CITY OF WILLARD, MISSOURI
224 W. Jackson Street P.O. Box 187 Willard, MO 65781 417-742-3033 417-742-3080 Fax

MEETING AGENDA AND PACKET

BOARD OF ALDERMEN

Regular Meeting

April 13, 2015

7:00 p.m.

Willard City Hall

224 W. Jackson Street

Mayor
Corey Hendrickson

Board Members
Michael Barr
Jamie Buckley
David Larimore
Don Lee
Meredith Reaves
Larry Whitman

CITY OF WILLARD
BOARD OF ALDERMEN
REGULAR MEETING
April 13, 2015
7:00 P.M.

Posted April 8, 2015

Notice is hereby given that the City of Willard, Missouri, Board of Aldermen will conduct a meeting at 7:00 p.m. April 13, 2015 at Willard City Hall, 224 W. Jackson, Willard, Missouri.

The tentative agenda of this meeting includes:
PLEDGE OF ALLEGIANCE

Call the meeting to order

SWEAR/AFFIRM IN NEWLY ELECTED OFFICIALS

Roll Call

1. **Agenda Amendments/Approval of Agenda.**

2. **Approval of Meeting Minutes.**
   Approve the minutes of the special meeting on March 23, 2015.

3. **Ceremonial Matters.**
   Elections:
   a. Elect Mayor Pro-tem.
   b. Elect Board of Aldermen representative to serve on the Planning and Zoning Commission.
   c. Reappoint Terry Kathcart to the Planning and Zoning Commission.
   d. Reappoint Lucille Murray to the Planning and Zoning Commission.
   e. Reappoint Valorie Simpson to the Planning and Zoning Commission.

4. **Citizen Input (5 minute limit per person).**

5. **Financial Reports.**
   a. February 2015 Budget Summaries.
   b. February 2015 Financial Statements.
   c. March 2015 and April 2015 Outstanding Invoices, Paid Invoices, Online Payments and Transfers.
   d. February 2015 Check Register.
   e. March 2015 Water Loss Report.
   f. March 2015 Utility Adjustments Report.

6. **Department Head Reports.**

7. **Ordinance accepting the STP-5944 (802) Urban Agreement with the Missouri Highways and Transportation Commission. Discussion/Vote. (1st Read).**

8. **Ordinance accepting the contract between Olsson Associates and the City of Willard to provide Engineering Services for Sidewalk Improvements at Jackson St. and Main St. (1st Read) Discussion/Vote.**

9. **Ordinance accepting the concessions contract with Coca Cola for the Parks Department. (2nd Read) Discussion/Vote.**

10. **Ordinance revising Ordinance #130610 Order of Business. (1st Read) Discussion/Vote.**

11. **Ordinance accepting the contract with Monkey Business for Freedom Fest 2015. (1st Read) Discussion/Vote.**

12. **Ordinance accepting the 2015 Codification. (2nd Read) Discussion/Vote.**

13. **Ordinance accepting the Department of Natural Resources Source water Protection Grant. (1st Read) Discussion/Vote.**

14. **Discussion on the City noise ordinance and peace disturbances.**

15. **Discussion/Vote on the future operation of the Willard Fitness Center.**

16. **New Business.**

17. **Old Business.**

18. **Adjourn Meeting.**

IF YOU HAVE SPECIAL NEEDS, WHICH REQUIRE ACCOMMODATION, PLEASE NOTIFY CITY PERSONNEL AT CITY HALL. ACCOMMODATIONS WILL BE MADE FOR YOUR NEEDS. REPRESENTATIVES OF THE NEWS MEDIA MAY OBTAIN COPIES OF THIS NOTICE BY CONTACTING THE CITY CLERK AT 417-742-5302.

Dale Duvall
City Clerk

AGENDA ITEM #1 and #2

1. Agenda Amendments/ Approval of Agenda.
2. Approval of Meeting Minutes from March 23, 2015.

CITY OF WILLARD
BOARD OF ALDERMEN
OPEN MEETING
March 23, 2015

Staff present: City Administrator, J. Everett Mitchell; City Clerk, Dale Duvall; Community Services Director, J.C. Loveland; Director of Development, Randy Brown; Chief Financial Officer, Carolyn Halverson and Chief of Police, Tom McClain.

City Attorney Ken Reynolds was present.

Citizens in attendance: Cathy Havens, Corey Hendrickson, Suzanne Boyts, Lisa Boyts, Angie Brushwood, Lee Brushwood, Cindy Holcomb, Robert Craig, Judy Craig, Robert Latham, Mindy Latham, Jamie Buckley, Alice Mitchell, Jim Vaughn, Robert Nobriga, Marchelle Nobriga, Marc Schwenn, William White, Ron Hedrick, Tim Magee, Ron Mansker, Stacia Buffington, Jim Vaughn, Kendall McTeer, Bob Zoll, Sue Zoll, Bob Perry, King Coltran, Barbara Forshee, LaDonna Rodriguez and Lucille Murray.

Pledge of Allegiance.
The Pledge of Allegiance was led by Mayor Forshee.

Call to Order.
Mayor Forshee called the meeting to order at 7:00 pm.

Roll Call.
The City Clerk conducted the roll call. Alderman Mowell-present, Alderman Roggensees-present, Alderman Barr-present, Alderman Lee----, Alderman Larimore-present, Alderman Reaves-present and Mayor Forshee-present.

Agenda Amendments/Agenda Approval.
The City Clerk stated that items numbered twelve (#12) through sixteen (#16) would need to be changed to number (#7) through sixteen (#16) and number eight (#8) would need to be moved to number six (#6) all other items will be moved down accordingly. **Motion** made by Alderman Larimore and seconded by Alderman Roggensees to accept the agenda with the above changes. The motion carried with a vote of 5-0. Voting aye: Aldermen Mowell, Reaves, Larimore, Roggensees and Barr.

Approve the Minutes of the Regular Meeting on February 9, 2015.
Alderman Mowell asked that the vote on Empire District's rebate program be changed to reflect a "no" vote for him. **Motion** made by Alderman Roggensees and seconded by Alderman Reaves to approve the minutes with the above change. The motion carried with a vote of 5-0. Voting aye: Aldermen Mowell, Barr, Larimore, Roggensees and Reaves.

Approve the Minutes of the Regular Meeting on March 9. 2015.
Alderman Mowell noted that a vote incorrectly showed a yes vote for him when he had actually voted no. After closer look by the City Clerk it was determined that the first reading vote was 0-5 after discussion by the Board was held after a first and second were made. There were also two (2) places where the vote stated 6-0 and needed to read 5-0. **Motion** made by Alderman Roggensees and seconded by Alderman Mowell to approve the minutes with the above changes. The motion carried with a vote of 5-0. Voting aye: Aldermen Mowell, Barr, Larimore, Roggensees and Reaves.

Discussion/Vote on the appointment of Samantha Mosier to the Willard Park Board.
Motion made by Alderman Reaves with a second by Alderman Roggensees to accept the appointment of Ms. Mosier to the Park Board. The motion carried with a vote of 5-0. Voting aye: Aldermen Mowell, Barr, Larimore, Roggensees and Reaves.

Citizen Input.
Fitness Center-Lee Brushwood stated that he is a Cox member and is against the City raising the requirements for Cox to continue maintaining their fitness center in Willard. Cindy Holcomb and Angie Brushwood both stated that they wish to keep Cox in Willard. Jim Cummins of Walnut Grove stated that he

would like the City to lower the rent and keep the contract with Cox. Bob Perry said that he does not want Cox to leave but if they must then he wants to make sure that the City makes it an easy transition. Jamie Buckley asked if Cox was planning to leave the City anyways at the end of their current lease. Bob Zahl stated that he believes that the bid specifications were too definitive. Cheryl Duncan said that she would like Cox to stay in Willard. She explained that she thinks the gym is perfect for the small town that Willard is. She does not want it to turn into a cross fit gym or a gym geared primarily towards 20-30 year olds. She said that if she has to go to Springfield to work out that she would also do her shopping there which would take revenue away from Willard. Tim Magee is looking forward to the change. He believes that new equipment that caters to the younger crowd will be a good thing. Samantha Mosier said that there is not enough space at the recreation center for a fitness center franchise to move in and that Cox does not want to be in Willard anymore. Judy Craig asked if Silver Sneakers and insurance will be accepted. Ms. Craig stated that she had spoken to Cox Fitness staff and they were not going to leave Willard until the new bid came out. Suzanne Voight said that she had not heard any of the plans for the new fitness center.
Lighting-Jim Vaughn asked why the new lighting for the Recreation Center was not put in the 2015 budget if the City knew that they would need to be replaced soon.
Pizano's-Mark Schwenn and Cathy Havens both spoke in favor of the liquor license for Pizano's.

Discussion/Vote on the request of Pizano's Pizza for an alcohol license within 300 feet of a church.
Motion was made by Alderman Larimore with a second by Alderman Mowell to approve the request. The motion carried with a vote of 5-0. Voting aye: Aldermen Larimore, Roggensees, Barr, Mowell and Reaves.

Ordinance accepting the contract agreement with Great River Associates to provide Engineering Services for Intersection Improvements at Hughes Rd. and 160 Hwy and declaring an emergency. (1st and 2nd Read) Discussion/Vote.

AN ORDINANCE approving the agreement between the City of Willard and Great River Associates, Inc.

The City Clerk explained that there had been an improper vote passed after the 2nd read of this ordinance at the meeting on March 9th. The ordinance is being repeated for 1st and 2nd read at this time.

Motion was made by Alderman Larimore with a second by Alderman Roggensees to approve the first read of the ordinance. The motion carried with a vote of 4-1. Voting aye: Aldermen Larimore, Roggensees, Reaves and Barr. Voting nay: Alderman Mowell.

Motion was made by Alderman Larimore with a second by Alderman Reaves to approve the ordinance. The motion carried with a vote of 4-1. Voting aye: Aldermen Larimore, Roggensees, Reaves and Barr. Voting nay: Alderman Mowell.

Discussion/Vote of the utilization of Capital Improvement funds for the purchase of the lighting improvements at the Recreation Center.

The Director of Community Services spoke to the Board about utilizing capital improvement funds for the new lighting instead of financing the project and having to pay the interest rates. The Director of Community Services stated that there would be a savings of $4,057.00 to the City with this plan.

Motion was made by Alderman Roggensees with a second by Alderman Larimore to approve the proposal to use capital improvements monies. The motion carried with a vote of 4-1. Voting aye: Aldermen Larimore, Roggensees, Reaves and Barr. Voting nay: Alderman Mowell.

Discussion/vote on proceeding with the proposal of a contract between the City of Willard and Crestmark Equipment Finance, Inc. dba TIP Capital for lighting improvements at the Willard Recreation Center.
This item was removed due to the approval to use capital improvements monies.

Discussion/Vote on the future operation of the Fitness Center.
The Director of Community Services spoke to the Board about proceeding with the plan to have the City take over the operation of the fitness center. There was much discussion among the Board as to whether the bids were too restrictive and if Cox Health was planning on staying if the requirements had not changed so greatly. Alderman Roggensees spoke about his concern that so much of the capital improvement money that could be going to repair streets within the City is being used to supplement the Park fund. He would like to find a way that the monies would not need to be taken out of General fund anymore. The Board members discussed having Cox representatives speak with the Board. **Motion** was made by Alderman Roggensees with a second by Alderman Larimore to have the City Administrator speak to the Cox Health representatives about negotiating a contract. The City Administrator will also ask for a written proposal if warranted and take the information that he receives to the April 13th Board meeting for discussion. The motion carried with a vote of 5-0. Voting aye: Aldermen Larimore, Roggensees, Reaves, Barr and Mowell.

Discussion/Vote on approval to proceed with bids for a loan for the Willard Fitness Center equipment.
This item was removed due to the vote to meet with Cox Health regarding their contract.

Discussion on the City's Disturbing the Peace and the Noise Ordinances.
The Chief of Police spoke to the Board about the current City ordinances on noise and peace disturbance.

Commerce Bank/Willard Sports Complex Lease Renewal Ordinance (2nd Read) Discussion/Vote.

AN ORDINANCE authorizing the City of Willard to renew the Lease Agreement between Commerce Bank, as trustee, and the City of Willard, Missouri, originally dated April 1, 2001 and renewed thereafter, annually, and as now renewed for a one (1) year period as specified in Section 3.3 of said Lease Agreement for the Willard Sports Complex, otherwise known as the Recreation Center.

Second read was conducted by the City Clerk.
Motion was made by Alderman Roggensees with a second by Alderman Larimore to approve the ordinance. The motion carried with a vote of 5-0. Voting aye: Aldermen Larimore, Roggensees, Lee, Mowell and Barr.

Ordinance accepting the STP-Urban Agreement with the Missouri Highways and Transportation Commission. (2nd Read) Discussion/Vote.

Authorizing and accepting the Surface Transportation Program (STP) Urban Program Agreement funds for the design of a signalized intersection for Project STP-9900 (841)

Second read was conducted by the City Clerk.
Motion was made by Alderman Larimore with a second by Alderman Reaves to approve the ordinance. The motion carried with a vote of 4-1. Voting aye: Aldermen Larimore, Roggensees, Reaves and Barr. Voting nay: Alderman Mowell.

Ordinance accepting the concessions contract with Coca Cola for the Parks Department. (1st Read) Discussion/Vote.

AN ORDINANCE accepting the proposal of Ozarks Coca-Cola/Dr. Pepper Bottling Company to provide concessions for the City of Willard Parks Department and authorizing the Mayor to execute all necessary documents, on behalf of the City of Willard, MO.

First read was conducted by the City Clerk.
Motion was made by Alderman Roggensees with a second by Alderman Larimore to approve the first read of the ordinance. The motion carried with a vote of 5-0. Voting aye: Aldermen Larimore, Roggensees, Lee, Mowell and Barr.

Ordinance accepting the 2015 Codification. (1st Read) Discussion/Vote.

AN ORDINANCE adopting and enacting a new Code of Ordinances of the City of Willard, MO.

First read was conducted by the City Clerk.
Motion was made by Alderman Roggensees with a second by Alderman Larimore to approve the first read of the ordinance. The motion carried with a vote of 4-1. Voting aye: Aldermen Larimore, Roggensees, Reaves and Barr. Voting nay: Alderman Mowell.

Ordinance accepting the contract with Monkey Business for the Parks Department and declaring an emergency. (1st and 2nd Read) Discussion/Vote.

AN ORDINANCE *accepting the proposal of Mac Entertainment LLC d/b/a Monkey Business Events to provide rental equipment for the City of Willard Recreation Center, and authorizing the Mayor to execute all necessary documents, on behalf of the City of Willard, to accept the proposal and declaring it an emergency.*

First read was conducted by the City Clerk.

Motion was made by Alderman Roggensees with a second by Alderman Larimore to approve the first read of the ordinance. The motion carried with a vote of 4-1. Voting aye: Aldermen Larimore, Roggensees, Reaves and Barr. Voting nay: Alderman Mowell.

Second read was conducted by the City Clerk.
Motion was made by Alderman Roggensees with a second by Alderman Larimore to approve the ordinance. The motion carried with a vote of 4-1. Voting aye: Aldermen Larimore, Roggensees, Reaves and Barr. Voting nay: Alderman Mowell.

New Business.
None

Old Business.
Alderman Mowell asked that the Chief of Police research ordinances from other cities regarding noise complaints and disturbing the peace. It was also requested that information from 3 cities on a "C" rated response scale be shared with the Board at the next meeting. Motion was made by Alderman Mowell with a second by Alderman Larimore to have the Chief of Police research the topic and bring it back to the Board for discussion. The motion passed with a vote of 5-0. Voting aye: Aldermen Larimore, Roggensees, Lee, Mowell and Barr.

Adjourn meeting.
Motion made by Alderman Larimore and seconded by Alderman Roggensees to adjourn the meeting. The motion carried with a vote of 5-0. Voting aye: Aldermen Mowell, Reaves, Larimore, Barr and Roggensees.

Meeting adjourned at 10:00 p.m.

Corey Hendrickson, Mayor of Willard

Dale Duvall, City Clerk

AGENDA ITEM #3

3. **Ceremonial Matters.**

Elections:

a. Elect Mayor Pro-tem.

b. Elect Board of Aldermen representative to serve on the Planning and Zoning Commission.

c. Reappoint Terry Kathcart to the Planning and Zoning Commission.

d. Reappoint Lucille Murray to the Planning and Zoning Commission.

e. Reappoint Valorie Simpson to the Planning and Zoning Commission.

AGENDA ITEM #5

5. Financial Reports.

a. February 2015 Budget Summaries.
b. February 2015 Financial Statements.
c. March 2015 and April 2015 Outstanding Invoices, Paid Invoices, Online Payments and Transfers.
d. February 2015 Check Register.
e. March 2015 Water Loss Report.
f. March 2015 Utility Adjustments Report.

The Financials will be submitted separately by the Chief Financial Officer.

AGENDA ITEM #6

6. Department Head Reports

    a. Emergency Management Director
    b. Parks Department
    c. Planning and Development
    d. Police Department
    e. Public Works

EMERGENCY MANAGEMENT DEPARTMENT REPORT

APRIL 13, 2015

Nothing new to report at this time.

