ordinance, order, rule or regulation) that may arise by reason of any negligence or intentional acts on the part of City, the City's contractors or other contractors or subcontractors employed by such contractors or City, and their respective agents, servants, employees and independent contractors ("City Agents"), in connection with performance of the work required of the City by this Agreement. Additionally, without limiting the foregoing, City hereby agrees, to the extent permitted by law, to indemnify and defend the Developer Indemnified Parties and to hold the Developer Indemnified Parties harmless from and against the claims of any subcontractors, material suppliers or others asserting mechanics' liens against and of the property within the boundaries of the Developer Tract arising out of any wrongful failure on the part of City or the City Agents to pay any sums due the claimant or any claims brought against the Developer Indemnified Parties arising out of or relating to any of the work contemplated herein. City's obligations to indemnify and defend the Developer Indemnified Parties hereunder shall apply

unless it shall be ultimately determined by a final judicial decision from which there is no further right to appeal that the Developer Indemnified Parties are not entitled to indemnification hereunder. Further, in the event that it is ultimately determined by a final judicial decision from which there is no further right to appeal that a portion of the fault is attributable to the Developer Indemnified Parties, City's obligations on the indemnity will be proportional to the proportional fault of the City (including the City Agents) and the Developer Indemnified Parties.

(b) The Developer hereby agrees to indemnify, defend, and to hold harmless City (and any and all of its officers, employees, agents, engineers, attorneys, tenants, guests, invitees, consultants, representatives, successors, transferees and assigns) from any and all Damages (as defined below) arising from any and all claims of any kind or nature (including, without limiting the foregoing, damages and claims resulting from death, personal injury, property damage, or any violation of any law, statute, ordinance, order, rule or regulation applicable to political subdivisions of the state of Missouri) that may arise by reason of any negligence or intentional acts on the part of the Developer, the Developer's contractors or other contractors or subcontractors employed by such contractors or Developer, and their respective agents, servants, employees and independent contractors, in connection with performance of the work required of the Developer by this Agreement.

(c) "Damages" shall mean any and all lawsuits, claims, actions, injuries, damages (including, but not limited to, punitive, consequential and exemplary damages), losses, fines, liens, penalties, sanctions, deficiencies, judgments, awards, costs, expenses (including, without limitation, reasonable fees, disbursements, and costs of attorneys, accountants, experts and investigators), settlement payments, liabilities, remediation expenses, corrective action costs, and other obligations, including, without limitation, property damages and bodily or personal injuries, illnesses and deaths (whether or not such injury is physically manifest, or emotional in nature without any attendant physical manifestation of such injury), and in each case regardless of whether such matters are groundless, fraudulent or false.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE
PAGE(S) TO FOLLOW]

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement as of the date first above written.

City of Boonville, Missouri (“City”)

By: _____
Kate Fjell, City Administrator

Attest:

By: _____
_____, City Clerk

**Troy Thurman Construction Co., Inc.
 (“Developer”)**

By: _____
Troy Thurman, President

State of Missouri)
) ss.
County of Cooper)

On this _____ day of December, 2021, before me personally appeared Kate Fjell, who, upon her oath and upon being duly sworn, did state, affirm, and acknowledge that she is the City Administrator of the **City of Boonville, Missouri** and that she has executed this document on behalf of said City as the free act and deed of said City, and that she is duly empowered by said City to execute this document on said City's behalf.

IN TESTIMONY WHEREOF, I have hereunder set my hand and affixed my seal the day and year first above written.

_____, Notary Public
Commissioned in _____ County, MO

My commission expires _____.

State of Missouri)
) ss.
County of _____)

On this _____ day of _____, 2021, before me personally appeared Troy Thurman, President, who upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is an authorized agent of **Troy Thurman Construction Co., Inc**, that he executed the foregoing on behalf of said company, as the free act and deed of said company, and pursuant to the authority vested in him to execute the foregoing by the company, that the foregoing is binding in all respects upon said company, and that said company is duly empowered to enter into the foregoing.

IN TESTIMONY WHEREOF, I have hereunder set my hand and affixed my seal the day and year first above written.

_____, Notary Public
Commissioned in _____ County, MO

My commission expires _____.

Exhibit A

Developer Tract

A TRACT OF LAND LOCATED IN THE EAST HALF OF SECTION 5 AND THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 48 NORTH, RANGE 16 WEST, COOPER COUNTY, MISSOURI AND BEING ALL OF THE TRACT DESCRIBED IN AN AFFIDAVIT OF SCRIVENER'S ERROR DEED OF TRUST RECORDED IN BOOK 202, PAGE 965 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHEAST CORNER OF SAID DEED OF TRUST, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE FOR PEARRE LANE, THENCE WITH SAID NORTH RIGHT OF WAY LINE, N 83°33'05"W, 489.22 FEET; THENCE LEAVING SAID NORTH RIGHT OF WAY LINE, N 1°25'40"E, 1229.17 FEET; THENCE N 85°19'30"W, 350.41 FEET; THENCE S 83°39'25"W, 10.36 FEET; THENCE N 1°23'55"E, 78.92 FEET; THENCE N 84°16'10"W, 444.88 FEET; THENCE N 1°41'20"E, 1395.23 FEET TO THE NORTH LINE OF SAID SECTION 8; THENCE WITH SAID NORTH LINE, N 84°37'45"W, 11.57 FEET; THENCE N 3°44'20"E 1462.72 FEET; THENCE N 89°04'55"E, 307.25 FEET; THENCE N 0°49'35"E, 2663.84 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE FOR HIGHWAY 98; THENCE WITH SAID SOUTH RIGHT OF WAY LINE, S 87°57'50"E, 807.39 FEET; THENCE S 89°27'50"E, 72.81 FEET; THENCE LEAVING SAID SOUTH RIGHT OF WAY LINE, S 15°37'35"W, 905.24 FEET; THENCE S 88°19'20"E, 850.08 FEET TO THE EAST LINE OF SAID SECTION 5; THENCE WITH SAID EAST LINE, S 0°36'10"W, 3380.02 FEET TO THE NORTHEAST CORNER OF SAID SECTION 8; THENCE WITH THE EAST LINE OF SAID SECTION 8, S 1°23'45"W, 1194.63 FEET; THENCE LEAVING SAID EAST LINE, N 85°14'10"W, 512.60 FEET; THENCE S 4°45'35"W, 1505.88 FEET TO THE POINT OF BEGINNING AND CONTAINING 216.81 ACRES.

Exhibit B

Zoning Plan

Exhibit C

The Plans

Exhibit D

Park Land Contract

REAL ESTATE SALE CONTRACT

THIS REAL ESTATE SALE CONTRACT ("Contract") is made as of December ___, 2021 (the "**Effective Date**") by and between

TROY THURMAN CONSTRUCTION CO., INC., a Missouri corporation
Attn: Troy Thurman
15400 J Hwy
Bunceton, Missouri 65237

("Seller") and

CITY OF BOONVILLE, a municipal corporation under the laws of the state of Missouri
401 Main Street,
Boonville, Missouri 65233

("Buyer").

AGREEMENTS:

1. The Property. Seller is the owner of the following property (the "**Property**"): (a) the parcel of real property, together with Seller's rights to any land situated in any adjacent street or other right-of-way, located in Cooper County, Missouri, more particularly described on **Exhibit A** attached to this Contract; (b) any improvements located on the Property; (c) any equipment and other personal property (both tangible and intangible) located in or on or related to the real property or improvements; and (d) all other rights, privileges and appurtenances owned by Seller and in any way related to the Property.

2. Sale of Property. In consideration of the Purchase Price (defined below), and subject to the terms and conditions set forth in this Contract, Seller agrees to sell the Property to Buyer and Buyer agrees to purchase the Property from Seller.

3. Reservations and Exceptions. The general warranty deed to be delivered by Seller at closing will contain a covenant, restricting the use of the property enforceable by the Seller corporation, as well as a reservation by the Seller corporation of a right of first refusal, all as stated in the form of deed attached as **Exhibit B** to and by this reference incorporated into this Contract (the "**Deed**"). Otherwise the Property will be conveyed to Buyer subject only to the Permitted Exceptions (defined below) and zoning ordinances.

4. Purchase Price. The purchase price (the "**Purchase Price**") for the Property is **\$300,000.00**, which Buyer will pay, subject to credits, prorations and adjustments set out below, in cash or current funds at Closing (defined below).

5. Closing. The consummation of this transaction (the "**Closing**") will occur, subject to the terms and conditions of this Contract, on January 18, 2022 (the "**Closing Date**").

