



**City of Smithville, Missouri**  
**Board of Aldermen – Regular Session Agenda**  
**August 3, 2021**

**7:00 pm – City Hall Council Chambers \*\* Via Videoconference\*\***

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**NOTICE:** \*Due to the Health Officer's orders for safety, public meetings and public comment during public meetings will require modification. The City of Smithville is committed to transparent public meetings and will continue this commitment during the COVID-19 crisis. Anyone who wishes to view the meeting may do so in real time as it will be streamed live on the city's FaceBook page through FaceBook Live.

For Public Comment, please email your request to the City Clerk at [ldrummond@smithvillemo.org](mailto:ldrummond@smithvillemo.org) prior to the meeting to be invited via Zoom.

1. Call to Order
2. Pledge of Allegiance
3. Consent Agenda
  - Minutes
    - July 19, 2021, Board of Alderman Work Session Minutes
    - July 19, 2021, Board of Alderman Regular Session Minutes

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**REPORTS FROM OFFICERS AND STANDING COMMITTEES**

4. City Administrator's Report

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**ORDINANCES & RESOLUTIONS**

5. **Bill No. 2909-21, MoDOT Agreement – 2<sup>nd</sup> Reading**  
An Ordinance authorizing and directing the mayor to execute a transportation alternatives funds program agreement with the Missouri Highways And Transportation Commission.  
2<sup>nd</sup> reading by title only.
6. **Bill No. 2910-21, Repealing Section 110.260 of the City Ordinances – 2<sup>nd</sup> Reading**  
An Ordinance repealing Section 110.260 of the City Ordinances and adopting a new Section 110.260 of the City Ordinances regarding court costs. 2<sup>nd</sup> reading by title only.
7. **Bill No. 2911-21, Budget Amendment No. 7 – 2<sup>nd</sup> Reading**  
An Ordinance amending the FY21 operating budget to add \$93,000 to the expenditure budget for police radios and Incode software update. 2<sup>nd</sup> reading by title only.
8. **Resolution 947, Police Radios Purchase**  
A Resolution authorizing the expenditure of funds for the purchase of portable police radios, in an amount not to exceed \$84,500.

**9. Resolution 948, Special Event Permit**

A Resolution issuing a Special Event Permit to Eric Craig Real Estate Team for Festiville to be held at Courtyard Park on September 4, 2021.

**10. Resolution 949, Blueprint for Safer Roadways Grant**

A Resolution authorizing the Mayor to sign an agreement with the Missouri Highway and Transportation Commission for the Blueprint for Safer Roadways Grant.

**OTHER MATTERS BEFORE THE BOARD**

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**11. Public Comment**

Pursuant to the public comment policy, a **request must be submitted to the City Clerk prior to the meeting**. When recognized, please state your name, address and topic before speaking. Each speaker is **limited to three (3) minutes**.

**12. New Business From The Floor**

Pursuant to the order of business policy, members of the Board of Aldermen may request a new business item appear on a future meeting agenda.

**13. Adjourn**





## Board of Alderman Request for Action

**MEETING DATE:** 8/3/2021

**DEPARTMENT:** Administration

**AGENDA ITEM:** Consent Agenda

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**REQUESTED BOARD ACTION:**

The Board of Alderman can review and approve by a single motion. Any item can be removed from the consent agenda by a motion. The following items are included for approval:

- **Minutes**
  - July 19, 2021 Board of Alderman Work Session Minutes
  - July 19, 2021 Board of Alderman Regular Session Minutes

**SUMMARY:**

Voting to approve would approve the Board of Alderman minutes.

**PREVIOUS ACTION:**

N/A

**POLICY OBJECTIVE:**

N/A

**FINANCIAL CONSIDERATIONS:**

N/A

**ATTACHMENTS:**

- |                                       |   |
|---------------------------------------|---|
| <input type="checkbox"/> Ordinance    | <input type="checkbox"/> Contract           |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Plans              |
| <input type="checkbox"/> Staff Report | <input checked="" type="checkbox"/> Minutes |
| <input type="checkbox"/> Other:       |   |

**SMITHVILLE BOARD OF ALDERMAN**  
**WORK SESSION**

July 19, 2021, 6:30 p.m.  
City Hall Council Chambers

**The meeting was streamed live on the city's FaceBook page.**

**1. Call to Order**

Mayor Boley, called the meeting to order at 6:30 p.m. A quorum of the Board was present: Marv Atkins, Kelly Kobylski, John Chevalier and Dan Hartman. Steve Server was present via Zoom. Dan Ulledahl was absent.

Staff present: Cynthia Wagner, Anna Mitchell, Chuck Soules, Chief Lockridge, Matt Denton, Stephen Larson, Jack Hendrix and Linda Drummond.

**2. Discussion of Schedule of Fees**

Stephen Larson presented the staff proposed changes to the Schedule of Fees that would begin with the FY22 Budget on November 1.

Proposed Changes to Park and Recreation fees.

Parks and Recreation Athletic Field Fees

<b>Athletic Field Fees</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
Practice (Without Use of Lights)	<b>\$10.00 / Per Field Per Hour</b>	<b>\$15.00 / Per Field Per Hour</b>
Practice (With Use of Lights) <b>(NEW)</b>	<b>No Fee</b>	<b>\$25.00 / Per Field Per Hour</b>
Game	<b>\$15.00 / Per Field Per Hour</b>	<b>Elimination of Fee</b>

<b>Athletic Field Fees</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
Tournament (Without Use of Lights)	<b>\$100 / Per Field Per Day</b>	<b>\$150 / Per Field Per Day</b>
Tournament (With Use of Lights) <b>(NEW)</b>	<b>None</b>	<b>\$250 / Per Field Per Day</b>
Field Dragging and Chalking for Tournaments <b>(NEW)</b>	<b>None</b>	<b>Included in Tournament Fee</b>

#### Parks and Recreation Adult Recreation Fees

<b>Adult Recreation Fees</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
Kickball Tournament Fee <b>(NEW)</b>	<b>No Fee</b>	<b>Fee Set on Annual Basis</b>
Gravel Grinder Bike Race Fee	<b>Varies with Race Length</b>	<b>Fee Set on Annual Basis</b>
5K Run	<b>\$30.00</b>	<b>Event No Longer Held and Fee Eliminated</b>
1 Mile Dog Run	<b>\$20.00</b>	<b>Event No Longer Held and Fee Eliminated</b>
5K Dog Run	<b>\$40.00</b>	<b>Event No Longer Held and Fee Eliminated</b>

<b>Adult Recreation Fees</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
Softball League	<b>\$500.00/team</b>	<b>Fee Set on Annual Basis</b>
Volleyball League	<b>\$200.00/team</b>	<b>Fee Set on Annual Basis</b>

## Parks and Recreation Shelter Fees

Shelter Use Fees	FY21 (Current)	FY22 (Proposed)
Heritage Park Shelter House	\$50.00 / Day	<b>Combine Both Fees into a Fee Type "Shelter House Fee" of \$50.00 / Day</b>
Smith's Fork Park Shelter House	\$50.00 / Day	

## Parks and Recreation Event Application Fee

Event Application Fee	FY21 (Current)	FY22 (Proposed)
Event Application Fee* <b>(NEW)</b>	<b>No Fee</b>	<b>\$25.00</b>

\*Event application fee used for Tournaments, Green Space events, and Courtyard Park events.

Stephen explained the reason for the event application fee was to encourage event applicants to filled out the form in its entirety and to recoup staff's time for reviewing and processing the application. The application fee would be for tournaments, green space events and events at Courtyard Park.

Alderman Chevalier asked how often applications were turned in incomplete?

Matt Denton, Parks Director, explained that this fiscal year we have had multiple applications turned in for events that have been incomplete and missing a lot of important information that is outlined in the application. Staff then must reach out to the applicant multiple times setting up meetings in order to get all the information needed for the event.

Mayor Boley asked if \$25 will cover staff time or should staff just start rejecting them when they are incomplete?

Matt explained that currently staff has somewhat changed the process before the applicant paid when they turned in the application. Now, we do not have them pay for the event until the application has been completed and it has been reviewed and approved by staff.

## Parks and Recreation Park Event Service Fees

Park Event Service Fees	FY21 (Current)	FY22 (Proposed)
City Staffed Services for Non-City Events (Trash Service & Restroom Cleaning) (NEW)	No Fee	\$30.00 / Hour Per City Staff Member (Optional Add On Fee to Event Fee)

Stephen explained that staff is recommending adding a parks event service fee for non-City events. This would be an hourly add-on fee for an event that would consist of City staff working the event and providing trash service and restroom cleaning. This would ensure people attending the event would have clean restrooms and the trash can would not be overflowing. At this time, staff is proposing it be an add-on option for the event and not a mandatory fee. Applicant having an event and choosing to forgo the staff services will be responsible for making sure the restrooms are clean and the trash is picked up. The \$30 per hour is to help recoup staff cost.

Mayor Boley noted he felt for a one-day event it is fine for it to be optional but for a multi-day event it should be mandatory, due to in the past with multi-day events we have had trash left over night and the restrooms are trashed. He said when people see it left like that it is a reflection on the City and not the event holder. He explained that a one-day event is more manageable because City staff is cleaning the day before and the day after.

Alderman Chevalier agreed with the Mayor and added he wanted it noted that if they chose to waive the add-on service there is no expectation of staff being available to them. He would like that made very clear.

Cynthia also added that she wanted to ensure that our intent was that if they waive that fee and staff goes and inspects the area and the restrooms and they were not left in the same state as received they will be charged.

Mayor Boley noted that it would be held out of the deposit to cover the cost of cleaning. He also explained that a deposit can cover a one-day event but not a multi-day event.

Alderman Kobylski asked if there would be a maximum fee, would they be paying for eight hours at \$30 for each day, or would it be for staff to come a couple of times per day to clean and empty trash?

Mayor Boley said he thinks it should be minimal such as two times per day at two hours per day to check and clean the restrooms and empty the trash.

Alderman Kobylski added that it would make it an additional charge to the event of \$60-\$90 a day.