Stacy Winters
Emergency Management Director

PARKS DEPARTMENT REPORT

April 13, 2015

Winter 2015 Basketball

Registrations (2014)	170	$40			$6,800.00
Reg. (2015) Res.	2	$40			$80.00
Non-Res	1	$45			$45.00
Emp. Reg.	1	$20			$20.00
Late Fee (2014)	27	$5.00			$135.00
Late Fee (2015)	3	$10.00			$30.00
Gate					2,424.71
Concession Cost					-$662.81
Concession					$2,209.35
Staffing					-$2,550.22
Facilities					-$735.70
Medals					-$214.86
Basketballs/Equipment					-$181.04
T-shirts					-$1,406.00
			Total Basketball Revenue =		$5,993.43

Fitness Report

Program	Classes	Total Attendance
Yoga	7	34
Opertional Cost	$173.00	Revenue
Maint/Facility	$0.39	
Total Cost	**$175.73**	**$190.88**
Zumba	6	29
Opertional Cost	$148.00	Revenue
Maint/Facility	$0.39	
Total Cost	**$150.34**	**$131.71**
Tone-Fit	18	103
Opertional Cost	$453.00	Revenue
Maint/Facility	$1.82	
Total Cost	**$485.76**	**$410.06**

Spring Break Report

Spring Break Camp 2014

Item	Income	Expense	Net
Payroll		$ 1,799.11	$ (1,799.11)
Tuition	$ 3,692.50		$ 3,692.50
Field Trips		$ 217.00	$ (217.00)
Subtotals	$ 3,692.50	$ 2,016.11	$ 1,676.39
Program Totals			**$ 1,676.39**

Spring Break Camp 2015

Item	Income	Expense	Net
Payroll		$ 1,940.73	$ (1,940.73)
Tuition	$ 4,393.75		$ 4,393.75
Field Trips		$ 278.00	$ (278.00)
Subtotals	$ 4,393.75	$ 2,218.73	$ 2,175.02
Program Totals			**$ 2,175.02**

Upcoming Programs / Events

- **Youth T-Ball/Baseball/Softball –** *Spring season planning in progress*
    - *Registration: April 20 – May 9*
- **Father/Daughter Ball –** *Planning in Progress*
    - May 2, 2015
- **Willard Aquatic Center Opens –** *Planning in Progress*
    - Opens: May 21, 2015
- **Summer Adventure Camp**
    - Starts: May 26, 2015

Other Information

- **Website –** *Visitors From3/3/15 to 4/2/15*
    - www.willardparks.com – 3,138 unique visitors, 16,493 visitors
    - www.willardfreedomfest.com – 915 unique visitors, 3035 visitors
    - www.willardaquatics.com – 756 unique visitors, 2,655 visitors
    - www.christmasonthefrisco.com – 804 unique visitors, 804 visitors
- **Facebook –** *1245 likes as of 4/2/15*
    - https://www.facebook.com/WillardParksAndRec

J.C. Loveland

Community Services Director

Planning and Development Report
April 13, 2015

Ongoing Project Update –

Fox River Subdivision – Staff has completed the rough-in inspections on the following units: the community building, 4- apartment buildings, 3 duplexes. Staff has approved apt #3.fire suppression hydrostatic test.

Chinese Restaurant – inside remodeling is almost complete, the owner is planning work on the outside of the building.

TEAP GRANT- Staff has received notice to proceed from MO DOT. The engineer has been notified to begin work per contract agreement.

Jackson St./ Main St. Sidewalk – The funding amendment was approved at OTO. Staff has received a program agreement from MO DOT and has also received a contract with Olsson Associates. Staff ask for your approval.

Hughes RD./ HWY 160 Scoping and Design – All paperwork has been submitted to MO DOT for final review. We are awaiting notice to proceed.

Source Water Funding – The City has been awarded $15,950.00 for security fencing and the plugging of one well. The deadline for this project is 6-1-15. Bids and specifications have been sent out due to the timeline. Staff request your acceptance and approval.

Small Community Engineering Assistance Program – Waste Water Facility Master Plan - No updates at this time.

New Business – Car lot, Italian Restaurant/Bar, Greenhouse, Welding /repair business

Staff is working with OTO to update our current Zoning Map. We are waiting to see if OTO can include 911 addresses to the new zoning map.

If you have any questions concerning my report feel free to contact me for further information.

Randy Brown
Director of Development

POLICE DEPARTMENT REPORT

APRIL 13, 2015

- The Police Department is still receiving applications to fill a vacancy for Patrol Officer. A recent opportunity to address the current class of Drury Academy students set to graduate on May 21, 2015 resulted in our receipt of a number of qualified applicants.

- The Willard Police Department would like to welcome the new members of the Willard Board of Aldermen.

	Officer Statistics	Case #'s		Reserves	Case #'s	Hours
1601	Tom McClain, Chief	10	1640	Doug Thomas, Reserve	0	0
1602	Shannon Shipley, Lt./Det.	43	1641	Brian Gordon,Reserve	3	10
1603	Robert Bell, Cpl (FTO)	9	1642	JD Landon, Reserve	0	20.5
1604	Steve Purdy, Cpl./Investigator	34	1643	Davis Hughes,Reserve	0	0
1605	, Officer		1644	Bill Lingenfelser, Reserve	0	0
1606	Aaron Roberts, Officer	46	1645	Reserve	0	0
1607	Kyle Gramley, Officer	61	1646	Andy Hunt, Reserve	3	10
1608	Jeremiah Tayman, Officer	47		**TOTAL HRS**		
1609	Danny Wroolie, Officer (FTO)	41				
1610	Jason Winston, Officer	55				
1630	Glenn Cozzens, SRO					
1631	Clint Heimbach, SRO	2				
	TOTAL INCIDENTS	**531**				

INCIDENT STATISTICS

Felony	21
Misdemeanor	17
Infraction	232
Other (Services)	266
HBO (Handled By Officers)	402

VEHICLE	ODOMETER READING	MONTHLY MILEAGE	SHIFTS USED	MILES PER SHIFT	MAINTENANCE COST MONTH	YTD
WPD-01 2009 Dodge Charger	124240	712	22	32	NA	$450.00
WPD-02 2013 Dodge Charger	29438	1005	25	40	NA	$688.61
WPD-03 2013 Dodge charger	34333	727	10	73	NA	$614.12
WPD-04 2013 Dodge Charger	42247	2043	39	52	NA	$34.95
WPD-05 2008 Dodge Charger-	161069	240	24	10	NA	$0.00
WPD-06 2013 Dodge Charger	30460	2033	27	75	NA	$723.50
WPD-08M 2008 Harley-Davidson Motorcycle	4773	25	1	25	NA	$0.00
PW Pickup						

Tom McClain
Chief of Police

PUBLIC WORKS DEPARTMENT REPORT

APRIL 13, 2015

Water & Sewer

- Had a glitch in the Mission control which caused the wells to stop running. Lost pressure in the Willard City side. Was able to get wells back online within two hours. Flushed lines all over Willard City side to remove air and sediments in the lines. Upgrades to the Mission system are in progress looking at about two to three week time frame.
- Water leak at 302 Dawn Dee. This has been repaired.
- 6" water main break on Proctor road caused from work being done by MGE. This water line was not known. Water system maps showed the water line to be on the opposite side of Proctor Rd. which was located prior to MGE digging. This has been repaired.
- Water leak at 8812 E. State Highway EE. This has been repaired.
- 1" water tap with meter pit and setter installed at 305 Proctor Rd.
- 2" Flush hydrant rebuilt behind East Center.
- Sewer bypass at 2625 Farm Road 101. This was caused from an air relief valve failure. Bypass was reported to DNR. The valve has been replaced along with new pit and lid. Lime was spread along ditch line were bypass occurred.
- Pulled the #1 pump at Regional due to impeller bolts backing off causing pump to be off balance. Tightened bolts and pump reinstalled. Regional back online.
- Air Relief valve maintenance has started.

Streets & Right of Ways

- Several street signs have been replaced due to missing or damage.
- Cold mix asphalt purchased to start doing street and pot hole repairs.
- No parking signs installed at all four intersections of South St. and Robberson St.
- Mowing has begun.

Water Meter Update

- Still replacing non-working meters and ERT's as we find them. Still changing out manual read meters for radio read meters in both zone 1 and 2.

Justin Reaves
Director of Public Works

AGENDA ITEM #7

7. **Ordinance accepting the STP-5944 (802) Urban Agreement with the Missouri Highways and Transportation Commission. Discussion/Vote. (1st Read).**

Sponsored by the Director of Development and the City Administrator.

First Reading: 04-13-15 | Second Reading:
Council Bill No. | Ordinance No.:

AN ORDINANCE

AUTHORIZING AND ACCEPTING THE SURFACE TRANSPORTATION PROGRAM (STP) URBAN PROGRAM AGREEMENT FUNDS FOR THE DESIGN OF A SIDEWALK FOR PROJECT STP-5944 (802).

WHEREAS, the City of Willard has entered into an agreement with the Missouri Highways and Transportation Commission for the design of a sidewalk for the project identified as STP 5944 (802).

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, MISSOURI AS FOLLOWS:

Section 1: The Mayor is authorized to accept and enter into the agreement authorizing and accepting the Surface Transportation Program Funds for the design and construction of approximately 315 feet of sidewalk along Jackson and Main Streets. The City shall be responsible for all aspects of the construction of the improvement in Willard, Missouri.

Section 2: Savings Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred, nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance. In the event of any conflict between this ordinance and any other law, regulation or ordinance, the more restrictive shall apply.

Section 3: Severability Clause. If any section, subdivision, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Aldermen hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 4: This Ordinance shall be in full force and effect from and after the date of its passage by the Board of Aldermen and approval of the Mayor.

READ TWO (2) TIMES AND PASSED AT A MEETING OF THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, MISSOURI ON THE _____ DAY OF _________2015.

Approved as to form: ______________________________
City Attorney

ATTEST: ______________________, City Clerk

______________________________, Mayor

MEMBERS OF THE BOARD OF ALDERMEN: **FIRST (1ST) READING**	YES	NO	ABSTAINED
______________________ MEREDITH REAVES	____	____	____
______________________ DAVID LARIMORE	____	____	____
______________________ DON LEE	____	____	____
______________________ MICHAEL BARR	____	____	____
______________________ JAMIE BUCKLEY	____	____	____
______________________ LARRY WHITMAN	____	____	____

CCO Form: FS11
Approved: 07/96 (KMH)
Revised: 02/15 (MWH)
Modified:

CFDA Number:	CFDA #20.205	
CFDA Title:	Highway Planning and Construction	
Award name/number:	STP - 5944(802)	TIP # EN1401
Award Year:	2015	
Federal Agency:	Federal Highway Administration, Department of Transportation	

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
STP-URBAN PROGRAM AGREEMENT

THIS STP-URBAN AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Willard, Greene County, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, 23 U.S.C. §133 authorizes a Surface Transportation Program (STP) to fund transportation related projects; and

WHEREAS, the City desires to construct certain improvements, more specifically described below, using such STP funding; and

WHEREAS, those improvements are to be designed and constructed in compliance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The purpose of this Agreement is to grant the use of STP funds to the City. The improvement contemplated by this Agreement and designated as Project STP-5944(802) involves design and construction of approximately 315 feet of sidewalk along Jackson and Main Streets. The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project STP-5944(802) by the Commission is within the city limits of Willard, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows: approximately 315 feet of sidewalk along Jackson and Main Streets.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public

Agency (LPA) Manual and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FHWA, information concerning conditions on streets included in the STP system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation (MoDOT or Department) employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the (City's/County's/Grantee's) wrongful or negligent performance of its obligations under this Agreement.

(B) The City will require any contractor procured by the City to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The City shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the STP for the City will be constructed in accordance with current MoDOT design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the FHWA.

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the

contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. The federal share for this project will be 80 percent (80%) not to exceed $48,300.00. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(13) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(14) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project STP-5944(802) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

(16) DISADVANTAGED BUSINESS ENTERPRISES (DBEs): At time of processing the required project agreements with the FHWA, the Commission will advise the City of any required goals for participation by DBEs to be included in the (City's/County's/Grantee's) proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(17) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(18) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. The City shall repay any progress payments which involve ineligible costs.

(19) PROMPT PAYMENTS: Progress invoices submitted to MoDOT for reimbursement more than thirty (30) calendar days after the date of the vendor invoice shall also include documentation that the vendor was paid in full for the work identified in the progress invoice. Examples of proof of payment may include a letter or e-mail from the vendor, lien waiver or copies of cancelled checks. Reimbursement will not be made on these submittals until proof of payment is provided. Progress invoices submitted to MoDOT for reimbursement within thirty (30) calendar days of the date on the vendor invoice will be processed for reimbursement without proof of payment to the vendor. If the City has not paid the vendor prior to receiving reimbursement, the City must pay the vendor within two (2) business days of receipt of funds from MoDOT.

(20) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any STP improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(21) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(22) OMB AUDIT: If the City expend(s) five hundred thousand dollars ($500,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of OMB Circular A-133, if the City expend(s) less than five hundred thousand dollars ($500,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(23) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The City shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(24) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(25) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(26) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(27) COMMISSION REPRESENTATIVE: The Commission's Southwest District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(28) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the City:
Randy Brown, Director of Development
City of Willard
224 West Jackson Street, Willard, MO 65781
Phone # 417-742-5308
develop@cityofwillard.org

(B) To the Commission:
Chad Zickefoose, Transportation Project Designer, LPA
MoDOT Southwest District
3025 East Kearney Street, Springfield, MO 65803
Phone # 417-895-7638
chad.zickefoose@modot.mo.gov

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(29) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (29) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(30) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this _____ day of __________________, 2015.

Executed by the Commission this _____ day of __________________, 2015.

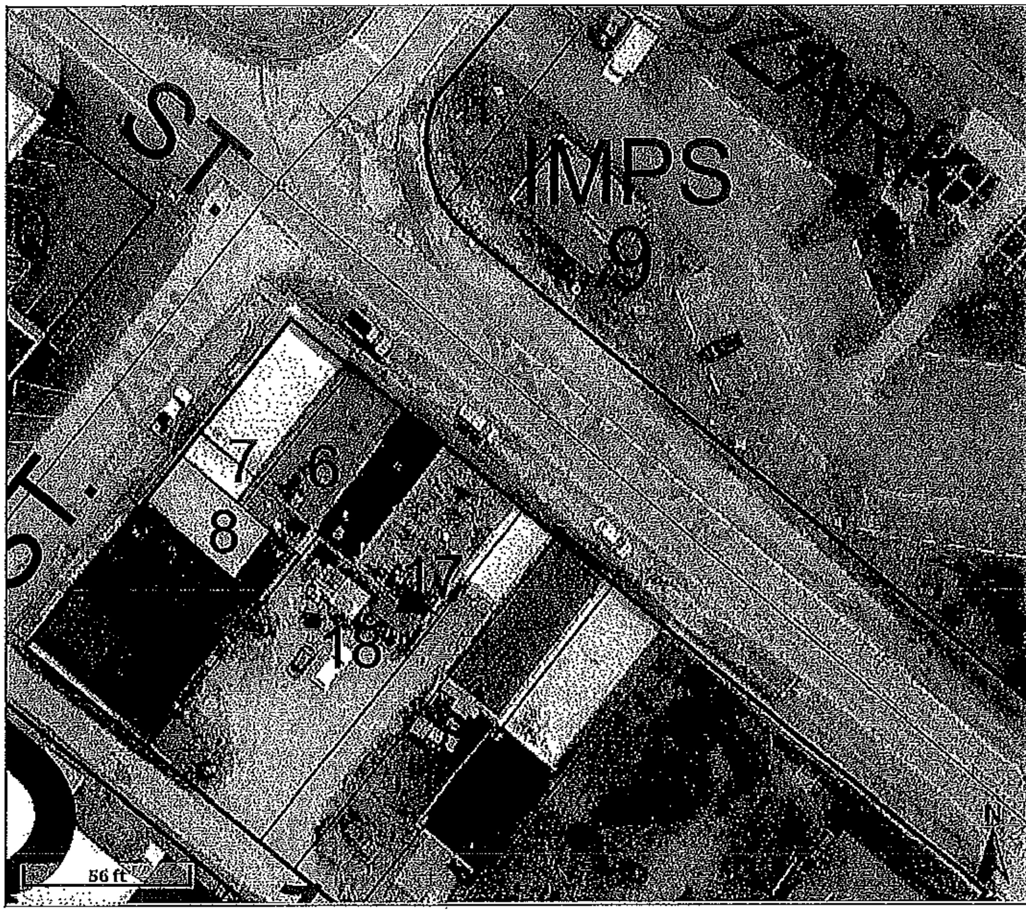
MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION	CITY OF WILLARD
______________________________	By ______________________________
Title ______________________________	Title ______________________________
ATTEST:	ATTEST:
______________________________ Secretary to the Commission	By ______________________________
	Title ______________________________
Approved as to Form:	Approved as to Form:
______________________________ Commission Counsel	By ______________________________
	Title ______________________________
	Ordinance No:________________

Exhibit A - Location of Project

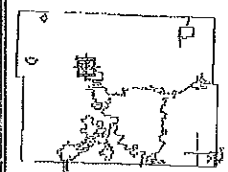
Greene County, MO

beacon™

Date Created: 7/2/2014



Overview



Legend

- **Area Numbers**
- **S / T / R Numbers**

Parcel Lines

- <all other values>
- DASHROW
- MUNIRWD
- PROPDASH
- PROPLINE
- RRROW
- ZONING

Section Lines

- Quarter Section Lines
- Section Lines

Streets

- <all other values>
- 8
- **County Boundary**
- **Assessor's Parcels**
- **City Limits**

Parcel ID	880726112014	**Alternate ID**	n/a	**Owner Address**	HELTON, GAIL E 108 KIME ST WILLARD MO 65781
Sec/Twp/Rng	26-30-23	**Class**	C		
Property Address	104 W JACKSON ST WILLARD	**Acreage**	0.07		

District 180

Brief Tax Description WILLARD ORIGINAL PLAT BEG 15 FT NWLY NE COR LOT 3 BLK 6 SWLY 140 FT SELY23.72 FT NELY 140 FT NWLY 22.83 FT TO BEG

(Note: Not to be used on legal documents)

Exhibit B – Project Schedule

Project Description: STP-5944(802)

Task	**Date**
Date funding is made available or allocated to recipient	
Solicitation for Professional Engineering Services (advertised)	
Engineering Services Contract Approved	06/01/2015
Conceptual Study (if applicable)	
Preliminary and Right-of-Way Plans Submittal (if Applicable)	10/01/2015
Plans, Specifications & Estimate (PS&E) Submittal	02/01/2016
Plans, Specifications & Estimate (PS&E) Approval	04/01/2016
Advertisement for Letting	
Bid Opening	05/01/2016
Construction Contract Award or Planning Study completed **(REQUIRED)**	06/01/2016

*Note: the dates established in the schedule above will be used in the applicable ESC between the sponsor agency and consultant firm.

**Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and requires request to adjust.

Exhibit C

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more -- as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

AGENDA ITEM # 8

8. **Ordinance accepting the contract between Olsson Associates and the City of Willard to provide Engineering Services for Sidewalk Improvements at Jackson St. and Main St.**
   (1st Read) Discussion/Vote.

   Sponsored by the Director of Development and the City Administrator.

BILL NO. ________ **ORDINANCE NO.** ____________

FIRST READING ____________ **SECOND READING** __________

AN ORDINANCE

AN ORDINANCE approving the agreement between the City of Willard and Olsson Associates, Inc.

WHEREAS, the City of Willard has accepted Federal Highway Administration, Department of Transportation funds in order to provide Engineering Services for Sidewalk Improvements at Jackson St. and Main St. in Willard, MO; and

WHEREAS, the City of Willard has contracted with Olsson Associates, Inc. to provide engineering services within the city limits of Willard, MO.

NOW THEREFORE, BE IT HEREBY ORDAINED AND RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, GREENE COUNTY, MISSOURI, AS FOLLOWS:

Section 1: That as the LPA, the City Administrator on behalf of the City of Willard, Missouri, is hereby authorized to execute an agreement with Olsson Associates, Inc. to perform the engineering services as listed in the Contract marked Exhibit "1", attached hereto and incorporated by reference.

Section 2: This ordinance shall be in full force and effect from and after the date of its passage by the Board of Alderman and approved by the Mayor.

READ TWO (2) TIMES AND PASSED AT A MEETING OF THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, MISSOURI ON THE ____DAY OF ___________, 2015.

Approved as to form: ______________________
Ken Reynolds, City Attorney

ATTEST: ______________________, City Clerk

______________________________, Mayor

MEMBERS OF THE BOARD OF ALDERMEN: **FIRST (1ST) READING**	YES	NO	ABSTAINED
______________________ MEREDITH REAVES	____	____	____
______________________ DAVID LARIMORE	____	____	____
______________________ DON LEE	____	____	____
______________________ MICHAEL BARR	____	____	____
______________________ JAMIE BUCKLEY	____	____	____
______________________ LARRY WHITMAN	____	____	____

SPONSOR: City of Willard, Missouri
LOCATION: Jackson and Main
PROJECT: Jackson and Main Street Sidewalks #EN1401

THIS CONTRACT is between *City of Willard*, Missouri, hereinafter referred to as the "Local Agency", and *Olsson Associates, 550 Saint Louis Street, Springfield, MO 65806*, hereinafter referred to as the "Engineer".

INASMUCH as funds have been made available by the Federal Highway Administration through its *Surface Transportation Program*, coordinated through the Missouri Department of Transportation, the Local Agency intends to *reconstruct approximately 315 linear feet of sidewalk along Main Street from Jackson to the alley, and along Jackson Street from Main Street to midway to South Street* and requires professional engineering services. The Engineer will provide the Local Agency with professional services hereinafter detailed for the planning, design and construction inspection of the desired improvements and the Local Agency will pay the Engineer as provided in this contract. It is mutually agreed as follows:

ARTICLE I – SCOPE OF SERVICES

Refer to Attachment A for the Scope of Service specific to this project.

ARTICLE II - DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS:

A. DBE Goal: The following DBE goal has been established for this Agreement. The dollar value of services and related equipment, supplies, and materials used in furtherance thereof which is credited toward this goal will be based on the amount actually paid to DBE firms. The goal for the percentage of services to be awarded to DBE firms is *0%* of the total Agreement dollar value.

B. DBE Participation Obtained by Engineer: The Engineer has obtained DBE participation, and agrees to use DBE firms to complete, *0%* of the total services to be performed under this Agreement, by dollar value. The DBE firms which the Engineer shall use, and the type and dollar value of the services each DBE will perform, is as follows:

DBE FIRM NAME, STREET AND COMPLETE MAILING ADDRESS	TYPE OF DBE SERVICE	TOTAL $ VALUE OF THE DBE SUBCONTRACT	CONTRACT $ AMOUNT TO APPLY TO TOTAL DBE GOAL	PERCENTAGE OF SUBCONTRACT DOLLAR VALUE APPLICABLE TO TOTAL GOAL
n/a	n/a	n/a	n/a	n/a

ARTICLE III-ADDITIONAL SERVICES

The Local Agency reserves the right to request additional work, and changed or unforeseen conditions may require changes and work beyond the scope of this contract. In this event, a supplement to this agreement shall be executed and submitted for the approval of MoDOT prior to performing the additional or changed work or incurring any additional cost thereof. Any change in compensation will be covered in the supplement. Additional service may include, but are not limited to, the following items:

- Arrange for subsurface investigations, if needed
- Arrange to have the site examined by a qualified archaeologist, if needed
- Provide as-built plans for the Local Agency's records.

- Provide survey staking and layout (It is contemplated that it will be accomplished by the contractor's forces).

ARTICLE IV - RESPONSIBILITIES OF LOCAL AGENCY

The Local Agency will cooperate fully with the Engineer in the development of the project, including the following:

A. make available all information pertaining to the project which may be in the possession of the Local Agency;

B. provide the Engineer with the Local Agency's requirements for the project;

C. make provisions for the Engineer to enter upon property at the project site for the performance of his duties;

D. examine all studies and layouts developed by the Engineer, obtain reviews by MoDOT, and render decisions thereon in a prompt manner so as not to delay the Engineer;

E. designate a Local Agency's employee to act as Local Agency's Person in Responsible Charge under this contract, such person shall have authority to transmit instructions, interpret the Local Agency's policies and render decisions with respect to matters covered by this agreement (see EPG 136.3);

F. perform appraisals and appraisal review, negotiate with property owners and otherwise provide all services in connection with acquiring all right-of-way needed to construct this project.

G. Review wage rates, postings, equal employment opportunity and other related items called for in the contract documents;

H. Make periodic site visits to observe the Contractor's progress and quality of work, and to determine if the work conforms to the contract documents

I. Maintain progress diary and other project records, measure and document quantities, and verify monthly estimates for payments due the Contractor.

ARTICLE V - PERIOD OF SERVICE

The Engineer will commence work within two weeks after receiving notice to proceed from the Local Agency. The general phases of work will be completed in accordance with the following schedule:

A. PS&E Approval by MODOT shall be completed on <u>December 31, 2015</u>.

B. Construction Phase shall be completed 60 days after construction final completion schedule.

The Local Agency will grant time extensions for delays due to unforeseeable causes beyond the control of and without fault or negligence of the Engineer. Requests for extensions of time shall be made in writing by the Engineer, before that phase of work is scheduled to be completed, stating fully the events giving rise to the request and justification for the time extension requested.

ARTICLE VI – STANDARDS

The Engineer shall be responsible for working with the Local Agency in determining the appropriate design parameters and construction specifications for the project using good engineering judgment based on the specific site conditions, Local Agency needs, and guidance provided in the most current version of EPG 136 LPA Policy. If the project is on the state highway system or is a bridge project, then the latest version of MoDOT's Engineering Policy Guide (EPG) and Missouri Standard Specifications for Highway Construction shall be used (see EPG 136.7). The project plans must also be in compliance with the latest ADA (Americans with Disabilities Act) Regulations.

ARTICLE VII - COMPENSATION

For services provided under this contract, the Local Agency will compensate the Engineer as follows:

A. For design services, including work through the construction contract award stage, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of $1,562.38, with a ceiling established for said design services in the amount of $ 15,582.26, which amount shall not be exceeded.

B. For construction inspection services, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of $490.17, with a ceiling established for said inspection services in the amount of $5,574.91, which amount shall not be exceeded.

C. The compensation outlined above has been derived from estimates of cost which are detailed in Attachment B. Any major changes in work, extra work, exceeding of the contract ceiling, or change in the predetermined fixed fee will require a supplement to this contract, as covered in Article III - ADDITIONAL SERVICES.

D. Actual costs in Sections A and B above are defined as:

1. Actual payroll salaries paid to employees for time that they are productively engaged in work covered by this contract, plus

2. An amount estimated at 80.81% of actual salaries in Item 1 above for payroll additives, including payroll taxes, holiday and vacation pay, sick leave pay, insurance benefits, retirement and incentive pay, plus

3. An amount estimated at 85.02% of actual salaries in Item 1 above for general administrative overhead, based on the Engineer's system for allocating indirect costs in accordance with sound accounting principles and business practice, plus

4. Other costs directly attributable to the project but not included in the above overhead, such as vehicle mileage, meals and lodging, printing, surveying expendables, and computer time, plus

5. Project costs incurred by others on a subcontract basis, said costs to be passed through the Engineer on the basis of reasonable and actual cost as invoiced by the subcontractors.

E. The rates shown for additives and overhead in Sections VII. D.2 and VII. D.3 above are approximate and will be used for interim billing purposes. Final payment will be based on the actual rates experienced during the period of performance, as indicated by the Engineer's accounting records, and as determined by final audit of the Engineer's records by MoDOT.

F. The payment of costs under this contract will be limited to costs which are allowable under 23 CFR 172 and 48 CFR 31.

G. **METHOD OF PAYMENT** - Partial payments for work satisfactorily completed will be made to the Engineer upon receipt of itemized invoices by the Local Agency. Invoices will be submitted no more frequently than once every two weeks and must be submitted monthly for invoices greater than $10,000. A pro-rated portion of the fixed fee will be paid with each invoice. Upon receipt of the invoice and progress report, the Local Agency will, as soon as practical, but not later than 45 days from receipt, pay the Engineer for the services rendered, including the proportion of the fixed fee earned as reflected by the estimate of the portion of the services completed as shown by the progress report, less partial payments previously made. A late payment charge of one and one half percent (1.5%) per month shall be assessed for those invoiced amount not paid, through no fault of the Engineer, within 45 days after the Local Agency's receipt of the Engineer's invoice. The Local Agency will not be liable for the late payment charge on any invoice which requests payment for costs which exceed the proportion of the maximum amount payable earned as reflected by the estimate of the portion of the services completed, as shown by the progress report. The payment, other than the fixed fee, will be subject to final audit of actual expenses during the period of the Agreement.

H. **PROPERTY ACCOUNTABILITY** - If it becomes necessary to acquire any specialized equipment for the performance of this contract, appropriate credit will be given for any residual value of said equipment after completion of usage of the equipment.

ARTICLE VIII - COVENANT AGAINST CONTINGENT FEES

The Engineer warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the Local Agency shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, plus reasonable attorney's fees.

ARTICLE IX - SUBLETTING, ASSIGNMENT OR TRANSFER

No portion of the work covered by this contract, except as provided herein, shall be sublet or transferred without the written consent of the Local Agency. The subletting of the work shall in no way relieve the Engineer of his primary responsibility for the quality and performance of the work. It is the intention of the Engineer to engage subcontractors for the purposes of:

Sub-Consultant Name	**Address**	**Services**
None.		

ARTICLE X - PROFESSIONAL ENDORSEMENT

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the PS&E submittals the Engineer of Record will be representing to MoDOT that the design is meeting the intent of the federal aid programs.

ARTICLE XI - RETENTION OF RECORDS

The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment by FHWA. Said records shall be made available for inspection by authorized representatives of the Local Agency, MoDOT or the federal government during regular working hours at the Engineer's place of business.

ARTICLE XII - OWNERSHIP OF DOCUMENTS

Plans, tracings, maps and specifications prepared under this contract shall be delivered to and become the property of the Local Agency upon termination or completion of work. Basic survey notes, design computations and other data prepared under this contract shall be made available to the Local Agency upon request. All such information produced under this contract shall be available for use by the Local Agency without restriction or limitation on its use. If the Local Agency incorporates any portion of the work into a project other than that for which it was performed, the Local Agency shall save the Engineer harmless from any claims and liabilities resulting from such use.

ARTICLE XIII – SUSPENSION OR TERMINATION OF AGREEMENT

A. The Local Agency may, without being in breach hereof, suspend or terminate the Engineer's services under this Agreement, or any part of them, for cause or for the convenience of the Local Agency, upon giving to the Engineer at least fifteen (15) days' prior written notice of the effective date thereof. The Engineer shall not accelerate performance of services during the fifteen (15) day period without the express written request of the Local Agency.

B. Should the Agreement be suspended or terminated for the convenience of the Local Agency, the Local Agency will pay to the Engineer its costs as set forth in Attachment B including actual hours expended prior to such suspension or termination and direct costs as defined in this Agreement for services performed by the Engineer, a proportional amount of the fixed fee based upon an estimated percentage of Agreement completion, plus reasonable costs incurred by the Engineer in suspending or terminating the services. The payment will make no other allowances for damages or anticipated fees or profits. In the event of a suspension of the services, the Engineer's compensation and schedule for performance of services hereunder shall be equitably adjusted upon resumption of performance of the services.

C. The Engineer shall remain liable to the Local Agency for any claims or damages occasioned by any failure, default, or negligent errors and/or omission in carrying out the provisions of this Agreement during its life, including those giving rise to a termination for non-performance or breach by Engineer. This liability shall survive and shall not be waived, or estopped by final payment under this Agreement.

D. The Engineer shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where the Engineer is deprived of the opportunity to complete the Engineer's services.

E. Upon the occurrence of any of the following events, the Engineer may suspend performance hereunder by giving the Local Agency 30 days advance written notice and may continue such suspension until the condition is satisfactorily remedied by the Local Agency. In the event the condition is not remedied within 120 days of the Engineer's original notice, the Engineer may terminate this agreement.

1. Receipt of written notice from the Local Agency that funds are no longer available to continue performance.

2. The Local Agency's persistent failure to make payment to the Engineer in a timely manner.

3. Any material contract breach by the Local Agency.

ARTICLE XIV - DECISIONS UNDER THIS CONTRACT

The Local Agency will determine the acceptability of work performed under this contract, and will decide all questions which may arise concerning the project. The Local Agency's decision shall be final and conclusive.

ARTICLE XV - SUCCESSORS AND ASSIGNS

The Local Agency and the Engineer agree that this contract and all contracts entered into under the provisions of this contract shall be binding upon the parties hereto and their successors and assigns.

ARTICLE XVI - COMPLIANCE WITH LAWS

The Engineer shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including Title VII of the Civil Rights Act of 1964 and non-discrimination clauses incorporated herein, and shall procure all licenses and permits necessary for the fulfillment of obligations under this contract.

ARTICLE XVII - RESPONSIBILITY FOR CLAIMS AND LIABILITY

The Engineer agrees to save harmless the Local Agency, MoDOT and FHWA from all claims and liability due to his negligent acts or the negligent acts of his employees, agents or subcontractors.

ARTICLE XVIII - NONDISCRIMINATION

The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. The Engineer will comply with Title VII of the Civil Rights Act of 1964, as amended. More specifically, the Engineer will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Engineer's obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

ARTICLE XIX – LOBBY CERTIFICATION

CERTIFICATION ON LOBBYING: Since federal funds are being used for this agreement, the Engineer's signature on this agreement constitutes the execution of all certifications on lobbying which are required by 49 C.F.R. Part 20 including Appendix A and B to Part 20. Engineer agrees to abide by all certification or disclosure requirements in 49 C.F.R. Part 20 which are incorporated herein by reference.

ARTICLE XX – INSURANCE

A. The Engineer shall maintain commercial general liability, automobile liability, and worker's compensation and employer's liability insurance in full force and effect to protect the Engineer from claims under Worker's Compensation Acts, claims for damages for personal injury or death, and for damages to property arising from the negligent acts, errors, or omissions of the Engineer and its employees, agents, and Subconsultants in the performance of the services covered by this Agreement, including, without limitation, risks insured against in commercial general liability policies.

B. The Engineer shall also maintain professional liability insurance to protect the Engineer against the negligent acts, errors, or omissions of the Engineer and those for whom it is legally responsible, arising out of the performance of professional services under this Agreement.

C. The Engineer's insurance coverage shall be for not less than the following limits of liability:

1. Commercial General Liability: $500,000 per person up to $3,000,000 per occurrence;

2. Automobile Liability: $500,000 per person up to $3,000,000 per occurrence;
3. Worker's Compensation in accordance with the statutory limits; and Employer's Liability: $1,000,000; and

4. Professional ("Errors and Omissions") Liability: $1,000,000, each claim and in the annual aggregate.

D. The Engineer shall, upon request at any time, provide the Local Agency with certificates of insurance evidencing the Engineer's commercial general or professional liability ("Errors and Omissions") policies and evidencing that they and all other required insurance are in effect as to the services under this Agreement.

E. Any insurance policy required as specified in (ARTICLE XX) shall be written by a company which is incorporated in the United States of America or is based in the United States of America. Each insurance policy must be issued by a company authorized to issue such insurance in the State of Missouri.

ARTICLE XXI - ATTACHMENTS

The following exhibits are attached hereto and are hereby made part of this contract:

Attachment A – Scope of Service

Attachment B - Estimate of Cost

Attachment C - Breakdown of Overhead Rates

Attachment D - Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions.