6. Real Property Taxes. Seller will pay all taxes, general and special, and all assessments, which are a lien on the Property and can be paid as the Closing Date, except that all general state, county, school and municipal taxes (exclusive of rebates, penalties or interest) for 2021 will be prorated between Seller and Buyer, on the basis of the calendar year 2021, as of the Closing Date. If the amount of any such tax to be prorated cannot be ascertained, proration will be computed on the amount thereof for the preceding year, and when the actual amount of the tax becomes available, Buyer or Seller, as the case may be, will pay the other the amount by which the obligation for taxes is greater than the amount obtained by basing prorations on the previous year.

7. Sales and Transfer Taxes. Seller will be liable for and will hold Buyer harmless against all sales taxes, transfer taxes, documentary stamps and similar taxes arising from the operation of the Property prior to the Closing or from the transactions contemplated by this Contract.

8. Brokerage Fees. Each party represents to the other that it has had no dealing with any broker or agent with respect to the transaction contemplated herein, which would result in an obligation to pay brokerage fees or commissions arising from this transaction.

9. Other Expenses. Escrow or closing charges by the Title Company will be shared equally by Seller and Buyer. All expenses not otherwise provided for in this Contract will be paid by the party incurring the expense.

10. Title Insurance. Seller will, at Seller's sole cost and expense, furnish Buyer an ALTA 2006 Owner's Title Insurance Policy in the amount of the Purchase Price from **MONARCH TITLE COMPANY**, 515 E Morgan Street, Boonville, Missouri 65233, Phone: (660) 882-2888, a title company authorized to issue title insurance in Missouri (the "**Title Company**"), insuring Buyer's title to the Property as of the Closing Date. The Seller will within 5 days from the Effective Date, deliver to Buyer a commitment for the policy (the "**Commitment**"), together with legible copies of all documents referenced in the schedules to the Commitment. If the Commitment is not satisfactory to Buyer in its sole and absolute discretion, Buyer will advise Seller of the Buyer's objections within 10 days after Buyer receives the Commitment, copies of the documents referenced in the schedules to the Commitment and the survey required by Section 11 below. Seller will remedy any matters to which Buyer objects and will, at least two days before Closing, have delivered to Buyer and to Buyer's counsel a revised Commitment reflecting that such remedy has been effected. If Seller is unable to deliver the policy of title insurance as required by this Section 10, Buyer will have the option either (a) to elect to accept such policy of title insurance as Seller is able to deliver; or (b) to elect to terminate this Contract, and upon such termination, any money deposited by Buyer with Seller, the Title Company or any other escrow agent with respect to the Purchase Price (a "**Deposit**") will be returned to Buyer within 5 days after the termination, and neither party will have any further obligation under this Contract, other than for matters that survive termination under the express terms of this Contract. Any matters disclosed by the Title Policy acceptable to Buyer will be deemed permitted exceptions (the "**Permitted Exceptions**").

11. Survey. Seller will provide to Buyer a boundary survey of the Property, which survey shall meet the minimum standards for a "property boundary survey" under Missouri law, no later than December 31, 2021.

12. Seller's Representations. Seller represents, warrants and agrees as follows:

A. Seller has complete and unrestricted power and authority to enter into, execute, deliver, perform and consummate this Contract, and this Contract constitutes the valid and binding obligation of Seller.

B. There are no leases, contracts, agreements or commitments affecting the Property, or conveying or transferring any interest in the Property, or affecting the use of the Property which extend beyond the Closing Date.

C. Seller has no knowledge of any violation by Seller or the Property of any law, order, regulation, restriction or requirement relating to the Property or its occupancy or operation. Seller has no knowledge of any claim, suit, action or legal, administrative, arbitration or other proceeding or governmental investigation, or any change in the zoning or building ordinances, affecting the Property, pending or threatened, other than matters or proceedings pending with Buyer in Buyer's capacity as a municipality.

D. Seller will deliver the Property to Buyer at Closing in the same condition as on the Effective Date, subject only to normal wear and tear.

E. From the Effective Date to and including the Closing Date, Seller will not, without the prior written consent of Buyer in each instance, enter into any contracts, agreements or commitments with respect to the Property which will survive the Closing Date.

13. Buyer's Representations. Buyer hereby represents and warrants that it has the right, legal capacity, and power to enter into this Contract; to purchase the Property from Seller pursuant to the terms and provisions of this Contract; and to perform its other obligations under this Contract.

14. Documents to be Delivered by Seller. Seller will within ten (10) days after this Contract is signed by both Seller and Buyer, deliver to Buyer the following:

- A.** A list and true and complete copies of any contracts, agreements and commitments affecting the Property or its ownership, management or operation;
- B.** True and complete copies of any licenses, permits and approvals issued by governmental authorities having jurisdiction of the Property or its operation.
- C.** True and complete copies of any environmental reports pertaining to the Property that are in Seller's possession or control.

15. Review Period. For a period extending until January 7, 2022 (the "**Review Period**"), Buyer may do the following:

- A.** Review such documents and make, or cause to be made by agents or contractors of Buyer's choosing, any and all physical inspections of the Property.
- B.** Conduct Environmental Assessments (as defined below).

Seller agrees to make the Property available to Buyer and its agents, employees and contractors during the Review Period for such inspections. If Seller fails to deliver, within the required time, the documents and materials required to be submitted to Buyer in Section 14 above, the Review Period will be extended by the number of days between the required date and the actual date of such delivery. If, in Buyer's sole discretion, based upon the results of Buyer's review, inspections, or requests, or any Environmental Assessments (as defined below), or for any other reason, Buyer determines that the Property is unsatisfactory to Buyer, Buyer may by written notice to Seller within the Review Period, or within 5 days thereafter, terminate this Contract, and upon such termination, any Deposit will be returned to Buyer within 5 days after the termination and neither party will have any further rights or obligations under this Contract, other than for matters that survive termination under the express terms of this Contract. If Buyer does not terminate this Contract by such notice within the Review Period, this Contract will remain in full force and effect in accordance with its terms.

16. Environmental Matters.

A. Environmental Compliance. "**Environmental Laws**" shall be defined as Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Superfund Amendments and Reauthorization Act of 1986, the Federal Water Pollution Control Act and all other federal, state and local laws relating to pollution or protection of the environment, including, without limitation, laws relating to emissions, discharges, releases or threatened releases of Hazardous Materials (defined below) into the environment (including without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (defined below). "**Hazardous Materials**" shall be defined as industrial, toxic or hazardous substances or wastes or other pollutants, contaminants, petroleum products or chemicals. Seller represents and warrants that:

- 1. To Seller's knowledge, there are no polychlorinated biphenyls (PCBs) or asbestos generated, treated, stored, disposed of, or otherwise deposited in or located on the Property and there are no underground storage tanks located on the Property;

2. To Seller's knowledge, there has been no "release" as defined in 42 U.S.C. 9601(22) or, to the knowledge of Seller, threat of a "release" of any Hazardous Materials on, from or under the Property;
3. Seller has not received any notice that Seller has any potential liability with respect to response action or the cleanup of the Property or any parcel contiguous to the Property at which Hazardous Materials have been generated, treated, stored, discharged, released, emitted or disposed of and to the knowledge of Seller, there are no past, present or future events, conditions or circumstances which may interfere with or prevent compliance or continued compliance by Seller, or Buyer's intended use of the Property for park purposes, in accordance with the Environmental Laws, or that otherwise would form the basis of any claim, action, demand, suit, proceeding, hearing, notice of violation, study or investigation, based on emission, discharge, release or threatened release into the environment, of Hazardous Materials in, on or near the Property.

The representations and warranties contained in this Section shall survive the Closing Date.

B. Environmental Assessments. Buyer shall have the right to have access to the Property during the Review Period to enable an independent environmental consultant chosen by Buyer to inspect, audit and test the Property for the existence of environmental conditions and violations of environmental laws ("**Environmental Assessments**"). Buyer may perform soil, air and groundwater sampling and testing. The scope, sequence and timing of the Environmental Assessments shall be at the sole discretion of the Buyer. The cost of the Environmental Assessments shall be borne by Buyer. Buyer may terminate this Agreement, as provided in Section 15, if the Environmental Assessments reveal or, if at any time prior to the expiration of the Review Period, Buyer otherwise becomes aware of the existence of any environmental condition or violation of an environmental law which Buyer is unwilling to accept, in Buyer's sole and subjective discretion.

17. Survival. All representations, warranties, covenants, agreements and obligations made or incurred by either party to the other in or pursuant to this Contract will be deemed to be remade on the Closing Date and will survive the Closing regardless of any investigation made by or on behalf of either of them.

