



City of Smithville, Missouri
Board of Aldermen – Regular Session Agenda
October 4, 2022

7:00 pm – City Hall Council Chambers and Via Videoconference

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.

Public Comment can be made in person or via Zoom, if by Zoom please email your request to the City Clerk at ldrummond@smithvillemo.org prior to the meeting to be sent the meeting Zoom link.

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

Join Zoom Meeting
<https://us02web.zoom.us/j/86919187489>

Meeting ID: 869 1918 7489
Passcode: **608227**

3. **Consent Agenda**
 - **Minutes**
 - September 20, 2022, Board of Aldermen Work Session Minutes
 - September 20, 2022, Board of Aldermen Regular Session Minutes
 - **Resolution 1122, Acknowledging Emergency Purchase – Basin Cleaning**
A Resolution acknowledging an emergency expenditure for basin cleaning at the wastewater treatment plant in the amount of \$28,694.40 with Clean Harbors Environmental Services.
 - **Resolution 1123, Acknowledging Emergency Purchase – Harbortowne Lift Station**
A Resolution acknowledging an emergency expenditure in the amount of \$27,744.89 with Mid-America Pump for the Harbortowne lift station.
 - **Resolution 1124, Authorizing Purchase for Actuators and Valves**
A Resolution authorizing the purchase of two solid waste treatment plant actuators and valves in an amount not to exceed \$60,086.93 with Mellen and Associates .
 - **Resolution 1125, Authorizing the purchase of Park Signage**
A Resolution authorizing the purchase of park signage from Boulder Designs in the amount of \$10,400.

REPORTS FROM OFFICERS AND STANDING COMMITTEES

4. **City Administrator's Report**

ORDINANCES & RESOLUTIONS

5. **Bill No. 2960-22, Amending Outdoor Storage – 2nd Reading**
An Ordinance amending Sections of Chapter 400, zoning codes related to outdoor storage. 2nd reading by title only.
6. **Bill No. 2961-22, Right of Way Agreement with Bluebird Network – 2nd Reading**
An Ordinance authorizing the Mayor to sign a Right-Of-Way Use Agreement For Communications Facilities with Missouri Network Alliance, LLC also known as Bluebird Network. 2nd reading by title only.
7. **Bill No. 2962-22, Adopt the FY2023 Operating Budget – 1st Reading**
An Ordinance adopting the FY2023 Annual Operating Budget. 1st reading by title only.
8. **Bill No. 2963-22, Amending Chapter 510, Right of Way Management – 1st Reading**
An Ordinance amending Chapter 510, Right of Way Management. 1st reading by title only.

OTHER MATTERS BEFORE THE BOARD

9. **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.
10. **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.
11. **Adjourn**





Board of Aldermen Request for Action

MEETING DATE: 10/4/2022

DEPARTMENT: Administration/Public
Works/Police/Parks/Finance

AGENDA ITEM: Consent Agenda

REQUESTED BOARD ACTION:

The Board of Aldermen 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:

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SUMMARY:

Voting to approve would approve the Board of Aldermen minutes and Resolutions.

PREVIOUS ACTION:

N/A

POLICY ISSUE:

N/A

FINANCIAL CONSIDERATIONS:

N/A

ATTACHMENTS:

- | | |
|--|---|
| <input type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input checked="" 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

September 20, 2022, 6:00 p.m.
City Hall Council Chambers and Via Videoconference

1. Call to Order

Mayor Boley, present, called the meeting to order at 6:00 p.m. A quorum of the Board was present: Leeah Shipley, John Chevalier, Marv Atkins and Dan Ulledahl. Dan Hartman and Ronald Russell were present via Zoom.

Staff present: Cynthia Wagner, Chief Jason Lockridge, Stephan Larson, Chuck Soules, Matt Denton, Jack Hendrix and Linda Drummond.

2. Discussion - Enforcement of Chapter 235 – Dog and Cat Regulations

Cynthia walked through information that was included in the packet and apologized that there was some information that did not make it in the packet. Cynthia explained that the information was a second alternative.

Cynthia briefly outlined the information that was in the memo for Ordinance Chapter 235 of the City's requirements for operating a city pound either internally through staff or by contracting it out. It outlines regulations for the licensure of dogs and cats, limitations relating to the number of animals kept, abuse or neglect, abandonment, running at large and all of those items we would anticipate as part of enforcement of animal control issues and concerns.

The Police Department provides the City's primary response. When we get a call of a vicious dog, or a dog at large it is the Police Department that responds to the call. The dogs, if they are at large, are collected and housed at the facility known as Megan's Paws and Claws that is located at the Water Treatment Plant facility. Once the dog is taken to the pound it is housed in an intake facility for observation it is held for ten days or until claimed by the owner. During the time the dog is there, staff monitors for any obvious health concerns or issues and if needed medical attention is provided. Once that 10-day time period has passed and the dog is not reunited with its owner it is moved to the main pound building and is available for adoption. All dogs are brought up to date on vaccinations, are spayed or neutered and microchipped before adoption.

By Ordinance in the case of a vicious dog or a dog bite, a dog that bites a human is required to be quarantined for at least a 10-day observation either at a veterinarian of the owner's choosing or at the city pound. Once that 10-day time has expired the dog can be returned to the owner assuming there are no signs of illness. The process of issuing citations is handled through the court system like any other Ordinance violation. Cynthia noted that our number vicious dog instances is very low in general one to two occurrence per year at the most.

The City currently works with a non-profit Friends of Megan's Paws and Claws to provide support to the facility and support of the impounded animals. The original facility that the animals are held in initially, is the facility that was built in 2010 with monetary and kind donations from the community in response to Megan's Paws and Claws. Funding and donations were spearheaded by Tom and Lori Kissinger, Megan's

parents. A similar facility was constructed with City funds in 2017 or 2018 this facility provides the ability to separate dogs to ensure that none are ill, and it provides space to quarantine any aggressive dogs.

An Administrative Coordinator in the Utilities Department Division of the Public Works Department works with the police in providing the day-to-day care of those animals. This position also works with Friends of Megan's Paws and Claws to coordinate adoption of unclaimed dogs. Approximately 25 to 30 dogs are adopted annually.

Cynthia noted that information in the packet include statistics from the pound as well as police information on responses. On average six to seven dogs are impounded on a monthly basis most are returned to the owner or adopted in less than 30 days.

The second piece of information included in the packet outlines the timing of when calls for service related to animals are. Police response for calls generally reach a peak between the hours of 8:00 a.m. and 8:00 p.m. with the most responses around 4:00 p.m. and on any days of the week but Friday is usually the highest.

Cynthia noted that the Water Master Plan, which was completed in 2018 outlines a need for expansion of the water treatment plant to provide water services for the community as we continue to grow. Because the existing dog pound buildings are in the footprint of that expansion it will affect those buildings.

Over the course of the last several months and following discussion at the retreat, staff, the Mayor, representatives of Friends of Megan's Paws and Claws and a local veterinarian have met to begin examining animal control needs and services in the future to enforce Chapter 235. Staff sent invites out to all local veterinarians who provide boarding services for animals to try to identify an alternative for looking at care that might be a contracted service. Former Alderman Kelly Kobylski helped spearhead some of the review and those discussions and efforts to try to determine the best way to enforce chapter 235 in line with other priorities throughout the community.

Cynthia explained that based on the ongoing needs and priorities it is staff's recommendation at this point in time is to issue a RFQ (Request for Qualifications) based on Board input for animal care and housing services to meet the needs of Chapter 235. It would be anticipated that an agreement would provide for the observation and care of animals collected, the police would take the animals as they are collected to the facility where they would be monitored, and a medical assessment would occur. They would also obtain a behavioral observation to determine the suitability for adoption and the coordination of return to owners would also be taking care of through that contractual relationship. An RFQ evaluation process would anticipate cooperation by whoever would be awarded a contract in coordination with Friends of Megan's Paws and Claws particularly in the adoption process in any way that they found appropriate.

Cynthia explained that what did not get included in the staff report was an alternative approach that staff has reviewed would be to reevaluate the proposed police facility construction for inclusion of space for animal impoundment and care. This option would also include revision of staffing needs to add an animal control position in the police department. At this time, full costs are unknown, but could be developed.

In either case, a change would not be anticipated and realistically could not be implemented before FY2024.

Cynthia noted that the expansion of the water treatment plant is not included in the CIP until 2027, so we do have some time to work through this. She asked for direction or feedback from the Board as to preferred option for moving forward, whether it be issuing an RFQ for looking at that care or including the information and review of a Police Department facility. Both of these staff anticipate would need to occur this fall to help us look our police department needs.

Kelly Kobylski explained that based on their discussions in her opinion she would like to see an RFQ go out to contract with either a local vet or a boarding facility. She would like to see Megan's Paws and Claws look at fundraising and maybe working with Platte and Clay County to do a shelter of some sort. She thinks there is just a bigger need outside the city limits. She noted that from the City's standpoint contracting with a local veterinarian or boarding facility would be the best financial route to go.

Dawn Adams, representative of Friends of Megan's Paws and Claws, said that she would like to be involved in the conversation for planning. She noted that she sees the good and bad in outsourcing. She said that outsourcing seems to be the simple fix but not for the long term. She sees opportunities for partnering and would really like to partner with the City. She said that they have already raised over the City's annual budget for the pound. She feels strongly that this community is very committed to making things successful for the animals in Smithville.

She said they really wanted to be involved in more of the planning process and we were not able to get the details of anything because the meetings never happened, and she was little concerned about that.

Dawn agreed that we do have a county problem but feels we need to keep them separate. While she agrees we need to advocate for Platte Clay County, and she does plan to do so she also wants to continue to advocate for Smithville. She said her concern is if we outsource what happens when the contract ends. She explained that happened in Platte County, it was outsourced to Dr. Jackson and years later he realized he was losing money. She said that it also is going to be a difficult story to tell the residents of Smithville who funded the original facility that it is just going to go away.

Dawn noted that she loves the idea of moving it to the Police Department and thinks if we partner and work together, we could probably raise funds for a new facility there rather than outsourcing it. She realizes this is not going to happen overnight, but it could happen.

She said it is her personal opinion she sees issues if we outsourced to a veterinarian. She said that both of our local veterinarians do not have any fencing, they do not have the ability to do enrichment, they do not have 24/7 staffing and they do not have anyone to do marketing.