Attachment E - Certification Regarding Debarment, Suspension, and Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions.

Attachment F – DBE Contract Provisions

Attachment G – Fig. 136.4.15 Conflict of Interest Disclosure Form

Executed by the Engineer this _____ day of _______________, 2015.

Executed by the City this __ day of ______________, 2015.

FOR: ____________________________ **CITY OF WILLARD, MISSOURI**
Board of Aldermen

BY: ____
Mayor

ATTEST: __________________________
City Clerk

FOR: ____, **INC.**

BY: ____
Title

BY: ____
Title

I hereby certify under Section 50.660 RSMo there is either: (1) a balance of funds, otherwise unencumbered, to the credit of the appropriation to which the obligation contained herein is chargeable, and a cash balance otherwise unencumbered, in the Treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation contained herein; or (2) bonds or taxes have been authorized by vote of the people and there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury.

____
City Clerk

ATTACHMENT A

SCOPE OF SERVICES

A. **DESIGN PHASE** - The Engineer will:

1. Provide Topographic Survey & Right-of-Way Determination

Olsson shall gather Right-of-Way Boundary data sufficient to determine the East Right-of-Way of S. Main St. and the South Right-of-Way of E. Jackson St. within the area depicted in the below exhibit.

Olsson shall gather Topographic data within the area depicted in the below exhibit. The Topographic area shall depict contours at a 1' vertical interval, all physical improvements including buildings, driveways, fencing, vegetation, and visible utilities, as well as underground utilities as located by Missouri One-Call system. Survey shall be tied vertically to the NAVD 1988 Vertical Datum and horizontally to the Missouri State Plane Coordinate System NAD 83--Central Zone-US Survey foot.

2. Prepare and submit request for Environmental Review, as well as prepare and submit Section 106 project information form to the Missouri State Historic Preservation Office;

3. Prepare preliminary plan and estimate of probable construction cost;

4. Submit four copies of preliminary plans, estimate of probable construction cost, and studies (if any) for review by the Local Agency and, Missouri Department of Transportation (MoDOT);

5. Prepare detailed construction plans, estimate of probable construction cost, specifications and related documents as necessary for the purpose of soliciting bids for constructing the project;

6. Ensure compliance with water quality requirements by coordinating with the Missouri Department of Natural Resources and the U.S. Army Corps of Engineers and also insure compliance with the requirements of the Federal Emergency Management Agency (FEMA);

7. Ensure compliance with historic preservation requirements through coordination with the Missouri Department of Natural Resources;

8. Ensure compliance with all regulations in regards to noise abatement and air quality, if necessary; and

9. Provide the Local Agency with five sets of completed plans, specifications and/cost estimates for the purpose of obtaining construction authorization from the Missouri Department of Transportation.

B. **BIDDING PHASE** - The Engineer will:

1. Upon receipt of construction authorization from MoDOT, make final corrections resulting from reviews by agencies involved, and provide an adequate number of plans, specifications, and bid documents to the Local Agency;

2. Provide the Local Agency with a list of qualified area bidders and assist Local Agency in advertising for bids;

3. Attend pre-bid meeting;

4. Attend bid opening; and

5. Provide bid tabulation to assist the Local Agency in evaluating bids and requesting concurrence in award from MoDOT;

C. **CONSTRUCTION PHASE** - The Engineer will serve as the Local Agency's representative for administering the terms of the construction contract between Local Agency and their Contractor. Engineer will endeavor to protect the Local Agency against defects and deficiencies in workmanship and materials in work by the Contractor. However, the furnishing of such project representation will not make Engineer responsible for the construction methods and procedures used by the Contractor or for the Contractor's failure to perform work in accordance with the contract documents. Engineer's services will include more specifically as follows:

1. Assist the Local Agency with a preconstruction conference to discuss project details with the Contractor;

2. Set up daily diary and provide Local Agency with training for the diary and project administration.

3. Review shop drawings submitted by the Contractor;

4. Review pay estimate(s), and reject work not conforming to the project documents;

5. Prepare change order(s) for issuance by the Local Agency as necessary and assure that proper approvals are made prior to work being performed;

6. Inspect materials, review material certifications furnished by Contractor, sample concrete and other materials as required, and provide laboratory testing of samples. *Independent assurance samples and tests will be performed by MoDOT personnel and such sampling and testing is excluded from the work to be performed by the Engineer under this contract*;

7. Be present during semi-final inspection, and prepare punch list of incomplete/incorrect items to be addressed by Contractor;

9. Be present during final inspection to verify completion of punch list items; and

10. Assemble project documentation and submit to MoDOT.

D. **EXCLUSIONS** - Excluded items below, in addition to exclusions listed above and noted within the scope, are not included in this proposal but can be provided under a supplemental agreement. Additional services may include, but are not limited to, the following:

1. Responsibilities of the Local Agency, as outlined in Article IV;
2. Preparation of right-of-way/easement documents (it is presumed that none are needed).

ATTACHMENT B1
Jackson and Main Sidewalks #EN1401 - Willard, Missouri
ESTIMATE OF COST

Design Phase	Hours	Rate *	Cost
Project Kick-Off and Data Collection			
Survey Technician	10	$22.90	$229.00
Associate Surveyor	11	$16.90	$185.90
Assistant Surveyor	14	$23.70	$331.80
Surveyor	6	$32.21	$193.26
Preliminary Design (60%)			
Client Manager	4	$50.48	$201.92
Clerical	2	$20.00	$40.00
Project Landscape Architect	10	$39.66	$396.60
Senior Technician	22	$26.00	$572.00
Final Design and Final PS&E (95% and 100%)			
Client Manager	4	$50.48	$201.92
Clerical	2	$0.00	$0.00
Project Landscape Architect	10	$39.66	$396.60
Senior Technician	42	$26.00	$1,092.00
Bidding (4 separate projects)			
Client Manager	4	$50.48	$201.92
Clerical	18	$0.00	$0.00
Project Landscape Architect	15	$39.66	$594.90
Senior Technician	10	$26.00	$260.00
SUBTOTAL			**$4,897.82**
Payroll Overhead (Est. at 80.81% X SUBTOTAL))			$3,957.93
General and Admin. Overhead (Est. at 85.02% X SUBTOTAL))			$4,164.13
		TOTAL LABOR & OVERHEAD	$13,019.87
Fixed Fee (12% X TOTAL LABOR & OVERHEAD)			$1,562.38
TOTAL LABOR			**$14,582.26**
Printing, Travel, Etc.			$1,000.00
TOTAL FOR DESIGN PHASE			**$15,582.26**

* The rates shown are for the purpose of preparing this estimate. Actual rates will be calculated from salaries with overhead and profit.

ATTACHMENT B2
Jackson and Main Sidewalks #EN1401 - Willard, Missouri
ESTIMATE OF COST

Construction Phase	Hours	Rate*	Cost
Construction Consultation (for two separate streetscape projects; does not include landscape projects)			
Project Landscape Architect	10	$39.66	$396.60
Associate Engineer	20	$27.40	$548.00
Senior Technician	32	$18.50	$592.00
SUBTOTAL			**$1,536.60**
Payroll Overhead (Est. at 80.81% X SUBTOTAL))			$1,241.73
General and Admin. Overhead (Est. at 85.02% X SUBTOTAL))			$1,306.42
		TOTAL LABOR & OVERHEAD	$4,084.74
Fixed Fee (12% X TOTAL LABOR & OVERHEAD)			$490.17
TOTAL LABOR			**$4,574.91**
Printing, Travel, Etc.			**$1,000.00**
TOTAL FOR CONSTRUCTION PHASE			**$5,574.91**

* The rates shown are for the purpose of preparing this estimate. Actual rates will be calculated from salaries with overhead and profit.

MoDOT

Missouri Department of Transportation
David B. Nichols, Director

105 West Capitol Avenue
P.O. Box 270
Jefferson City, Missouri 65102

573.751.2551
Fax: 573.751.6555
1.888.ASK MODOT (275.6636)

July 24, 2014

Mr. Michael Hodge
Olsson Associates, Inc.
1111 Lincoln Mall
Lincoln, NE 68508

Dear Mr. Hodge:

Thank you for submitting your company's annual financial pre-qualification documents. MoDOT's Audits and Investigations Division has completed the review. Olsson Associates, Inc. will be added to the Approved Consultant Pre-qualification List. To view this list, go to www.modot.gov scroll down the page to Consultant Services under the More Links – select Consultant Pre-qualification Requirements – select Approved Consultant Pre-qualification List.

When Olsson Associates, Inc. enters into a standard contract with MoDOT the overhead rate of 165.38% (excluding computer expense) and overhead rate of 176.84% (including computer expense) with a facilities capital cost of money rate of .28% have been audited by BKD CPAs & Advisors in accordance with the Federal Acquisition Regulations. These rates can be used until revised financial pre-qualification rates are in effect. Please note this letter is not the result of a MoDOT audit or cognizant review.

All companies must submit the required pre-qualification information annually using the most current forms found on the Consultant Pre-qualification Requirements webpage. Failure to comply may result in loss of MoDOT pre-qualification. Financial information should reflect the most recent complete fiscal year and must be submitted no later than six months after the close of that fiscal year. Please remember to review the expiration dates to ensure your company remains in approved status.

If you have any questions, please call (573) 751-7446.

Respectfully,

Kelly R. Niekamp

Kelly R. Niekamp
Audit Manager
Audits and Investigations

cc: Mary Ann Jacobs-de

Overhead Rate Breakdown
for the Year 2013

Direct Labor Base	$26,521,565	Excluding $15./hour Computer charge		Including $15./hour Computer charge	
Payroll Additives					
Base			% Direct Labor		% Direct Labor
Payroll Taxes		$3,525,977	13.29%	$3,525,977	13.29%
Insurance-Health, dental, life, worker's comp, disability, life, vision		$3,737,046	14.09%	$3,737,046	14.09%
Paid time off, holiday		$4,252,700	16.03%	$4,252,700	16.03%
Bonus		$7,344,366	27.69%	$7,344,366	27.69%
Retirement-tax qualified plans		$2,572,666	9.70%	$2,572,666	9.70%
Total Payroll Additives		$21,432,755	80.81%	$21,432,755	80.81%
General and Administrative Overhead					
Indirect Labor		$10,556,515	39.80%	$10,556,515	39.80%
Travel		$1,459,954	5.50%	$1,459,954	5.50%
Rent and Utilites		$3,736,753	14.09%	$3,736,753	14.09%
Supplies		$1,196,177	4.51%	$1,196,177	4.51%
Consultants		$279,251	1.05%	$279,251	1.05%
Advertising		$163,085	0.61%	$163,085	0.61%
Photos printing and Duplication		$262,237	0.99%	$262,237	0.99%
General Taxes		$311,689	1.18%	$311,689	1.18%
Insurance, business		$553,982	2.09%	$553,982	2.09%
Licenses and Dues		$227,749	0.86%	$227,749	0.86%
Depreciation and Amortization		$1,310,707	4.94%	$1,310,707	4.94%
Computer Expense		$212,776	0.80%	$3,251,634	12.26%
Telephone		$405,301	1.53%	$405,301	1.53%
Postage		$132,791	0.50%	$132,791	0.50%
Repairs		$761,939	2.87%	$761,939	2.87%
Legal & Accounting		$403,381	1.52%	$403,381	1.52%
Books & Subscriptions		$71,668	0.27%	$71,668	0.27%
Conferences and Seminars		$398,475	1.50%	$398,475	1.50%
Settlement losses		$138,071	0.52%	$138,071	0.52%
Contributions		$56,456	0.21%	$56,456	0.21%
Miscellaneous		-$15,104	-0.06%	-$15,104	-0.06%
Total General & Administrative Overhead		$22,623,853	85.30%	$25,662,711	96.76%
Total Overhead		$44,056,608	166.12%	$47,095,466	177.57%
Less Unallowable Items					
Settlement Losses		$138,071	0.52%	$138,071	0.52%
Contributions		$56,456	0.21%	$56,456	0.21%
Total unallowable items		$194,527	0.73%	$194,527	0.73%
		$43,862,081	165.38%	$46,900,939	176.84%
Facilities Capital Cost of Money			0.28%		0.28%
Total Allowable Overhead			165.66%		177.12%

ATTACHMENT D

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction" provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each

participant may, but is not required to check the Nonprocurement List at the Excluded Parties List System.
https://www.epls.gov/epls/search.do?page=A&status=current&agency=69#A.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

    a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

    b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

    c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

    d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ATTACHMENT E

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List at the Excluded Parties List System.
https://www.epls.gov/epls/search.do?page=A&status=current&agency=69#A.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other

remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment F
Disadvantage Business Enterprise Contract Provisions

1. Policy: It is the policy of the U.S. Department of Transportation and the Local Agency that businesses owned by socially and economically disadvantaged individuals (DBE's) as defined in 49 C.F.R. Part 26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Thus, the requirements of 49 C.F.R. Part 26 and Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21) apply to this Agreement.

2. Obligation of the Engineer to DBE's: The Engineer agrees to assure that DBEs have the maximum opportunity to participate in the performance of this Agreement and any subconsultant agreement financed in whole or in part with federal funds. In this regard the Engineer shall take all necessary and reasonable steps to assure that DBEs have the maximum opportunity to compete for and perform services. The Engineer shall not discriminate on the basis of race, color, religion, creed, disability, sex, age, or national origin in the performance of this Agreement or in the award of any subsequent subconsultant agreement.

3. Geographic Area for Solicitation of DBEs: The Engineer shall seek DBEs in the same geographic area in which the solicitation for other subconsultants is made. If the Engineer cannot meet the DBE goal using DBEs from that geographic area, the Engineer shall, as a part of the effort to meet the goal, expand the search to a reasonably wider geographic area.

4. Determination of Participation Toward Meeting the DBE Goal: DBE participation shall be counted toward meeting the goal as follows:

A. Once a firm is determined to be a certified DBE, the total dollar value of the subconsultant agreement awarded to that DBE is counted toward the DBE goal set forth above.

B. The Engineer may count toward the DBE goal a portion of the total dollar value of a subconsultant agreement with a joint venture eligible under the DBE standards, equal to the percentage of the ownership and control of the DBE partner in the joint venture.

C. The Engineer may count toward the DBE goal expenditures to DBEs who perform a commercially useful function in the completion of services required in this Agreement. A DBE is considered to perform a commercially useful function when the DBE is responsible for the execution of a distinct element of the services specified in the Agreement and the carrying out of those responsibilities by actually performing, managing and supervising the services involved and providing the desired product.

D. A Engineer may count toward the DBE goal its expenditures to DBE firms consisting of fees or commissions charged for providing a bona fide service, such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of this Agreement, provided that the fee or commission is determined by MoDOT's External Civil Rights Division to be reasonable and not excessive as compared with fees customarily allowed for similar services.

E. The Engineer is encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals.

5. Replacement of DBE Subconsultants: The Engineer shall make good faith efforts to replace a DBE Subconsultant, who is unable to perform satisfactorily, with another DBE Subconsultant. Replacement firms must be approved by MoDOT's External Civil Rights Division.

6. Verification of DBE Participation: Prior to final payment by the Local Agency, the Engineer shall file a list with the Local Agency showing the DBEs used and the services performed. The list shall show the actual dollar amount paid to each DBE that is applicable to the percentage participation established in this Agreement. Failure on the part of the Engineer to achieve the DBE participation specified in

this Agreement may result in sanctions being imposed on the Commission for noncompliance with 49 C.F.R. Part 26 and/or Section 1101(b) of TEA-21. If the total DBE participation is less than the goal amount stated by the MoDOT's External Civil Rights Division, liquidated damages may be assessed to the Engineer.

Therefore, in order to liquidate such damages, the monetary difference between the amount of the DBE goal dollar amount and the amount actually paid to the DBEs for performing a commercially useful function will be deducted from the Engineer's payments as liquidated damages. If this Agreement is awarded with less than the goal amount stated above by MoDOT's External Civil Rights Division, that lesser amount shall become the goal amount and shall be used to determine liquidated damages. No such deduction will be made when, for reasons beyond the control of the Engineer, the DBE goal amount is not met.

7. Documentation of Good Faith Efforts to Meet the DBE Goal: The Agreement goal established by MoDOT's External Civil Rights Division. The Engineer must document the good faith efforts it made to achieve that DBE goal, if the agreed percentage specified is less than the percentage stated. Good faith efforts to meet this DBE goal amount may include such items as, but are not limited to, the following:

A. Attended a meeting scheduled by the Department to inform DBEs of contracting or consulting opportunities.

B. Advertised in general circulation trade association and socially and economically disadvantaged business directed media concerning DBE subcontracting opportunities.

C. Provided written notices to a reasonable number of specific DBEs that their interest in a subconsultant agreement is solicited in sufficient time to allow the DBEs to participate effectively.

D. Followed up on initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested in subconsulting work for this Agreement.

E. Selected portions of the services to be performed by DBEs in order to increase the likelihood of meeting the DBE goal (including, where appropriate, breaking down subconsultant agreements into economically feasible units to facilitate DBE participation).

F. Provided interested DBEs with adequate information about plans, specifications and requirements of this Agreement.

G. Negotiated in good faith with interested DBEs, and not rejecting DBEs as unqualified without sound reasons, based on a thorough investigation of their capabilities.

H. Made efforts to assist interested DBEs in obtaining any bonding, lines of credit or insurance required by the Commission or by the Engineer.

I. Made effective use of the services of available disadvantaged business organizations, minority contractors' groups, disadvantaged business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBE firms.

8. <u>Good Faith Efforts to Obtain DBE Participation</u>: If the Engineer's agreed DBE goal amount as specified is less than the established DBE goal given, then the Engineer certifies that the following good faith efforts were taken by Engineer in an attempt to obtain the level of DBE participation set by MoDOT's External Civil Rights.