18. Closing. If all conditions to Closing have been satisfied or waived by the party intended to benefit from the condition or conditions, the obligations of Seller and Buyer to be performed prior to Closing have either been performed or waived by the party intended to benefit from the performance of the obligation, and Seller's and Buyer's representations, warranties, and agreements in this Contract remain true and correct, then Closing will take place as follows:

A. Seller will deliver to Buyer at the office of the Title Company: (1) the Deed conveying good and marketable fee simple title to the Property free and clear of all liens, claims and encumbrances other than those approved by Buyer in this Contract or by the terms of this Contract; (2) if any of the Property is personal property, a bill of sale, conveying that portion, with full warranties of title, free and clear of any liens, claims and encumbrances other than those approved by Buyer; (3) such other instruments (such as but not necessarily limited to affidavits and settlement statements) as are required by this Contract and/or as are reasonably necessary or appropriate to consummate the sale contemplated by this Contract; and (4) original copies of all documents referred to in Section 14, which are in Seller's possession; and will perform any other obligations required to be performed by Seller under the terms of this Contract to close this transaction

B. Buyer will (1) pay the Purchase Price (subject to credits, prorations and adjustments, as provided in this Contract); (2) deliver such instruments (such as but not necessarily limited to

affidavits and settlement statements) as are required by this Contract and/or as are reasonably necessary or appropriate to consummate the sale contemplated by this Contract; and (3) perform any other obligations required to be performed by Buyer under the terms of this Contract to close this transaction.

Buyer may deliver the Purchase Price to the Title Company to be held under instructions that the funds due Seller not be delivered to Seller unless and until the Deed is ready for recording and the Title Company is ready, willing and able to issue and deliver to Buyer the title insurance policy as required by the terms of this Contract. Concurrently with Closing, Seller will deliver possession of the Property to Buyer.

19. Remedies for Seller's Default. If Seller defaults in the performance of any of its covenants under this Agreement and fails to cure such default within 10 days after notice thereof from Buyer to Seller, then Buyer may elect to: (a) terminate this Agreement, in which case any Deposit will be returned to Buyer within 5 days after the termination, or (b) pursue any rights and remedies available to Buyer at law or equity, including obtaining specific performance of Seller's obligations under this Agreement plus recovery of all Buyer's costs and expenses in connection with such default.

20. Remedies for Buyer's Default. The parties recognizing it would be extremely difficult, if not impossible, to ascertain the extent of actual damages caused by Buyer's breach, and that \$15,000 represents as fair an approximation of such actual damages as the parties can now determine, if Closing does not occur by reason of a default by Buyer under the terms of this Contract. Therefore, Seller's sole and exclusive right and remedy upon Buyer's default will be to accept \$15,000 as liquidated damages in full satisfaction of all of Buyer's obligations under this Contract. Without limiting the generality of the preceding sentence, Seller will not be entitled to specific performance of this Contract.

21. Damage or Destruction. The risk of loss will be borne by Seller until the time of Closing.

22. Notices. Any notice, demand or other communication required or permitted to be given to either party under or with respect to this Contract will be in writing, and will be deemed made when actually received or, regardless if received or not, on the second business day after having been deposited in the United States mail, registered or certified mail, return receipt requested, addressed to the respective party at the addresses set forth below, or at such other address as either party may in the future provide by written notice to the other party delivered in accordance with the terms of this Section:

If to SELLER:

Troy Thurman Construction Co., Inc.
15400 J Hwy
Bunceton, MO 65237
Attn: Troy Thurman

With a Copy to:

Van Matre Law Firm, P.C.
1103 East Broadway
Columbia, MO 65201
Attn: Robert Hollis

If to BUYER:

City of Boonville
401 Main Street
Boonville, MO 65233
Attn: City Administrator

With a Copy to:

City of Boonville
401 Main Street
Boonville, MO 65233
Attn: City Attorney

and to:

Gilmore & Bell, P.C.
One Metropolitan Square
211 N. Broadway, Suite 2000
St. Louis, MO 63102
Attn: Mark Grimm

23. Merger. This Contract contains a complete and exclusive statement of all the arrangements between the parties, and all prior negotiations and agreements between the parties are superseded by this Contract.

24. Choice of Law. This Contract is a Missouri contract and will be governed, construed and interpreted in accordance with the laws of the State of Missouri.

25. Extension of Performance. If the final day of any period or any date of performance under this Contract falls on a date which is not a business day, then the final day of the period or the date of performance, as applicable, shall be extended to the next day which is a business day.

[Remainder of page intentionally left blank.]

SIGNATURES:

Buyer has executed 4 copies of this Contract on December 8, 2021. If Seller does not date, execute and return 2 fully executed original copies of this Contract to Buyer by 5:00 p.m., December 10, 2021, this Contract, and Buyer's signatures on this Contract, will be null and void.

SELLER

TROY THURMAN CONSTRUCTION CO., INC.

BUYER

CITY OF BOONVILLE

By: _____
Troy Thurman, President

Dated:

By: _____
Kate Fjell, City Administrator

Dated:

EXHIBIT A
Legal Description

A TRACT OF LAND LOCATED IN THE EAST HALF OF SECTION 5 AND THE EAST HALF OF SECTION 8, ALL IN TOWNSHIP 48 NORTH, RANGE 16 WEST, COOPER COUNTY, MISSOURI AND BEING PART OF THE TRACT DESCRIBED IN AN AFFIDAVIT OF SCRIVENER'S ERROR DEED OF TRUST RECORDED IN BOOK 202, PAGE 965 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHEAST CORNER OF SAID DEED OF TRUST, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE FOR PEARRE LANE IN SECTION 8, TOWNSHIP 48 NORTH, RANGE 16 WEST, LEA YING THE SAID NORTH RIGHT OF WAY LINE AND WITH THE EAST LINE OF SAID TRACT, SAID LINE BEING THE WEST LINE OF A TRACT OF LAND DESCRIBED IN CONDEMNATION CASE NO. CV198-34CC, N 4°45'35"E, 1505.88 FEET; THENCE LEAVING SAID WEST LINE OF SAID TRACT AND WITH THE NORTH LINE OF SAID TRACT, S 85°14'10"E, 512.60 FEET TO THE EAST SECTION LINE OF SAID SECTION 8; THENCE LEA YING SAID NORTH LINE AND WITH SAID EAST SECTION LINE, N 1°23'45"E, 1092.20 FEET TO THE POINT OF BEGINNING:

THENCE FROM THE POINT OF BEGINNING AND LEA YING SAID EAST LINE OF SAID SECTION 8, N 88°36'15"W, 412.06 FEET; THENCE N 12°38'35"E, 264.95 FEET; THENCE N 24°50'20"W, 332.70 FEET; THENCE N 38°16'45"W, 392.07 FEET; THENCE N 12°01'50"E, 167.75 FEET; THENCE N 65°01'20"E, 791.55 FEET TO THE EAST LINE OF SAID SECTION 5; THENCE WITH SAID EAST LINE, S 0°36'10"W, 1274.22 FEET TO THE NORTH EAST CORNER OF SAID SECTION 8; THENCE WITH THE EAST LINE OF SAID SECTION 8, S 023'45"W, 102.44 FEET TO THE POINT OF BEGINNING AND CONTAINING 15.22 ACRES.

EXHIBIT B

Form of Deed

MISSOURI GENERAL WARRANTY DEED

THIS INDENTURE, dated December __, 2021, by and between

Grantor:	TROY THURMAN CONSTRUCTION CO., INC. , a Missouri corporation 15400 J Hwy Bunceton, Missouri 65237
and	
Grantee:	CITY OF BOONVILLE, MISSOURI 401 Main Street, Boonville, Missouri 65233

WITNESSETH, That Grantor, in consideration of the sum of Ten Dollars and other good and valuable consideration paid to Grantor by Grantee (the receipt and sufficiency of which are hereby acknowledged), does by these presents GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM to Grantee, and Grantee's successors and assigns, the real estate in Cooper County, Missouri, described as follows (the "**Land**");

See **EXHIBIT A** attached to and by this reference incorporated into this deed;

SUBJECT TO: (a) easements, restrictions, reservations, and declarations of record, if any, and (b) taxes and assessments, general and special, not now due and payable.

Further, this conveyance by Grantor is made subject to a restriction (the "**Restriction**") that the Land may be used solely for Park Purposes, meaning a tract of land for recreation and enjoyment, with such improvements as Grantee may in its discretion make to facilitate the Land's use as a park; provided that park purposes shall not include (1) tracks for motorized vehicles or shooting ranges; (2) loud concerts or other similarly loud activities that would reasonably be disturbing to residents of the adjoining subdivision; (3) golf courses, fairgrounds, swimming pools, parking garages, stadiums, or community buildings; nor (4) any airport facilities for Grantee's adjoining airport. The Restriction shall be binding on the Grantee and its successors and assigns and may be enforced only by an injunction action by Grantor and its successors by merger or acquisition.