Dawn asked that the Board hold off on the RFQ and instead form a subcommittee and come up with other solutions. She said that they could see if they could help the City financially get that solution.

Mayor Boley noted that he would see what the Aldermen have to say but usually to be on our committees require residency. He noted that Dawn was not a Smithville resident so that that makes being on the committee difficult. He said that partnering with a nonprofit is definitely an option. He noted that in talking with the sheriff in Clay County there is a regional issue.

Kelly Kobylski said that whichever direction we go we absolutely need to include Megan's Paws and Claws to make this happen. We have to work together whichever route we go. Kelly noted that we want this to be a long-term solution. If we do fundraising it should be for a regional location, so we do not outgrow it.

Dawn said that her heart is with the animals and for those who care for them. She said that she cannot said enough nice things about the staff at the pound. She said that reality is there is a lot of work going on behind the scenes and does not think you see that unless you are there. She has seen them all go above and beyond. She thinks we have nice facility, but it could be better and she would like to make it better. She would like to earn the funds to make it better.

Dawn noted that if we contract with a local veterinarian the dogs are going to be stuffed into kennels and they are not going to get what they need as far as enrichment and yards. The veterinarians along 169 Highway have no fencing which is terrifying to her. She does not see them having the staff to go walk them three times a day or give them the freedom they currently have and she thinks we would be going backwards.

Cynthia noted that all those things will be addressed in an RFQ. She explained that we have had conversations about what would be included in those desires. Cynthia explained that we did invite all the veterinarians in the community and those within a reasonable distance who board animals, to help walk through the expectations of the level of care and the care that we are providing at this point in time. We also asked for feedback to help staff understand it and what we could use in putting together the RFQ for outsourcing those services.

Cynthia noted that it would be nice to be able to have a regional solution so that there were services provided by a larger entity that we could all work with. Especially since we are all balancing priorities of funding for all of the needs throughout the community.

Mayor Boley explained that this is a problem we have to solve by 2027 and we are not going to solve this tonight. Even if we added this to the Police Department that issue is not going on the ballot until April and if it passes it still will take months and months for financing, bonds and sales tax.

Cynthia explained that this should be a request for qualifications and not a request for proposal. A request for proposal is something we send out and we take the low bid. A request for qualifications is when we outline what it is we are looking for and we have submittals that are reviewed. It is like selecting an engineering firm or some type of

professional service which is what we are looking for in this situation. A number of the members of the Board have participated in this process before. When we do this RFO we will put together an interview panel with the intent to find individuals from the community representing the needs and the desires of our animal control services.

Dawn noted that she would like to make sure that they have a voice in the matter and explained that Traci Sisco, a member of their board of directors' lives in Smithville.

Traci Sisco, 604 Indian Trail Court, asked if the City had put the position of Animal Control Officer in the budget?

Cynthia explained that we have not budgeted an Animal Control Officer position that as she indicated in her presentation tonight is to help us understand how we work forward and come up with a plan. It would depend on resources and how we would be able to fund that and what that cost would be.

Cynthia noted that we have talked a lot about volunteering as well as she and Dawn have had ongoing conversations concerning it. Currently the pound is located on property of the water treatment facility and access to that by the public is problematic. There are some concerns since it is our water supply system, not that we do not trust people that come out there but there are concerns about what those limitations should be. Those same concerns would apply in a police department facility. The City would have to work very carefully through any process to coordinate and make all the opportunities possible for assistance through Friends of Megan's Paws and Claws that would ensure that all parties understood what those limitations and opportunities would be.

Traci asked about the discussions with Clay County.

Mayor Boley said that Clay County is working on getting regional dispatch and getting regional services. We have our dispatch through Platte County. Clay County Sheriff Akin is trying to get things built for the entire community. Sheriff Akin knows there is an animal problem and is looking to what other communities especially since they provide police services for some of the municipalities.

Traci noted that she would like to be involved in the discussions with local veterinarians as a representative of Megan's Paws and Claws.

Kristine Bunch, 208 Maple Lane, explained that 19 years ago she stood before the Board and proposed a dog park and everybody thought she was crazy. They asked who is going to fund it, how is it going to happen and what would it look like and she told them exactly how they do it in Los Angeles with dog tags. She said while she is not happy when fees are increased you just have to pay them as a responsible pet owner. Right now Smithville has a tag fee of ten dollars, Kristine said that if our tag fee was 45 dollars and everybody in the city limits of Smithville paid that fee there would be our Animal Control Officer's salary.

Kristine said that she seconds everything that Dawn Adams said and absolutely love that woman and she love Melissa and said kudos to them they do things beyond any of can even comprehend.

Kristine said that we are having an epidemic of dogs being dropped in Smithville because it is now known that we do not have an animal control officer so dogs are getting dumped. She recently rescued a dog that got dumped with bloody paws. She said it is a very sad thing to see when she believes the city could do something and step in by getting an animal control officer.

Kristine noted that AARP magazine says 70% of all households have dogs. People have adopted dogs during the pandemic for companionship for working at home and that in itself is an epidemic. Now it is putting a heavy burden on the veterinarians and the local pounds because they cannot keep the dog now because they are either moving, they get divorced or it did not work out so well when they went back to work.

Kristine said that she would like to help in whatever way that she can and also thinks that outsourcing might not be the best thing.

Alderman Russell said that since looking forward to 2027 he suggested that we include the dogs catching as well as cats in the RFQ. We need to look at what the need will be for the facilities. He noted that we do have a lot of cats roaming around and people also dropped them off as well. He said in moving forward with this we need to look at the position of dog catcher whether we outsource it or keep it inhouse.

Alderman Hartman noted he was just looking at the numbers and was pleased with the numbers the impound totals of 54 so far for this year with 61% being return to the owners and 31% were adopted. He said he was curious to know of that 54 how many were chipped. He also asked when dogs that are dropped off in city limits are included in those numbers.

Chief Lockridge explained that he did not believe we have numbers on how many were microchipped and does not think that is something that is on the Department of Agriculture's intake but noted it was something staff could look at tracking. Chief noted that as to the number of dropped dogs he believes they are included in that number. He said if you look at the history on those numbers you would see their trending models were actually for pre-COVID times.

Cynthia clarified we do not take surrenders.

Chief Lockridge noted that the numbers were for dogs dumped in town.

Mayor Boley noted that if you look at our return to owner numbers a lot of the dogs get returned home.

Chief Lockridge noted that in the memo it said that for any animal we adopt out we require them to be microchipped and registered which is done before they are released.

Mayor Boley asked if we keep track of repeat offenders.

Chief Lockridge explained that we do somewhat keep track of the subsequent offenses and several of those are paying second, third and fourth impound fees. The fees go up from \$25, \$50 to \$100 per offense.

Alderman Chevalier said he agreed with Alderman Russell on the cat scenario. He noted that if we are going to expand we should also look what we can do with cats. He said that he does hear a lot more people talk about all the cats running loose more so than dogs. Alderman Chevalier said that he is not necessarily against outsourcing but does not want the level of care and facility to change and would like that to be part of the part of the RFQ to see what those options are. He also noted that he is not sure on the Animal Control Officer position because of the number of calls we receive and having enough work for them unless it could be an on-call position.

Cynthia said that was absolutely something that we have to look at. She noted that one of the things that is kind of the beauty of this issue is not having to have an answer tonight. These suggestions tonight can be incorporated into a longer term review.

Alderman Atkins noted that over the last few years we have been diligently looking at long-term solutions, 10-year and 20-year plans and we need to take our time with this. He said that he respects the individuals that are passionate about the animals and also respects those who are worried about the money. Alderman Atkins said that instead of trying to do something for a quick solution this should be investigated with an RFQ to look at what is needed in the future and what would be the best solution. We need to look at if this will need a job-sharing position, will it grow to a full-time position, what to do about the cat situation. These things need to be looked at instead of just building another little house and a cheap solution and have to come back in four or five years looking to readdress the whole thing.

Alderman Ulledahl noted that he agreed with Alderman Chevalier and does not want to see the level of care change and thinks it should be something we constantly have to raise the bar. He asked what the timeline was for the water plant expansion.

Cynthia explained that it is scheduled for 2027 when we would begin construction.

Mayor Boley added that we will need to have something in place for the animals by the end of 2026.

Alderman Chevalier added that the outsourcing should be more of a temporary solution and would like the long-term solution for it to be part of the new police station.

Mayor Boley explained that the conversation came up for working with the local veterinarians because they do have additional land. He said that Dawn had approached him about adding a dog run at the current facility and he explained to her that we just do not have the room.

Mayor Boley inquired if the Board would like to have staff start developing an RFQ or for outsourcing Animal Control and they all replied yes.

Mayor Boley noted that staff will work with a representative of Megan's Paws and Claws and also continue working with the Kissinger's as well.

3. Discussion of Potential Ballot Initiatives

Cynthia noted this was part of the discussion in May at the governing body retreat. We have completed a lot of the City's Master Plans in the community. We know the needs that we have, and we have been able to work through a lot of processes to move forward in improvements with infrastructure. In looking at facilities earlier this year we worked with architects to come up with plans and designs to address needs for facilities for the Police Department, Public Works and a Parks Maintenance facility. At the retreat we reviewed the plans that were submitted and previously presented to the board in January and February. Of the two different plans discussed at the governing body retreat there was priority expressed for a police facility.

Cynthia went on to provide information received since the retreat. Staff has reviewed the existing facilities and have also received one major opportunity. Staff also looking at our funding capacity, because at this point in time with current resources we do not have the resources to be able to support any new facility. Cynthia also noted the community has a desire for a community but as we discussed at the retreat and have discussed at various times, we would like nothing more than to be able to bring forward something to be able to fund the community center. At this point in time, it is not feasible given the resources that we have and the authority we have from the state to leverage resources to build a community center, maintain a community center and staff a community center. The estimated costs for community center are 15 to 25 million dollars depending upon the size and what is included. Cynthia explained our debt capacity which would be the best way to be able to address that which is 21 million dollars and will be 23 million dollars after the beginning of next year. The debt capacity is funded through property tax increases. That amount would build the community center facility, but the ongoing operations for facility of that size would be significant and would potentially out pace our ability to fund it through an existing sales tax. She noted that as we have seen in communities throughout the area staffing in general is an issue but particularly staffing related to lifeguards has been difficult. At this point in time and based on discussions with the governing body at the retreat the community center has been put aside for some other discussion right now the priority needs related to the Police Department.