Mayor Boley also added that it would depend on the event. If it was a one-day event such as an evening concert we may need to have staff, there during the entire event.

Cynthia noted that staff would need to have conversations and explain the City's expectations with the event organizers. She explained that with these changes one of the things staff intends to spend more time working with the organizers and make sure we understand exactly what the event will entail and what event organizers expectations are and make sure they understand the City's. This would also be the time to discuss the cleaning intervals during their event and the coordination of staff.

Stephen noted that staff will revise and make the changes suggested by the Board.

#### Parks and Recreation Green Space Event Fees (Public)

<b>Green Space (Public) (NEW)</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
Heritage Park Green Space (NE Corner)	<b>No Fee</b>	<b>\$100.00 / Day + \$200.00 Damage Deposit</b>
Helvey Park Green Space (West Area)	<b>No Fee</b>	<b>\$100.00 / Day + \$200.00 Damage Deposit</b>
Smith's Fork (N of Restroom Showers, S of Ballfields)	<b>No Fee</b>	<b>\$100.00 / Day + \$200.00 Damage Deposit</b>

#### Parks and Recreation Green Space Event Fees (Private)

<b>Green Space (Public) (NEW)</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
Heritage Park Green Space (NE Corner)	<b>No Fee</b>	<b>\$250.00 / Day + \$200.00 Damage Deposit</b>

Helvey Park Green Space (West Area)	<b>No Fee</b>	<b>\$250.00 / Day + \$200.00 Damage Deposit</b>
Smith's Fork (N of Restroom Showers, S of Ballfields)	<b>No Fee</b>	<b>\$250.00 / Day + \$200.00 Damage Deposit</b>

#### Parks and Recreation Campground Fees

<b>Campground Fees</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
Nightly Use of Campsite at Smith's Fork Campground	<b>\$35.00 / Night</b>	<b>\$40.00 / Night</b>

#### Solid Waste Charges

<b>Solid Waste Monthly Charge</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
Monthly Charge	\$19.90 / Month	\$18.37 / Month
Senior Discount (Age 65 And Older)	None	15% Off Monthly Charge (\$2.76)

Stephen explained that even with the reduction of the fees for solid waste, we are still able to offer the same level of service for solid waste, recycling, yard waste and two bulky item collection events.

#### Development Fees

<b>Water Meter &amp; Service Connection Taps</b>	<b>FY21 (Current)</b>	<b>FY22 (Proposed)</b>
3/4", 1" or 2" Tap	<b>Tap Fee Listed (\$75.00)</b>	<b>Tap Fee: \$75.00 + Meter Supplies Fee Available Upon Request</b>
4" Tap	<b>Tap Fee Listed (\$100.00)</b>	<b>Tap Fee: \$100.00 + Meter Supplies Fee Available Upon Request</b>

6" Tap	<b>Tap Fee Listed (\$120.00)</b>	<b>Tap Fee: \$120.00 + Meter Supplies Fee Available Upon Request</b>
8" Tap	<b>Tap Fee Listed (\$120.00)</b>	<b>Tap Fee: \$120.00 + Meter Supplies Fee Available Upon Request</b>

Stephen noted that these fees are for the meters and supplies for new construction. Our cost of the supplies fluctuates, and staff proposes that we change the wording and asked that they consult the Development Department to get the latest cost.

Alderman Sarver stated he was good with the changes.

Alderman Hartman thanked Stephen for putting this together. He said it is a lot of work researching what surrounding communities are charging and he appreciates the work that went into this.

Stephen acknowledged that Matt did a lot of the researched for the fees for Parks and Recreation.

Alderman Chevalier noted that he thought it was great.

Alderman Kobylski agreed.

Cynthia added that staff will incorporate these changes into the Schedule of Fees. The next step will be Board approval of the amendments to the Schedule of Fees which will be in conjunction to the budget process for implementation November 1.

### **3. Adjourn**

Alderman Atkins moved to adjourn. Alderman Hartman seconded the motion.

Ayes – 5, Noes – 0, motion carries. Mayor Boley declared the Work Session adjourned at 6:52 p.m.

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Linda Drummond, City Clerk

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Damien Boley, Mayor

## SMITHVILLE BOARD OF ALDERMEN REGULAR SESSION

July 19, 2021, 7:00 p.m.  
City Hall Council Chambers

The meeting was streamed live on the city's FaceBook page.

### 1. Call to Order

Mayor Boley, present at City Hall, called the meeting to order at 7:00 p.m. A quorum of the Board was present: Kelly Kobylski, Marv Atkins, Dan Hartman and John Chevalier. Steve Sarver was present via Zoom. Alderman Ulledahl joined the meeting via Zoom at 7:04 p.m.

Staff present: Cynthia Wagner, Anna Mitchell, Chuck Soules, Chief Jason Lockridge, Matt Denton, Stephen Larson, and Linda Drummond.

### 2. Pledge of Allegiance lead by Parks and Recreation Director Matt Denton

### 3. Mayor's Proclamation – Parks and Recreation Month

Mayor Boley presented the Parks and Recreation Month Proclamation to the Carlile Family. Evan Carlile volunteers as a coach.



Figure 1- Parks and Recreation Proclamation – Mayor Boley presented to the Evans Family

### 4. Consent Agenda

#### • Minutes

- June 15, 2021, Board of Alderman Work Session Minutes
- June 15, 2021, Board of Alderman Regular Session Minutes

- **Finance Report**
  - Financial Report for May 2021

No discussion.

Alderman Atkins moved to approve the consent agenda. Alderman Hartman seconded the motion.

Ayes – 5, Noes – 0, motion carries. The Mayor declared the consent agenda approved.

## **REPORTS FROM OFFICERS AND STANDING COMMITTEES**

### **5. Committee Reports**

Alderman Chevalier reported on the July 13 Planning and Zoning Commission meeting. He noted that there have been 32 residential building permits to date. They discussed and approved the site plans for Kozak's Laketown Grill and the Cabins at the Herzog Foundation.

### **6. City Administrator's Report**

Cynthia highlighted a few items from the City Administrator's report in the packet. The Splash Pad is now open. Staff continues to work on a permanent walkway from the shared parking lot. Staff is also working with the developer to accomplish a parking lot and shelter/restroom for the park. She noted that Splash Pad improvements are included in the CIP for FY22, including a playground, fencing and walkway within the park.

Cynthia noted that a new and improved format of the citizen newsletter will be included in the August water bills. Anna Mitchell, Assistant City Administrator, has worked with Brittanie Propes, Recreation and Marketing Manager, and they have created a new four-page format. A link for the newsletter will also be included on the website and on social media. This helps us reach as many residents as possible.

Cynthia noted that staff has had discussions concerning the American Recovery Act Plan. As previously discussed, the City has identified a desire to use these funds for a utility project. We estimate those funds to be between \$1.9 million and \$2.2 million at this point in time. Anna Mitchell and Stephen Larson, Finance Director, attended a webinar this afternoon and have learned that in all likelihood the State of Missouri will request those funds in the coming weeks. Staff is still not sure when they will begin distributing the funds but anticipate more information in the coming weeks. The first allocation has to be requested and obligated by the end of 2024 and the funds spent by the end of 2026. Monitoring will continue and staff will advise the Board as soon as we have additional information. It is also staffs understanding that entitlement communities which are larger communities that receive community development block grants have already begun to receive their funds.

Streetscape Phase II construction continues. We are at a point where we have put on hold and will not likely include improvements to the alleyway across from City Hall as part of Phase II. At this point in time we have not been able to reach an agreement with the building owner.

## **ORDINANCES & RESOLUTIONS**

### **7. Bill No. 2908-21, Budget Amendment No. 6 – 2<sup>nd</sup> Reading**

Alderman Atkins moved to approve Bill No. 2908-21, amending the FY21 operating budget to add \$190,000 to the expenditure budget and \$240,000 to the revenue budget. 2<sup>nd</sup> reading by title only. Alderman Hartman seconded the motion.

No discussion.

Upon roll call vote:

Alderman Hartman – Aye, Alderman Ulledahl – Aye, Alderman Kobylski – Aye, Alderman Chevalier – Aye, Alderman Atkins – Aye, Alderman Sarver – Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2908-21 approved.

### **8. Bill No. 2909-21, MoDOT Agreement – 1<sup>st</sup> Reading**

Alderman Hartman moved to approve Bill No. 2909-21, authorizing and directing the mayor to execute a transportation alternatives funds program agreement with the Missouri Highways And Transportation Commission. 1<sup>st</sup> reading by title only. Alderman Atkins seconded the motion.

No discussion.

Upon roll call vote:

Alderman Atkins – Aye, Alderman Hartman – Aye, Alderman Chevalier – Aye, Alderman Kobylski – Aye, Alderman Sarver – Aye, Alderman Ulledahl – Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2909-21 approved first reading.

### **9. Bill No. 2910-21, Repealing Section 110.260 of the City Ordinances – 1<sup>st</sup> Reading**

Alderman Atkins moved to approve Bill No. 2910-21, repealing Section 110.260 of the City Ordinances and adopting a new Section 110.260 of the City Ordinances regarding court costs. 1<sup>st</sup> reading by title only. Alderman Kobylski seconded the motion.

No discussion.

Upon roll call vote:

Alderman Ulledahl – Aye, Alderman Chevalier – Aye, Alderman Kobylski – Aye, Alderman Sarver – Aye, Alderman Hartman – Aye, Alderman Atkins – Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2910-21 approved first reading.

**10. Bill No. 2911-21, Budget Amendment No. 7 – 1<sup>st</sup> Reading**

Alderman Hartman moved to approve Bill No. 2911-21, amending the FY21 operating budget to add \$90,000 to the expenditure budget for police radios and Incode software update. 1<sup>st</sup> reading by title only. Alderman Atkins seconded the motion.

No discussion.

Upon roll call vote:

Alderman Sarver – Aye, Alderman Kobylski – Aye, Alderman Hartman – Aye,  
Alderman Ulledahl – Aye, Alderman Atkins – Aye, Alderman Chevalier – Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2911-21 approved first reading.