Further, Grantor reserves unto Grantor and its successors by merger or acquisition, a right of first refusal (the "**Right of First Refusal**") upon the following terms and conditions: If at any time or from time to time, Grantee, or its successors or assigns, is willing to accept a bona fide offer to purchase the Land, or portion thereof, Grantee shall notify Grantor in writing of the purchase price and the other material terms and conditions of the offer made to it and the identity of the proposed purchaser, and Grantor shall have the right to purchase the Land (or the portion thereof) upon the terms and conditions in such offer (except that (a) if all or part of the consideration is other than cash then in lieu thereof Grantor may pay an equivalent amount in cash and (b) the closing date shall be as stated below) by giving Grantor written notice and specifying the place and date of closing, which date shall be no earlier than 30 days, nor later nor later than the later of sixty 60 days after the date of Grantee's notice to Grantor, or the date specified in the offer. If Grantor fails to notify Grantee of its election within 15 days after the date of Grantee's notice to Grantor, Grantee shall have the right to sell the Land (or the portion thereof) to said proposed purchaser upon the terms and conditions contained in the notice to Grantor. Any such sale shall be subject to the terms of this deed including the Restriction (which shall remain in full force and effect regardless of any conveyance from Grantee to any third party), except that this Right of First Refusal shall, upon Grantor's failure to exercise such right and Grantee's subsequent sale of the Land (or the portion thereof) to the prospective purchaser set forth in Grantee's notice to Grantor of the terms and

conditions contained therein, terminate and become null and void and of no further force and effect as to that portion of the Land (or all the Land, if all is sold).

The Grantor corporation (or its successor by merger or acquisition) may, without the joinder of any other party, consent, waive, modify, subordinate or terminate the Restriction or the Right of First Refusal, at the request of and by written agreement with Grantee, its successors and assigns, which will be effective whether or not recorded. At such time as Grantor or a successor by merger or acquisition no longer exists, the Restriction and the Right of First Refusal will be null and void, and of no further effect.

TO HAVE AND TO HOLD the described premises, with all and singular the rights, privileges, appurtenances, and immunities thereto belonging or in any way appertaining unto Grantee and Grantee's successors and assigns forever; Grantor covenanting that Grantor is seized of an indefeasible estate in fee in the premises; that Grantor has good right to convey the same; that the premises are free and clear from any encumbrance done or suffered by Grantor or those under whom Grantor claims, except as provided above; and that Grantor will warrant and defend the title to the premises to Grantee and to Grantee's successors and assigns forever, against the lawful claims and demands of all persons, except as provided above.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed the date written above.

TROY THURMAN CONSTRUCTION CO., INC.

[SEAL]

ATTEST:

By _____

Printed Name: _____

Title: _____

By _____
Troy Thurman, President

STATE OF MISSOURI)
) SS
COUNTY OF COOPER)

On this ____ day of December, 2021, before me, the undersigned, a Notary Public in and for said State appeared **Troy Thurman**, to me personally known, who being by me duly sworn did say that he is the President of **TROY THURMAN CONSTRUCTION CO., INC.**, a Missouri corporation, and that the seal affixed to foregoing instrument is the corporate seal of said corporation, was signed and sealed in behalf of said corporation by authority of its board of directors, and he acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Printed Name: _____
Notary Public in and for said State
Commission No. _____

My commission expires:

DATE _____

BILL NO. 2021-009

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BOONVILLE, MISSOURI ANNEXING CERTAIN CONTIGUOUS TERRITORY OWNED BY TROY THURMAN CONSTRUCTION CO., INC. , A MISSOURI CORPORATION DOING BUSINESS IN COOPER COUNTY, MISSOURI, INTO THE CITY OF BOONVILLE, MISSOURI; ZONING THE PROPERTY AS R-1, , R-2AND R-A RESIDENTIAL, AS HEREAFTER SET OUT; PROVIDING AN EFFECTIVE DATE THEREFOR, AND REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE.

WHEREAS, a verified petition, herein attached as “**EXHIBIT A**” and made a part hereof by reference, signed by all the owners of the real estate hereinafter described, consisting of approximately 216.81 acres, more or less, (hereinafter the “Property”) requesting annexation of said territory into the City of Boonville, Missouri, was filed with the City Clerk on the 27th day of January, 2021; and

WHEREAS, Troy Thurman Construction Co., Inc. (hereinafter the “Owner”) is the sole owner of the Property described in the petition, which Property is presently unoccupied; and

WHEREAS, the Property is not now part of any incorporated municipality; and

WHEREAS, said Property is both contiguous and compact to the present corporate limits of the City of Boonville, Missouri; and

WHEREAS, contemporaneously with the filing of the said petition requesting annexation into the City of Boonville, the Owner filed an application with the City Planning and Zoning Commission, requesting certain designated portions of the Property to be placed in R-1, R-2, and R-A Residential Zoning Districts, respectively, as shown and described in the petition, hereto attached and incorporated by reference; and

- WHEREAS,** the Planning and Zoning Commission reviewed and approved the zoning application to place various portions of the Property in said R-1, R-2, and R-A Residential Districts, respectively, as described in such application; and
- WHEREAS,** presentation and public hearings of the application for zoning and verified petition for voluntary annexation concerning said matters were held at the City Council Chambers in Boonville, Missouri on March 9, 2021 at 6:00 PM before the Planning and Zoning Commission and on March 15, 2021 at 7:00 PM before the City Council; and
- WHEREAS,** notices of said Public Hearings were given by publication of notice thereof on February 10, 2021 and February 22, 2021 in the Columbia Daily Tribune, a daily newspaper of general circulation in Cooper County, Missouri, and to the owners of property within 185 feet by certified mail or personal service; and
- WHEREAS,** at said Public Hearings, all interested persons, corporations or political subdivisions were afforded the opportunity to present evidence regarding the proposed zoning and annexation requests; and
- WHEREAS,** no written objections to the proposed annexation was filed with the City Council or the City of Boonville, Missouri within fourteen days after the public hearing thereon; and
- WHEREAS,** following discussion with City Council and developers, City Council approved putting this annexation bill on the table at their March 15th, 2021 meeting; and
- WHEREAS,** the developers put forward a modified plan for development on August 30th, 2021 which eliminated financing portions of their development plan for consideration by City Council and during the September 7th, 2021 Council meeting, City Council discussed the revised proposal, and motioned and approved for the City to continue evaluating the revised proposal; and
- WHEREAS,** the developers, through Van Matre Law Firm, P.C., submitted a letter dated October 7th, 2021, herein attached as “**EXHIBIT B**” and made a part hereof by reference, removing certain conditions for annexation; and
- WHEREAS,** the revised development plan which modified the zoning districts of the parcel and reduced housing density from an R-3 to an R-2 zone and “**EXHIBIT B**” was reviewed by the Planning and Zoning Commission at their meeting on October 12th, 2021 and was approved by the Commission; and
- WHEREAS,** at the October 18th, 2021 City Council meeting, the City Council approved to take the annexation bill off the table for a third reading during the November 1st, 2021 City Council meeting; and

WHEREAS, at the October 18th, 2021 City Council meeting, City Council further approved to hold another hearing on the Fox Hollow development at the November 15th, 2021 Council meeting; and

WHEREAS, notice of the November 15th, 2021 Public Hearing were given by publication of notice thereof on Saturday, October 30th, 2021 in the Boonville Daily Newspaper, a paper of general circulation in Cooper County; and

WHEREAS, this bill was amended to reflect the zoning request changes, between the second and third reading; and

WHEREAS, the City is able to furnish normal municipal services to said area within a reasonable time after annexation; and

WHEREAS, the City Council of the City of Boonville, Missouri does find and determine that said annexation is reasonable and necessary to the proper development of the City of Boonville.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOONVILLE, MISSOURI AS FOLLOWS:

SECTION 1: Pursuant to the provisions of Section 71.012, RSMo., as amended, the Property described in **EXHIBIT “A,”** hereto attached and incorporated by reference and made a part hereof, is hereby annexed into the City of Boonville, Missouri.

SECTION 2: the boundaries of the City of Boonville, Missouri are hereby altered so as to encompass the real estate described and set forth in **EXHIBIT “A”** lying contiguous and compact to the present corporate limits.

SECTION 3: The City Council of the City of Boonville, Missouri does place this Property in Zoning Districts R-1, R-2, and R-A Residential, respectively, as designated and described in the petition approved by the City Planning and Zoning Commission.

SECTION 4: this Property will be placed in Ward 4 of the City of Boonville, Missouri.

SECTION 5: The City Clerk of the City of Boonville is hereby ordered to cause three certified copies of this ordinance to be filed with the Cooper County Clerk, one copy recorded with the Cooper County Recorder of Deeds and one copy forwarded to the City Engineer for updating the City maps and boundaries.

SECTION 6: This ordinance shall take effect and be in full force on January 18, 2022.

FIRST READING: MARCH 1, 2021

SECOND READING: MARCH 15, 2021

THIRD READING: NOVEMBER 1, 2021

FOURTH READING: NOVEMBER 15, 2021

FIFTH READING: DECEMBER 6, 2021

READ FOR THE FIFTH TIME AND PASSED ON THIS 6th DAY OF DECEMBER, 2021, AFTER A COPY OF THIS ORDINANCE AND EXHIBITS REFERENCED HEREIN HAVE BEEN MADE AVAILABLE FOR PUBLIC INSPECTION FOLLOWING ITS FIRST READING , SECOND READING, THIRD READING, FOURTH, AND FIFTH READINGS AND PUBLIC HEARINGS ON THE ZONING AND ANNEXATION WERE PROPERLY HELD.