Cynthia explained that Smithville is a community that is growing and the needs that we have for a Police Department have been acknowledged and provide for a more efficient response to the community services and providing those community services. The estimate that was provided earlier this year was about 16 million dollars for a police facility. With inflation and based on estimates from the architects if we were to build this next late year, they are estimating about 16 and a half million dollars based on current inflationary costs. Outlined in the memo were some areas where it was identified that there could be some reductions to cost for a savings of about 1.5 million dollars. The one caution that staff would make sure that the Board is aware of would be any reduction to a building at this point in time, as the community grows, there will be a need to expand, and we would probably see increases in costs that would offset the savings of the 1.5 million dollars. So, if we save the 1.5 million dollars now it would probably cost closer to two to two and a half million dollars down the road.



Figure 1 Police Department Floorplan

Cynthia noted that earlier this year the estimate for the Public Works and Parks Maintenance facility, some renovation to the existing Parks building, a covered facility for equipment, and locker rooms for street maintenance workers was estimated at eight to ten million dollars.

Cynthia explained that earlier this year staff received information from the Corps of Engineers that they are looking to repurpose several areas included in the Litton Visitor Center. This is just on the outskirts of the City in an area that two years ago we submitted annexation requests to the Corps of Engineers for voluntary annexation of that land. That annexation is still under review, but we do not anticipate any problems some things just take time when working with the Corp of Engineers.

The area the Corp is proposing is the area where there currently is information about Jerry Litton as well as a wildlife exhibit. The Corp would like to outsource or provide for another entity and reached out to us as well as Clay County Parks and Recreation to consider using that area predominantly for administrative offices. They were really thinking our Parks and Recreation particularly in coordination with the Corp right there on the lake made sense. Through discussions with them it made sense that administrative function for Public Works could also be located there because of the communication and the coordination on a number of utility and other projects at the lake. We would look at use for one area for administrative functions of Public Works and Parks. There is another portion of the building across from the information display that is currently being used for storage space that could be used for public meetings, conference room space for City functions and even Parks and Recreation programs.

Cynthia explained that staff has expressed a significant interest in the facility and an appreciation to the Corp reaching out to the City. This could provide the coordination and communication having those departments in the same facility. Having space for

administrative staff of those two departments would alleviate some of the pressure we have on growth in those departments and allowed us to rethink design for the facility at Smith's Fork. At the facility at Smith's Fork, we could do minimal reconfiguration to the existing office area and our maintenance supervisory staff can have office space there. We would then build storage space that would include locker room space and other amenities for staff. These changes would significantly reduce cost.

Cynthia noted that we had included \$200,000 in this year's budget for design of a public works and parks facility and have not expended all of that money. We anticipate incorporating that money in the 2023 budget for work with the Corp on renovation of the Litton Center for use by administrative staff. Then the reconfigured maintenance space and storage space to include a salt barn is estimated at about three million dollars. Now the total cost of the Police and Public Works and Parks is just under \$20 million dollars. As discussed at the retreat the most logical form of funding for this would be issuance of General Obligation bonds. Our authority for issuance of General Obligation or GO bonds is set by the state based on our assessed valuation. At this point in time the cap that we could issue in debt is \$21.8 million dollars which is based on our current assessed valuation. During the regular meeting tonight there will be a public hearing on our mill levy and also the Board will set a new mill levy for the FY2023 budget that will expand our debt capacity to \$23.7 million. A bond issuance of between 21 and 23.5 million dollars would need a financing structure to be able to repay those bonds with the possibility of property tax mill levy of 6.3 or 6.4 being able fund that. Cynthia explained that the details of that would have to be worked out with our financial advisors.

Cynthia explained that the indicated 19 and a half million dollars estimated for construction at the time when we issue debt, that there are also upfront costs of issuance related to about a million dollars that will need to be added also. So with that \$21.8 million we have the capacity to be able to do these two facilities if that is the direction the Board would like to move forward with.

Cynthia noted that during the retreat we also spent some time discussing the ongoing operational and staffing needs to include in the 2023 budget. The addition of several positions was also outlined, two additional police officer positions as the community grows. If the police facility is built there would be a need for some administrative support. We currently have one administrative staff member who covers the front window, and we would need to ensure staff coverage for vacations, etc. We also have a need for assistance in our property and evidence room, this could be a civilian position. She and Chief Lockridge have discussed the new position would cover the front desk and the current position would help with coverage, support to the prosecutor and police the evidence storage. Those three positions are estimated about \$215,000. Staff also looked at the operating cost of the Police Department on an annual basis, not including personnel costs or capital expenditures, and it totaled approximately \$400,000 a year on operations and support of the Police Department.

Staff recommends that if the Board wishes ballot initiatives to fund ongoing needs that we look at Police Department needs from the staffing perspective of addition of those three positions and support of ongoing operating costs. That we provide identified funds for the Police Department and that could alleviate some of the pressure organizationally on the budget and providing services in general.

Currently we have statutory authority to take to the voters the question of assessing up to one additional cent of sales tax. One cent of sales tax generates between 1.2 and 1.3 million dollars on an annual basis. A half-cent sales tax would generate about \$650,000. The staffing and operational needs would represent about \$630,000 of that. Staff would recommend that the board take the question a half cent sales tax to the voters for supportive of the police.

Cynthia explained that there would be two questions on the ballot, issuance of debt and police sales tax or sales tax for general fund to support the police. State law does not require the board to take the question of increase of property taxes to the voters that is something the board can act on.

Cynthia noted that if the board wanted to move forward, we will need to engage in an information campaign. Part of that information would be - what debt levy would be required to support issuances funds.

Cynthia outlined the timeline for municipal elections that can occur in November and April. There is a timeline when the questions have to be certified. If a question is placed on the April ballot the language must be certified to the election board by the end of January. If it is on the November ballot that language has to be certified to the election board by the end of August. Cynthia asked for discussion, feedback and direction from the Board.

Mayor Boley noted that he was glad that Cynthia brought up the Community Center because that is one thing that continues especially comments now about Kearny building a pool. He said that Kearney will spend about 12 million dollars on a pool only. He noted that one of the items on the regular session this evening is rezoning land for the School District. He explained that they spent over \$800,000 for a few acres to build a bus barn. A Community Center in this community would probably need about 10 acres and there is not ten acres tracks of land with services available on 169 Highway affordable or for sale.

Alderman Hartman said that he believes that we do need to go to the voters to ask for the police station. He noted that he had the opportunity to sit on the RFQ committee for the police station earlier this year with Chief Lockridge, several City staff members and some citizens. As our community grows, he absolutely thinks it is the right thing to do. He said that every year we wait construction costs go up. He noted he believes that a sales tax is something we should look at. Alderman Hartman reiterated that this would have to be approved by the voters, that the Aldermen cannot do anything more than ask that this be put on the ballot. He wants to make sure that people understand that this is voter driven this is not necessarily Aldermen driven. He said that he is for the ballot issues and thinks that we need to grow we need to make sure that our police station and police officer position are in place for the growth that is coming in the community.

Mayor Boley explained that the Parks Master Plans talks about a Community Center. Staff has been working on and delivering the items with the sales tax. We have asked for donations for our parks and to date we have raised approximately \$2,500 for the last three years.

Mayor Boley noted that about four years ago the City purchase land with the intent to build a police station on, so it takes years of planning.

Cynthia clarified during the discussion at the retreat because we were talking such large numbers for a maintenance facility, we were talking about two separate questions for the ballot. Now because of the lower cost of the maintenance facility 20% lower than what was originally discussed staff's recommendation at this point would be a joint question. She also reminded the Board concerning the need of moving the Street Maintenance facility is also necessitated because of the Water Treatment Plant expansion. We will not have a facility for Street facilities once we expand. Staff has recognized that police has been a priority but recommend one ballot question as opposed to two.

Cynthia also asked to get some clarification from the Board on that the animal control if they would like to see those estimates included in the Police Department facility.

Alderman Russell noted that we are looking at adjusting and making cuts and realizes everyone is working really hard on this. On the plans there is a courtyard, a conference room, a community room, a quiet room, a fitness room. He said there are a lot of rooms, and he is not saying the plan is wrong he just wonders if we need to look a repurposing some of it for the possible dog pound facility. He said also looking forward in the future and if we are building this for the purpose of the next 20 years, he would like to see us become self-sufficient and look at a Dispatch Center. He said he knows that it is this outsourced right now with Platte County, but everybody is growing and thinks that that might be something at least to look at for the future.

Mayor Boley explained that Clay County is working on that right now and it is a multi-million-dollar project.

Alderman Russell asked if the two officers that would be added would be overstaffing or was that just to meet staffing needs.

Cynthia explained that it would be the creation of two additional positions

Alderman Russell asked if there would be any costs associated with the community education process for the voters.

Cynthia noted that was a very good question. There would be cost and that would potentially be minimal. If the Board does want to proceed with ballot, we would need to develop a timeline and a more intensive plan with estimated costs for an information campaign.

Alderman Chevalier said to take the questions to the voters and let the community decide on the amenities they want.

The Board all agreed to place the two ballot questions on the ballot for the April election.

Cynthia explained staff will work this fall to develop better cost information, taking into consideration and discussions to develop better information on what a campaign could look like and develop actual language as we refine some of those numbers. Staff will also work with our financial advisors on the mill levy and that information and develop the process and outcome to bring back to the Board for discussion and have ballot language ready for certification in January.

4. Adjourn

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

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared the Work Session adjourned at 7:08 p.m.

Linda Drummond, City Clerk

Damien Boley, Mayor

**SMITHVILLE BOARD OF ALDERMEN
REGULAR SESSION**

September 20, 2022, 7:00 p.m.
City Hall Council Chambers and Via Videoconference

1. Call to Order

Mayor Boley, present, called the meeting to order at 7:19 p.m. following the Work Session. A quorum of the Board was present: John Chevalier, Leeah Shipley, Marv Atkins and Dan Ulledahl. Dan Hartman and Ronald Russell were present via Zoom.