**11. Resolution 937, Residential Solid Waste Collection Services**

Alderman Atkins moved to approve Resolution 937, authorizing the mayor to sign an agreement with WCA/GFL for residential solid waste collection services. Alderman Kobylski seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 937 approved.

**12. Resolution 938, Adopting the Parks and Recreation Master Plan**

Alderman Hartman moved to approve Resolution 938, adopting the Parks and Recreation Master Plan. Alderman Kobylski seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 938 approved.

**13. Resolution 939, Adopting the Board Retreat Goals**

Alderman Atkins moved to approve Resolution 939, adopting the goals set by the Board during the May 2021 retreat. Alderman Kobylski seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 939 approved.

**14. Resolution 940, Award Bid No. 21-13, Engineering for the Public Works Facility**

Alderman Hartman moved to approve Resolution 940, awarding Bid No. 21-13 and authorizing and directing the mayor to execute an agreement with Bartlett and West Engineering for preliminary engineering/architecture services for a combined parks and

recreation/public works operations service center in the amount of \$69,950. Alderman Kobylski seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 940 approved.

**15. Resolution 941, Award Bid No. 21-16, Smith's Fork Campground Electrical**

Alderman Atkins moved to approve Resolution 941, awarding Bid No. 21-16 to Mr. Electric for the campground electrical upgrade project in an amount not to exceed \$75,000. Alderman Hartman seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 941 approved.

**16. Resolution 942, Award Bid No. 21-15, City Hall Janitorial Services**

Alderman Hartman moved to approve Resolution 942, awarding Bid No. 21-15 to City Wide Maintenance for the City Hall Janitorial services and authorize and direct the Mayor to execute agreement in the amount not to exceed \$13,680. Alderman Kobylski seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 942 approved.

**17. Resolution 943, Liquor Licenses – Stisha L. Burton**

Alderman Atkins moved to approve Resolution 943, issuing Liquor Licenses to Stisha L. Burton, doing business as KC Liquor and Tobacco located at 1516 South Commercial Street. Alderman Chevalier seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 943 approved.

**18. Resolution 944, Sports League Contract**

Alderman Hartman moved to approve Resolution 944, authorizing and directing the Mayor to enter into an agreement with the Smithville Warrior Youth Football Club for the use of city park land. Alderman Kobylski seconded the motion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 944 tabled.

**19. Resolution 945, Site Plan, Kozak's Laketown Grill**

Alderman Chevalier moved to approve Resolution 945, approving the site plan for Kozak's Laketown Grill on Stonebridge Lane. Alderman Atkins seconded the motion.

No discussion.

Ayes – 5, Noes – 0, Abstained – 1 (Alderman Hartman), motion carries. Mayor Boley declared Resolution 945 approved.

**20. Resolution 946, Site Plan, Herzog Foundation Cabins**

Alderman Chevalier moved to approve Resolution 946, approving the site plan for Herzog Foundation Cabins on 188th Street and North Main Street. Alderman Kobylski seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 946 approved.

**OTHER MATTERS BEFORE THE BOARD**

**21. Public Comment**

None

**22. New Business from the Floor**

Mayor Boley noted he will be out of town for the August 3 Board of Alderman meeting but will try to attend via Zoom.

**23. Adjournment to Executive Session Pursuant Section 610.021(1&2)RSMo.**

Alderman Hartman moved to adjourn to Executive Session Pursuant Section 610.021(1&2)RSMo. Alderman Atkins seconded the motion.

Upon roll call vote:

Alderman Kobylski - Aye, Alderman Sarver – Aye, Alderman Ulledahl - Aye,  
Alderman Hartman – Aye, Alderman Chevalier – Aye, Alderman Atkins - Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared the regular session adjourned to Executive Session Pursuant Section 610.021(1&2)RSMo at 7:20 p.m.

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Linda Drummond, City Clerk

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Damien Boley, Mayor



## **City Administrator's Report**

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July 29, 2021

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### **Setting the Property Tax Rate**

Each year in August, the city receives revised property tax assessment information from the county to be used in calculation of the property tax rate for the coming year. State statute sets the date by which the City has to hold a public hearing and set the tax rate. Traditionally this date has been no later than September 1. Receipt of tax information from Clay County has also been very near that date, so we've typically anticipated a special Board meeting to hold a public hearing and set the rate. Given recent changes in the Clay County Constitution, we have been advised that the date for Clay County to provide information to Cities has been moved back. Staff and John Reddoch have confirmed with the State Auditor's Office that per Statute, because Clay County is now a Charter county, that date is no later than October 1. Once staff receives updated tax information from Clay County, a date in September will be identified for the public hearing and setting the rate – this may or may not need to be a special meeting, given timeliness of information received from the county. Staff will continue to keep the Board apprised of the situation.

### **Main Street Training**

The Smithville Main Street Board and Anna Mitchell are attending the Annual Missouri Main Street conference this week. This year's conference is titled "Celebrate New Beginnings", focusing on how Main Street businesses have operated through the pandemic and how to move forward. Some seminars cover topics such as funding, attracting businesses, and foundations of a successful Main Street Organization. Attendance is one of the requirements of the Board through the working grant given to the Smithville Main Street Group by Missouri Main Street. This year's conference was provided in virtual format via Zoom.

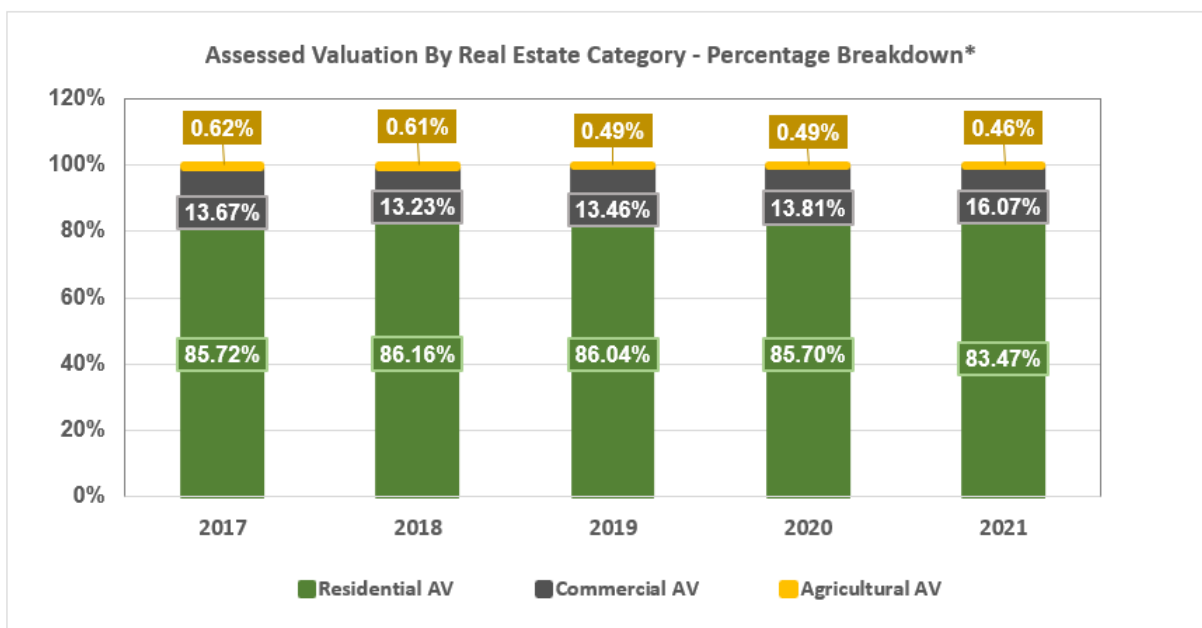
### **Streetscape Phase II Update**

Progress continues on the Streetscape project. Several driveways have been replaced, the reinforced concrete box at Smith Street has been extended, and the electrical lines for the streetlights are installed. Over the next couple of weeks, progress should be made on some of the brickwork and extending the sidewalk construction along Heritage Park. Staff and engineers have asked the contractor for a proposal to relocate the ditch adjacent to Smith Street and reconstruct the sidewalk on the south side of Main Street.

The bank from the ditch has eroded and the sidewalk in this area is about to collapse. Re-aligning the ditch will resolve this issue and make the ditch maintainable.