PRESIDENT OF THE COUNCIL

APPROVED THIS 6TH DAY OF DECEMBER, 2021

NED BEACH, MAYOR

ATTEST:

AMBER DAVIS, CITY CLERK



**PETITION REQUESTING ANNEXATION OF LAND
TO THE CITY OF BOONVILLE, MISSOURI AND DESIGNATION OF ZONING
CLASSIFICATIONS**

Troy Thurman Construction Co. Inc., a Missouri Corporation (the "Owner") hereby petitions the City Council of the City of Boonville, Missouri, to annex the land described below into the corporate limits of the City of Boonville, and in support of this Petition Requesting Annexation of Land to the City of Boonville, Missouri and Designation of Zoning Classifications (this "Petition"), state as follows:

1. The Owner is the sole owner of the "Property" hereafter described. The Property is presently unoccupied.
2. The Property is "contiguous" and "compact" to the existing corporate limits of the City of Boonville, Missouri (the "City").
3. The Property consists of approximately 216.81 acres. The legal description of the Property is set forth on Exhibit A to this Petition which is attached hereto and incorporated herein by this reference.
4. The Property is not now part of any incorporated municipality.
5. The tax parcel identification numbers of the Property are 09-3.0-05-000-000-009.000, 09-3.0-05-000-000-010.000 (not including the house and 15 Acres m/l; see legal description), 09-3.0-08-000-000-001.000, 09-3.0-08-000-000-021.000 and 09-3.0-004-001-020-00.
6. Contemporaneously with the filing of this Petition the Owner is requesting that the Property be placed into zoning districts R-1, R-3, and R-A under the Ordinances of the City as described and shown on Exhibit B to this Petition which is attached hereto and incorporated herein by this reference.
7. Contemporaneously with the filing of this Petition the Owner has submitted for approval by the City a Deannexation Agreement, which, in part requires the City to immediately deannex all or portions of the Property in the event that approvals related to tax increment financing are not obtained with respect to the Property.
8. This Petition is conditioned and contingent upon the placement of the Property within the requested zoning district and approval of the aforementioned Deannexation Agreement. If the Property is not contemporaneously placed in the requested zoning district and the Deannexation Agreement is not approved along with the annexation thereof in such a manner as is hereby requested by the Owner, then this Petition should be considered as withdrawn.

Remainder of this page left blank intentionally – Signature page follows

53

Exhibit A

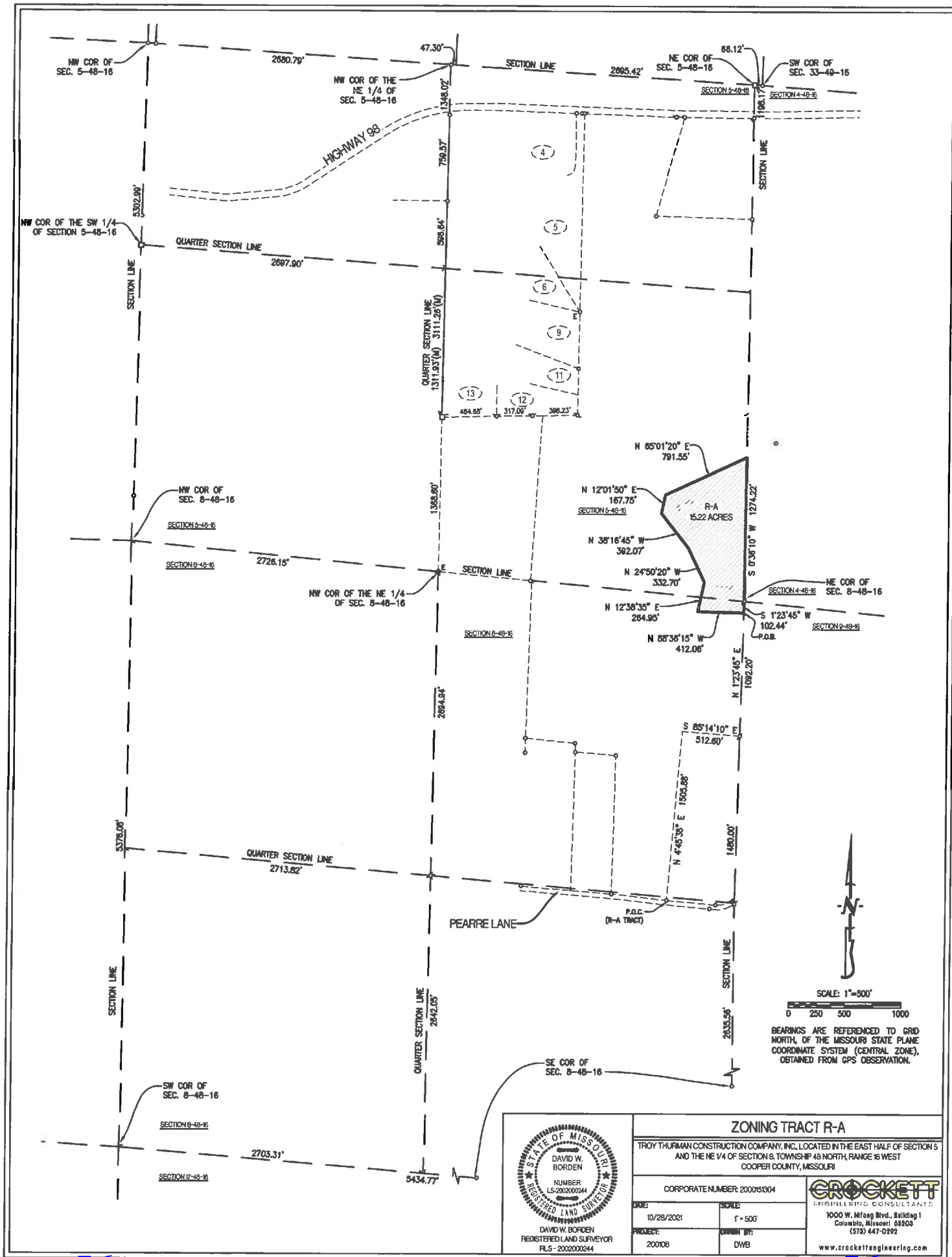
Legal Description of the Property

A TRACT OF LAND LOCATED IN THE EAST HALF OF SECTION 5 AND THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 48 NORTH, RANGE 16 WEST, COOPER COUNTY, MISSOURI AND BEING ALL OF THE TRACT DESCRIBED IN AN AFFIDAVIT OF SCRIVENER'S ERROR DEED OF TRUST RECORDED IN BOOK 202, PAGE 965 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHEAST CORNER OF SAID DEED OF TRUST, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE FOR PEARRE LANE, THENCE WITH SAID NORTH RIGHT OF WAY LINE, N 83°33'05"W, 489.22 FEET; THENCE LEAVING SAID NORTH RIGHT OF WAY LINE, N 1°25'40"E, 1229.17 FEET; THENCE N 85°19'30"W, 350.41 FEET; THENCE S 83°39'25"W, 10.36 FEET; THENCE N 1°23'55"E, 78.92 FEET; THENCE N 84°16'10"W, 444.88 FEET; THENCE N 1°41'20"E, 1395.23 FEET TO THE NORTH LINE OF SAID SECTION 8; THENCE WITH SAID NORTH LINE, N 84°37'45"W, 11.57 FEET; THENCE N 3°44'20"E 1462.72 FEET; THENCE N 89°04'55"E, 307.25 FEET; THENCE N 0°49'35"E, 2663.84 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE FOR HIGHWAY 98; THENCE WITH SAID SOUTH RIGHT OF WAY LINE, S 87°57'50"E, 807.39 FEET; THENCE S 89°27'50"E, 72.81 FEET; THENCE LEAVING SAID SOUTH RIGHT OF WAY LINE, S 15°37'35"W, 905.24 FEET; THENCE S 88°19'20"E, 850.08 FEET TO THE EAST LINE OF SAID SECTION 5; THENCE WITH SAID EAST LINE, S 0°36'10"W, 3380.02 FEET TO THE NORTHEAST CORNER OF SAID SECTION 8; THENCE WITH THE EAST LINE OF SAID SECTION 8, S 1°23'45"W, 1194.63 FEET; THENCE LEAVING SAID EAST LINE, N 85°14'10"W, 512.60 FEET; THENCE S 4°45'35"W, 1505.88 FEET TO THE POINT OF BEGINNING AND CONTAINING 216.81 ACRES.