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

2. Pledge of Allegiance led by Mayor Boley

3. Proclamations

Mayor Boley proclaimed September 24 through October 2 Diaper Need Awareness Week.

4. Mayor Boley called the public hearing for the Property Tax Levy to order 7:20 p.m.

No Public Comment.

5. Adjourn Public Hearing for Property Tax Levy

Mayor Boley declared the public hearing adjourned at 7:20 p.m.

6. Consent Agenda

- **Minutes**

- September 6, 2022, Board of Aldermen Special Session Minutes
- September 6, 2022, Board of Aldermen Regular Session Minutes

- **Financial Report**

- Finance Report for August 2022

- **Resolution 1118, Amending the Sidewalk Policy**

A Resolution authorizing Public Works Department staff to implement a revised Sidewalk Improvement Program.

- **Resolution 1119, Amending Harborview Neighborhood Grant Award**

A Resolution amending the Harborview Neighborhood Beautification Grant award approving additional scope and authorizing additional expenditure of funds in the amount of \$5,810.

- **Resolution 1120, Award Bid No. 22-19, City Facilities Solid Waste Collection**

A Resolution awarding Bid No. 22-19, City facilities solid waste collection services to Waste Management of Kansas.

Alderman Ulledahl moved to approve the consent agenda. Alderman Chevalier seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. The Mayor declared the consent agenda approved.

REPORTS FROM OFFICERS AND STANDING COMMITTEES

7. Committee Reports

Alderman Russell reported on the September 13 Finance Committee meeting. In addition to the normal updates they also discussed the certificate of deposit renewal, utility bill email options, and possible enrollment for a positive pay program. They discussed the five-year update on infrastructure spending, property tax updates, possible ballot initiatives and certificate of deposit updates.

Alderman Chevalier reported on the September 13 Planning and Zoning Commission meeting. So far for the year there have been 54 residential permits. They discussed and approved the items on the agenda tonight one being the emergency ordinance rezoning land for the school district's bus barn.

Matt Denton, Parks Director, reported on the September 16 Legacy Fund Committee meeting. Staff updated the committee on the creation of the donation fund that the Board approved back in July. They also updated the committee that Stephen Larson, Finance Director and Matt are working together to provide the ability to make online donations available through the City's software. They discussed the Legacy Fund dinner that will be held on February 23, 2023. Planning meetings for the event have begun to plan and prepare for it. The main focus for the next couple of months will be to get the word out about the event, get the donations and sell the tables.

8. City Administrator's Report

Brandi Schuerger, Assistant City Clerk presented Linda Drummond, City Clerk her second level of certification for Missouri City Clerk and Finance Officers Association (MoCCFOA) MRCC-Continuing Certificate.



Cynthia noted that in the City Administrator's report there is information concerning our SBR a valve break at the wastewater treatment plant. She reported on the updated information as of today. She has authorized an emergency purchase based on this and a second emergency purchase on another issue that will show up on the agenda for the October 4 meeting. At the last meeting she reported that there were issues with the valves at the wastewater treatment plant that regulates the flow into basin number three. In order to remove the valve, the basin was drained. The decanter was found at the bottom of the basin. The decanter is supposed to float in the basin above the solids which allows the solids to settle and be clarified, the clarified water is then removed. The basin now has approximately three feet of solids at the bottom and an accumulation of flushable wipes and other debris that has gone through the water treatment plant. Staff believe the weight on this debris adhered to the decanter and caused the mounts on the support to break and cause the failure.

Staff has contacted Mid-America Pump, who has completed previous repairs on our system, and they made repairs to the valve. A circuit board had to be borrowed from another valve in order for them to make the valve work and they are making repairs to the decanter. The basin does need to be cleaned so that we can replace the decanter and repair the supports.

Staff received a quote from Ace for the basin cleaning for \$27,168 and a quote of \$28,694 from Clean Harbors of \$28,694. Cynthia explained that she authorized the payment to Ace so they can begin the basin cleaning and the emergency purchase acknowledgement will then be on the October 4 agenda.

Cynthia noted that we will also have the purchase of the replacement valve on the agenda. Rather than just ordering the one valve staff is recommending ordering two because we have valve in another basin that we are afraid we might have issues with there is a lead time on these purchases of 16-30 weeks. Staff wants we will bring that forward on the October 4 agenda so staff can get the valves ordered as soon as possible.

Cynthia explained that she has authorized a second emergency purchase to make repairs to for the lift station at Harbortowne that failed this week. The City only provides sanitary sewer services to that area since it is not in the city limits. Crews were able to get the station back up and online, but they did find a pump was at the bottom of the lift station and the discharge piping for the second pump was broken and disconnected. Staff removed one pump and used rubber tubing and hose clamps to reconnect the discharge piping. The lift station more than 20 years old and does need to be rehabilitated. We do have a quote from Mid-America pump to replace the pumps and the discharge piping for an amount totaling \$27,744. Cynthia authorized the repairs so we can proceed on that and move forward and keep those services running. The acknowledgement of emergency purchase will be also on the October 4 agenda.

ORDINANCES & RESOLUTIONS

9. Bill No. 2957-22, Setting the 2022 Property Tax Rate – Emergency Ordinance Sponsored by Mayor Boley – 1st & 2nd Reading

Alderman Chevalier moved to approve Bill No. 2957-22, setting the property tax levy on all taxable property within the City of Smithville, Missouri for 2022. 1st reading by title only. Alderman Ulledahl seconded the motion.

No discussion.

Upon roll call vote:

Alderman Ulledahl – Aye, Alderman Chevalier – Aye, Alderman Shipley – Aye,
Alderman Atkins – Aye, Alderman Hartman – Aye, Alderman Russell - Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2957-22 approved first reading.

Alderman Chevalier moved to approve Bill No. 2957-22, setting the property tax levy on all taxable property within the City of Smithville, Missouri for 2022. 2nd reading by title only. Alderman Shipley seconded the motion.

No discussion.

Upon roll call vote:

Alderman Atkins – Aye, Alderman Russell – Aye, Alderman Chevalier – Aye,
Alderman Hartman – Aye, Alderman Ulledahl – Aye, Alderman Shipley - Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2957-22 approved.

10. Bill No. 2958-22, Rezoning 1103 South Commercial Street – Emergency Ordinance Sponsored by Mayor Boley - 1st & 2nd Reading

Alderman Chevalier moved to approve Bill No. 2958-22, approving the rezoning of 1103 South Commercial Street from B2 to B3. 1st reading by title only. Alderman Atkins seconded the motion.

No discussion.

Upon roll call vote:

Alderman Russell – Aye, Alderman Shipley – Aye, Alderman Hartman – Abstained,
Alderman Chevalier – Aye, Alderman Atkins – Aye, Alderman Ulledahl - Aye.

Ayes – 5, Noes – 0, Abstained – 1, motion carries. Mayor Boley declared Bill No. 2958-22 approved first reading.

Alderman Chevalier moved to approve Bill No. 2958-22, approving the rezoning of 1103 South Commercial Street from B2 to B3. 2nd reading by title only. Alderman Ulledahl seconded the motion.

No discussion.

Upon roll call vote:

Alderman Hartman – Abstained, Alderman Atkins – Aye, Alderman Russell - Aye.
Alderman Shipley – Aye, Alderman Ulledahl – Aye, Alderman Chevalier – Aye,

Ayes – 5, Noes – 0, Abstained – 1, motion carries. Mayor Boley declared Bill No. 2958-22 approved.

11. Bill No. 2959-22, Rezoning 413 Winner Avenue – Emergency Ordinance Sponsored by Mayor Boley - 1st Reading & 2nd Reading

Alderman Ulledahl moved to approve Bill No. 2959-22, approving the rezoning of 413 Winner Avenue from R1 to R3. 1st reading by title only. Alderman Atkins seconded the motion.

No discussion.

Upon roll call vote:

Alderman Atkins – Aye, Alderman Chevalier – Aye, Alderman Ulledahl – Aye,
Alderman Russell – Aye, Alderman Shipley – Aye, Alderman Hartman - Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2959-22 approved first reading.

Alderman Ulledahl moved to approve Bill No. 2959-22, approving the rezoning of 413 Winner Avenue from R1 to R3. 2nd reading by title only. Alderman Shipley seconded the motion.

No discussion.

Upon roll call vote:

Alderman Chevalier – Aye, Alderman Russell – Aye, Alderman Shipley – Aye,
Alderman Ulledahl – Aye, Alderman Hartman – Aye, Alderman Atkins – Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2959-22 approved

12. Bill No. 2960-22, Amending Outdoor Storage – 1st Reading

Alderman Chevalier moved to approve Bill No. 2960-22, amending Sections of Chapter 400, zoning codes related to outdoor storage. 1st reading by title only. Alderman Ulledahl seconded the motion.

No discussion.

Upon roll call vote:

Alderman Shipley – Aye, Alderman Atkins – Aye, Alderman Chevalier – Aye,
Alderman Hartman – Aye, Alderman Ulledahl – Aye, Alderman Russell – Aye.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Bill No. 2960-22 approved first reading.

13. Bill No. 2961-22, Right of Way Agreement with Bluebird Network - 1st Reading

Alderman Ulledahl moved to approve Bill No. 2961-22, authorizing the Mayor to sign a Right-Of-Way Use Agreement For Communications Facilities with Missouri Network Alliance, LLC also known as Bluebird Network. 1st reading by title only. Alderman Shipley seconded the motion.

No discussion.

Upon roll call vote:

Alderman Ulledahl – Aye, Alderman Hartman – Aye, Alderman Atkins – Aye,
Alderman Chevalier – Abstained, Alderman Russell – Aye, Alderman Shipley – Aye.

Ayes – 5, Noes – 0, Abstained – 1, motion carries. Mayor Boley declared Bill No. 2961-22 approved first reading.

14. Resolution 1121, Site Plan – Heritage Tractor

Alderman Ulledahl moved to approve Resolution 1121, approving the site plan for an addition to the Heritage Tractor building. Alderman Chevalier seconded the motion.

No discussion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared Resolution 1121 approved.