### Revenue Information

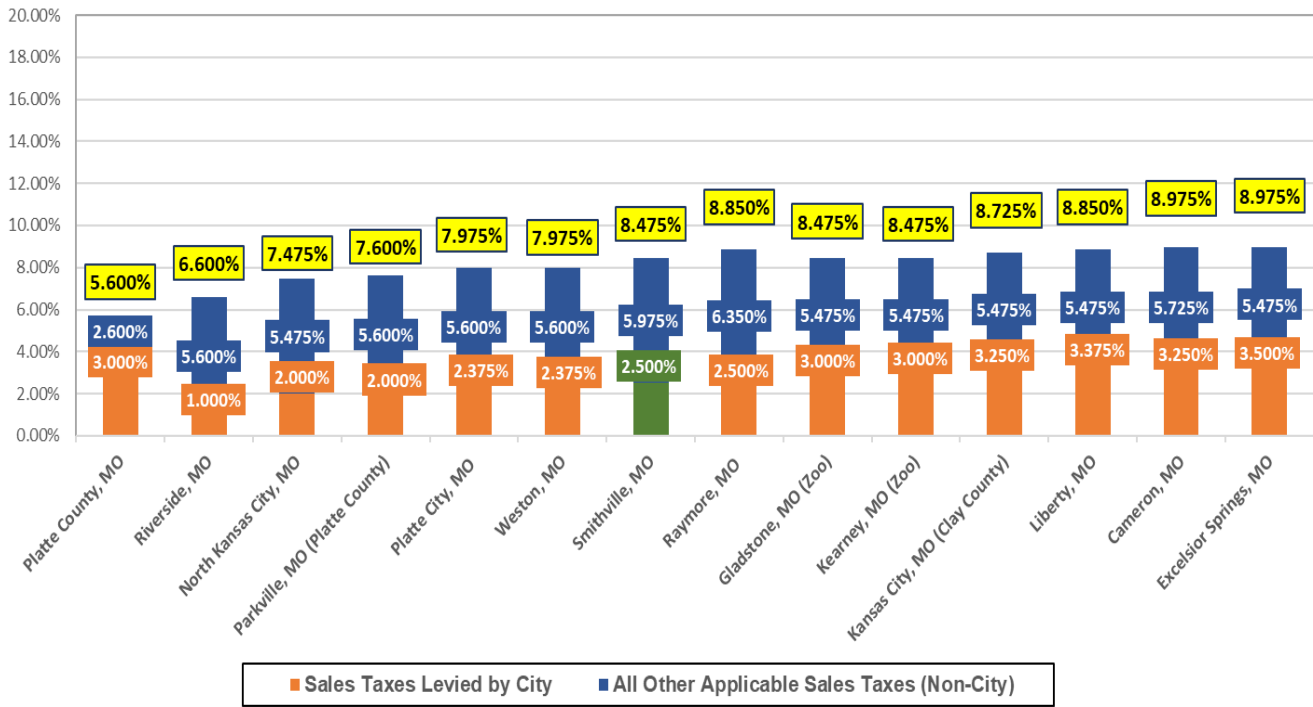
Finance Analyst Mayra Ore has compiled some information relating to sales and property taxes. The attached Property Tax Comparison provides historical information on the percentage of property taxes collected from commercial versus residential and change over the last five years. As indicated in the information, residential represents the majority of property tax collections in Smithville (more than 85% of the total). That percentage breakdown, however, has changed some from 2019 to 2020 and 2021. Information is further broken down to include agricultural assessed valuation in the chart below. With continued commercial growth, we can expect to see additional changes in the information.



\*2021 AV is PRE-BOE Figures

Following is a sales tax comparison of with area communities on the breakdown of total sales taxes levied. The **orange portion** represents sales taxes levied by the jurisdiction and the **blue portion** represents all other applicable sales taxes in place for the jurisdiction such as state, county, and special district (i.e. KC Zoo) (outside of sales taxes levied by that jurisdiction). The city portions do not include special CID sales taxes or economic development district sales taxes.

### Sales Tax Breakdown - Comparable Cities





## Board of Alderman Request for Action

**MEETING DATE:** 8/3/2021

**DEPARTMENT:** Public Works

**AGENDA ITEM:** Bill No. 2909-21, authorizing the Mayor to sign an agreement with MoDOT – 2nd reading by title only.

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**REQUESTED BOARD ACTION:**

A motion to approve Bill No. 2909-21, authorizing the Mayor to sign an agreement with MoDOT.

**SUMMARY:**

The City received two grants from MARC (Mid-America Regional Council):

- Bridge Street Streetscape improvements from Church Street to First Street
- Commercial Pedestrian Project – 6 foot sidewalk from the high school to Meadow Street

These projects are funded 80% through MoDOT and the Transportation Alternatives Funds Program.

The Bridge Street Project is scheduled for construction in FY 2023. The agreement with MoDOT provides the City with \$488,400.

**PREVIOUS ACTION:**

Included in the 2022/2023 Capital Improvement Plan

**POLICY OBJECTIVE:**

Continued service, infrastructure maintenance

**FINANCIAL CONSIDERATIONS:**

This agreement sets up the funding authority with MODOT for 80% of construction related costs.

**ATTACHMENTS:**

- |  |                                   |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> Ordinance        | <input type="checkbox"/> Contract |
| <input type="checkbox"/> Resolution                  | <input type="checkbox"/> Plans    |
| <input type="checkbox"/> Staff Report                | <input type="checkbox"/> Minutes  |
| <input checked="" type="checkbox"/> Other: Agreement |                                   |

**AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A TRANSPORTATION ALTERNATIVES FUNDS PROGRAM AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR IMPROVEMENTS TO BRIDGE STREET FROM CHURCH STREET TO FIRST STREET INCLUDING INFRASTRUCTRE IMPROVEMENTS ENCOURAGING SAFER ROUTES FOR NON-MOTORIZED USERS AND IMPROVING THE PEDESTRIAN ENVIRONMENT.**

**WHEREAS**, the City received funding from the Transportation Alternatives Funds Program for streetscape improvements on Bridge Street from Church Street to First Street; and

**WHEREAS**, the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Smithville (hereinafter, "City") desire to enter into an agreement, the purpose of the Agreement is to grant the use of such transportation enhancement funds to the City.

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

Section 1. That the Mayor is authorized and directed to execute an agreement with the Missouri Highways and Transportation Commission Municipal Agreement for public improvements to be completed on Bridge St from Church Street to First Street, in the City of Smithville.

Section 2. This ordinance shall take effect and be in full force from and after its passage according to law.

PASSED THIS 3<sup>rd</sup> DAY OF AUGUST, 2021

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

First Reading: 07/19/2021  
Second Reading: 08/03/2021

CCO Form: FS25  
Approved: 04/95 (MGB)  
Revised: 03/17 (MWH)  
Modified:

CFDA Number: 20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: TAP – 3302(434)  
Award Year: 2022  
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
TRANSPORTATION ALTERNATIVES FUNDS  
PROGRAM AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and City of Smithville (hereinafter, "City").

WITNESSETH:

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

(1) PURPOSE: The United States Congress has authorized, in Fixing America's Surface Transportation Act (FAST); 23 U.S.C. §101, §106 and §213; SAFETEA-LU §1404 funds to be used for transportation alternatives activities. The purpose of this Agreement is to grant the use of such transportation enhancement funds to the City.

(2) LOCATION: The transportation alternatives funds which are the subject of this Agreement are for the project at the following location: Construction of infrastructure-related projects and systems that will provide safer routes for non-drivers on Bridge Street from Church Street to First Street.

The general location of the project is shown on attachment marked "Exhibit A" and incorporated herein by reference.

(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. The City may not be eligible for future Transportation Alternatives Funds if the City does not meet the reasonable progress policy.

(4) 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 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.

(5) 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.

(6) COMMISSION REPRESENTATIVE: The Commission's Kansas City's 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.

(7) 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 (7) 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.

(8) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(9) 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.

(10) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

(11) 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 Federal Highway Administration (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.

(12) 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.

(13) ACQUISITION OF RIGHT OF WAY: No acquisition of additional right of way is anticipated in connection with Project TAP-3302-434 or contemplated by this Agreement.

(14) MAINTENANCE OF DEVELOPMENT: The City shall maintain the herein contemplated improvements without any cost or expense to the Commission. All maintenance by the City shall be done for the safety of the general public and the esthetics of the area. In addition, if any sidewalk or bike trails are constructed on the Commission's right-of-way pursuant to this Agreement, the City shall inspect and maintain the sidewalk or bike trails constructed by this project in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalk or bike trails. If the City fails to maintain the herein contemplated improvements, the Commission or its representatives, at the Commission's sole discretion shall notify the City in writing of the City's failure to maintain the improvement. If the City continues to fail in maintaining the improvement, the Commission may remove the herein contemplated improvement whether or not the improvement is located on the Commission's right of way. Any removal by the Commission shall be at the sole cost and expense of the City. Maintenance includes but is not limited to mowing and trimming between shrubs and other plantings that are part of the improvement.

(15) PLANS: The City shall prepare preliminary and final plans and specifications for the herein improvements. The plans and specifications shall be submitted to the Commission for the Commission's review and approval. The Commission has the discretion to require changes to any plans and specification prior to any approval by the Commission.

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

(A) (Option 1) 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 not to exceed \$488,400.00. 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.

(17) 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.

(18) 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.

(19) PERMITS: The City shall secure any necessary approvals or permits from any federal or state agency as required for the completion of the herein improvements. If this improvement is on the right of way of the Commission, the City must secure a permit from the Commission prior to the start of any work on the right of way. The permits which may be required include, but are not limited to, environmental, architectural, historical or cultural requirements of federal or state law or regulation.

(20) INSPECTION OF IMPROVEMENTS AND RECORDS: The City shall assure that representatives of the Commission and FHWA shall have the privilege of inspecting and reviewing the work being done by the City's contractor and subcontractor on the herein project. The City shall also assure that its contractor, and all subcontractors, if any, maintain all books, documents, papers and other evidence pertaining to costs incurred in connection with the Transportation Enhancement Program Agreement, and make such materials available at such contractor's office at all reasonable times at no charge during this Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection by the Commission, FHWA or any authorized representatives of the Federal Government and the State of Missouri, and copies shall be furnished, upon request, to authorized representatives of the Commission, State, FHWA, or other Federal agencies.

(21) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES: A person may offer to donate funds, materials or services in connection with this project.

Any donated funds, or the fair market value of any donated materials or services that are accepted and incorporated into this project shall be credited according to 23 U.S.C. §323.

(22) DISADVANTAGED BUSINESS ENTERPRISES (DBE): The Commission will advise the City of any required goals for participation by disadvantaged business enterprises (DBEs) to be included in the City'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.

(23) 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.

(24) 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.

(25) FINAL AUDIT: The Commission may, in its sole discretion, 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.

(26) OMB AUDIT: If the City expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. 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 2 CFR Part 200, if the City expend(s) less than seven hundred fifty thousand dollars (\$750,000) 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.

(27) 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.

*[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 on \_\_\_\_\_(DATE).

Executed by the Commission on \_\_\_\_\_(DATE).

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Secretary to the Commission

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

\_\_\_\_\_  
Title \_\_\_\_\_

Ordinance No \_\_\_\_\_

*\*If contracting party is a County with a county commission form of government, the execution page needs to be modified to allow the three county commissioners to execute the agreement.*



## Exhibit B – Project Schedule

Project Description: TAP-3302(434) - Construction of infrastructure-related projects and systems that will provide safer routes for non-drivers on Bridge Street from Church Street to First Street.