Attachment G – Fig. 136.4.15
Conflict of Interest Disclosure Form for LPA/Consultants
Local Federal-aid Transportation Projects

Firm Name (Consultant): Olsson Associates

Project Owner (LPA): City of Willard, Missouri

Project Name: Jackson and Main Street Sidewalks

Project Number: #EN1401

As the LPA and/or consultant for the above local federal-aid transportation project, I have:

1. Reviewed the conflict of interest information found in Missouri's Local Public Agency Manual (EPG 136.4)
2. Reviewed the Conflict of Interest laws, including 23 CFR § 1.33, 49 CFR 18.36.

And, to the best of my knowledge, determined that, for myself, any owner, partner or employee, with my firm or any of my sub-consulting firms providing services for this project, including family members and personal interests of the above persons, there are:

☐ No real or potential conflicts of interest
If no conflicts have been identified, complete and sign this form and submit to LPA

☐ Real conflicts of interest or the potential for conflicts of interest
If a real or potential conflict has been identified, describe on an attached sheet the nature of the conflict, and provide a detailed description of Consultant's proposed mitigation measures (if possible). Complete and sign this form and send it, along with all attachments, to the appropriate MoDOT District Representative, along with the executed engineering services contract.

LPA	Consultant
Printed Name:____________________	Printed Name:____________________
Signature:____________________	Signature:____________________
Date: ____________________	Date: ____________________

AGENDA ITEM #9

9. **Ordinance accepting the concessions contract with Coca Cola for the Parks Department. (2nd Read) Discussion/Vote.**

Sponsored by the Director of Community Services and the City Administrator.

First Reading: 03-23-15 Second Reading: 04-13-15

Council Bill No.: ________ Ordinance No.: ________

AN ORDINANCE

ACCEPTING **the proposal of Ozarks Coca-Cola/Dr. Pepper Bottling Company to provide concessions for the City of Willard Parks Department, and authorizing the Mayor to execute all necessary documents, on behalf of the City of Willard, to accept the proposal ~~and declaring it an emergency~~.**

WHEREAS, the City of Willard has selected Ozarks Coca-Cola/Dr. Pepper Bottling Company to provide said services as itemized in detail in Exhibit A as attached hereto;

NOW THEREFORE, BE IT HEREBY ORDAINED AND RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, GREENE COUNTY, MISSOURI, AS FOLLOWS:

Section 1: That the Mayor, on behalf of the City of Willard, Missouri is hereby authorized to accept the proposal of Ozarks Coca-Cola/Dr. Pepper Bottling Company to provide the services described in Exhibit A.

Section 2: This Ordinance shall be in full force and effect from and after the date of its passage by the Board of Aldermen and approval of the Mayor.

____
Mayor

ATTEST: ____________________, City Clerk

Approved as to form: ______________________________, City Attorney

READ TWO TIMES AND PASSED AT A MEETING OF THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, MISSOURI ON THE _____DAY OF _____2015.

MEMBERS OF THE BOARD OF ALDERMEN:	YES	NO	ABSTAINED
BRADLEY MOWELL	X		
MERIDETH REAVES	X		
DAVID LARIMORE	X		
DAVID ROGGENSEES	X		
MICHAEL BARR	X		
DON LEE			

MEMBERS OF THE BOARD OF ALDERMEN: **FIRST(2^{ND} ') READING**	YES	NO	ABSTAINED
MEREDITH REAVES			
DAVID LARIMORE			
DON LEE			
MICHAEL BARR			
JAMIE BUCKLEY			
LARRY WHITMAN			

AGREEMENT

This Agreement (this "Agreement") is made and entered into this 1st day of April, 2015 (the "Effective Date") by and between Ozarks Coca-Cola/Dr Pepper Bottling Company, a Missouri corporation of Springfield, Missouri ("Ozarks") and the City of Willard, Willard, Missouri (the "City").

In consideration of the mutual promises contained in this Agreement, the parties agree to the following terms.

1. Definitions.

   All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth on Exhibit A attached to this Agreement.

2. Term.

   The term of this Agreement will begin on April 1, 2015 and unless earlier terminated in accordance with the terms hereof, will continue for a period of three (3) years ending on March 31, 2018 (the "Term").

3. Consideration to the City.

   3.1 Subject to the terms of this Agreement, in return for the rights described herein, Ozarks agrees to pay the City the total sum of $6,600 for the entire Term (the "Sponsorship Fee"). The Sponsorship Fee will be paid to the City within 30 days of contract signing.

   3.2 Ozarks further agrees to sell "non-vended" Beverage Products to the City in accordance with the pricing schedule attached hereto as Exhibit B.

4. Consideration of the City.

   4.1 In return for the consideration paid or provided to the City, including, without limitation, the Sponsorship Fee, the City covenants to and agrees with Ozarks as follows:

      4.1.1 The City shall have an exclusive agreement to distribute only Ozarks Coca-Cola/Dr Pepper Bottling Company products as defined in 6.1 below.

      4.1.2 Ozarks shall have exclusive rights with regard to beverage vending and concession sales.

5. <u>Equipment and Service</u>.

5.1 During the Term, Ozarks will, at no cost or expense to the City, loan to the City all Beverage vending equipment (the "Equipment"), which is required in the reasonable opinion of Ozarks to adequately dispense Products.

5.2 It is understood and agreed by the parties hereto that all Equipment is and shall, at all times, remain the sole property of Ozarks and that the City agrees to use its best efforts to permit only employees and agents of Ozarks to remove, open, repair or tamper with the Equipment. In addition, the City agrees to the following relating to the Equipment: (i) upon request, to execute documents evidencing Ozarks' ownership of the Equipment; (ii) upon request, to execute Ozarks' standard form equipment placement agreement, provided that if any of the terms of such equipment placement agreement are in conflict with the terms of this Agreement, then this Agreement will control; (iii) that the Equipment will not be removed from the City locations without the prior written consent of Ozarks; (iv) that the City will not encumber the Equipment in any manner or permit any attachment thereto without the prior written consent of Ozarks; and (v) that the City will be responsible and liable to Ozarks for any loss or damage to the Equipment, reasonable wear and tear excepted, caused by the City's employees or agents.

5.3 Ozarks agrees to provide commercially reasonable, free maintenance and repair service for the Equipment.

6. <u>Exclusive Rights of Ozarks</u>.

6.1 The City agrees that all Beverages sold, distributed, dispensed, or sampled (that is, distributed at no cost) at or on City property during the Term will be Products as defined in Exhibit A. Ozarks and the City agree that the following Products can be available for purchase through the Equipment located on the City property: sparkling, juice drinks, teas, water, isotonics, energy drinks, juices, nutriceuticals, flavored water and enhanced water. The parties agree that the above list is not intended to be an exhaustive listing and that this Agreement shall also apply to new Products that are developed and made available for sale by Ozarks during the Term of this Agreement.

6.2 It is agreed by the parties that no Competitive Products will be sold, distributed, dispensed or sampled at the City or in connection with the City or the City Marks in any way or at any time during the Term.

6.3 The City will use its reasonable, good faith efforts to maximize the sale and distribution of the Products including, but not limited to, the placement of the Products and Equipment in locations, which maximize sales and profit. It is further agreed that Ozarks shall have the right to relocate or remove Products and/or Equipment if, in the opinion of Ozarks, purchases of that particular Product or from that particular item of Equipment are not adequate to support profitability.

7. <u>Exclusive Merchandising Rights of Ozarks</u>.

7.1 At no time during the Term will any Competitive Products of any kind whatsoever be marketed, advertised, merchandised, promoted or sampled in any manner or at any time on City property and/or in connection with the City or the City Marks.

7.2 All athletic concession events shall use twenty (20) ounce plastic non-returnable bottles of Products. Other packages of Products as mutually agreed upon. Fountain is approved for the Willard Aquatics Center only.

8. <u>Termination and Remedies</u>.

8.1 In addition to any other legal or equitable remedy, the City will have the right to terminate this Agreement if at any time:

8.1.1 Ozarks fails to make any payment due under this Agreement, and Ozarks fails to cure and make such payment within ten (10) business days from the date of Ozarks' receipt of written notice of such failure to pay; or

8.1.2 Ozarks breaches any material term or condition of this Agreement, and Ozarks fails to cure such breach within thirty (30) calendar days from the date of Ozarks' receipt of written notice of such breach.

8.2 In addition to any other legal or equitable remedy, Ozarks will have the right to terminate this Agreement if at any time:

8.2.1 The City breaches any material term or condition of this Agreement, and the City fails to cure such breach within thirty (30) calendar days from the date of the City's receipt of written notice of such breach;

8.2.2 Any of the rights granted to Ozarks under this Agreement are materially impaired, restricted, or limited during the Term (including, without limitation, as a result of Ambush Marketing);

8.3 In addition to Ozarks' rights under Section 8.2, if for any reason whatsoever an act or actions occur (including, without limitation, legislative action, action by the Board of the City, action by the administration of the City or otherwise) at any time during the Term which in any material fashion impacts or restricts the ability of customers of the City to access the Products and/or the availability of the Products to the customers of the City, then Ozarks shall have the following rights exercisable by Ozarks at any time during the Term: (1) to substitute the Product or Products to which such access and/or availability has been impacted or restricted for another Product distributed by Ozarks, and/or (2) to terminate this Agreement and receive a refund of a portion of the Sponsorship Fee as provided in Section 8.4 of this Agreement.

8.4 Upon termination of this Agreement for any reason, other than the material default of Ozarks, including, without limitation, a termination of this Agreement pursuant to Section 8.3, the City will, within thirty (30) days of such termination, refund to Ozarks (a) the sum of \$6,600, pro-rated to the date of termination (i.e., \$183.33 for each full month of the thirty-six (36) month period not completed, and (b) any advanced but yet to be earned commissions on the sale of Products from Beverage vending machines located on City propeorty. Ozarks and the City further acknowledge and agree that in the event of a default by Ozarks or the City, the non-defaulting party shall have the right to pursue any and all available remedies at law or in equity, including, without limitation, the right to recover damages and lost profits.

9. Ambush Marketing.

The City recognizes that Ozarks has paid valuable consideration to ensure an exclusive associational relationship with the City and the City Marks with respect to Beverages and that any dilution or diminution of such exclusivity seriously impairs Ozarks' valuable rights. Accordingly, the City will promptly oppose any Ambush Marketing and take all reasonable steps to stop or prevent any Ambush Marketing and to protect the exclusive associational rights granted to Ozarks by the City in this Agreement. In the event any Ambush Marketing occurs during the Term, each party will notify the other party in writing of such activity immediately upon first learning of the same.

10. Representations, Warranties and Covenants.

10.1 The City represents warrants and covenants to Ozarks as follows:

10.1.1 The City has full power and authority to enter into this Agreement and to grant and convey to Ozarks the rights set forth herein.

10.1.2 All necessary approvals for the execution, delivery and performance of this Agreement by the City have been obtained, and this Agreement has been duly executed and delivered by the City and constitutes a legal and binding obligation of the City enforceable in accordance with its terms.

10.1.3 The City has not entered into, and will not enter into during the Term (a) any agreement with any third party which would prevent it from fully complying with the terms and conditions of this Agreement, or (b) any agreement with any third party granting any rights which are inconsistent with the rights granted to Ozarks pursuant to this Agreement, including any agreements with concessionaires or third party food service operators, vending companies, and/or other persons or entities which sell or distribute Beverages.

10.2 Ozarks represents, warrants and covenants to the City as follows:

10.2.1 Ozarks has the full power and authority to enter into and perform this Agreement.

10.2.2 All necessary approvals for the execution, delivery and performance of this Agreement by Ozarks have been obtained, and this Agreement has been duly executed and delivered by Ozarks and constitutes a legal and binding obligation of Ozarks enforceable in accordance with its terms.

10.2.3 That Ozarks will, in accordance with good business practices, perform its obligations hereunder, including, without limitation, providing the Products in a timely fashion and maintaining adequate levels of inventory of Products in the Equipment.

11. Construction of this Agreement.

11.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

11.2 The captions used in this Agreement are for convenience only and will not affect in any way the meaning or interpretation of the provisions set forth herein.

11.3 This Agreement, including the Exhibits attached hereto which are an integral part of this Agreement and are expressly incorporated herein by reference, constitute the final, complete and exclusive understanding and agreement of the parties regarding the subject matter hereof, and supersede all previous communications, representations, agreements, promises or statements, whether oral or written, by or between the parties hereto.

11.4 This Agreement may be amended, modified, or waived, whether in whole or in part, only in a separate writing signed by each party hereto.

11.5 This Agreement may not be assigned or delegated, whether in whole or in part, by either party hereto except with the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, Ozarks shall have the right, without the consent of the City, to assign its rights under this Agreement to any successor of the business of Ozarks. This Agreement shall be binding upon and enforceable against the successors and permitted assigns of the parties hereto.

Each party hereto agrees to promptly provide the other party with written notice of any actual or potential claim, which may be subject to the indemnity required hereunder upon first learning of the same.

12.1 Each party to this Agreement agrees to maintain sufficient insurance to adequately protect its own respective interest. Any stipulated limits of coverage, as may be mutually agreed to by the parties from time to time, will not be construed as a limitation of any potential liability to any other party or parties. Failure to request evidence of such insurance will in no way be construed as a waiver of any party's obligation to maintain the agreed insurance coverage.

12.2 Any notice or other communication hereunder shall be in writing, and shall be sent via registered or certified mail, return receipt requested, overnight courier, or confirmed facsimile transmission, and shall be addressed as set forth below, or to such other address as the respective party will advise the other in writing:

If to Ozarks:

Ozarks Coca-Cola/Dr Pepper Bottling Company
1777 North Packer Road
P.O. Box 11250
Springfield, Missouri 65808-1250
Attention: President
Facsimile: (417) 865-2544

If to the City:

City of Willard
c/o Chief Financial Officer
224 W. Jackson St.
P.O. Box 187
Willard, MO 65781
(417) 742-5301

12.3 The parties are acting under this Agreement as independent contractors and independent employers. Nothing in this Agreement will create or be construed as creating a partnership, joint venture or agency relationship between the parties and no party will have the authority to bind the other party in any respect.

12.4 Except as expressly set forth in this Agreement, no party hereto will obtain, by this Agreement or otherwise, any right, title, or interest in the intellectual property of the other parties (e.g., trademarks, patents, copyrights, trade secrets), nor shall this Agreement give any party the right to use, refer to, or incorporate in marketing or other materials the name, logos, trademarks or copyrights of the other party.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed and delivered as of the Effective Date.

OZARKS COCA-COLA/DR PEPPER
BOTTLING COMPANY

By:________________________________

Its:________________________________

CITY OF WILLARD

By:________________________________

Its:________________________________

ATTEST:

By:__________________________

Its: __________________________

EXHIBIT A

GLOSSARY OF DEFINED TERMS

"City Marks" mean the City's name, and all trademarks, symbols, designs, and other intellectual property associated with the City or that are in existence on the Effective Date or which may be created during the Term and which are owned, licensed or otherwise controlled by the City or its Affiliates.

"Affiliate," means, as to any person or entity, any other person or entity, which is controlled by, controls, or is under common control with such person or entity. The term "control" (including the terms "controlled", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity.

"Ambush Marketing" means any attempt by any third party, without the prior written consent of Ozarks, to associate Competitive Products with the City or the City Marks or to suggest that Competitive Products are endorsed by or associated with the City or the City Marks, in any manner whatsoever, whether by referring directly or indirectly to the City or the City Marks.

"Beverage" or "Beverages" mean all non-alcoholic beverages, whether cold, hot, ambient or frozen, carbonated or noncarbonated, branded or nonbranded, and/or naturally or artificially flavored or sweetened. For the sake of specificity, "Beverages" include, but are not limited to, carbonated soft drinks, frozen or soft frozen beverages, including soft frozen lemonade and fruit juice products consumed through a straw or with a spoon, mixers, flavored or unflavored packaged and/or bottled waters, fruit and/or vegetable juices, fruit and/or vegetable drinks, ready-to-drink chocolate based drinks, ready-to-drink tea and coffee drinks, sports/isotonic drinks, and all beverage bases from which the above can be prepared (such as bases, concentrates, syrups, powders, and/or crystals). "Beverages" do not include the following: nonbranded hot coffees or teas freshly brewed on site, nonbranded juice freshly squeezed on-site, milk, flavored milk, non-alcoholic beer or wine or tap water.

"Bona Fide Offer" means a proposed agreement concerning rights and obligations similar to those contained herein, which agreement, if executed by the City and the third party, would be legally binding.

"City property" means each and every property, building and facility used, owned or operated by the City, as now or hereafter established, including, without limitation, administrative offices, storage and maintenance facilities, grounds, parking lots and other locations which comprise or are a part of or associated with the City, including all concession areas, vending locations and athletic facilities, whether currently existing or built or acquired during the Term.

"Competitive Products" mean all Beverages other than Products.

"Packaged" means all Beverages packaged in bottles, cans or other containers."Products" mean the Beverages, packaged or otherwise, marketed under trademarks or brand names owned or controlled by, or licensed for use to, Ozarks.

CITY OF WILLARD
QUOTATION FORM – PROPOSAL
RFQ #02-2015PK

SUBMITTED BY Ozarks Coca-Cola/Dr. Pepper
Company Name

Pursuant to and in accordance with the above stated Request for Quotation, the undersigned hereby declares that they have examined the RFQ documents and specifications for the item(s) listed below.
The undersigned proposes and agrees, if their Bid is accepted to furnish the item(s) submitted below, including delivery to Willard, Missouri in accordance with the delivery schedule indicated below and according to the prices products/services information submitted.