OTHER MATTERS BEFORE THE BOARD

15. Public Comment

Patricia Ward, 400 Maple Avenue, spoke to the Board about her vinyl coated chain link fence. She noted that she moved to Smithville nine years ago after her husband passed away. She rented the home from her son and after she moved in, she used the last of her husband's life insurance to install a fence. She did not know she was supposed to get a permit to build a fence and was not notified until just a few days ago that the fence she put in was not up to City code. She said that she has had a lot of compliments from her neighbors about her fence and believes that it looks nice and is appropriate for the neighborhood. She does not want to take down her fence and asked that the Board consider grandfathering it in. She said she does not have the money to replace it.

Adam Ward, 9901 North Revere, Kansas City, spoke to the Board about his mother's fence. He noted that he owned property in Smithville but if this is how the City handles these types of things, he has no interest in keeping them or purchasing more. He said that no one has any issues with the fence, and he is not sure who is benefiting from this.

16. Election of Mayor Pro Tem

Alderman Hartman nominated Alderman Chevalier for Mayor Pro Tem. Alderman Russell seconded the nomination. No other nominees.

By roll call vote.

Alderman Chevalier – Abstained, Alderman Hartman – Aye, Alderman Ulledahl - Aye
Alderman Shipley – Aye, Alderman Russell – Aye, Alderman Atkins – Aye.

Ayes – 5, Noes – 0, Abstained – 1, motion carries. The Mayor declared Alderman Chevalier as Mayor Pro Tem.

17. New Business from the Floor

Alderman Ulledahl asked that the Planning and Zoning Commission revisit the codes on fencing on corner lots.

Alderman Chevalier noted he would also like to have Planning and Zoning Commission revisit this.

Mayor Boley noted that fence codes are in Chapter 400 of the municipal codes and must go to Planning and Zoning for review before any decisions can be made by the Board.

Jack Hendrix, Development Director explained that the Public Hearing notice will have to be posted so it cannot be on the Planning and Zoning Commission agenda until the November meeting.

18. Adjourn

Alderman Ulledahl moved to adjourn. Alderman Atkins the motion.

Ayes – 6, Noes – 0, motion carries. Mayor Boley declared the regular session adjourned at 7:49 p.m.

Linda Drummond, City Clerk

Damien Boley, Mayor



Board of Aldermen Request for Action

MEETING DATE: 10/4/2022

DEPARTMENT: Public Works

AGENDA ITEM: Resolution 1122– Acknowledgement of an Emergency Purchase with Clean Harbors Environmental Services

REQUESTED BOARD ACTION:

A motion to approve Resolution 1122, for basin cleaning at the wastewater treatment plant in the amount of \$28,694.40 with Clean Harbors Environmental Services.

SUMMARY:

The Purchasing Policy outlines the spending authority of the City Administrator at \$7,500. From time to time, it is necessary for the administrator to authorize purchases exceeding that authority in order to address an immediate need. When this occurs, the Board is notified of the emergency need and that the administrator has authorized the necessary purchase.

To that end, authorization of an emergency purchase in the amount of \$28,694.40 is included in the attached Resolution.

At the Board meeting on September 6, staff reported that we were having issues with a valve at the Wastewater Treatment Plant that regulates the flow into the SBR basin 3. In order to remove the valve the basin was drained. Upon draining the basin the decanter was found at the bottom of the basin. The decanter is supposed to float in the basin above the solids and allows the solids to settle and the clarified water is then removed. The basin has approximately three feet of solids at the bottom of the basin and a huge accumulation of rags. Staff believes that the weight of these items that adhered to the decanter caused the mounts/ supports to break and caused the failure.

Mid America Pump and staff have made repairs to the valve but we needed to “borrow” a circuit board from another valve. Mid America is making repairs to the decanter. The Basin needs to be cleaned out to replace the decanter and repair the supports. We received two quotes for cleaning the basin:

Ace Pipe Cleaning	\$27,168.00
Clean Harbors	\$28,694.40

At the Board meeting staff reported that we were going have Ace clean the basin however their schedule was two and a half weeks out and Clean Harbors was able to begin immediately. Staff has contracted with Clean Harbors.

PREVIOUS ACTION:

N/A

POLICY ISSUE:

Plant Maintenance

FINANCIAL CONSIDERATIONS:

Funds for repairs and maintenance at the Wastewater Plant are available in the Utilities operational budget.

ATTACHMENTS:

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

- ☐ Contract
- ☐ Plans
- ☐ Minutes

RESOLUTION 1122

A RESOLUTION ACKNOWLEDGING AN EMERGENCY PURCHASE WITH CLEAN HARBORS ENVIRONMENTAL SERVICES CLEANING IN THE AMOUNT OF \$28,694.40

WHEREAS, the City Administrator's purchasing authority is \$7,500, however in emergency situations, the City Administrator is authorized to make purchases that exceed that amount in order to expedite repairs or purchases for city needs; and,

WHEREAS, the Sequencing Batch Reactor Basin #3 at the Wastewater Treatment Plant was emptied for maintenance; and

WHEREAS, significant solids and rags were found deposited in the bottom of the basin, this material needs to be removed; and

WHEREAS, Clean Harbors Environmental Services has provided a bid to clean the debris out of the basin in an amount of \$28,694.40.

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

THAT the Board acknowledges the emergency purchase with Clean Harbors Environmental Services in the amount of \$28,694.40 for cleaning of Basin #3 at the Wastewater Treatment Plant.

PASSED AND ADOPTED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, this 4th day of October, 2022.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk



Clean Harbors Environmental Services, Inc.
2250 N Church Rd
Liberty, MO 64068
www.cleanharbors.com

September 16, 2022

Attn: Bob Lemley
City Of Smithville Waste Water Treatment Plant
107 W Main Street
Smithville, MO 64089

Quote #4125875

16401 Lowman Rd
Smithville, MO 64089

Thank you for considering Clean Harbors Environmental Services, Inc. for your environmental service needs. We provide a broad range of environmental services including hazardous and non-hazardous waste transportation and disposal, laboratory chemical packing, emergency response, field services and industrial maintenance. We are pleased to provide this proposal based on the scope of work outlined below.

We offer our clients a broad spectrum of environmental services and the ability to dispose of hazardous material at or through a Clean Harbors' owned and operated facility. In addition to managing your waste streams, a Clean Harbors' professional can assist you with:

- Waste Transportation & Disposal
- Laboratory Chemical Packing
- Field Services
- 24-Hour Environmental Emergency Response
- Industrial Services
- InSite Services

I look forward to servicing your environmental needs. When you are ready to place an order, please contact our Customer Service group at 800.444.4244. If you have any questions or need further assistance, you may reach me at the number below.

Sincerely,

Scott E Carroll
Field Service Specialist
Phone: 816.781.3000
Carroll.Scott@cleanharbors.com



September 16, 2022
Clean Harbors Quote #4125875

Page 2 of 5

QUOTE CONDITIONS

The proposal is based on the following assumptions and site conditions. Any work which falls outside of the assumptions will constitute work beyond the intended scope and be completed upon mutually satisfactory terms.

-This is a time and material estimate quote for the removal of waste and "hair" from inside #3 Basin with disposal onsite.

-Water/Hydrant access by the city.

-No pressure washing required on walls or floor. Traces of trash/grit may visible after cleaning process. Traces of "hair" may visible after removal process.

-Truck washout onsite.

-Weather delays no fault of CHES.



September 16, 2022
Clean Harbors Quote #4125875

Page 3 of 5

#3 WASTE WATER BASIN CLEANOUT

Amount	Description	Qty/UOM	Days	Unit Price	Extended Total
1	Equipment Operator	8 hour	3	\$70.00	\$1,680.00
1	Equipment Operator, Overtime	4 hour	3	\$104.00	\$1,248.00
4	Field Technician	8 hour	3	\$55.00	\$5,280.00
4	Field Technician Overtime	4 hour	3	\$82.00	\$3,936.00
1	Supervisor	8 hour	3	\$80.00	\$1,920.00
1	Supervisor, Overtime	4 hour	3	\$120.00	\$1,440.00
1	4 Gas/5 Gas Meter	3 day	n/a	\$135.00	\$405.00
2	6" Vacuum Pipe (20' Section)	3 day	n/a	\$10.50	\$63.00
2	Level C w/CPF1,2 or Polytyvec/Day	3 day	n/a	\$66.00	\$396.00
12	Modified Level D (Tyvek, Gloves and Boots)	1 each	n/a	\$33.00	\$396.00
1	Nozzle fire hose	3 day	n/a	\$20.00	\$60.00
2	Pickup/Van/Car/Crew Cab	3 day	n/a	\$250.00	\$1,500.00
1	Wet/Dry High Powered Vacuum Truck/Guzzler	3 day	n/a	\$1,250.00	\$3,750.00
300	HOSE, FLEX, 6 INCH, NON PERFOR	1 feet	n/a	\$3.50	\$1,050.00
1	Misc. Handtools	3 day	n/a	\$100.00	\$300.00
				Total	\$23,424.00

TOTAL ESTIMATE	\$23,424.00
Estimated Recovery Fee	\$5,270.40
Estimated total, including Fees	\$28,694.40

GENERAL CONDITIONS

- Except where superseded by an existing services agreement the following terms and conditions apply to this quoted business.
- The customer hereby acknowledges that the estimated cost is based upon a preliminary appraisal by a Clean Harbors Representative, and that the amount invoiced by Clean Harbors will be based upon labor and materials actually expended in performing the scope of work. Any changes in the scope will be billed on a time and materials basis.
- Clean Harbors guarantees to hold these prices firm for 30 days.
- Terms: Net 30 Days