<b>Task</b>	<b>Date</b>
Date funding is made available or allocated to recipient	10/1/2022
Solicitation for Professional Engineering Services (advertised)	N/A
Engineering Services Contract Approved	N/A
Conceptual Study (if applicable)	N/A
Preliminary and Right-of-Way Plans Submittal (if Applicable)	N/A
Plans, Specifications & Estimate (PS&E) Submittal	2/1/2023
Plans, Specifications & Estimate (PS&E) Approval	4/1/2023
Advertisement for Letting	5/1/2023
Bid Opening	6/1/2023
Construction Contract Award or Planning Study completed <b>(REQUIRED)</b>	7/1/2023

Exhibit C - Required Contract Provisions  
Federal-Aid Construction Contracts

## REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

### 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 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 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.



## Board of Alderman Request for Action

**MEETING DATE:** 8/3/2021

**DEPARTMENT:** Police

**AGENDA ITEM:** Bill No. 2910-21, repealing ordinance section 110.260 of the City Ordinances and adopting a new section 110.260 of the City Ordinances regarding court costs. 2nd reading by title only

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**REQUESTED BOARD ACTION:**

A motion to approve Bill No. 2910-21, adopting a new section 110.260 of the City Ordinances regarding court cost.

**SUMMARY:**

The City's legal counsel has reviewed section 110.260 of the Municipal Code of Ordinances, and recommended some changes. These changes include:

1. The addition of a \$7.00 Court Automation fee.
2. Increasing the Municipal Court fee from \$12.00 to \$15.00 for any municipal ordinance violation filed before an associate circuit judge.
3. The removal of the \$3.00 Sheriff's Retirement Fund fee, which was struck down by the Missouri Supreme Court.

**PREVIOUS ACTION:**

From time to time this section is updated to reflect changes in legislation and associated costs.

**POLICY OBJECTIVE:**

N/A

**FINANCIAL CONSIDERATIONS:**

N/A

**ATTACHMENTS:**

- |   |                                   |
|---|-----------------------------------|
| <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input type="checkbox"/> Resolution           | <input type="checkbox"/> Plans    |
| <input type="checkbox"/> Staff Report         | <input type="checkbox"/> Minutes  |
| <input type="checkbox"/> Other:               |                                   |

**BILL NO. 2910-21**

**ORDINANCE NO.**

**ORDINANCE REPEALING ORDINANCE SECTION 110.260 OF THE CITY  
ORDINANCES AND ADOPTING A NEW SECTION 110.260 OF THE CITY  
ORDINANCES REGARDING COURT COSTS**

**WHEREAS**, Section 110.260 Board of Aldermen currently reads as set forth in Exhibit 1 hereto; and

**WHEREAS**, with the Court Automation program court costs must include a Court Automation fee of seven dollars (\$7); and

**WHEREAS**, the Court costs for cases originating before an Associate Circuit Court Judge (as they currently are) is to be fifteen dollars (\$15), rather than twelve dollars (\$12); and

**WHEREAS**, currently, Section 110.260 includes three dollars (\$3.00) for the Sheriff's Retirement Fund, based upon Section 57.955, RSMo, which was struck down by the Missouri Supreme Court in *Fowler v. Missouri Sheriff's Retirement Fund* in June of 2021, and is therefore no longer effective; and

**WHEREAS**, the Mayor and Board of Alderman wish to remove the Sheriff's fund fee reference and add the Court Automation fee to the Ordinance as follows:

Section 110.260 **Court Costs.**

**A.**

In addition to any fine that may be imposed by the Municipal Judge, there shall be assessed as costs in all cases, the following:

1. Pursuant to Sections 479.260 and 488.012.3.6, RSMo., Court costs shall include a Municipal Court fee of twelve dollars (\$12.00) per case **or \$15 for municipal ordinance violations filed before an associate circuit judge.**
2. Pursuant to Section 488.5336, RSMo., Court costs shall include three dollars (\$3.00) for the Peace Officers' Training Fund, except in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs; provided, further, that one dollar (\$1.00) of the three dollars (\$3.00) collected for the Peace Officers' Training Fund shall be sent to the State Treasury to the credit of the Peace Officer Standards and Training Commission Fund, and the remaining two dollars (\$2.00) shall be paid into the City of Smithville Law Enforcement Training Fund.
3. Pursuant to Section 479.261, RSMo., Court costs shall include two dollars (\$2.00) for Synergy House, a shelter for victims of domestic

violence, except in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs.

4. Pursuant to 488.012, RSMo., Court costs shall include seven dollars for the statewide court automation fund.

~~Pursuant to Section 57.955, RSMo., Court costs shall include three dollars (\$3.00) for the Sheriffs' Retirement Fund.~~

5. Pursuant to Section 595.045, RSMo., a surcharge of seven dollars and fifty cents (\$7.50) for the Crime Victims' Compensation Fund shall be assessed as Court costs against any municipal ordinance violation, traffic law, non-moving traffic law and infraction, except that no such surcharge shall be collected in any case when the proceeding or the defendant has been dismissed by the Court or in cases where the defendant is found by the Judge to be indigent and unable to pay the costs; provided, further, that seven dollars and thirteen cents (\$7.13) shall be remitted to the State Department of Revenue and thirty-seven cents (\$0.37) shall be remitted to the City Treasurer.

6. Pursuant to Section 304.027, RSMo., any person convicted of an intoxication-related offense, as provided in Section 577.023, RSMo., shall have a judgment of twenty-five dollars (\$25.00) assessed; further provided, that collection by the Court shall be paid to the State Department of Revenue to the credit of the Spinal Cord Injury Fund.

7. Other costs, such as service costs, witness fees, and jail costs in addition to the costs provided in Subsection **(A)(1)** through **(5)**.

8. Upon a plea of guilty, finding of guilt or conviction for violation of the provisions of Title III (alcohol- or drug-related traffic offenses), the Court shall, in addition to imposition of any penalties provided by law, order the person to reimburse the City of Smithville for the costs associated with such arrest.

- a. Such costs shall include the reasonable cost of making the arrest, including the cost of any chemical tests to determine the alcohol or drug content of the person's blood, and the cost of processing, charging, booking and holding such person in custody.
- b. The Chief of Police may establish a schedule of such costs for submission to the Court; however, the Court may order the costs reduced if it determines that the schedule of costs is excessive given the circumstances of the case or for good cause shown.

- c. This fund shall be calculated as additional costs by the Municipal Court and shall be collected by the Court in the same manner as other costs and fees are collected and remitted to the City Treasurer.
- d. The City Treasurer shall retain fees in a separate fund known as the "DWI/Drug Enforcement Fund." Monies within the DWI/Drug Enforcement Fund shall be appropriated by the Board of Aldermen from such fund in amounts equal to those costs so incurred and shall be specifically used to enhance and support the enforcement and prosecution of alcohol- and drug-related traffic laws within the City of Smithville.

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

Effective Immediately Smithville City Ordinance Section 110.260 Board of Aldermen is repealed, and a new Section 110.260 Board of Aldermen is adopted which shall read as follow:

Section 110.260 **Court Costs.**

**A.**

In addition to any fine that may be imposed by the Municipal Judge, there shall be assessed as costs in all cases, the following:

1. Pursuant to Sections 479.260 and 488.012.3.6, RSMo., Court costs shall include a Municipal Court fee of twelve dollars (\$12.00) per case or \$15 for municipal ordinance violations filed before an associate circuit judge.
2. Pursuant to Section 488.5336, RSMo., Court costs shall include three dollars (\$3.00) for the Peace Officers' Training Fund, except in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs; provided, further, that one dollar (\$1.00) of the three dollars (\$3.00) collected for the Peace Officers' Training Fund shall be sent to the State Treasury to the credit of the Peace Officer Standards and Training Commission Fund, and the remaining two dollars (\$2.00) shall be paid into the City of Smithville Law Enforcement Training Fund.
3. Pursuant to Section 479.261, RSMo., Court costs shall include two dollars (\$2.00) for Synergy House, a shelter for victims of domestic violence, except in those cases where the defendant is found by the Judge to be indigent anal unable to pay the costs.
4. Pursuant to 488.012, RSMo., Court costs shall include seven dollars for the statewide court automation fund.

5. Pursuant to Section 595.045, RSMo., a surcharge of seven dollars and fifty cents (\$7.50) for the Crime Victims' Compensation Fund shall be assessed as Court costs against any municipal ordinance violation, traffic law, non-moving traffic law and infraction, except that no such surcharge shall be collected in any case when the proceeding or the defendant has been dismissed by the Court or in cases where the defendant is found by the Judge to be indigent and unable to pay the costs; provided, further, that seven dollars and thirteen cents (\$7.13) shall be remitted to the State Department of Revenue and thirty-seven cents (\$0.37) shall be remitted to the City Treasurer.

6. Pursuant to Section 304.027, RSMo., any person convicted of an intoxication-related offense, as provided in Section 577.023, RSMo., shall have a judgment of twenty-five dollars (\$25.00) assessed; further provided, that collection by the Court shall be paid to the State Department of Revenue to the credit of the Spinal Cord Injury Fund.

7. Other costs, such as service costs, witness fees, and jail costs in addition to the costs provided in Subsection (A)(1) through (5).

8. Upon a plea of guilty, finding of guilt or conviction for violation of the provisions of Title III (alcohol- or drug-related traffic offenses), the Court shall, in addition to imposition of any penalties provided by law, order the person to reimburse the City of Smithville for the costs associated with such arrest.

- a. Such costs shall include the reasonable cost of making the arrest, including the cost of any chemical tests to determine the alcohol or drug content of the person's blood, and the cost of processing, charging, booking and holding such person in custody.
- b. The Chief of Police may establish a schedule of such costs for submission to the Court; however, the Court may order the costs reduced if it determines that the schedule of costs is excessive given the circumstances of the case or for good cause shown.
- c. This fund shall be calculated as additional costs by the Municipal Court and shall be collected by the Court in the same manner as other costs and fees are collected and remitted to the City Treasurer.
- d. The City Treasurer shall retain fees in a separate fund known as the "DWI/Drug Enforcement Fund." Monies within the DWI/Drug Enforcement Fund shall be appropriated by the Board of Aldermen from such fund in amounts equal to those costs so incurred and shall be specifically used to enhance and support the enforcement and

prosecution of alcohol- and drug-related traffic laws within the City of Smithville.