Exhibit B

Descriptions and Depictions of Zoning Districts



A TRACT OF LAND LOCATED IN THE EAST HALF OF SECTION 5 AND THE EAST HALF OF SECTION 8, ALL IN TOWNSHIP 48 NORTH, RANGE 16 WEST, COOPER COUNTY, MISSOURI AND BEING PART OF THE TRACT DESCRIBED IN AN AFFIDAVIT OF SCRIVENER'S ERROR DEED OF TRUST RECORDED IN BOOK 202, PAGE 965 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHEAST CORNER OF SAID DEED OF TRUST, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE FOR PEARRE LANE IN SECTION 8, TOWNSHIP 48 NORTH, RANGE 16 WEST, LEAVING THE SAID NORTH RIGHT OF WAY LINE AND WITH THE EAST LINE OF SAID TRACT, SAID LINE BEING THE WEST LINE OF A TRACT OF LAND DESCRIBED IN CONDEMNATION CASE NO. CV198-34CC, N 4°45'35"E, 1505.88 FEET; THENCE LEAVING SAID WEST LINE OF SAID TRACT AND WITH THE NORTH LINE OF SAID TRACT, S 85°14'10"E, 512.60 FEET TO THE EAST SECTION LINE OF SAID SECTION 8; THENCE LEAVING SAID NORTH LINE AND WITH SAID EAST SECTION LINE, N 1°23'45"E, 1092.20 FEET TO THE POINT OF BEGINNING:

THENCE FROM THE POINT OF BEGINNING AND LEAVING SAID EAST LINE OF SAID SECTION 8, N 88°36'15"W, 412.06 FEET; THENCE N 12°38'35"E, 264.95 FEET; THENCE N 24°50'20"W, 332.70 FEET; THENCE N 38°16'45"W, 392.07 FEET; THENCE N 12°01'50"E, 167.75 FEET; THENCE N 65°01'20"E, 791.55 FEET TO THE EAST LINE OF SAID SECTION 5; THENCE WITH SAID EAST LINE, S 0°36'10"W, 1274.22 FEET TO THE NORTH EAST CORNER OF SAID SECTION 8; THENCE WITH THE EAST LINE OF SAID SECTION 8, S 1°23'45"W, 102.44 FEET TO THE POINT OF BEGINNING AND CONTAINING 15.22 ACRES.



[Handwritten Signature]
 DAVID W. BORDEN, PLS-2002000244
10-29-21
 DATE

CROCKETT ENGINEERING CONSULTANTS 1000 W. Nifong Blvd. Building 1 Columbia, Missouri 65203 (573) 447-0292 www.crockettengineering.com	CORPORATE NUMBER 2000151304	R-A ZONING TRACT
	DATE: 10/28/2021 PROJECT: 200108	A TRACT OF LAND LOCATED IN THE E. HALF OF SECTIONS 8 & 5-T48-R16W COOPER COUNTY, MISSOURI

VAN MATRE LAW FIRM, P.C.

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

1103 EAST BROADWAY

POST OFFICE BOX 1017

COLUMBIA, MISSOURI 65201

(573) 874-7777

TELECOPIER (573) 875-0017

E-MAIL robert@vanmatre.com

CRAIG A. VAN MATRE (RETIRED)
ROBERT N. HOLLIS
GARRETT S. TAYLOR
CASEY E. ELLIOTT
RICHARD B. HICKS
KAREN E. HAJICEK
BRIAN R. HAJICEK

THOMAS M. HARRISON
JOSHUA J. SIEG
ROGER W. JOHNSON

EVERETT S. VAN MATRE
(1922-1998)

October 7, 2021

City of Boonville
Office of City Administrator
Attn: Kate Fjell
401 Main Street
Boonville, Missouri 65233

Re: Thurman Development

Dear Ms. Fjell,

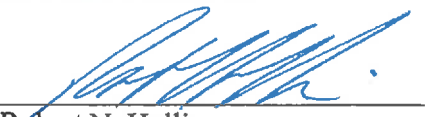
On behalf of my client, Troy Thurman Construction Company., Inc., please consider this as a request that the City of Boonville (the "City") City Council continue its consideration of that certain Petition Requesting Annexation of Land to the City of Boonville, Missouri and Designation of Zoning Classifications (the "Petition") submitted to the City by my client. Based on feedback from the community and the City following the public hearing on the Petition, we are providing supplemental information. More specifically, there is no longer condition to annexation that tax increment financing be approved or that a deannexation agreement be approved. There is now a condition to annexation that a development agreement be approved, with terms substantially similar to terms that have been submitted to the City. There also remains a condition to annexation for the approval of zoning designations substantially the same as originally submitted and as shown on the plans submitted herewith. All other aspects of the Petition remain unchanged except as described above.

Should you have any questions about the foregoing, please do not hesitate to contact me. Thank you in advance for your time and consideration.

Very truly yours,

Van Matre Law Firm, P.C.

By:


Robert N. Hollis

AN ORDINANCE OF THE CITY OF BOONVILLE, MISSOURI APPROVING THE FOX HOLLOW PROJECT AND PRELIMINARY SITE PLAN, LOCATED AT HWY 87 AND 98, BETWEEN HAIL RIDGE GOLF COURSE AND JESSE VIERTEL MEMORIAL AIRPORT

WHEREAS, Thurman Construction, LLC through a professional engineer has made an application to the City of Boonville to develop Fox Hollow Subdivision in the City of Boonville; and

WHEREAS, The preliminary site plan herein attached as **Exhibit A** is subject to the standards for site plans under Appendix C, Section 2.5.5 access management; and

WHEREAS, The Planning and Zoning Commission, City Engineer, and City Staff have reviewed the preliminary site plan in detail and recommend approval of the plan, at their meeting on February 9, 2021. A modified development plan was presented to the Planning and Zoning Commission on October 12, 2021, which included a reduction in density by increasing the number of single family home and shifting from multi-family to duplex construction as well as the addition of a 15 acre parcel dedicated for a future city park, herein attached and incorporated by reference as **Exhibit A** with the following allowances:

1. Approval to exceed the maximum length of a terminal street in a location of the subdivision.
2. Approval to use the low volume residential street width (28 feet) in the subdivision; and

WHEREAS, The City Council has evaluated the plans submitted according to the criteria and standards set forth in Appendix A- Subdivision regulations and Sections 2.99 and 2.100 of the Appendix C- Zoning of the Code of General Ordinances.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOONVILLE, MISSOURI AS FOLLOWS:

SECTION 1: That the Fox Hollow Subdivision project as described is hereby approved.

SECTION 2: That the preliminary site plan, modified and presented at the October 12, 2021 Planning and Zoning Commission, as shown and indicated in **Exhibit A** attached hereto and made a part hereof, is hereby approved.

SECTION 3: This ordinance shall take effect and be in full force on January 1, 2022.

SECTION 4: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

FIRST READING: MARCH 1, 2021

SECOND READING: MARCH 15, 2021

THIRD READING: NOVEMBER 1, 2021

FOURTH READING: NOVEMBER 15, 2021

FIFTH READING: DECEMBER 6, 2021

**READ FOR THE FIFTH TIME AND PASSED THIS 6TH DAY OF DECEMBER, 2021,
AFTER A COPY OF THIS ORDINANCE AND REFERENCED PLANS HAVE BEEN
MADE AVAILABLE FOR PUBLIC INSPECTION PRIOR TO ITS FIRST, SECOND,
THIRD, FOURTH, AND FIFTH READINGS.**

PRESIDENT OF THE COUNCIL

APPROVED THIS 6TH DAY OF DECEMBER 2021.

NED BEACH, MAYOR

ATTEST:

AMBER DAVIS, CITY CLERK



December 2, 2021

To: Mayor and City Council

From: Kate Fjell, City Administrator

A handwritten signature in black ink, appearing to be "KF", written over the "From:" line.

RE: Waste Management Contract Amendment, Roll Cart Service

We are finally ready to move forward with the roll cart program as requested by Waste Management. There will be a contract amendment to the agreement to allow this change in operations. It is attached to the ordinance.

Please review the portion about bulk pick up. Currently, it is allowable for a person to put one bulk item out per week. Under the revised contract there will only be one bulk pick up item per quarter. The spring cleanup will still occur.

We have included some preliminary marketing materials in the packet, so you can see how the transition will occur.