Contract Length

Product (Bottled)	#1 year	#2 year	#3 year Price per case
Cola 20oz	17.47	17.99	18.53
Diet Cola 20oz	17.47	17.99	18.53
Lemon Lime 20oz	17.47	17.99	18.53
Root Beer 20oz	17.47	17.99	18.53
Lemonade 20oz	17.47	17.99	18.53
Water 20oz	14.00	14.42	14.85
Apple Juice 10oz	14.56	15.00	15.45
Orange Juice 10oz	14.56	15.00	15.45
Orange Sports Drink 20oz	18.01	18.55	19.11
Purple Sports Drink 20oz	18.01	18.55	19.11
Red Sports Drink 20oz	18.01	18.55	19.11
Blue Sports Drink 20oz	18.01	18.55	19.11

Product (Fountain)			
Cola 5g	75.25	78.26	81.39
Diet Cola 5g	75.25	78.26	81.39
Lemon Lime 5g	75.25	78.26	81.39
Root Beer 2.5g	40.52	42.14	43.83
Lemonade 2.5g	40.52	42.14	43.83
Water	n/a	n/a	n/a
Orange Sports Drink 2.5g	40.52	42.14	43.83
Purple Sports Drink 2.5g	40.52	42.14	43.83
Red Sports Drink 2.5g	40.52	42.14	43.83
Blue Sports Drink 2.5g	40.52	42.14	43.83
Orange Sports Drink 2.5g	40.52	42.14	43.83
Purple Sports Drink 2.5g	40.52	42.14	43.83
Red Sports Drink 2.5g	40.52	42.14	43.83
Blue Sports Drink 2.5g	40.52	42.14	43.83

RETURN THIS PAGE

Products (paper/disposable)

Cups 24oz. (1,000)	46.76	48.16	49.61
Lids (2,000)	25.20	25.96	26.73
Straws	n/a		
Cash Sponsorship (	$2,200	$4,400	$6,600
Incentives available		$5,000	$10,000
		Scoreboards	Scoreboards, Gym Floor, Etc

DELIVERY: F.O.B. DESTINATION

ACCEPT VISA P-CARD: YES ✓ NO____

Prompt Payment Discount n/a %____Days, Net ____Days

RETURN THIS PAGE

AGENDA ITEM #10

10. **Ordinance revising Ordinance #130610 Order of Business. (1st Read) Discussion/Vote.**

Sponsored by the City Clerk and the City Administrator.

FIRST READING: 04-13-2015 **SECOND READING: ________**

BILL NO.______ **ORDINANCE NO.________**

AN ORDINANCE

AMENDING Title I, Government Code, Chapter 110, Mayor and Board of Aldermen, Article II, Order of Business, Section 110.090 Order of Business of the Willard Municipal Code, by amending Section 110.090, of the Municipal Code of the City of Willard.

WHEREAS, the Board of Aldermen of the City of Willard desires to amend Section 110.090 of the Municipal Code of the City of Willard, and

NOW THEREFORE, BE IT HEREBY ORDAINED AND RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, GREENE COUNTY, MISSOURI, AS FOLLOWS:

Section 1: The City does hereby amend, Title I, Government Code, Chapter 110, Mayor and Board of Aldermen, Article II, Order of Business, Section 110.090 Order of Business by amending Section 110.090 as follows:

SECTION 110.090: ORDER OF BUSINESS

The Order of Business at meetings of the Board of Aldermen shall be set by an agenda, drafted and submitted by the City Clerk and approved by the Mayor. The agenda may change from the previous meeting based on issues relevant to the Board of Aldermen, but will include:

1. Pledge of Allegiance.

2. Call the meeting to order.

3. Roll call of members.

4. **Reserved.**

5. ~~Agenda amendments/approval of agenda,~~ **Consent Agenda. If there are questions/ amendments on an item, the item will be removed from the consent agenda and discussed /voted on following approval of the consent agenda.**
    - **Agenda amendments/Approval of agenda.**
    - **Approval of previous minutes.**
    - **Monthly financial reports.**
    - **Department head reports.**

~~6. Approve minutes.~~

7. Citizens input.

~~8. Monthly financial reports.~~

~~9. Department Head Reports.~~

10. Ordinances/Bills and Other Actions taken by the Board.

11. New Business.

12. Old Business.

13. Adjourn Meeting.

NOTE: Language that is **<u>Bold and Underlined</u>** has been added and language that has been [~~struck through and bracketed~~] shall be deleted.

<u>Section 2:</u> Savings Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, nor any cause or causes of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance. In the event of any conflict between this ordinance and any other law, regulation or ordinance, the more restrictive shall apply.

<u>Section 3:</u> Severability Clause. If any section, subdivision, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Aldermen hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

<u>Section 4:</u> This Ordinance shall be in full force and effect from and after the date of its passage by the Board of Aldermen and approval of the Mayor.

READ TWO TIMES AND PASSED AT A MEETING OF THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, MISSOURI ON THE ____ DAY OF __________________, 2015.

Approved as to form: ________________________________
Ken Reynolds, City Attorney

ATTEST: ______________________, City Clerk

______________________________, Mayor

MEMBERS OF THE BOARD OF ALDERMEN: **FIRST (1ST) READING**	YES	NO	ABSTAINED
______________________ MEREDITH REAVES	____	____	____
______________________ DAVID LARIMORE	____	____	____
______________________ DON LEE	____	____	____
______________________ MICHAEL BARR	____	____	____
______________________ JAMIE BUCKLEY	____	____	____
______________________ LARRY WHITMAN	____	____	____

AGENDA ITEM # 11

11. Ordinance accepting the contract with Monkey Business for Freedom Fest 2015. (1st Read) Discussion/Vote.

Sponsored by the Community Services Director and the City Administrator.

First Reading: 04-13-2015 Second Reading: _______________

Council Bill No.: __________ Ordinance No.: ____________

AN ORDINANCE

ACCEPTING **the proposal of Mac Entertainment LLC d/b/a Monkey Business Events to provide rental equipment for the City of Willard Recreation Center, and authorizing the Mayor to execute all necessary documents, on behalf of the City of Willard, to accept the proposal.**

WHEREAS, the City of Willard has selected Mac Entertainment LLC d/b/a Monkey Business Events to provide said services as itemized in detail in Exhibit A as attached hereto;

NOW THEREFORE, BE IT HEREBY ORDAINED AND RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, GREENE COUNTY, MISSOURI, AS FOLLOWS:

Section 1: That the Mayor, on behalf of the City of Willard, Missouri is hereby authorized to accept the proposal of Mac Entertainment LLC d/b/a Monkey Business Events to provide the services described in Exhibit A.

Section 2: This Ordinance shall be in full force and effect from and after the date of its passage by the Board of Aldermen and approval of the Mayor.

____
Mayor

ATTEST: _________________________, City Clerk

Approved as to form: ____, City Attorney

READ TWO TIMES AND PASSED AT A MEETING OF THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, MISSOURI ON THE ______DAY OF ______2015.

MEMBERS OF THE BOARD OF ALDERMEN: **FIRST (1ST) READING**	YES	NO	ABSTAINED
______________________ MEREDITH REAVES	_____	_____	_____
______________________ DAVID LARIMORE	_____	_____	_____
______________________ DON LEE	_____	_____	_____
______________________ MICHAEL BARR	_____	_____	_____
______________________ JAMIE BUCKLEY	_____	_____	_____
______________________ LARRY WHITMAN	_____	_____	_____

MONKEY BUSINESS EVENTS
2733 East Battlefield #248
Springfield, MO 65804

EQUIPMENT RENTAL/SERVICES AGREEMENT

1. This contract is for the equipment/service(s) listed in attachment labeled Attachment A. to be provided by **Mac Entertainment LLC d/b/a Monkey Business Events** ("Provider") to the Customer listed below, pursuant to the terms set forth herein.

2. **Customer**:

	Name:	CITY OF WILLARD – AMANDA SANDELL
	Address:	CITY PARK
	Phone:	417-742-5380

3. **Event Details**: The terms, location, date, and times of the contract shall be listed in the attachment labeled Attachment B.

4. **Cost:** Customer shall pay Provider an amount equaling the total listed in the following attachment labeled Attachment C for the equipment/services provided. A payment in full of the costs stated on Attachment C shall be payable no later than 1 week prior to the Event Date. Customer understands and agrees that there are No refunds if cancelled by Customer.

5. **Condition/Inspection**: Customer agrees to inspect all equipment at the time of delivery and immediately notify Provider of any deficiencies prior to its use so that Provider may inspect. Customer agrees to return all equipment in the same condition as it was provided and will pay for all damage to, theft or other loss of, all equipment.

6. **Warranty/Damages Disclaimer**: Customer agrees all equipment is provided on an "**AS-IS**" basis, and Provider makes no express or implied warranties as to the condition or performance of any equipment or other items provided under this contract. The only warranties applicable are those provided by the manufacturer on the equipment or instruction manual. **ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS EXPRESSLY DISCLAIMED. IN NO EVENT SHALL PROVIDER BE RESPONSIBLE FOR CONSEQUENTIAL DAMAGES.**

7. **Risks of Use**: Customer understands that use of the equipment can result in physical injury, paralysis, and death, and property damage. Customer agrees to read and comply with all instructions located on equipment, and comply with the policies/rules attached hereto.

8. **Liability Insurance**: Provider shall carry liability insurance to cover all products and services that Provider staffs. Any product or service not provided by Provider will not be covered by Provider's insurance, and Customer agrees to provide liability insurance coverage of the use of all equipment by Customer and its guests, agents and invitees.

9. **Indemnification** ~~Customer agrees to indemnify and hold Provider harmless from any and all claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees and expenses, which arise directly or indirectly from any injury or death to person or property damage resulting from or in connection with the use of the equipment, including but not limited to the manufacture, selection, delivery, possession, use, operation or return of the equipment, except to the extent Provider is operating the equipment and is determined to be negligent by a court of law.~~

10. **No Joint Venture:** Nothing in this contract shall be construed by any party as creating an agency, relationship, partnership, or joint venture.

11. **Merger**: This contract and attachments contain the entire agreement of the parties with respect to the transaction. No modification or addition to its terms shall be valid unless by signed written agreement.

12. **Supervision/Responsibility. The undersigned Customer shall be responsible for the proper usage by, and supervision and safety of, all users of Provider's equipment.**

Execution and Signatures: BY SIGNING BELOW, THE UNDERSIGNED CUSTOMER STATES AND AGREES: I HAVE READ AND UNDERSTAND THE ENTIRE CONTENTS OF THIS AGREEMENT INCLUDING ALL ATTACHMENTS, AND AGREE TO BE BOUND BY THEM, AND FURTHER WARRANT AND REPRESENT THAT I AM EITHER THE CUSTOMER NAMED ABOVE, OR AM AUTHORIZED AND EMPOWERED TO ACCEPT DELIVERY OF THE EQUIPMENT AND TO SIGN THIS AGREEMENT ON THEIR BEHALF AS THEIR AGENT. FURTHERMORE, I AGREE THAT I AM ALSO BINDING MYSELF PERSONALLY AS AN ADDITIONAL PARTY TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

Dated this _____ day of __________________ 2015

CUSTOMER:

Print: ______________________________

Sign: ______________________________

Accepted by Provider:

MAC Entertainment LLC

By: KENSON GOFF

Position: MANAGER

Attachment A

Monkey Business Events will provide:

ITEMIZED EQUIPMENT/SERVICE:	FEE:
FARM YARD - TODDLER	
ADVENTURE GALLEY SLIDE – DRY	
FROZEN COMBO	
40' OBSTACLE COURSE	
BUNGEE RUN HOOP SHOOTOUT	
*NO ATTENDANTS PROVIDED	
*NO GENERATORS PROVIDED	

TOTAL FEE $ 1,450.00

*Customer is responsible for providing an adult attendant for each item listed above, for safety and supervision. No staff will be supplied, unless requested and listed along with each item above.

*Customer is also responsible for electrical outlets to operate each item list above. No generators will be supplied, unless requested and listed above.

Initial: _____

Attachment B

Agreement Terms

Event Location: CITY OF WILLARD
CITY PARK

Event Date: 6-27-2015

Event Time: 12:00-9:00 PM

Terms: **$1,450.00** **See Attachment C**

Initial: _____

Attachment C

Cost
$1,450.00

A payment in the amount of $725.00 shall be due upon the signing of this contract, with a final payment of $725.00 due no later than 1 week before event.

**Price includes, Delivery, Set up and Tear down.*

**Once this agreement is signed it will be considered an agreement/contract between equipment/service recipient and the equipment/service provider. Once payment is received your event will be scheduled.*

Initial: _____

POLICIES & RULES:

1. EVENT LOCATION AREA MUST BE FLAT, DRY AND CLEAR OF ROCKS OR ANY OTHER DEBRIS TO ENSURE THE SAFETY OF PARTICIPANTS. A 20-FOOT OVERHEAD CLEARANCE IS NEEDED, AS WELL AS A 5FT OR MORE PERIMETER AROUND THE UNITS. IT IS THE CUSTOMER'S RESPONSIBILITY TO CLEAN AREA PRIOR TO SET UP.

2. THE CUSTOMER ASSUMES FULL RESPONSIBILITY FOR ANY DAMAGE OR LOSS TO EQUIPMENT WHILE AT CUSTOMER'S DESIGNATED LOCATION.

3. THE CUSTOMER IS RESPONSIBLE FOR PROVIDING POWER TO OPERATE BLOWER UNITS AND WATER FOR THE WET UNITS. A GROUNDED 3-PRONG OUTLET CAN BE USED AND MUST BE WITHIN 100' OF THE UNIT. A 100' HOSE CAN BE USED AND MUST BE WITHIN 100' OF THE UNIT.

4. EQUIPMENT MUST BE UNDER ADULT SUPERVISION AT ALL TIMES ENSURING THAT IT IS SAFE AND WITHIN RECOMMENDED MANUFACTURER'S GUIDELINES FOUND ON THE ATTACHED SAFETY SIGN OF EACH UNIT AS TO NUMBERS OF USERS, AGES AND SIZES.

5. SHOES, GLASSES, JEWELRY, BADGES, HAIR BARETTES, AND ANY OTHER OBJECT WHICH MAY CAUSE INJURY AND/OR DAMAGE TO PERSON OR EQUIPMENT MUST BE REMOVED PRIOR TO ENTERING.

6. TO AVOID ANY INJURIES, NO FLIPS, NO SOMERSAULTS, NO WRESTLING, NO ROUGH HOUSING, NO PUSHING, NO COLLIDING, OR ANY FORM OF BODILY CONTACT IS ALLOWED.

7. NO AEROSOLS (SUCH AS "SILLY STRING"-TYPE PRODUCTS), FOOD, DRINK, CANDY, CHEWING GUM OR ANY OTHER STICKY SUBSTANCE IS ALLOWED IN OR AROUND THE EQUIPMENT.

8. ABSOLUTELY NO USER UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR ANY INTOXICATING DRUGS SHOULD USE THE EQUIPMENT.

9. NO SMOKING OR BARBEQUE UNITS WITHIN 15 FEET OF THE EQUIPMENT.

10. DO NOT ALLOW ANYONE TO BOUNCE ON THE FRONT SAFETY STEP OR ANYWHERE ON THE EXTERIOR OF THE EQUIPMENT.

11. DO NOT ALLOW INDIVIDUALS TO CLIMB, HANG, OR SIT ON INFLATABLE WALLS.

12. KEEP EQUIPMENT AWAY FROM SWIMMING POOLS.

13. SUBJECTS OVER THE AGE OF 15 YEARS SHOULD NOT USE THE EQUIPMENT UNLESS THE UNIT IS DESIGNED FOR ADULTS.

Initial: _____

14. DO NOT FASTEN OR TIE ANYTHING TO THE EQUIPMENT. ANY DAMAGE OR EXCESSIVE DEBRIS WILL RESULT IN A REPAIR OR CLEANING CHARGE TO YOU THE CUSTOMER.

15. IN CASE OF INCLEMENT WEATHER, DEFLATE ANY INFLATABLE EQUIPMENT FOR RAIN AND/OR HIGH WINDS. ALLOW THE UNIT TO DRY WHEN RE-INFLATATED AS THE VINYL SURFACE CAN BE EXTREMELY SLIPPERY WHEN WET.

16. TO AVOID NECK, BACK AND OTHER BODILY INJURIES - NO WRESTLING, FLIPS OR ROUGH HOUSING IS PERMITTED IN, ON OR FROM UNITS. PARTICIPANTS SHALL NOT JUMP FROM PLATFORMS ONTO THE SLIDING AREAS, CLIMB THE NETTING OR ROOFS OR BOUNCE AGAINST THE SIDES OR NEAR THE DOORWAY OF THE UNITS.

17. ANYONE WITH HEAD, BACK, NECK OR ANY MUSCULAR-SKELETAL INJURIES OR DISABILITIES, PREGNANT WOMEN AND OTHERS WHO MAY BE SUSCEPTIBLE TO INJURY FROM FALLS BUMPS OR BOUNCING ARE NOT PERMITTED IN THE UNITS AT ANY TIME.

18. DO NOT ALLOW OLDER CHILDREN TO JUMP WITH YOUNGER CHILDREN.

19. IF THE UNITS LOSE POWER OR BEGIN TO DEFLATE DURING OPERATION OR THERE IS ANY REASON TO STOP THE UNITS' USE, THE ADULT SUPERVISOR SHOULD IMMEDIATELY ASSIST PARTICIPANTS WITH SAFE EVACUATION FROM UNITS

20. UNITS MUST BE SECURED TO THE GROUND AT ALL TIMES TO PREVENT TIPPING OR INJURY. AT NO TIME SHOULD THE UNITS BE REMOVED FROM INSTALLED LOCATION.