PASSED THIS 3<sup>rd</sup> DAY OF AUGUST 2021.

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DAMIEN BOLEY, MAYOR

ATTEST:

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CITY CLERK

1<sup>st</sup> reading 7/19/2021

2<sup>nd</sup> reading 8/03/2021

Section 110.260**Court Costs.**

[R.O. 1991 § 110.260; Ord. No. 1114 § 1, 8-9-1988; Ord. No. 1713 § 1, 12-17-1996; Ord. No. 2029-01 § 1, 9-18-2001; Ord. No. 2875-13 § 1, 8-20-2013]

**A.**

In addition to any fine that may be imposed by the Municipal Judge, there shall be assessed as costs in all cases, the following:

**1.**

Pursuant to Sections 479.260 and 488.012.3.6, RSMo., Court costs shall include a Municipal Court fee of twelve dollars (\$12.00) per case.

**2.**

Pursuant to Section 488.5336, RSMo., Court costs shall include three dollars (\$3.00) for the Peace Officers' Training Fund, except in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs; provided, further, that one dollar (\$1.00) of the three dollars (\$3.00) collected for the Peace Officers' Training Fund shall be sent to the State Treasury to the credit of the Peace Officer Standards and Training Commission Fund, and the remaining two dollars (\$2.00) shall be paid into the City of Smithville Law Enforcement Training Fund.

**3.**

Pursuant to Section 479.261, RSMo., Court costs shall include two dollars (\$2.00) for Synergy House, a shelter for victims of domestic violence, except in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs.

**4.**

Pursuant to Section 57.955, RSMo., Court costs shall include three dollars (\$3.00) for the Sheriffs' Retirement Fund.

**5.**

Pursuant to Section 595.045, RSMo., a surcharge of seven dollars and fifty cents (\$7.50) for the Crime Victims' Compensation Fund shall be assessed as Court costs against any municipal ordinance violation, traffic law, non-moving traffic law and infraction, except that no such surcharge shall be collected in any case when the proceeding or the defendant has been dismissed by the Court or in cases where the defendant is found by the Judge to be indigent and unable to pay the costs; provided, further, that seven dollars and thirteen cents (\$7.13) shall be remitted to the State Department of Revenue and thirty-seven cents (\$0.37) shall be remitted to the City Treasurer.

**6.**

Pursuant to Section 304.027, RSMo., any person convicted of an intoxication-related offense, as provided in Section 577.023, RSMo., shall have a judgment of twenty-five dollars (\$25.00) assessed; further provided, that collection by the Court shall be paid to the State Department of Revenue to the credit of the Spinal Cord Injury Fund.

**7.**

Other costs, such as service costs, witness fees, and jail costs in addition to the costs provided in Subsection **(A)(1)** through **(5)**.

**8.**

Upon a plea of guilty, finding of guilt or conviction for violation of the provisions of Title III (alcohol- or drug-related traffic offenses), the Court shall, in addition to imposition of any penalties provided by law, order the person to reimburse the City of Smithville for the costs associated with such arrest.

**a.**

Such costs shall include the reasonable cost of making the arrest, including the cost of any chemical tests to determine the alcohol or drug content of the person's blood, and the cost of processing, charging, booking and holding such person in custody.

**b.**

The Chief of Police may establish a schedule of such costs for submission to the Court; however, the Court may order the costs reduced if it determines that the schedule of costs is excessive given the circumstances of the case or for good cause shown.

**c.**

This fund shall be calculated as additional costs by the Municipal Court and shall be collected by the Court in the same manner as other costs and fees are collected and remitted to the City Treasurer.

**d.**

The City Treasurer shall retain fees in a separate fund known as the "DWI/Drug Enforcement Fund." Monies within the DWI/Drug Enforcement Fund shall be appropriated by the Board of Aldermen from such fund in amounts equal to those costs so incurred and shall be specifically used to enhance and support the enforcement and prosecution of alcohol- and drug-related traffic laws within the City of Smithville.



## Board of Alderman Request for Action

**MEETING DATE:** 8/3/2021

**DEPARTMENT:** Administration/Finance

**AGENDA ITEM:** Approve Bill No. 2911-21, FY21 Budget Amendment No. 7. 2nd reading by title only.

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**REQUESTED BOARD ACTION:**

A motion to approve Bill No. 2911-21, FY21 Budget Amendment No. 7.

**SUMMARY:**

As outlined in the accompanying staff report, a need to replace existing radios due to a transition to a fully encrypted dispatching system is necessary by the of the 2021 calendar year. To accommodate this transition, additional budget authority is needed in the Police Department budget in the General Fund to purchase the radios (at an expected cost of \$85,988.20). Therefore, staff is proposing to add \$86,000 to the FY2021 expenditure budget in the General Fund to pay for new Smithville Police Department radios.

The Development Department is working to bring greater efficiency to code enforcement and eliminate duplicate data entry work. This can be accomplished through the addition of a module in INCODE (at an expected 1-time cost of \$3,640 due now and an ongoing annual recurring cost of \$3,183 due now and in the future). Therefore, staff is proposing to add \$7,000 to the expenditure budget in the General Fund to pay for the costs of a new code enforcement module in INCODE.

**PREVIOUS ACTION:**

N/A

**POLICY OBJECTIVE:**

N/A

**FINANCIAL CONSIDERATIONS:**

Amend the FY21 Budget

**ATTACHMENTS:**

- ☒ Ordinance
- ☐ Resolution
- ☒ Staff Report
- ☐ Other:

- ☐ Contract
- ☐ Plans
- ☐ Minutes

**BILL NO. 2911-21**

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE FY21 OPERATING BUDGET TO ADD \$93,000 TO THE EXPENDITURE BUDGET**

**WHEREAS**, pursuant to Ordinance 3074-20, passed on October 20, 2020, the City approved the fiscal year ending October 31, 2021 Budget; and

**WHEREAS**, not included in the approved fiscal year 2021 Budget are expenditures to complete various projects initiated in FY20 but not yet complete; and

**WHEREAS**, the Board of Alderman has directed staff

**WHEREAS**, amendments to the General Fund are required at this time.

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

**THAT** the fiscal year ending October 31, 2021 Budget is hereby amended to add:

- \$93,000 in expenditures in the General Fund

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 3<sup>rd</sup> day of August 2021.

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

First Reading: 7/19/2021

Second Reading: 8/03/2021



## Board of Alderman Request for Action

**MEETING DATE:** 8/3/2021

**DEPARTMENT:** Police

**AGENDA ITEM:** Resolution 947, Authorize the Purchase of Police Radios

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**REQUESTED BOARD ACTION:**

A motion to approve Resolution 947 authorizing the purchase fifteen portal radios, five mobile radios, one base unit, the necessary peripherals, and installation, in an amount not to exceed \$84,500.

**SUMMARY:**

Every Smithville Police Officer is issued a portable police radio. This piece of equipment is a vital tool to stay in constant contact with the dispatch center and other officers. In July we received notice that the MARS radios system, utilized by Platte County, Clay County and most other area agencies, will be transitioning to a fully encrypted system by the end of this calendar year. Replacement of radios to an encrypted system is necessary at this time.

Currently the Mid-America Regional Counsel (MARC) has a cooperative bid for police radios. In accordance with City Code Section 105.080.C, staff is authorized to use cooperative purchasing agreements, like the MARC bid.

It is staff's recommendation to approve the purchase of this equipment using the MARC cooperative purchasing bid, for a price not to exceed \$84,500.

**PREVIOUS ACTION:**

Six encrypted radios have been purchased from the cooperative agreement in FY2020 and 2021.

**POLICY OBJECTIVE:**

Click or tap here to enter text.

**FINANCIAL CONSIDERATIONS:**

Budget Amendment No. 7 provides funds for this expenditure.

**ATTACHMENTS:**

- |  |                                   |
|--|-----------------------------------|
| <input type="checkbox"/> Ordinance                   | <input type="checkbox"/> Contract |
| <input checked="" type="checkbox"/> Resolution       | <input type="checkbox"/> Plans    |
| <input checked="" type="checkbox"/> Staff Report     | <input type="checkbox"/> Minutes  |
| <input checked="" type="checkbox"/> Other: Bid Quote |                                   |

## **RESOLUTION 947**

**A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE PURCHASE OF PORTABLE POLICE RADIOS, IN AN AMOUNT NOT TO EXCEED \$84,500.**

**WHEREAS**, the Police Department uses portable police radios on a regular basis for communications, and;

**WHEREAS**, the purchase of new police radios was approved in Budget Amendment No. 7, and;

**WHEREAS**, the City Code Section 105.080.C authorizes staff to use cooperative purchase agreements, and;

**WHEREAS**, staff has made a recommendation to purchase the equipment from Motorola Solutions, Inc., through the cooperative purchasing agreement with the Mid-America Regional Counsel.

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

**THAT** staff is hereby authorized and directed to purchase said equipment from Motorola Solutions, Inc., for an amount not to exceed \$84,500.

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 3<sup>rd</sup> day of August 2021.

---

Damien Boley, Mayor

ATTEST:

---

Linda Drummond, City Clerk

**STAFF****REPORT**

<b>Date:</b>	07/01/2021
<b>To:</b>	Cynthia Wagner, City Administrator
<b>Prepared By:</b>	Jason Lockridge, Chief of Police
<b>Subject:</b>	Police Radios

Earlier this month, the Department received communication from the Platte County Sheriff's Department regarding the existing radio system and planned changes at the County which will affect interoperability.

The Kansas City Police Department, Riverside Police Department and the Platte County Sheriff's Department intend to transition to a fully encrypted dispatch system by the end of this calendar year. The Clay County Sheriff's Department has made their intentions to do the same known in a recent meeting as well.

In order to continue using Platte County Sheriff's Department as our dispatch center, this transition will require all Smithville Police Department radios to have Advanced Encryption Standards (AES) installed.