GENERAL CONDITIONS

- For work to begin we ask that you acknowledge the quotation with a signature and provide the appropriate purchase order number. Where modifications to the scope of services become necessary, Clean Harbors will notify the customer promptly and obtain customer authorization for such modifications and a revised contract price will be established in order to finish the project.
- This proposal is contingent on the customer providing full and complete access to the site. Customer represents and warrants to Clean Harbors that the customer has the legal right, title and interest necessary to provide access to the site. In addition, customer warrants that it has supplied Clean Harbors complete and accurate information regarding the site, subsurface conditions, utility locations, site ownership, hazardous materials or wastes and other substances or hazards likely to be present and any other reports, documentation or information concerning the scope of work.
- Interest will be charged at 1.5% per month or the maximum allowed by law for all past due amounts.
- Disposal will be managed within the Clean Harbors Network of Approved Facilities.
- Local, state and federal fees/taxes applying to the generating location/receiving facilities are not included in disposal pricing and will be added to each invoice as applicable.
- Materials subject to additional charges if they do not conform to the listed specifications.
- Electronically submitted profiles will be approved at no charge. Paper profiles will be charged at \$75.00 each.
- Clean Harbors supports many invoice delivery options (E-mail, Electronic Invoicing, EDI, Etc.). Pricing is based on Clean Harbors' standard invoice delivery method of E-mail. If another delivery method is required there could be an additional service fee per invoice. Any alternate delivery methods must be reviewed and approved by Clean Harbors prior to acceptance and implementation.
- A variable Recovery Fee (that fluctuates with the DOE national average diesel price), currently at 22.5%, will be applied to the total invoice. For more information regarding our recovery fee calculation please go to: www.cleanharbors.com/contact-us/customer-resources.
- Pickups that require same day or next day service may be subject to additional charges.
- Pickups cancelled within 72 hours of scheduling will be subject to cancellation charges.
- Transportation charges to the final disposal facility will be charged in addition to local transportation to our truck to truck hub/local facility and will vary with logistics and routing.
- Time over eight (8) hours in the normal workday and all day Saturday is considered overtime and will be billed at 1.5 times the applicable straight time rate for all billable personnel unless otherwise quoted. Sunday and Holidays are considered premium time and will be billed at 2.0 times the applicable straight time rate for all billable personnel unless otherwise quoted.
- This proposal is submitted contingent upon the right to negotiate mutually acceptable contract terms and conditions, which are reflective of the work contemplated, and an equitable distribution of the risks involved therein. In the event that such agreement cannot be reached, Clean Harbors reserves the right to decline to enter into such an agreement without prejudice or penalty.



September 16, 2022
Clean Harbors Quote #4125875

Page 5 of 5

GENERAL CONDITIONS

- In the event that legal or other action is required to collect unpaid invoice balances, Customer agrees to pay all costs of collection, including reasonable attorneys' fees, and agrees to the jurisdiction of the Commonwealth of Massachusetts.
- The USEPA implemented the E-manifest system in June 2018 and charges the receiving TSDF a fee per manifest that is subject to change at USEPA's discretion. Clean Harbors currently charges \$20 per manifest to cover this cost on every invoice. This charge is subject to change if USEPA applies increased charges in the future.
- Unless specifically noted, these rates are not valid where Prevailing Wages and / or certified payroll apply. Any Prevailing Wage rates will be quoted on a case-by-case basis.
- Customer will be responsible for providing water on site. If not provided, additional charges will apply.

ACKNOWLEDGEMENT

Your signature below indicates your acceptance of the pricing and terms detailed in the quote above.

Thank you for the opportunity to be of service.

Signature

PO#

Date

Print Name

Quote # 4125875



ACE PIPE CLEANING
A Carylton Company

6601 Universal Avenue
Kansas City, MO 64120
p: (816) 241-2891
f: (816) 241-5054
office@acepipe.com

CONTRACT PROPOSAL

Date: 9/12/22

Customer: CITY OF SMITHVILLE
Attn: BOB LEMLEY
Address: 1 HELVEY PARK DR
SMITHVILLE MO 64089
Email: utilities@smithvillemo.org
Phone: 816-532-0577

Proposal #: 22-911

1. PROJECT DESCRIPTION:

Smithville, MO – Basin Cleaning

2. SCOPE OF WORK:

Ace Pipe Cleaning, Inc. ("APC") will provide the labor, equipment, material, and supplies for work performed on the Project in accordance with this Proposal (the "Work"), and will include the following:

Operators, Dry Vacuum Truck, Jetter Truck, Support Truck and Laborer to Perform Catch Basin Cleaning as directed by Customer located at 16401 Lowman Road.

3. PRICING AND PAYMENT:

DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
OPERATOR & DRY VACUUM TRUCK	40	HRS	\$ 210.00	\$ 8,400.00
OPERATOR & DRY VACUUM (OT)	TBD	HRS	\$ 225.00	TBD
OPERATOR & JETTER TRUCK	40	HRS	\$ 200.00	\$ 8,000.00
OPERATOR & JETTER TRUCK (OT)	TBD	HRS	\$ 215.00	TBD
ADDITIONAL LABOR	40	HRS	\$ 110.00	\$ 4,400.00
ADDITIONAL LABOR (OT)	TBD	HRS	\$ 130.00	TBD
SUPPORT TRUCK	40	HRS	\$ 110.00	\$ 4,400.00
FUEL	40	HRS	\$ 49.20	\$ 1,968.00
TOTAL ESTIMATED PRICE				\$ 27,168.00

Payment shall be due Net 30 days from APC's invoice date. Billing will reflect actual quantities achieved.

4. SCHEDULE: To be determined upon acceptance of this Proposal.

5. CLARIFICATIONS/ASSUMPTIONS; TERMS & CONDITIONS:

The Clarifications/Assumptions are part of this Proposal. APC's Terms and Conditions are attached and are incorporated into and part of this Proposal. Please review the Clarifications/Assumptions and APC's Terms and Conditions carefully. The pricing is based upon Customer's acceptance of APC's Clarifications/Assumptions and Terms and Conditions. This Proposal represents our complete offering. If there are any conflicts between Customer's requirements or plans and specifications and this Proposal, this Proposal shall govern.

PREVAILING WAGE? YES NO x

If yes, please provide Wage Determination.

TAX EXEMPT? YES NO x

If yes, please provide Tax Exemption Certificate.

ACE PIPE CLEANING, INC.

ACCEPTED by CUSTOMER:

Signed: <u>Jeremy Cheek</u> Date <u>9/12/22</u>	Signed: _____ Date _____
Title: <u>Superintendent</u>	Title: _____

CLARIFICATIONS / ASSUMPTIONS

All pricing is conditioned upon the Clarifications/Assumptions listed below.

1. CLARIFICATIONS:

- a. The Proposal excludes any sales or use or other similar taxes. If the Project is tax exempt, Customer shall provide APC the appropriate documentation.
- b. Except as otherwise stated herein, the Proposal does not include payment of prevailing wages or certified payroll reporting. If payment of prevailing wages or submission of certified payroll reports is required, Owner shall provide a wage determination sheet and/or certified payroll instructions.
- c. Except as otherwise stated herein, the Proposal does not include by-pass pumping.
- d. Any corrections, repairs, or extractions required due to existing structural defects or failures are excluded from the Work.
- e. Customer will obtain all necessary permits
- f. APC will provide traffic control (cones) if necessary.
- g. Overtime rates will apply for any work that exceeds an (8) eight-hour workday (applicable to hourly rate quoted).**
- h. Price quoted is portal to portal from our location 6601 Universal Ave., Kansas City, MO and is a four-hour minimum charge (applicable to hourly rate quoted).**
- i. Except as otherwise provided herein, the Proposal is for normal cleaning only. Normal cleaning is considered cleaning requiring three passes or less using high-velocity hydraulic equipment capable of pumping 80 gpm at 2,000 psi. Heavy cleaning shall be considered all cleaning other than normal cleaning but does not include mechanical cleaning with bucket machines and winches. Heavy cleaning will be charged at a negotiated hourly rate.

2. ASSUMPTIONS:

- a. Customer will provide free access to the work site which will be adequate for APC's equipment and will be within 150 feet from the access point. APC reserves the right to charge Customer if additional mobilizations are required if access is not available.
- b. Customer will coordinate the Work with any private property owners.
- c. Customer will provide environmentally responsible disposal site.
- d. Customer will provide water for cleaning and access to hydrant and hydrant meter.
- e. Pricing is subject to change 90 days from the date of the proposal.
- f. There are no hazardous materials present in the project area.

Terms and Conditions

1. **General Conditions:** These general terms and conditions are incorporated by reference into the proposal and are part of the Agreement under which services are to be performed by the Contractor for the Customer. Customer's signature and return of the proposal as presented, or Customer's authorization of Contractor to commence the work, shall constitute acceptance of all of its terms and conditions.

2. **Warranty:** Contractor warrants that its work will be free from defects caused by faulty workmanship for a period of twelve months after substantial completion of the work. Any warranty claim must be presented in writing to Contractor within 12 months after the substantial completion of Contractor's work, or the claim shall be waived.

3. **Terms of Payment:** Payments are due within thirty days from the submission to Customer of an invoice. A "past due payment" charge of one and one-half percent (1½ %) per month or the maximum legal interest rate, whichever is greater, will be made on all monies past due and shall be paid immediately.

4. **Customer Responsibilities:** Customer will provide mechanical services. Operation and control of Customer's equipment is the Customer's responsibility. If Contractor's work is interrupted due to circumstances caused or allowed by Customer and of which Contractor was not apprised prior to starting the work, an hourly fee will be charged.

5. **Pre-existing Conditions:** The Contractor is not responsible for liability, loss or expense (including damage caused by the backup of basement sewers) caused by pre-existing conditions, including faulty, inadequate or defective design, construction, maintenance or repair of property or contamination of the subsurface where the condition existed prior to the start of the Contractor's work. Customer is responsible for loss of service equipment caused by the pre-existing condition at the job site.

6. **Environmental Conditions:** The debris is represented to Contractor to be non-hazardous, requiring no manifesting or special permitting. The Customer will be responsible for any additional costs or claims associated with the treatment, storage, disposal of the removed debris, or breach of the above representation, at any time during or after the completion of this project. Notwithstanding anything herein to the contrary, when the Work includes removal of industrial waste, Customer represents and warrants it holds clear title to all waste debris or other materials Contractor may handle, process or transport and Customer agrees to supply all necessary manifests or permits and Customer shall indemnify Contractor for liability, loss and expense caused by discharge, escape, release of liquids, gases or any other material contaminant or pollutant into the atmosphere or into or onto land, water or property, except to the extent such liability, loss and expense is caused by Contractor's negligence.

7. **Indemnification:** The Customer and Contractor will each indemnify the other in proportion to relative fault for liability, loss and expense incurred by the other party resulting from a negligent act or omission in performance of work under this Agreement. The Customer also will indemnify Contractor for liability, loss and expense resulting from Contractor services if the Contractor is acting at the direction or instruction of the Customer, or where the primary cause of any damages is due to information provided by the Customer. Where the Customer provides labor for the Contractor, the Customer will indemnify the Contractor for liability, loss or expense for work related injuries to those laborers not provided by the Contractor.