BILL NO. 2021-033

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BOONVILLE, MISSOURI AUTHORIZING AN AMMENDMENT TO THE WASTE COLLECTION, DISPOSAL AND TRANSFER STATION AGGREEMENT BETWEEN WASTE MANAGEMENT OF MISSOURI, INC., AND THE CITY OF BOONVILLE FOR ROLL CARTS AND BULK COLLECTION EFFECTIVE DATE THEREFORE;

WHEREAS, the City of Boonville entered into a contract in 2007 with Veolia ES Solid Waste Midwest, LLC for municipal trash collection; and

WHEREAS, Waste Management of Missouri, Inc. became the successor to the agreement in November 2020; and

WHEREAS, Waste Management of Missouri, Inc. staff approached City staff about utilizing mandatory roll carts for trash collection in the City; and

WHEREAS, staff from Waste Management attended the August 2, 2021 Council meeting to discuss this proposal.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOONVILLE, MISSOURI, AS FOLLOWS:

SECTION 1: That the City of Boonville, Missouri hereby authorizes, approves, and accepts all terms of Amendment to the Waste Collection Disposal and Transfer Station Agreement, herein attached and incorporated as **Exhibit A**.

SECTION 2: The City Administrator and City Clerk are hereby authorized to execute these documents and enter these agreements on behalf of the City.

SECTION 3: This Ordinance shall take effect and be in full force from and after its passage and approval.

READ FOR THE FIRST TIME ON THE 6th DAY OF DECEMEBER, 2021.

READ FOR THE SECOND TIME AND PASSED THIS 20TH DAY OF DECEMBER 2021, AFTER A COPY OF THIS ORDINANCE AND ATTACHED AGREEMENTS WERE MADE AVAILABLE FOR PUBLIC INSPECTION PRIOR TO THE FIRST READING OF THIS ORDINANCE.

PRESIDENT OF THE COUNCIL

APPROVED THIS 20TH DAY OF DECEMBER, 2021

NED BEACH, MAYOR

ATTEST:

AMBER DAVIS, CITY CLERK

AMENDMENT TO THE WATSE COLLECTION, DISPOSAL AND TRANSFER STATION AGREEMENT

This Amendment to the WASTE COLLECTION, DISPOSAL AND TRANSFER STATION AGREEMENT (the "Agreement") and any previous Amendments made to that Agreement is made as of this ____ day of December 2021 (the "Effective Date") by and between Waste Management of Missouri, Inc., (the "Contractor"), and the City of Boonville, Missouri (the "City").

RECITALS

The City of Boonville, Missouri, and Veolia ES Solid Waste Midwest, LLC, entered into that Agreement effective Dec 17th, 2007 (the "Agreement") for services, among others, including the collection and disposal of Residential Waste. The Contractor became the successor to that Agreement and any past Amendments to it.

The parties desire to amend the Agreement and any past Amendments to it as set forth below:

AGREEMENT

1) **Section D. Collection of Waste Material** – This section is modified to reflect that every Residential Unit will be provided a Contractor owned Container at no additional cost for the collection of Residential Waste. All Containers shall be of at least 64-gallon capacity. Residential Waste shall be collected only if properly contained within these Containers and placed at the curbside on the proper weekly collection day. Any Residential Unit may request the use of additional Containers for a monthly fee of \$5.00 per extra Container. WM shall replace at no charge to the City or the individual Residential Unit any cart that becomes damaged or destroyed during the provision of the Service, or that becomes unusable because of ordinary wear and tear. However, if a Cart in the possession of a Residential Unit is lost, stolen, damaged, or destroyed through no fault of WM, the occupant of the Residential Unit shall be responsible to compensate WM \$85 for the replacement of such Cart. Any additional Container fees or replacement charges shall be charged by the Contractor to the City.

2) **Section F. Bulk Collection** – This section is modified to reflect that the annual clean up for the collection of large and bulky household items, previously to be performed on four Saturdays in April designated by the Contractor, shall instead be performed during a week in April, to be mutually agreed upon between the City and the Contractor, with not less than four days of large and bulky household items collection occurring. Other than this collection of large and bulky household items during this week April of each year, the Contractor shall only provide collection of one (1) large and bulky household item per home, per quarter, for no additional charge, insofar as that item is placed out on a date mutually agreed upon between the City and Contractor. As mutually determined between the City and Contractor, a day will be determined each quarter for the collection of no more than one (1) bulk item per home.

3) Except as modified herein, the terms and conditions of the Agreement shall continue in full force and effect.

The parties have caused this Amendment to be executed by their duly authorized representatives effective as of the day and year first above written.

Waste Management of Missouri, Inc.

City of Boonville, Missouri

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

DEDICATION THAT GOES BEYOND THE CURB

New Trash Carts with Automated Collection

Dear Boonville resident,

Beginning Monday, April 4, 2022, we will move to automated collection using only WM 65-gallon carts. Automated collection with standardized carts uses technology to create a safer and more efficient collection system for Boonville residents and our drivers.

Every residence will receive one 65-gallon trash cart at no charge at the end of March. Should you need additional capacity, a second 65-gallon cart can be rented for \$5/month.

See back side for details.



IMPORTANT CART PLACEMENT INFORMATION

Beginning April 4, 2022, only the WM 65-gallon cart will be collected - no materials outside the cart or resident-owned containers will be collected.

Proper Cart Placement

Place your cart at least 3 feet away from all objects including a second cart (if you rent one), mailbox, cars or trees.



Place wheels of cart toward house.



All trash must be bagged and fit inside the WM 65-gallon cart with the lid firmly closed. Loose trash or bags outside the cart will not be picked up. You can rent an additional WM cart for \$5/month. We recommend having one cart for every three to four individuals.



Your trash collection day remains the same. Please have your trash cart at the curb by 6 a.m. Personal cans can be picked up as trash if placed inside the new cart or marked as trash with a note on them.

Need an additional cart, have a bulk item, or have questions?

Call Boonville City Hall at (660) 882-2332. Additional cart requests must be made by January 31, 2022, to receive the extra cart in time for automated collection beginning April 2022.



1509 Locust St
Boonville, MO 65233

RESOLUTION NO. R2021-17

A RESOLUTION OF THE CITY OF BOONVILLE, MISSOURI AUTHORIZING AND APPROVING AN AGREEMENT BETWEEN GREIS TRUCKING AND EXCAVATING AND THE CITY OF BOONVILLE, MISSOURI PERTAINING TO FEMA/SEMA WEST MORGAN STREET/ALPINE DRIVE STORMWATER IMPROVEMENTS; AND PROVIDING AN EFFECTIVE DATE THEREFORE

WHEREAS, the City of Boonville has solicited and received bids for this project and determined that **Greis Trucking and Excavating** represents the best bid pursuant to the purchasing code set forth in Section 2-20 of the City of Boonville Code of Ordinances.

THEREFORE, be it resolved by the City Council of the City of Boonville, Missouri, as follows:

SECTION 1: That a certain Agreement between **Greis Trucking and Excavating** and the City of Boonville, Missouri relating to the **FEMA/SEMA West Morgan Street/Alpine Drive Stormwater Improvements** a copy of which is marked "**Exhibit A**" is attached hereto and made a part hereof, is hereby approved.

SECTION 2: That the City Administrator and the City Clerk are hereby authorized to execute, and attest said agreement on behalf of the City of Boonville.

SECTION 3: This resolution shall take effect and be in full force from and after its passage and approval.

Passed this 6th Day of December, by the City Council of Boonville, Missouri

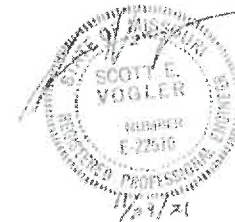
Ned Beach, Mayor

ATTEST:

Amber Davis, City Clerk

Exhibit "A"