Following receipt of this information, staff inventoried our current radios to determine adjustments necessary.

Type of Radio	Required	Encryption Capable	Able to Reprogram
Mobile/Base Units	9	3	0
Portable Units	24	6	3

The radios listed as encryption capable can have the encryption key installed and be ready to go with minimal work. The 3 portables listed as 'able to reprogram' can be reprogrammed to allow encryption.

This leaves us in need of 5 mobile (car) radios, 15 portable radios, and 1 base radio. The costs are outlined below. A quote has been obtained using the MARC cooperative radio bid, and the costs are outlined below.

	Qty	Per Unit	Total
Mobile/Charger/Microphone	15	\$ 4,144.80	\$ 62,172.00
Vehicle Chargers	3	\$ 283.20	\$ 849.60
Mobile	5	\$ 3,228.30	\$ 16,141.50
Base Mobile	1	\$ 3,185.10	\$ 3,185.10
Equipment Costs			\$ 82,348.20
Installations			\$ 2,140.00
reprogram existing mobile	3	\$ 500.00	\$ 1,500.00
			<b>\$ 85,988.20</b>

In order to purchase, install and encrypt all radios by implementation of the new system at year's end, staff recommends consideration of purchase as soon as possible.

The FY2022 police department budget includes \$15,000 to continue radio replacement initiated in FY2020. FY2022 funds would not be required if purchase occurred earlier. It is recommended that the FY2021 budget be amended to allow purchase of the radios this summer. As outlined above, total replacement is \$86,000. As discussed with the Board earlier this summer, approximately \$25,000 in funds transferred from the CARES Fund are available in the general fund balance and staff suggests earmarking those funds for this purchase.

Our intention is to bring a budget amendment to the Board on July 19 for first reading, and August 3 for second reading. We will also present an RFA to purchase these radios on August 3. This timeline should leave us enough time to purchase, program and deploy these radios before December 31, 2021.



812 S. 10th St.  
St. Joseph, MO 64501  
Phone: (816) 279-2065

**QUOTATION**  
**202000482**

Page 1

**Bill To:**  
CITY OF SMITHVILLE POLICE DEPT  
107 WEST MAIN  
SMITHVILLE, MO 64089-0655

**Ship To:**  
CITY OF SMITHVILLE POLICE DEPT  
107 WEST MAIN  
SMITHVILLE, MO 64089-0655

**Contact:** Roetman, Tony  
**Contact #:**  
**Email:** troetman@smithvillemo.org

**Contact:** Jason Lockridge  
**Contact #:** 816-507-6362  
**Email:**

*This includes Programming 15-APX6000 Radios and 6-APX 4500 Radios and Installing 5 - APX4500 Radio in place of existing Mobile Radios.*

Date: 06/23/2021		Customer #: R1277		Customer Rep: PAS	
Qty	Item	Description	Unit Price	Extended	
2	MO-Programming Trunking	Programming MR Radios Aligning, Templet and Programming of first APX6000 & APX4500	100.00	200.00	
19	MO-Programming Trunking	Programming MR Radios Programming 14-Additional APX6000s and 5- Additional APX4500s	60.00	1,140.00	
10	MO-Shop Installation	Shop Installation Switching out 5 existing Remote mount radios with New APX4500 Radios at MMRS Shop	80.00	800.00	

Terms: DUR 1.5% Finance after 30 Days  
This quotation is valid for 30 days. Prices are subject to change without notice.  
The information in this quotation is PROPRIETARY AND CONFIDENTIAL  
between Midwest Mobile Radio Service Inc. and the customer referenced above.

Subtotal : \$2,140.00  
Tax : \$0.00  
Total Quote : \$2,140.00

Billing Address:  
SMITHVILLE, CITY OF  
107 W MAIN ST  
SMITHVILLE, MO 64089  
US

Quote Date:06/23/2021  
Expiration Date:09/21/2021  
Quote Created By:  
Paul Stickler  
Sales Manager  
pauls@mw-radio.com  
8167528146

End Customer:  
SMITHVILLE, CITY OF  
Jason Lockridge, Police Chief  
jlockridge@smithvillemo.org  
816-532-0500

Contract: 34733 - MARC/KCRPC  
Payment Terms:30 NET

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
	APX™ 6000 Series	APX6000				
1	H98UCF9PW6BN	APX6000 700/800 MODEL 2.5 PORTABLE	15	\$6,462.00	\$3,963.60	\$59,454.00
1a	H869BZ	ENH: MULTIKEY	15			
1b	QA01833AH	ADD: EXTREME 1-SIDED NOISE REDUCTION	15			
1c	H499JX	ENH: SUBMERSIBLE (DELTA T)	15			
1d	Q361AR	ADD: P25 9600 BAUD TRUNKING	15			
1e	Q887AU	ADD: 5Y ESSENTIAL SERVICE	15			
1f	QA09006AA	ADD: ADAPTIVE NOISE SUPPRESSION	15			
1g	QA07578AA	ALT: BATT IMPRES 2 LIION TIA4950 R IP68 3100T	15			
1h	H842AU	ADD: SINGLE UNIT PACKING	15			
1i	H38BT	ADD: SMARTZONE OPERATION	15			



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.  
Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
1j	Q806BM	ADD: ASTRO DIGITAL CAI OPERATION	15			
1k	Q629AK	ENH: AES ENCRYPTION AND ADP	15			
2	NNTN8860A	CHARGER, SINGLE-UNIT, IMPRES 2, 3A, 115VAC, US/NA	15	\$157.00	\$94.20	\$1,413.00
3	PMMN4099B	AUDIO ACCESSORY- REMOTE SPEAKER MICROPHONE,IP68 REMOTE SPEAKER MICROPHONE,3.5MM,UL	15	\$145.00	\$87.00	\$1,305.00
APX™ 4500 Enhanced						
4	M22URS9PW1BN	APX4500 ENHANCED 7/800 MHZ MOBILE	5	\$5,208.30	\$3,228.30	\$16,141.50
4a	G628AD	INT: REMOTE MOUNT CABLE 17 FT APX	5			
4b	GA00318AC	ENH: 5 YEAR ESSENTIAL SVC	5			
4c	G67DQ	ADD: REMOTE MOUNT O2 APXM	5			
4d	G142AD	ADD: NO SPEAKER APX	5			
4e	QA02756AD	ADD: 3600 OR 9600 TRUNKING BAUD SINGLE SYSTEM	5			
4f	GA01606AA	ADD: NO GPS/WI-FI ANTENNA NEEDED	5			
4g	G843AH	ADD: AES ENCRYPTION AND ADP	5			
4h	GA00804AA	ADD: APX O2 CH (GREY)	5			
4i	G89AC	ADD: NO RF ANTENNA NEEDED	5			
4j	G444AH	ADD: APX CONTROL HEAD SOFTWARE	5			
4k	W22BA	ADD: STD PALM MICROPHONE APX	5			



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.

Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
4l	W969BG	ADD: MULTIKEY OPERATION	5			
5	RMN5070A	DESKTOP MIC (GCAI)	1	\$172.00	\$103.20	\$103.20
6	NNTN7624C	CHARGER,CHR IMP VEH EXT NA/EU KIT	3	\$472.00	\$283.20	\$849.60
APX™ 4500 Enhanced						
9	M22URS9PW1BN	APX4500 ENHANCED 7/800 MHZ MOBILE	1	\$4,964.30	\$3,081.90	\$3,081.90
9a	GA00318AC	ENH: 5 YEAR ESSENTIAL SVC	1			
9b	G90AC	ADD: NO MICROPHONE NEEDED APX	1			
9c	G66BF	ADD: DASH MOUNT O2 APXM	1			
9d	G142AD	ADD: NO SPEAKER APX	1			
9e	QA02756AD	ADD: 3600 OR 9600 TRUNKING BAUD SINGLE SYSTEM	1			
9f	GA01606AA	ADD: NO GPS/WI-FI ANTENNA NEEDED	1			
9g	G843AH	ADD: AES ENCRYPTION AND ADP	1			
9h	GA00804AA	ADD: APX O2 CH (GREY)	1			
9i	G89AC	ADD: NO RF ANTENNA NEEDED	1			
9j	G444AH	ADD: APX CONTROL HEAD SOFTWARE	1			
9k	W969BG	ADD: MULTIKEY OPERATION	1			

Grand Total

**\$82,348.20(USD)**

Optional Items:



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.  
Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

Line #	Item Number	Description	Qty	List Price	Sale Price	Ext. Sale Price
7	RLN6554A	APX WIRELESS RSM W/ DUC US/NA/JP/TW	1	\$300.00	\$180.00	\$180.00
8	NNTN8844A	CHARGER, MULTI-UNIT, IMPRES 2, 6-DISP, NA/LA- PLUG, ACC USB CHGR	1	\$1,315.00	\$789.00	\$789.00
Optional Items Total						\$969.00

**Notes:**



## Purchase Order Checklist

Marked as PO/ Contract/ Notice to Proceed on Company Letterhead  
(PO will not be processed without this)

PO Number/ Contract Number

PO Date

Vendor = Motorola Solutions, Inc.

Payment (Billing) Terms/ State Contract Number

Bill-To Name on PO must be equal to the *Legal* Bill-To Name

Bill-To Address

Ship-To Address (If we are shipping to a MR location, it must be documented on PO)

Ultimate Address (If the Ship-To address is the MR location then the Ultimate Destination address must be documented on PO )

PO Amount must be equal to or greater than Order Total

Non-Editable Format (Word/ Excel templates cannot be accepted)

Bill To Contact Name & Phone # and EMAIL for customer accounts payable dept

Ship To Contact Name & Phone #

Tax Exemption Status

Signatures (As required)



## Board of Alderman Request for Action

**MEETING DATE:** 8/3/2021

**DEPARTMENT:** Parks and Recreation

**AGENDA ITEM:** Resolution 948, Special Event Permit - Festiville

---

**REQUESTED BOARD ACTION:**

A motion to approve Resolution 948 issuing a Special Event Permit to Eric Craig Real Estate Team for Festiville to be held on September 4, 2021

**SUMMARY:**

The requested permit will allow the participants to have alcohol (open container) at the event. The event is scheduled from 3:00 p.m. until 1:00 a.m. on Main Street, Bridge Street and Church Street. Street closure will begin at 8:00 a.m. for set-up.