Initial: _____

AGENDA ITEM # 12

12. Ordinance accepting the 2015 Codification.
(2nd Read) Discussion/Vote.

Sponsored by the City Clerk and the City Administrator.

BILL NO. ___________ **ORD. NO. ___________**

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF WILLARD, COUNTY OF GREENE, STATE OF MISSOURI; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS HEREIN EXPRESSLY PROVIDED; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE OF ORDINANCES; PROVIDING PENALTY FOR THE VIOLATION THEREOF; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE

Be it ordained by the Board of Aldermen of the City of Willard, County of Greene, State of Missouri, as follows:

Section 1. Approval, Adoption and Enactment of Code.

Pursuant to Section 71.943 of the Revised Statutes of Missouri, the codification of ordinances, as set out in Titles I through VII, each inclusive, of the "Code of Ordinances of the City of Willard, County of Greene, State of Missouri," is hereby adopted and enacted as the "Code of Ordinances of the City of Willard"; which shall supersede all other general and permanent ordinances of the City passed on or before December 8, 2014, to the extent provided in Section 3 hereof.

Section 2. When Code Provisions Effective.

All provisions of such Code shall be in full force and effect from and after the effective date of this ordinance as set forth herein.

Section 3. Repeal of Legislation Not Contained in Code; Legislation Saved From Repeal; Matters Not Affected By Repeal.

A. All ordinances of a general and permanent nature of the City adopted on final passage on or before December 8, 2014, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of this ordinance, except those which may be specifically excepted by separate ordinance, and except the following which are hereby continued in full force and effect, unless specifically repealed by separate ordinance:

   1. Ordinances promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds or notes of the City or any other evidence of the City 's indebtedness, or authorizing any contract or obligation assumed by the City.

   2. Ordinances levying taxes or making special assessments.

   3. Ordinances appropriating funds or establishing salaries and compensation, and providing for expenses.

   4. Ordinances granting franchises or rights to any person, firm or corporation.

5. Ordinances relating to the dedication, opening, closing, naming, establishment of grades, improvement, altering, paving, widening or vacating of streets, alleys, sidewalks or public places.

6. Ordinances authorizing or relating to particular public improvements.

7. Ordinances respecting the conveyances or acceptance of real property or easements in real property.

8. Ordinances dedicating, accepting or vacating any plat or subdivision in the City or any part thereof, or providing regulations for the same.

9. Ordinances annexing property to the City.

10. All zoning and subdivision ordinances not specifically repealed and not included herein.

11. Ordinances establishing TIF districts or redevelopment districts.

12. Ordinances relating to traffic schedules (e.g., stop signs, parking limits, etc.).

13. All ordinances relating to personnel regulations (e.g., pensions, retirement, job descriptions and insurance, etc.).

14. Ordinances authorizing the establishment of industrial development corporations.

15. Ordinances establishing tax rates for the City.

B. The repeal provided for in this Section shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

C. The repeal provided for in this Section shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to such date.

Section 4. Amendments To Code.

Any and all additions and amendments to such Code when passed in such form as to indicate the intention of the Board of Aldermen to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances of the City of Willard" shall be understood and intended to include such additions and amendments.

Section 5. Violations and Penalties.

A. Except as hereinafter provided, whenever in any rule, regulation or order promulgated pursuant to such ordinances of the City, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such City ordinance, rule, regulation or order doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such ordinance of the City, or of any rule, regulation or order promulgated pursuant to such City ordinance, shall be punished by a fine of not less than five dollars ($5.00) and not more than five hundred dollars ($500.00) or by imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment.

B. Whenever any provision of the Revised Statutes of Missouri or other Statute of the State limits the authority of the City to punish the violation of any particular provision of these ordinances or rules, regulations or orders promulgated pursuant thereto to a fine of less amount than that provided in this Section or imprisonment for a shorter term than that provided in this Section, the violation of such particular provision of these ordinances or rules, regulations or orders shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized, or by both such fine and imprisonment.

C. Whenever any provision of the Revised Statutes of Missouri or other Statute of the State establishes a penalty differing from that provided by this Section for an offense similar to any offense established by these ordinances, rules, regulations or other orders of the City, the violation of such City law, ordinance, rule, regulation or order shall be punished by the fine or imprisonment established for such similar offense by such State law.

D. Each day any violation of these ordinances, rules, regulations or orders promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.

E. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

Section 6. Applicability of General Penalty.

In case of the amendment by the Board of Aldermen of any Section of such Code for which a penalty is not provided, the general penalty as provided in Section 5 of this ordinance shall apply to the Section as amended; or in case such amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another Section in the same Chapter, the penalty so provided in such other Section shall be held to relate to the Section so amended, unless such penalty is specifically repealed therein.

Section 7. Filing of Copy of Code; Codes To Be Kept Up-To-Date.

A copy of such Code shall be kept on file in the office of the City Clerk, preserved in loose-leaf form or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk, or someone authorized by said officer, to insert in their designated places all amendments and all ordinances or resolutions which indicate the intention of the Board of Aldermen to make the same part of such Code when the same have been printed or reprinted in page form and to extract from such Code all provisions which from time to time may be repealed by the Board of Aldermen. This copy of such Code shall be available for all persons desiring to examine the same.

Section 8. Altering or Tampering With Code; Violations and Penalties.

It shall be unlawful for any person to change or alter by additions or deletions any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Willard to be misrepresented thereby. Any person violating this Section shall be punished as provided in Section 5 of this ordinance.

Section 9. Severability.

It is hereby declared to be the intention of the Board of Aldermen that the Sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or Section of this ordinance or the Code hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this ordinance or the Code hereby adopted.

Section 10. Effective Date.

This ordinance and the Code adopted hereby shall become effective _______________, 20___.

PASSED by the Board of Aldermen of the City of Willard this _____ day of __________________ 20____.

APPROVED by the Mayor of the City of Willard this _____ day of __________________ 20____.

____
Mayor of the City of Willard

ATTEST:

____
City Clerk

MEMBERS OF THE BOARD OF ALDERMEN: **FIRST(1st) READING**	YES	NO	ABSTAINED
DAVID ROGGENSEES	X		
DAVID LARIMORE	X		
BRADLEY MOWELL		X	
MICHAEL BARR	X		
MEREDITH REAVES	X		
DON LEE			

MEMBERS OF THE BOARD OF ALDERMEN: **FIRST (2^{ND}) READING**	YES	NO	ABSTAINED
__________ MEREDITH REAVES	____	____	____
__________ DAVID LARIMORE	____	____	____
__________ DON LEE	____	____	____
__________ MICHAEL BARR	____	____	____
__________ JAMIE BUCKLEY	____	____	____
__________ LARRY WHITMAN	____	____	____

City of Willard
2014 Statutory Updates Incorporated During Supplement #12

The following sections of the Code have been updated with the 2014 statutory material. All revised sections will be in effect following the City's adoption of the Code.

Section/Subsection of the Code	Description of the Revision Based on State Law Change	Per RSMo. Section
105.040	The statutory reference was revised to read "115.342, RSMo." to account for the repeal of former 115.346, RSMo., and the inclusion of municipal taxes in 115.342.	115.342
120.150(A)	Exception language was added at the beginning of the Section, and the term "Division of Workers Compensation" was revised to read "Department of Public Safety."	610.120
210.223	Section was rewritten to match new Statute regarding funeral protests.	574.160
210.250(A)(8)	New Subsection was added to reflect new statutory subsection regarding possession of a firearm while knowingly in possession of a felony-violation controlled substance.	571.030, Subs. 1(11)
210.250(B)(8)	Reference to "Board of Public Commissioners under Section 84.340, RSMo." was revised to read "Department of Public Safety under Section 590.750, RSMo."	571.030, Subs. 2(8)
210.250(B)(10)	Subsection was revised to add the words "or any person appointed by a court to be a special prosecutor."	571.030, Subs. 2(10)
210.250(B)(12)	Subsection was revised to add the words "issued prior to August 28, 2013, or a valid concealed carry permit."	571.030, Subs. 2(12)
210.250(C)	Subsection was revised to change the age from 21 to 19 for the exception to carrying a concealed weapon if transporting a concealable firearm in the passenger compartment of a motor vehicle.	571.030, Subs. 3
210.280(A)(10)	Subsection was revised to include an exception for carrying a firearm in schools if the person is a teacher or administrator who is designated as a school protection officer.	571.107, Subs. 1(10)
210.310(C)	New Subsection was added to reflect new statutory subsection regarding tenants.	569.130, Subs. 3
210.610 through 210.670	Article XIII was amended to revise references throughout to "tobacco" to also include "alternative nicotine products" and "vapor products"; and to add definitions of those terms as well as "center of youth activities."	407.925, 407.927, 407.929, 407.931, 407.933 and 407.934
300.010	The definition of "recreational off-highway vehicle" was revised by changing the parameters for the width of said vehicle and deleting the phrase "with a non-straddle seat and steering wheel."	301.010

AGENDA ITEM # 13

13. Ordinance accepting the Department of Natural Resources Source water Protection Grant.

(1st Read) Discussion/Vote.

Sponsored by the Director of Development and the City Administrator.

First Reading: 04-13-2015 Second Reading:

Council Bill No. Ordinance No.

AN ORDINANCE

AUTHORIZING AND ACCEPTING THE DEPARTMENT OF NATURAL RESOURCES SOURCE WATER PROTECTION DEVELOPMENT AND IMPLEMENTATION GRANT

WHEREAS, the City of Willard, MO had previously applied for said funding in order to both purchase and install security fencing equipment around one (1) of the City's wellhead sites; and,

WHEREAS, the Department of Natural Resources on March 23, 2015 had formally notified the City that said funding had been approved for that proposed project in an amount up to fifteen thousand nine hundred and fifty dollars ($15,950.00); and,

WHEREAS, the City of Willard has agreed to fund the required match of three thousand dollars ($3,000.00).

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

Section 1: The Mayor is authorized to accept and enter into the agreement authorizing and accepting the Department of Natural Resources Source Water Protection Development and Implementation Grant for the purchase and installation of security fencing.

Section 2: This ordinance shall be in full force and effect from and after the date of its passage by the Board of Aldermen and approval by the Mayor.

READ TWO (2) TIMES AT A MEETING OF THE BOARD OF ALDERMEN OF THE CITY OF WILLARD, MISSOURI ON THE ______ DAY OF ______________, 2015.

Approved as to form: ____
City Attorney

ATTEST: ________________________, City Clerk

___________________________________, Mayor

MEMBERS OF THE BOARD OF ALDERMEN: **FIRST (1ST) READING**	YES	NO	ABSTAINED
MEREDITH REAVES			
DAVID LARIMORE			
DON LEE			
MICHAEL BARR			
JAMIE BUCKLEY			
LARRY WHITMAN			

MISSOURI DEPARTMENT OF NATURAL RESOURCES
FINANCIAL ASSISTANCE AGREEMENT

Under the authority of and subject to pertinent legislation, regulations and policies applicable to Section 1452(g) and 1452(k) of the Safe Drinking Water Act

1. Recipient (Name, Address) City of Willard 224 West Jackson Street PO Box 187 Willard, MO 65781	2. Project Number: SWPDI15-DWSA-MO5010860 3. Budget Period: Date of Department Signature through 6/30/2015 4. Project Period: Date of Department Signature through 6/01/2015
5. Recipient Project Manager Randy Brown 417-742-5308	6. Type of Assistance (indicate by X) New Award __X_____ Amendment ______
7. State Project Manager Ken Tomlin Telephone No. 573-526-0269	8. Amendment ID ______________________________

9. Project Title and Description: Source Water Initiative Phase 3 Identified Action Plan; project to install security fencing around a municipal wellhead, plug one abandoned domestic well and promote the plugging of abandoned wells.

10. Source of Funding/Year:
Drinking Water State Revolving Funds Local and Other Assistance set-asides (FFY13)

11. Project Funding:

	Amount	Percent
Initial Award	$15,950	84%
Initial Recipient Match	$3,000	16%
Total Project Cost	$18,950	100%

12. Amendment (describe)

13. The recipient agrees to administer this agreement in accordance with:
   a. All applicable federal and state regulations including but not limited to Section 1452(g) and 1452(k) of the Safe Drinking Water Act
   b. Applicable program guidelines: CFDA Code: 66.468______________________________
   c. Recipient application as negotiated ______________________________
   d. Detailed Scope of Work (Attachment #__1__)
   e. Budget Plan (Attachment #_____)
   f. General Terms and Conditions (Attachment #__2__)
   g. Special Conditions (Attachment # _____)
   h. Public Law ______________ (Attachment # _____)
   i. Suspension/Debarment (Attachment # _____)
   j. Certificate Regarding Lobbying (Attachment # _____)
   k. Publications (Attachment # _____)
   l. Invoice (Attachment # _____)
   m. EPA MBE/WBE Utilization (Attachment # _____)

14. The assistance as described herein is hereby offered and accepted effective upon signature of authorized officials and on the date indicated in Parts 3 and 4 above.

MISSOURI DEPARTMENT OF NATURAL RESOURCES

Department Director or Designee (typed)	Signature	Date
Sara Parker Pauley	Todd Aspell for SPP	3/23/2015

RECIPIENT ORGANIZATION: City of Willard (DUNS #09-135-7616)

Name and Title (typed)	Signature	Date
Mayor		

MISSOURI DEPARTMENT OF NATURAL RESOURCES
FINANCIAL ASSISTANCE AGREEMENT

Under the authority of and subject to pertinent legislation, regulations and policies applicable to Section 1452(g) and 1452(k) of the Safe Drinking Water Act

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5. Recipient Project Manager Randy Brown 417-742-5308	6. Type of Assistance (indicate by X) New Award __X____ Amendment ______
7. State Project Manager Ken Tomlin Telephone No. 573-526-0269	8. Amendment ID __________

9. Project Title and Description: Source Water Initiative Phase 3 Identified Action Plan; project to install security fencing around a municipal wellhead, plug one abandoned domestic well and promote the plugging of abandoned wells.

10. Source of Funding/Year:
Drinking Water State Revolving Funds Local and Other Assistance set-asides (FFY13)

11. Project Funding:

	Amount	Percent
Initial Award	$15,950	84%
Initial Recipient Match	$3,000	16%
Total Project Cost	$18,950	100%

12. Amendment (describe)

13. The recipient agrees to administer this agreement in accordance with:
a. All applicable federal and state regulations including but not limited to Section 1452(g) and 1452(k) of the Safe Drinking Water Act
b. Applicable program guidelines: CFDA Code: 66.468
c. Recipient application as negotiated
d. Detailed Scope of Work (Attachment # 1)
e. Budget Plan (Attachment # ____)
f. General Terms and Conditions (Attachment # 2)
g. Special Conditions (Attachment # ____)
h. Public Law ________ (Attachment # ____)
i. Suspension/Debarment (Attachment # ____)
j. Certificate Regarding Lobbying (Attachment # ____)
k. Publications (Attachment # ____)
l. Invoice (Attachment # ____)
m. EPA MBE/WBE Utilization (Attachment # ____)

14. The assistance as described herein is hereby offered and accepted effective upon signature of authorized officials and on the date indicated in Parts 3 and 4 above.

MISSOURI DEPARTMENT OF NATURAL RESOURCES

Department Director or Designee (typed)	Signature	Date
Sara Parker Pauley	Todd Sappell for SPP	3/23/2015

RECIPIENT ORGANIZATION: City of Willard (DUNS #09-135-7616)

Name and Title (typed)	Signature	Date
Mayor		

SOURCE WATER PROTECTION DEVELOPMENT AND IMPLEMENTATION PROJECT FUNDING

SCOPE OF WORK

The purpose of the Source Water Protection Program, administered by the Public Drinking Water Branch (PDWB), is to assist community public water systems with planning, development and implementation of best management practices that are proven to increase protection against additional contamination in or near source water areas (the areas proximal to a groundwater well or surface water intake). An additional purpose of this funding is to promote participation with our voluntary Source Water Protection Program. Community public water systems in Missouri are not required to participate with this program to maintain compliance with state and federal drinking water standards; however, participating systems and the citizens they serve can benefit from funding opportunities such as this by obtaining financial assistance for related activities and by promoting awareness and perception of the factors and variables that may affect the quality of any community's raw water source.

The specific goal of this Source Water Protection Development and Implementation project is to secure a municipal wellhead protection area with security fencing, to plug one abandoned domestic well and to develop public information/education materials in regard to abandoned wells. Estimated total costs to complete the project are $18,950 and Willard is contributing $3,000 in matching funds. Any project costs that exceed this award amount are the responsibility of the city of Willard.

Estimated project costs:

- Wellhead security:
  - Completion of the security fencing project is estimated to cost approximately $18,200, with the Department of Natural Resources contributing up to $15,200 in reimbursement funds and Willard contributing $3,000 in matching funds. The award includes $15,000 for contractual work to secure and install the fencing and $200 for materials and supplies (post and signage denoting sensitive area).
- Well plugging and public information:
  - Estimated costs to plug one abandoned domestic well are $300 in contractual labor and $400 for gravel, bentonite and concrete. An additional $50 is estimated for the creation of public information materials regarding the plugging of abandoned wells.

Reimbursement will be made for eligible project expenses as described in the preceding paragraph upon completion of the project and receipt of required documentation. If necessary, an amended application can be submitted to the Department of Natural Resources, Public Drinking Water Branch; however, requests to amend this award must be submitted to the department no later than one month prior to the end of the effective project period (May 1, 2015).

BUDGET

Item #	Item	Source Water Protection Project Funding
1	Contractual	$15,300
2	Materials/Supplies	$600
3	Information/Education	$50
4	Match	$3,000
	TOTAL	**$18,950**

The city of Willard agrees to accomplish the project within the established budget and within the project period. The project period begins from the effective date that the attached Financial Assistance Agreement is signed and extends through June 1, 2015. The city of Willard may request to amend this award agreement upon consultation with the Public Drinking Water Branch; however, requests for amendment must be submitted to the department by no later than May 1, 2015 (one month prior to the end of the effective project period).