8. **Entire Agreement:** This proposal together with any written documents which may be incorporated by specific references

herein, constitutes the entire agreement between the parties and supersedes all previous communications between them, either oral or written. The waiver by Contractor of any term, condition or provision herein stated shall not be construed to be a waiver of any other term, condition or provision hereof.

9. **Performance Dates:** The performance schedule, if stated in the proposal, is approximate and is not guaranteed by Contractor. Contractor shall not be liable for delays in the progress of the Work due to acts of government, acts of God, adverse weather, war, riot, labor disputes, civil insurrection or any other causes beyond Contractor's reasonable control, and the date of performance shall be adjusted for any such delays. Further, Contractor shall not be responsible for delays in the project caused by the failure of material/equipment suppliers to deliver material, equipment or services in the time and manner agreed upon or in the time and manner anticipated.

10. **Scope Limitations:** Any material, equipment, structure or service item that is not explicitly a part of this Contract is specifically excluded from Contractor's Work.

11. **Contract Amendments:** The following contract amendment procedure is to be used for work performed for the Customer by Contractor, which is beyond the scope of the proposal. (a) As change order items are identified and before any work is done, Contractor and the Customer will review and agree on the work to be performed; (b) A contract amendment or change order will be completed with regard to scope and price and any schedule impact. All parties involved will sign the contract amendment or change order; and (c) Contractor will perform the work and bill the Customer. For time and materials work, back-up documentation will be provided.

12. **Limitation of Liability:** In no event shall Contractor be liable for any indirect, special or consequential loss or damage arising out of any work performed for Customer. To the fullest extent permitted by law, the total liability, in the aggregate, of Contractor to Customer or anyone claiming by or through Customer, for any and all liabilities, claims, losses, expenses, or damages whatsoever arising out of or in any way related to Contractor's services, the Project, or the Proposal, from any cause or causes whatsoever, including without limitation, negligence, strict liability, indemnity, warranty, or breach of contract, shall not exceed the Contract Amount. The Contractor is not responsible for the rendering of or failure to render architectural, engineering or surveying professional services. Customer and Contractor waive all rights of subrogation for claims covered by the parties' insurance.

13. **Attorney's Fees:** The prevailing party in any dispute between Contractor and Customer shall be entitled to receive attorneys' fees, court costs and other legal fees from the non-prevailing party. APC shall be entitled to collect reasonable attorney's fees incurred to collect any "past due payments."

14. NOTICE TO OWNER FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429, RSMO. TO AVOID THIS RESULT, YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.



Board of Aldermen Request for Action

MEETING DATE: 10/4/2022

DEPARTMENT: Public Works

AGENDA ITEM: Resolution 1123 – Acknowledgement of an Emergency Purchase with Mid-America Pump

RECOMMENDED ACTION:

A motion to approve Resolution 1123, acknowledging an emergency expenditure in the amount of \$27,744.89 with Mid-America Pump for the Harbortowne lift station.

SUMMARY:

The Purchasing Policy outlines the spending authority of the City Administrator at \$7,500. From time to time, it is necessary for the administrator to authorize purchases exceeding that authority in order to address an immediate need. When this occurs, the Board is notified of the emergency need and that the administrator has authorized the necessary purchase.

To that end, authorization of an emergency purchase in the amount of \$27,744.89 is included in the attached resolution. This purchase was approved by the City Administrator after staff reported that on September 15 the lift station at Harbortowne failed. Crews went out to get the station back online and found that one pump was at the bottom of the lift station and the discharge piping for the second pump was broke and disconnected. They removed the one pump and used rubber tubing and hose clamps to reconnect the discharge piping. The station is over 20 years old and will need to be rehabilitated. We have a quote from MidAmerica Pump to replace the pumps and discharge piping in the amount of \$27,744.89.

PREVIOUS ACTION:

N/A

POLICY ISSUE:

Equipment Maintenance

FINANCIAL CONSIDERATIONS:

Funds for repairs and maintenance of lift stations are available in the Utilities operational budget.

ATTACHMENTS:

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

RESOLUTION 1123

A RESOLUTION ACKNOWLEDGING AN EMERGENCY EXPENDITURE WITH MID-AMERICA PUMP IN THE AMOUNT OF \$27,744.89

WHEREAS, the City Administrator's purchasing authority is \$7,500, however in emergency situations, the City Administrator is authorized to make purchases that exceed that amount in order to expedite repairs or purchases for city needs; and,

WHEREAS, the Harbortowne lift station is over 20 years old and recently failed; and

WHEREAS, City staff have made temporary repairs to keep the station working; and

WHEREAS, the lift station needs to be rehabilitated/ replaced; and

WHEREAS, Mid-America Pump has provided a bid to replace the pumps and rebuild the discharge piping system in an amount of \$27,744.89.

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

THAT the Board acknowledges the emergency purchase with Mid-America Pump in the amount of \$27,744.89 for the rehabilitation of the Harbortowne lift station.

PASSED AND ADOPTED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, this 4th day of October, 2022.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk



5600 Inland Drive
Kansas City, Kansas 66106
Phone 913-287-3900
Fax 913-287-6641

REPAIR PROPOSAL

SKP: **7609**
Customer PO #:
Prepared By #: **Brad Saul**
Date: **9/16/2022**

Repair Estimate: **\$27,744.89**
Replacement Price:
Estimated Delivery:

Customer Information

Bill To:

Contact Info:

Ship To:

Company Name: City of Smithville
Address: 107 W. Main Street
City: Smithville
State/Zip Code: Missouri 64089-
First Name: Bob
Last Name: Lemley
Phone: (816) 532-0070
Fax: (816) 532-8331

Company:
Address:
City:
State/Zip Code:

Description of Problem

This is for retro fitting the Harbor Town lift station.

****Leak in the side of the wet well must be fixed before we can perform this work****

Pump Information

Pump Make: **Liberty**
Model: **LGH022M-3**
Style: **Submersible grinder**
Pump RPM:
Motor RPM: **3600**
☒ Seal
☐ Packing
Serial No:
HP: **2.5**
Voltage: **230**
Coupling:

Repair Description

Scope of Supply:
2ea - LGH022M-3 2.5HP grinder pumps 230V single phase
2ea - Start kits
2ea - GR20 Discharge elbows and upper guide rail bracket
2ea - Lifting Chain 0.25in x 30ft, 316SS, Maximum Load 1,860lbs
1ea - lot of discharge pipe, fittings and SS bolts
1ea - lot of SS anchors and SS float bracket
1ea - provide a vac truck from H&H for two days while work is being done
1ea - rental of pipe plugs to stop flow from manhole to the wet well while is being done
Labor to remove the existing pumps, discharge elbows and vertical discharge pipe up to 90 degree elbow at the top of the wet well. Install new discharge elbows, vertical pipe and fittings (SCH80 PVC), SS bolts and SS anchors. (existing floats being reused). Install new pumps and start kits, wire up into existing control panel. Test run pumps and check amperage and volts while running.
MLS and truck charges.

****Does not include FREIGHT or anything else not listed above, please see terms and conditions****

****lead time on pumps is 2 weeks after approval****

Application Information

Pumpage:
Head:
Flow:
Temp:
Viscosity:
Specific Gravity:
☐ Hazardous ☐ Rotation Left
☐ MSDS ☐ Rotation Right

Terms and Conditions

1 Freight Charges Not Included
2 Taxes Not Included
3 Expedite Fees Not Included
4 Payment Terms - Net 30
5 Warranty Period - 90 Days
6 Proposal Vaild for 30 Days
7 Teardown/Inspection/Field Service Hours/MLS
will be charged if Equipment is Not Repaired or
Replaced through Mid-America Pump



Board of Aldermen Request for Action

MEETING DATE: 9/6/2022

DEPARTMENT: Public Works

AGENDA ITEM: Resolution 1124 – Authorizing the purchase of influent valves at the Wastewater Treatment Plant

REQUESTED BOARD ACTION:

A motion to approve Resolution 1124, authorizing the purchase of influent valves in the amount of \$60,086.93 from Mellen and Associates.

SUMMARY:

At the Board Meeting on September 20, 2022, staff reported the need to replace influent valves for SBR Basins 1 and 3. Delivery time is 16 -30 weeks. Staff is also recommending the replacement of the influent valve in basin #2. The valves and actuators will replace the one valve in each of the three basins. There are six total similar valves that regulate flows at the plant, we will monitor performance of the remaining valves. These valves have a life of 10 years and were installed in 2007/2008.

PREVIOUS ACTION:

N/A

POLICY ISSUE:

Equipment Maintenance

FINANCIAL CONSIDERATIONS:

Funds for repairs and maintenance of equipment are available in the Utilities operational budget. The valves would be ordered this calendar year but received and paid for in 2023.

ATTACHMENTS:

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

RESOLUTION 1124

A RESOLUTION AUTHORIZING THE PURCHASE OF INFLUENT VALVES AT THE WASTEWATER TREATMENT PLANT

WHEREAS, several automated / actuated valves regulate wastewater flows into different treatment basins and processes at the wastewater treatment plant; and,

WHEREAS, these valves have a useful life of ten years and were installed with plant upgrades in 2007/2008; and

WHEREAS, one valve has already failed and a couple others are showing signs of pending failure; and

WHEREAS, delivery time is 16 to 30 weeks; and

WHEREAS, Staff has secured quotes from Mellen and Associates in an amount of \$ 60,086.93 to replace the valves for basins #1, #2 and #3.

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

THAT the Board authorizes the purchase of influent valves and actuators in an amount not to exceed \$60,086.93 with Mellen and Associates.