FEMA / SEMA PROGRAM WEST MORGAN STREET / ALPINE DRIVE STORMWATER IMPROVEMENTS CITY OF BOONVILLE, MISSOURI				ENGINEER'S ESTIMATE MEGO Engineering Co., Inc. 2701 Industrial Drive Jefferson City, MO 65109		1 Greis Trucking and Excavating 16726 Hwy U, PO Box 146 Boonville MO 65233		2 Rhad A Baker Construction LLC 4851 County Road 219 Fulton MO 65251		3 Lehman Construction Company 900 Russellville Road California MO 65018		4 Don Schnieders Excavating Co., Inc. 1307 Fairgrounds Road Jefferson City MO 65109	
Bid Opening November 18, 2021 MEGO Project No. 454-286													
Item #	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 2,500.00	\$ 2,500.00	\$ 30,000.00	\$ 30,000.00	\$ 23,128.00	\$ 23,128.00	\$ 44,000.00	\$ 44,000.00
2	Sedimentation & Erosion Control	1	LS	\$ 3,000.00	\$ 3,000.00	\$ 5,000.00	\$ 5,000.00	\$ 4,000.00	\$ 4,000.00	\$ 1,200.00	\$ 1,200.00	\$ 6,500.00	\$ 6,500.00
3	Construction Signage & Traffic Control	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 5,000.00	\$ 5,000.00	\$ 3,500.00	\$ 3,500.00	\$ 1,200.00	\$ 1,200.00	\$ 1,500.00	\$ 1,500.00
4	Removal of Improvements	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 8,000.00	\$ 8,000.00	\$ 10,000.00	\$ 10,000.00	\$ 17,000.00	\$ 17,000.00	\$ 22,800.00	\$ 22,800.00
5	Excavating, Filling & Grading	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 20,000.00	\$ 20,000.00	\$ 12,000.00	\$ 12,000.00	\$ 52,000.00	\$ 52,000.00
6	36" Reinforced Concrete Pipe	180	LF	\$ 150.00	\$ 27,000.00	\$ 181.00	\$ 32,580.00	\$ 140.00	\$ 25,200.00	\$ 175.00	\$ 31,500.00	\$ 912.00	\$ 164,160.00
7	Type 2 Rock Blanket with Filter Cloth	1,900	CY	\$ 40.00	\$ 76,000.00	\$ 42.11	\$ 80,009.00	\$ 52.00	\$ 98,800.00	\$ 45.00	\$ 85,500.00	\$ 78.50	\$ 145,350.00
8	2' thk Compacted 2" Minus Base	488	SY	\$ 12.00	\$ 5,856.00	\$ 4.31	\$ 2,103.28	\$ 25.00	\$ 12,200.00	\$ 40.00	\$ 19,520.00	\$ 35.00	\$ 17,080.00
9	Geotextile Fabric	488	SY	\$ 1.50	\$ 732.00	\$ 2.05	\$ 1,000.40	\$ 5.00	\$ 2,440.00	\$ 4.00	\$ 1,952.00	\$ 6.00	\$ 2,928.00
10	4" Compacted Type 5 Aggregate Base	488	SY	\$ 8.00	\$ 3,904.00	\$ 6.58	\$ 3,201.28	\$ 7.55	\$ 3,684.40	\$ 6.00	\$ 2,928.00	\$ 9.00	\$ 4,392.00
11	8" PCCP Concrete	488	SY	\$ 50.00	\$ 24,400.00	\$ 100.82	\$ 49,200.16	\$ 65.00	\$ 31,720.00	\$ 111.00	\$ 54,168.00	\$ 72.25	\$ 35,258.00
12	Guardrail Removal & Replacement	275	LF	\$ 50.00	\$ 13,750.00	\$ 54.55	\$ 15,001.25	\$ 40.00	\$ 11,000.00	\$ 45.00	\$ 12,375.00	\$ 46.00	\$ 12,650.00
13	Contingency	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00
TOTAL BID				\$	240,642.00	\$	261,595.37	\$	282,544.40	\$	292,471.00	\$	538,618.00



**CITY OF BOONVILLE
BOARD of PUBLIC WORKS
CANCELLATION**

November 25, 2021

5:30 p.m.

**City Services Building
1200 Locust Street
Boonville, Missouri**

The **Thursday, November 25, 2021** meeting of the **BOARD of PUBLIC WORKS** has been cancelled due to the Thanksgiving Holiday. The next regularly scheduled meeting is **December 30, 2021**.

Date Posted:
Time Posted:



Missouri Gaming Commission

State/Local Allocation of Gaming Revenues

RPT MGC/3

For the Period 10/1/2021 through 10/31/2021

Year beginning 10/1/2021

Gaming Date	Day	Admission Tax Remitted	Gaming Tax Remitted	Total Tax Remitted	State & Local Portion of AdmTax	State Portion of Gaming Tax	Local Portion of Gaming Tax	Total Local Adm & Gaming Tax
Isle of Capri IB								
10/01/2021	Friday	\$9,330.00	\$69,533.52	\$78,863.52	\$4,665.00	\$62,580.17	\$6,953.35	\$11,618.35
10/02/2021	Saturday	\$11,896.00	\$93,989.43	\$105,885.43	\$5,948.00	\$84,590.49	\$9,398.94	\$15,346.94
10/03/2021	Sunday	\$6,486.00	\$40,695.23	\$47,181.23	\$3,243.00	\$36,625.71	\$4,069.52	\$7,312.52
10/04/2021	Monday	\$4,064.00	\$25,165.31	\$29,229.31	\$2,032.00	\$22,648.78	\$2,516.53	\$4,548.53
10/05/2021	Tuesday	\$4,706.00	\$41,239.85	\$45,945.85	\$2,353.00	\$37,115.87	\$4,123.98	\$6,476.98
10/06/2021	Wednesday	\$5,930.00	\$48,517.94	\$54,447.94	\$2,965.00	\$43,666.15	\$4,851.79	\$7,816.79
10/07/2021	Thursday	\$5,348.00	\$37,120.51	\$42,468.51	\$2,674.00	\$33,408.46	\$3,712.05	\$6,386.05
10/08/2021	Friday	\$9,078.00	\$72,552.16	\$81,630.16	\$4,539.00	\$65,296.94	\$7,255.22	\$11,794.22
10/09/2021	Saturday	\$10,218.00	\$81,802.37	\$92,020.37	\$5,109.00	\$73,622.13	\$8,180.24	\$13,289.24
10/10/2021	Sunday	\$6,668.00	\$35,995.93	\$42,663.93	\$3,334.00	\$32,396.34	\$3,599.59	\$6,933.59
10/11/2021	Monday	\$4,280.00	\$39,067.37	\$43,347.37	\$2,140.00	\$35,160.63	\$3,906.74	\$6,046.74
10/12/2021	Tuesday	\$4,402.00	\$24,088.56	\$28,490.56	\$2,201.00	\$21,679.70	\$2,408.86	\$4,609.86
10/13/2021	Wednesday	\$6,446.00	\$56,670.83	\$63,116.83	\$3,223.00	\$51,003.75	\$5,667.08	\$8,890.08
10/14/2021	Thursday	\$5,714.00	\$43,042.02	\$48,756.02	\$2,857.00	\$38,737.82	\$4,304.20	\$7,161.20
10/15/2021	Friday	\$9,902.00	\$53,928.72	\$63,830.72	\$4,951.00	\$48,535.85	\$5,392.87	\$10,343.87
10/16/2021	Saturday	\$10,728.00	\$84,775.08	\$95,503.08	\$5,364.00	\$76,297.57	\$8,477.51	\$13,841.51
10/17/2021	Sunday	\$6,274.00	\$64,303.51	\$70,577.51	\$3,137.00	\$57,873.16	\$6,430.35	\$9,567.35
10/18/2021	Monday	\$4,068.00	\$33,452.17	\$37,520.17	\$2,034.00	\$30,106.95	\$3,345.22	\$5,379.22
10/19/2021	Tuesday	\$4,634.00	\$36,623.57	\$41,257.57	\$2,317.00	\$32,961.21	\$3,662.36	\$5,979.36
10/20/2021	Wednesday	\$6,342.00	\$41,878.10	\$48,220.10	\$3,171.00	\$37,690.29	\$4,187.81	\$7,358.81
10/21/2021	Thursday	\$5,406.00	\$35,121.92	\$40,527.92	\$2,703.00	\$31,609.73	\$3,512.19	\$6,215.19
10/22/2021	Friday	\$9,726.00	\$71,291.47	\$81,017.47	\$4,863.00	\$64,162.32	\$7,129.15	\$11,992.15
10/23/2021	Saturday	\$10,794.00	\$72,197.26	\$82,991.26	\$5,397.00	\$64,977.53	\$7,219.73	\$12,616.73
10/24/2021	Sunday	\$5,388.00	\$34,531.40	\$39,919.40	\$2,694.00	\$31,078.26	\$3,453.14	\$6,147.14
10/25/2021	Monday	\$3,974.00	\$24,198.79	\$28,172.79	\$1,987.00	\$21,778.91	\$2,419.88	\$4,406.88
10/26/2021	Tuesday	\$4,402.00	\$33,006.73	\$37,408.73	\$2,201.00	\$29,706.06	\$3,300.67	\$5,501.67
10/27/2021	Wednesday	\$5,380.00	\$45,749.80	\$51,129.80	\$2,690.00	\$41,174.82	\$4,574.98	\$7,264.98
10/28/2021	Thursday	\$5,676.00	\$41,255.61	\$46,931.61	\$2,838.00	\$37,130.05	\$4,125.56	\$6,963.56
10/29/2021	Friday	\$10,172.00	\$82,231.56	\$92,403.56	\$5,086.00	\$74,008.40	\$8,223.16	\$13,309.16
10/30/2021	Saturday	\$11,114.00	\$100,323.50	\$111,437.50	\$5,557.00	\$90,291.15	\$10,032.35	\$15,589.35
10/31/2021	Sunday	\$11,612.00	\$81,848.98	\$93,460.98	\$5,806.00	\$73,664.08	\$8,184.90	\$13,990.90
Casino Report Totals:		\$220,158.00	\$1,646,199.20	\$1,866,357.20	\$110,079.00	\$1,481,579.28	\$164,619.92	\$274,698.92
Casino YTD Totals:		\$220,158.00	\$1,646,199.20	\$1,866,357.20	\$110,079.00	\$1,481,579.28	\$164,619.92	\$274,698.92