Payments for services shall be made upon receipt of an invoice or invoices from Willard and a formal written request for reimbursement of eligible costs (please request a specific dollar amount for reimbursement in the request for reimbursement letter). The invoice must include all necessary backup documentation such as copies of invoices received from contractors for approved services. Submit invoices for payment to Department of Natural Resources, Water Protection Program, Fiscal Management Unit, 1101 Riverside Dr., Jefferson City, Missouri 65101.

This agreement represents the entire agreement between the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Public Drinking Water Branch and the city of Willard.

MISSOURI DEPARTMENT OF NATURAL RESOURCES
Federal Subgrants
General Terms and Conditions

I. **Administrative Requirements**

These general terms and conditions highlight requirements which are especially pertinent to federal subgrants made by the Missouri Department of Natural Resources (MDNR). These general terms and conditions do not set out all of the provisions of the applicable laws and regulations, nor do they represent an exhaustive list of all requirements applicable to this award. These terms and conditions are emphasized here because they are frequently invoked and their violation is of serious concern.

In addition to these terms and conditions, the subgrantee must comply with all governing requirements of their subgrant, including the federal Common Rule (adopted by federal agencies and contained in specific Codes of Federal Regulation, for each federal agency, under the title "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"). The Common Rule is fully incorporated by reference into these terms and conditions. The common rule as codified by the federal granting agency can be found at http://www.whitehouse.gov/omb/grants/chart.html

A. **Method of Payment.** The subgrantee will be reimbursed by the MDNR for all allowable expenses incurred in performing the scope of services. The subgrantee shall report project expenses and submit to the MDNR original invoices for payment as required by division/program per the subgrant agreement. The form must be completed with the MDNR invoiced amount and local share detailed. Invoices must provide a breakdown of project expenses by the budget categories contained in the subgrant budget. Invoices must be received by the MDNR per the subgrant agreement. No reimbursements will be made for expenditures incurred after the closing budget date unless a budget time period extension has been granted by the MDNR prior to the closing date.

1. Payments under non-construction grants will be based on the grant sharing ratio as applied to the total project cost for each invoice submitted unless the subgrant specifically provides for advance payments. Advance payments may only be made upon a showing of good cause or special circumstances, as determined by the MDNR. Advance payments will only be made on a monthly basis to cover estimated expenditures for a 30-day period or as otherwise agreed. The MDNR will not advance more than 25% of the total amount of the grant unless the recipient demonstrates good cause.

2. All reimbursement requests must have the following certification by the authorized subgrantee official: I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made or will be made in accordance with the subgrant and that payment is due and has not been previously requested.

B. **Retention and Custodial Requirements for Records.** The subgrantee shall retain financial records, supporting documents, and other records pertinent to the subgrant for a period of three years starting from the date of submission of the final financial status report. Authorized representatives of federal awarding agencies, the Comptroller General of the United States, and the MDNR shall have access to any pertinent books, documents, and records of subgrantees in order to conduct audits or examinations. The subgrantee agrees to allow monitoring and auditing by the MDNR and/or authorized representative. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 3-year period, the subgrantee shall retain records until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

adequately safeguard all such property and must assure that it is used solely for authorized purposes;

4. Budget Control. Actual expenditures or outlays must be compared with budgeted amounts for each subgrant;

5. Allowable Costs. Applicable OMB cost principles, federal agency program regulations, and the subgrant scope of work will be followed in determining the reasonableness, allowability, and allocability of costs;

6. Source Documentation. Accounting records must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract, and subgrant award document. The documentation must be made available by the subgrantee at the MDNR's request;

7. The subgrantee shall have procedures in place to minimize the time lapsed between money disbursed by the MDNR and money spent by the subgrantee.

F. **Reporting of Program Performance.** Subgrantee shall submit to the MDNR a performance report for each program, function, or activity as specified by the subgrant or at least annually and/or after completion of the project. Performance report requirements, if not expressly stated in the scope of work, should include, at a minimum, a comparison of actual accomplishments to the goals established, reasons why goals were not met, including analysis and explanation of cost overruns or higher unit cost when appropriate, and other pertinent information. Representatives of the MDNR shall have the right to visit the project site(s) during reasonable hours for the duration of the contract period and for three years thereafter.

G. **Budget and Scope of Work Revisions.** Subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements. However, subgrantee must request approval in writing to revise budgets and scopes of work under the following conditions:

1. For non-construction grants, subgrantees shall obtain the prior approval of the MDNR, unless waived by the MDNR, for cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions or activities when the accumulative amounts of such transfers exceed or are expected to exceed 10% of the current total approved budget whenever the MDNR's share exceeds $100,000.

2. For construction and non-construction projects, subgrantees shall obtain prior written approval from the MDNR for any budget revision which would result in the need for additional funds.

3. For combined non-construction and construction projects, the subgrantee must obtain prior written approval from the MDNR before making any fund or budget transfer from the non-construction to construction or vice versa.

4. Subgrantees under non-construction projects must obtain prior written approval from the MDNR whenever contracting out, subgranting, or otherwise obtaining a third party to perform activities which are central to the purpose of the award.

5. Changes to the scope of services described in the subgrant must receive prior approval from the MDNR. Approved changes in the scope of work or budget shall be incorporated by written amendment to the subgrant.

6. Extending the grant past the original completion date requires approval of the MDNR.

H. **Equipment Use.** Subgrantee agrees that any equipment purchased pursuant to this agreement shall be used for the performance of services under this agreement during the term of this

d. Subgrantee must develop adequate maintenance procedures to keep the property in good condition.

e. If the subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

3. Disposition. When original or replacement equipment acquired under a subgrant is no longer needed for the original project or program or for other activities currently or previously supported by the MDNR, subgrantee shall dispose of the equipment as follows:

a. Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the MDNR.

b. For items of equipment with a current per unit fair market value of $5,000 or more, the MDNR shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the MDNR's share of the equipment.

c. In cases where a subgrantee fails to take appropriate disposition actions, the MDNR may direct the subgrantee how to dispose of the equipment.

d. If the MDNR puts subgrantee on notice that it believes grant assets are not being used for the intended purpose, subgrantee shall not sell, give away, move or abandon the asset without MDNR's written approval.

I. **Supplies.** Title to supplies acquired under a subgrant will vest, upon acquisitions, in the subgrantee.

If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the subgrantee shall compensate the department for its share.

J. **Inventions and Patents.** If any subgrantee produces subject matter, which is or may be patentable in the course of work sponsored by this subgrant, subgrantee shall promptly and fully disclose such subject matter in writing to the MDNR. In the event that the subgrantee fails or declines to file Letters of Patent or to recognize patentable subject matter, the MDNR reserves the right to file the same. The MDNR grants to the subgrantee the opportunity to acquire an exclusive license, including the right to sublicense, with a royalty consideration paid to the MDNR. Payment of royalties by subgrantee to the MDNR will be addressed in a separate royalty agreement.

K. **Copyrights.** Except as otherwise provided in the terms and conditions of this subgrant, the author or the subgrantee is free to copyright any books, publications, or other copyrightable material developed in the course of this subgrant; however, the MDNR and federal awarding agency reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, with the approval of MDNR, the work for government purposes.

L. **Prior Approval for Publications.** The subgrantee shall submit to the MDNR two draft copies of each publication and other printed materials which are intended for distribution and are financed, wholly or in part, by subgrant funds. The subgrantee shall not print or distribute any publication until receiving written approval by the grant manager.

M. **Mandatory Disclosures.** Subgrantee agrees that all statements, press releases, requests for proposals, bid solicitations, and other documents describing the program/project for which funds and criminal lawsuit, but only where those alleged violations occurred in the past two years in the State of Missouri. The MDNR will not make any award at any time to any party which is debarred or suspended, under federal or state authority, or is otherwise excluded from or ineligible for participation in federal assistance under Executive Order 12549, "Debarment and Suspension." Subgrantee shall complete a Debarment/Suspension form when required by the MDNR. Furthermore, subgrantee is also responsible for written debarment/suspension certification of all subcontractors receiving funding through a federally funded grant.

T. **Restrictions on Lobbying.** No portion of this award may be expended by the recipient to pay any person for influencing or attempting to influence the executive or legislative branch with respect to the following actions: awarding of a contract; making of a grant; making of a loan; entering into a cooperative agreement; or the extension, continuation, renewal, amendment or modification of any of these as prohibited by Section 319, Public Law 101-121 (31 U.S.C. 1352).

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

U. **Recycled Paper.** Consistent with Federal Executive Order 13101 and 13423 and EPA Executive Order 1000.25, the subgrantee shall use recycled paper consisting of at least 30% post consumer fiber and double sided printing for all reports which are prepared as a part of this grant award and delivered to the MDNR. The subgrantee must use recycled paper for any materials that it produces and makes available to any parties. The chasing arrows symbol representing the recycled content of the paper will be clearly displayed on at least one page of any materials provided to any parties.

V. **Contracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms.** In accordance with Missouri Executive Order No. 05-30 and federal administrative provisions, all subgrantees shall make every feasible effort to target the percentage of goods and services procured from certified minority business enterprises (MBE) and women business enterprises (WBE) to 10% and 5%, respectively, when utilizing subgrant funds to purchase supplies, equipment, construction and services related to this subgrant.

1. The subgrantee agrees to take all necessary affirmative steps required to assure that small and minority firms and women's business enterprises are used when possible as sources when procuring supplies, equipment, construction and services related to the subgrant. The subgrantee agrees to include information about these requirements in solicitation documents. Affirmative steps shall include:

    a. Placing qualified minority business and women's business enterprises on solicitation lists;

    b. Ensuring that minority business and women's business enterprises are solicited whenever they are potential sources;

    c. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by minority business and women's business enterprises;

    d. Establishing delivery schedules, where the requirements of work will permit participation by minority business and women's business enterprises;

    e. Using the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce, and;

AA. **Human Trafficking. This requirement applies to non-profit recipients or subrecipients.** The subgrantee, their employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award. The department has the right to terminate unilaterally: (1) implement section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), noncompliance that are available to the subgrantee under this award.

BB. **Illegal Immigration.** As per HB 1549, 1771, 19395 & 2366 - Section 67.307 2. Any municipality that enacts or adopts a sanctuary policy will be ineligible for moneys provided through grants administered by any state agency or department until the policy is repealed or is no longer in effect.

CC. **Illegal Immigration – Missouri Statutes – RSMo 285.525 – 285.550 Effective January 1, 2009.** Effective January 1, 2009 and pursuant to RSMo 285.530 (1), no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

DD. **Management Fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent the authorized as a direct cost of carrying out the scope of work.

EE. **Federal Funding Accountability and Transparency Act (FFATA) Requirements.** If the original award amount is less than $25,000 and an amendment increases the award amount to $25,000 or greater, the subrecipient must submit the following to the MDNR prior to MDNR signing the amendment (Subrecipient Informational Form – see Attachment 1):

- location of the entity receiving the award and primary location of performance under the award, including city, state, congressional district and county
- a unique identifier of the entity receiving the award – DUNS #
- a unique identifier of the parent entity of the recipient
- names and total compensation for the five most highly compensated officers for the preceding completed fiscal year

FF. **Executive Compensation.** If FFATA reporting requirements apply and if the award period will exceed 12 months, the subrecipient must provide to the MDNR updated compensation information for their five most highly compensated officers using the Subrecipient Informational Form for every 12 month period of the award agreement (Attachment 1).

II. Statutory Requirements

Subgrantees must comply with all federal state and local laws relating to employment, construction, research, environmental compliance, and other activities associated with grants from the MDNR. Failure to abide by these laws is sufficient grounds to cancel the award. For a copy of state and federal laws that typically apply to grants from the MDNR, contact the MDNR grants manager.

Any subgrantee, in connection with its application for financial assistance, shall include a certification that the subgrantee, its board of directors and principals are in compliance with the specific federal and state laws set out below. Further, the subgrantee shall report to the MDNR any instance in which the subgrantee or any member of its board of directors or principals is determined by any administrative agency or by any court in connection with any judicial proceeding to be in noncompliance with any of the specific federal or

3. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq., as amended, particularly as it relates to the assessment of the environmental impact of federally assisted projects.

4. The National Historic Preservation Act of 1966, 16 U.S.C. § 470 et seq., as amended, relating to the preservation of historic landmarks.

5. Earthquakes - Seismic Building and Construction Ordinances, §§ 319.200 - 319.207, RSMo (Cum. Supp. 1990), relating to the adoption of seismic design and construction ordinances by certain cities, towns, villages and counties.

6. The Missouri Clean Water Law, Sections 644.006 to 644.141, RSMo.

7. The Missouri Hazardous Waste Management Law, Section, 260.350 to 260.430, RSMo.

8. The Missouri Solid Waste Management Law, Sections 260.200 to 260.245, RSMo.

9. The Missouri Air Conservation Law, Sections 643.101 to 643.190, RSMo.

C. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§ 4601 and 4651 et seq., relating to acquisition of interest in real property or any displacement of persons, businesses, or farm operations.

D. The Hatch Act, 5 U.S.C. § 1501 et seq., as amended, relating to certain political activities of certain State and local employees.

E. The Archaeological and Historic Preservation Act of 1974 (Public Law 93-291) relating to potential loss or destruction of significant scientific, historical, or archaeological data in connection with federally assisted activities.

F. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

G. The flood insurance purchase requirements of § 102(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) which requires Subgrantees in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

H. The Privacy Act of 1974, P.L. 93-579, as amended prohibiting the maintenance of information about any individual in a manner which would violate the provision of the Act.

I. Public Law 93-348 regarding the protection of human subjects involved in research, development and related activities supported by this award of assistance.

J. The Laboratory Animal Welfare Act of 1966 (P. L. 89-544), 7 U.S.C. § 2131 et seq., pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

K. The following additional requirements apply to projects that involve construction:

1. The Davis-Bacon Act, as amended, 40 U.S.C. § 276a et seq., respecting wage rates for federally assisted construction contracts in excess of $2000.

2. The Copeland (Anti-Kickback) Act, 18 U.S.C. § 874, 40 U.S.C. § 276c.

3. The Contract Work Hours and Safety Standards Act, 40 U.S.C. § 327 et seq.

Wastewater Treatment Grants, RSMO. 644.026
http://www.moga.mo.gov/statutes/C600-699/6440000026.HTM

Rural Water and Sewer Grants, RSMO. 644.026
http://www.moga.mo.gov/statutes/C600-699/6440000026.HTM

Outdoor Recreation Sub-Grants, RSMO. 258.083
http://www.moga.mo.gov/statutes/C200-299/2580000083.HTM

Information on Statutory Authorization Energy Conservation - Schools/Hospitals, RSMO. 640.653
http://www.moga.mo.gov/statutes/C600-699/6400000653.HTM

Energy Conservation - Local Governments/Non-Profit, RSMO. 640.653
http://www.moga.mo.gov/statutes/C600-699/6400000653.HTM

Waste Management Grants, RSMO. 260.335
http://www.moga.mo.gov/statutes/C200-299/2600000335.HTM

Environmental Grants, RSMO. 260.273-342
http://www.moga.mo.gov/STATUTES/C260.HTM

Historic Preservation Sub-Grants, RSMO. 253.408-415
http://www.moga.mo.gov/STATUTES/C253.HTM

Clean Air Act Grants and Sub-Grants, RSMO. 643.010-190
http://www.moga.mo.gov/STATUTES/C643.HTM

Attachment 1
SUBRECIPIENT INFORMATIONAL FORM
Federal Funding Accountability and Transparency Act 2006

Subrecipient Name: ______________________
Address: ______________________
City: ______________________ State: ________
Zip + 4: ______________________ Congressional District: ________
DUNS #: ______________________ CCR Expiration Date: ________

Name of Parent Entity: ______________________
Parent Entity DUNS #: ______________________

Primary Location of Performance:
Address: ______________________
City: ______________________ State: ________
Zip + 4: ______________________ Congressional District: ________

Subrecipient's annual gross revenues exceed 80% or more in Federal funding	☐ Yes ☐ No
Subrecipient's annual gross revenues equal or exceed $25,000,000 in federal funding	☐ Yes ☐ No
Public does not have access to information about the compensation of the senior executive through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or section 6104 of the Internal Revenue Code of 1986.	☐ Yes ☐ No

If the answer to all the above was "Yes", provide the five most highly compensated officers' names and compensation for the calendar year in which this sub-agreement is being made. Compensation is defined as the cash and noncash dollar value earned by the executive during the sub-recipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
(1) salary and bonus
(2) awards of stock, stock options, and stock appreciation rights (use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with FAS 123R)
(3) earnings for services under non-equity incentive plans (this does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees)
(4) change in pension value (this is the change in present value of defined benefit and actuarial pension plans)
(5) above-market earnings on deferred compensation which are not tax-qualified
(6) other compensation (examples: severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the aggregate value for the executive exceeds $10,000)

	Officer's Names	Officer's Compensation
Subrecipient's Highly Compensated Officers	1.	
	2.	
	3.	
	4.	
	5.	

Comments:

Prepared by:
Name: ______________________
Title: ______________________
Email: ______________________
Phone Number: ______________________

Authorized Signature: Printed Name:	Date:

AGENDA ITEM # 14 thru # 18

14. Discussion on the City noise ordinance and peace disturbances.
    Presented by the Chief of Police.

15. Discussion/Vote on the future operation of the Willard Fitness Center.
    Presented by the City Administrator.

16. New Business.

17. Old Business.

18. Adjourn Meeting.