Festiville has requested to extend the noise ordinance policy (City Ordinance 205.2210) for their event to 1:00 a.m. They plan to wrap up the event at 12:00 a.m. and have an hour for clean up.

Per City Ordinance 600.070 (G &H) the Board of Aldermen may grant a Special Event Permit to allow drinking in public.

The event coordinators may utilize the following businesses as food and alcohol vendors: Kozak's, Chops BBQ, Smithville Tavern, Humphreys, Little Platte Distillery, and Ladoga Ridge Winery. All of these businesses have City and State Alcohol Licenses.

**PREVIOUS ACTION:**

Special Event Permit was approved for this event in June 2019.

**POLICY OBJECTIVE:**

N/A

**FINANCIAL CONSIDERATIONS:**

N/A

**ATTACHMENTS:**

☐ Ordinance

☒ Resolution

☐ Staff Report

☐ Other:

☐ Contract

☐ Plans

☐ Minutes

## **RESOLUTION 948**

**A RESOLUTION APPROVING A SPECIAL EVENT PERMIT AND A TEMPORARY LIQUOR LICENSE FOR ERIC CRAIG REAL ESTATE TEAM FOR "FESTIVILLE" IN THE DOWNTOWN COURTYARD ON SATURDAY, SEPTEMBER 4, 2021.**

**WHEREAS**, Eric Craig Real Estate Team has submitted an application with all required fees and documentation; and,

**WHEREAS**, local businesses will supply the food and beverages for a fee to the participants in a vendor tent in the courtyard using their State and City licenses to sell alcohol; and,

**WHEREAS**, the applicant has submitted a map of the area and will monitor the area that will allow open consumption of alcohol in accordance with city code; and,

**WHEREAS**, Smithville police officers will assist in providing security at the event.

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

**THAT A SPECIAL EVENT PERMIT AND TEMPORARY LIQUOR LICENSE BE ISSUED TO ERIC CRAIG REAL ESTATE TEAM FOR FESTIVILLE TO BE HELD SATURDAY, SEPTEMBER 4, 2021. IN ACCORDANCE WITH THE PLAN APPROVED BY THE CHIEF OF POLICE.**

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 3<sup>rd</sup> day of August 2021.

---

Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

## **600.070 (G & H )**

### *G. Drinking In Public Places Prohibited.*

1. For purposes of this Section, the term "public place" shall mean any public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot, except in those areas above granted a special event permit.
2. No person shall drink or ingest any intoxicating liquor or non-intoxicating beer in or on any public place.
3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor or non-intoxicating beer while in or upon any public place.
4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor or non-intoxicating beer while within or on any motor vehicle while the same is being operated upon, or parked or standing in or upon any public place. Any person operating a motor vehicle shall be deemed to be in possession of an open container contained within the motor vehicle he/she has control of whether or not he/she has actual physical possession of the open container.

### *H. Special Event Permit.* The Board of Aldermen may grant a special event permit for purposes as identified in Section 600.070(G)(1), above, and under the following conditions:

1. An application must be filed with the Chief of Police that describes the applicant's name and business or interest in the event; the name(s) and contact information of any or all liquor license holders who will be involved in such event; the public street, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot to be included in the event area; the beginning and ending time of such event, and the telephone contact of the person in charge of and present at the event.
2. The estimated number of participants in the event shall be provided to the Chief of Police, and the applicant shall pay all costs of security needed as a result of the event to ensure compliance.

[1] Editor's Note: Former Section 600.070, which derived from RSMo. §§311.280, 311.340, 311.600, 311.330, 311.310, 312, 400; Ord. No. 2255-04 §1, 3-16-2004, was repealed 6-21-2011 by Ord. No. 2790-11 §1.



## Board of Alderman Request for Action

**MEETING DATE:** 8/3/2021

**DEPARTMENT:** Police

**AGENDA ITEM:** Resolution 949, Approval of the Blueprint for Safer Roadways Grant contract

---

**REQUESTED BOARD ACTION:**

A motion to approve Resolutions 949 authorizing the Mayor to sign the contract a Missouri Highway and Transportation Commission for the Blueprint for Safer Roadways Grant award.

**SUMMARY:**

Receipt of this grant would provide funding for the City's participation in Missouri Highway and Transportation Commission Blueprint for Safer Roadways Program. This grant is administered by the Mid-America Regional Council, in partnership with the Missouri Department of Transportation. These funds will allow the Smithville Police Department to purchase and install six radar units and one laser speed measuring device. These radar units will replace aged units currently in patrol vehicles. The laser device will be utilized by all officers.

**PREVIOUS ACTION:**

In September 2020, the City entered into a contract with the Missouri Highway and Transportation Commission to purchase a speed data collection sign. This is the same Destination Safe Grant for 2021.

**POLICY OBJECTIVE:**

**FINANCIAL CONSIDERATIONS:**

The grant funds 100% of the \$17,794 project cost.

**ATTACHMENTS:**

- |  |  |
|--|--|
| <input type="checkbox"/> Ordinance             | <input checked="" type="checkbox"/> Contract |
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Plans               |
| <input type="checkbox"/> Staff Report          | <input type="checkbox"/> Minutes             |
| <input type="checkbox"/> Other:                |  |

## RESOLUTION 949

### **A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION FOR FUNDING RADAR UNITS AND LASER SPEED MEASURING DEVICE.**

**WHEREAS**, the City of Smithville recognizes the importance of traffic safety; and

**WHEREAS**, the City of Smithville wishes to participate in the Blueprint for Roadway Safety Program and

### **NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI:**

**THAT** the Mayor and Board of Aldermen hereby authorize the Mayor to sign an agreement with the Missouri Highway and Transportation Commission to fund the purchase and installation of six vehicle mounted radar units and one laser speed measuring device, in an amount not to exceed \$17,794.

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 3<sup>rd</sup> day of August, 2021.

---

Damien Boley, Mayor

ATTEST:

---

Linda Drummond, City Clerk

CCO Form: HS02  
Approved: 01/05 (BDG)  
Revised: 03/17 (AR)

Award name/number: **BPCKC-94Z**  
Award year: **FY2022**

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
STRATEGIC HIGHWAY SAFETY PLAN PROGRAM AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the

City of **Smithville**, a municipal corporation in the State of Missouri (hereinafter, "City");

WITNESSETH:

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

(1) **PURPOSE**: The Commission has authorized State Road Funds to be used to support regional Strategic Highway Safety Plan activities. The purpose of this Agreement is to grant the use of such State Road Funds to the **City**.

(2) **ACTIVITY**: The State Road Funds, which are the subject of this Agreement, will support the following activity to further Missouri's Strategic Highway Safety Plan Program: **Smithville Police Department Radar Unit Replacement**.

(3) **INDEMNIFICATION**: 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** wrongful or negligent performance of its obligations under this Agreement.

(4) **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.

(5) **COMMISSION REPRESENTATIVE**: This Commission's 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.

(6) NONDISCRIMINATION CLAUSE: The City shall also comply with all state and federal statutes applicable to the City relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*).

(7) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(8) 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.

(9) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations or for convenience by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

(10) 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 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.

(11) REIMBURSEMENT: With regard to work under this Agreement, the City agrees that funds to implement Missouri's Strategic Highway Safety Plan activities shall only be available for reimbursement of eligible costs which have been incurred by the City. The City shall supply to the Commission copies of all bid information; purchase orders; invoices; and name, date, hours worked, and rate of pay (on Program Agreements that include salaries). Any costs incurred by the City prior to authorization and notification to proceed from the Commission are **not** reimbursable costs. The Commission shall not be responsible for any costs associated with the activity herein unless specifically identified in this Agreement or subsequent written amendments. The Commission shall not provide more than **Seventeen thousand seven hundred ninety-four** dollars (\$ 17,794.00) for this Strategic Highway Safety Plan safety project.

(12) USE OF FUNDS: Any employee of the City whose salary or wages are paid in whole or in part with federal funds is prohibited from participating in certain partisan political activities, including, but not limited to, being a candidate for elective office pursuant to Title 5 United States Code (hereinafter, "U.S.C."), Sections 1501-1508. If an employee of the City participates in activities prohibited by the Hatch Act, the City shall no longer pay that employee's salary or wages with federal funds unless the requirements of 5 U.S.C. Sections 1501-1508 are not applicable to that employee pursuant to 5 U.S.C. Section 1502(c).

(13) INSPECTION OF IMPROVEMENTS AND RECORDS: The **City** shall assure that representatives of the Commission shall have the privilege of inspecting and reviewing the work being performed per this Agreement. The **City** shall also maintain all financial documents, reports, papers and other evidence pertaining to costs incurred in connection with this Program Agreement, and make such materials readily available for review at reasonable times and at no charge during this Agreement period and for three (3) years from the date of final payment under this Agreement, for inspection by the Commission or any authorized representatives of the State of Missouri; copies shall be furnished, upon request, to authorized representatives of the Commission or State.

(14) 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.

(15) FINAL AUDIT: The Commission may, in its sole discretion, perform a final audit of project costs. The **City** shall refund any overpayments as determined by the final audit.

(16) SOLE BENEFICIARY: This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the **City**.

(17) AUTHORITY TO EXECUTE: The signers of this Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Agreement.

*[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 3rd day of August, 2021.

Executed by the Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF SMITHVILLE  
POLICE DEPARTMENT

\_\_\_\_\_

By \_\_\_\_\_

Title: District Engineer

Title Damien Boley, Mayor

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

By \_\_\_\_\_

Title Linda Drummond, City Clerk

Approved as to Form:

An Agreement

Title Show Me Zero

Resolution No 949

**\*Note: If a City has a commission form of government, three (3) signatures are required.**