PASSED AND ADOPTED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, this 4th day of October, 2022.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

DeZURIK

Quotation



To: CITY OF SMITHVILLE
USA
Invoice Terms: Net 30 Days
Days Valid: 30
Shipping Point: FOB FACTORY
Delivery Notes: FREIGHT: PREPAY AND ADD; LEAD
TIME: PENDING

Date of Quote: 09-21-2022
Quote Number: 286978
Project Name:
I.D. (Rep. Use):
Line of Business: 4952 - Municipal Sewage Treatment
Make Order To: DeZURIK, Inc.
C/O MELLEN AND ASSOCIATES
SARAH OTTO
4224 S HOCKER DR BLDG #11 STE 102
INDEPENDENCE, MO 64055
USA
Phone 816-836-0202
Fax 816-252-7530
Email SARAH@MELLENINC.COM

Currency and Values expressed in USD (\$)

ANY PURCHASE ORDER ISSUED AS A RESULT OF THIS QUOTATION IS SUBJECT TO ALL OF THE MANUFACTURER'S CONDITIONS SET FORTH IN THIS DOCUMENT HEREOF, REASONABLE CONTRACT LANGUAGE NEGOTIATIONS AND FINAL ACCEPTANCE BY DEZURIK AT SARTELL, MN USA.

UNLESS OTHERWISE NOTED, QUOTATIONS ARE VALID FOR 30 DAYS. UNTIL ACCEPTANCE OF ORDER, QUOTED PRICES AND DELIVERY ARE SUBJECT TO CHANGE. UNLESS OTHERWISE NOTED, PRICES ARE FIRM FOR SHIPMENT OF GOODS WITHIN 12 MONTHS FROM THE RELEVANT QUOTATION DATE. OUR PRICES ARE BASED ON CURRENT PRICES FOR MATERIAL. IF A SIGNIFICANT MATERIAL PRICE INCREASE OCCURS BETWEEN ORDER ACCEPTANCE AND SHIPMENT DATE, GOODS SCHEDULED TO SHIP BEYOND 12 MONTHS OF THE QUOTATION DATE ARE SUBJECT TO A PRICE ADJUSTMENT BY THE AMOUNT NECESSARY TO COVER SUCH AN INCREASE.

Line #	Cust. Line # Tag #	Qty	Order Code	Unit Price	Total Price
1	1	2	PEC,12,VR,CI,NBR,CR,TR6-1B0* Modified PEC: Style - DeZURIK Eccentric Plug Valve, Rectangular Port (AWWA C517) 12: Size - 12 Inch (300mm); (Standard Port), Stainless Steel Bearings, Welded-In Nickel Seat (Except Rubber Lined or Stainless Steel Bodies) VR: End Connection - Grooved Style 31 Ends; Rigid Joint; for Ductile Iron Pipe; AWWA C606-15, Table 3 CI: Body Material - Cast Iron, ASTM A126, Class B; (.5"-12" Pressure Rating 175 psi (1210 kPa); (14"& larger Pressure Rating 150 psi (1030 kPa) NBR: Packing - .5" - 3" Acrylonitrile-Butadiene Reinforced filler in a PTFE U-ring, -20 to 180° F. (-29 to 83° C.); 4" & Larger Acrylonitrile-Butadiene Reinforced V-type, -20 to 250° F. (-29 to 121° C.) CR: Plug Facing - Chloroprene; -20 to 180°F (-29 to 83°C) Coating or Paint: 1B0 - 4 mils minimum (non-stainless steel parts) of Blue Epoxy Tnemec 141 (NSF Std. 61) on Exterior with Standard (SP10) surface prep TR6: Option - Pressure Test per AWWA C517, Reverse Pressure, 150 PSI to Face of Plug. Includes DeZURIK Standard Certified Seat and Shell Hydro Test Reports. Modification: AUMA SA07.6/GS63.3/AM01.1-Electric Actuator; Open Close;460 volts AC	\$19,436.00	\$38,872.00
Subtotal					\$38,872.00
Surcharge (3.5%)					\$1,360.52
Total					\$40,232.52

DeZURIK Quotation



Line #	Cust. Line # Tag #	Qty	Order Code	Unit Price	Total Price
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Comments

1. Orders resulting from this quote should be made out to "DeZurik" or "DeZurik c/o Mellen & Associates".
2. Orders will be subject to a minimum net billing of \$100.
3. Price does not include mechanical joint accessories, valve boxes, special coatings, special tagging, tee operating wrenches, flange gaskets, bolts, installation services, test certifications, field start up services, special crating, extended warranties or packaging for export - unless otherwise noted.
4. State and local use taxes are not included. Tax exempt certificates must be provided if the project is determined to be tax exempt.
5. This quotation reflects our policy of sourcing raw materials in the most cost effective manner. Any requirements for specific U.S. content may require a revised quotation. Equipment may not be compliant with special ARRA, SRF or "Buy American" funding conditions, unless quoted as such.
6. This quotation was prepared with limited specifications, and/or application data. Any subsequent changes to materials, coatings, features, actuation, accessories, or otherwise shall require a re-quotation.
7. This quotation is limited to the scope, supply & descriptions above. Please review all necessary valve/tag schedules, and installation drawings to ensure all items are included.
8. This quotation/order is subject to the manufacturers' acceptance, standard warranty and terms and conditions.
9. A maximum of 8 printed Submittal & O&M will be provided on double-sided prints in a loose, unbound, and untabbed format. Electronic copies will be available via e-mail as an Adobe Acrobat PDF file. Any requirements for special formatting, including but not limited to, binders, separation tabs, Color Prints, Single-Sided Prints, Compact Disc or USB Flash Drive will be subject to additional charges.

MANUFACTURER'S CONDITIONS

These conditions apply to all quotations, orders and contracts for DeZURIK, Inc. ("we," "us" or "our")

1. CONSTRUCTION AND LEGAL EFFECT: Our sale to you (defined as the purchaser of goods from us), is limited to and expressly made conditional on your assent to these typed and printed terms and conditions of sale, the face and reverse side hereof ("These Terms"), all of which form a part of the agreement to sell and which supersede and reject all prior writings (including your order), representations, negotiations with respect hereto and any conflicting terms and conditions of yours, any statement therein to the contrary notwithstanding. The sending of the purchase order for the goods referred to herein, whether or not signed by you, or your acceptance of the goods or payment operates as acceptance by you of These Terms. In case of conflict between These Terms and the terms of your purchase order or acceptance, These Terms govern; any different or conflicting terms submitted by you in any purchase order or acceptance shall be deemed objected to by us and shall be of no effect unless specifically agreed to by us in writing. We will furnish only the quantities and goods specifically listed on the face hereof or the pages attached hereto., or any updates or modifications to the same purchase order. We assume no responsibility for other terms or conditions or for furnishing other equipment or material shown in any plans and/or specifications for a project to which the goods quoted or ordered herein pertain or refer. Our published or quoted terms and conditions are subject to change without notice prior to acceptance of order.

2. PRICES: Unless otherwise noted on the face hereof, quotations are valid for 30 days, prices are net, FCA Incoterms 2020 our factory. Stenographic, clerical, and mathematical errors are subject to correction. Until acceptance of order on These Terms, quoted prices and delivery are subject to change. Thereafter, unless otherwise noted, prices are firm for shipment of goods within 12 months from the relevant quotation date. Our prices are based on current prices for material. We will endeavor to obtain the lowest pricing on materials from our suppliers, but if a significant material price increase occurs between order acceptance and shipment date, goods scheduled to ship beyond 12 months of the quotation date are subject to a price adjustment by the amount necessary to cover such increase.

3. DELIVERY: Dates for the furnishing of services and/or delivery or shipment of goods are approximate only and are subject to change. Quoted lead times are figured from the later of date of acceptance of order on These Terms or from the date of receipt of complete technical data and approved drawings as such may be necessary. We shall not be liable, directly or indirectly, for any delay in or failure to perform caused by carriers or suppliers or delays from labor difficulties, shortages, strikes or stoppages of any sort, failure or delay in obtaining materials, customer requested order changes, fires, floods, storms, accidents, government restrictions, epidemics, pandemics, causes designated acts of God or force majeure by any statute or court of law or other causes beyond our reasonable control.

4. SHORTAGE, DAMAGE, ERRORS IN SHIPMENT: Our responsibility ceases upon delivery to carrier. Risk of loss, injury or destruction of property, shall be borne by you from and after our delivery to carrier, and such loss, injury or destruction shall not release you from the obligation to pay the purchase price. You shall note receipt for goods that are not in accordance with bill of lading or express receipt and you shall make claim against such carrier for any shortage, damage or discrepancy in the shipment per the ICC Code for Freight Claims promptly. You shall inspect and examine all items and goods covered by the order when unpacking crated or boxed goods, and if damage is discovered, leave as is until the carrier's agent makes examination and notation on freight or express bill of concealed damage. We will render reasonable assistance to help trace and recover lost goods and collect just claims as a business courtesy, but without obligation. We do not guarantee safe delivery.

5. TAXES: Our prices do not include sales, use, excise, occupation, processing, transportation or other similar taxes which we may be required to pay or collect with respect to any of the materials covered hereby under existing or future law. Consequently, in addition to the price specified herein, such taxes shall be paid by you, or you shall provide us with a tax exemption certificate acceptable to the appropriate taxing authorities. You shall also assume and pay any import or export duties and taxes, with respect to the materials covered by the order, and shall hold harmless and reimburse us therefrom.

6. CREDIT AND PAYMENT: Unless otherwise noted on the face hereof, payment of goods shall be 100% thirty (30) days net in US dollars. Payment shall be made: (a) in full without set-off, counterclaim, or withholding of any kind; and (b) not contingent on payment from or approval of any third party. Prorated payments shall become due with partial shipments. We reserve the right at any time to suspend credit or to change credit terms provided herein, when, in our sole opinion, your willingness or ability to pay your obligations to us is in doubt. Failure to pay invoices at maturity date, at our election, makes all subsequent invoices immediately due and payable irrespective of terms, and we may withhold all subsequent deliveries until the full account is settled and we shall not, in such event, be liable for non-performance of contract in whole or in part. You agree to pay, without formal notice, 1.5% per month of the amount not paid when due, provided that, if such rate is in excess of applicable governing law, you agree to pay the maximum permitted rate.

7. CANCELLATIONS AND CHANGES: Orders which have been accepted by us are not subject to your cancellation or changes in specifications, except upon our written consent, and we may require, as a condition of such consent, appropriate modification charges and adjustments in price, delivery schedule and other relevant terms, and in the case of cancellation, cancellation charges. In the event we accept your cancellation, you shall be liable for a cancellation charge equal to the higher of (i) 25% of the purchase price of the item(s), or (ii) any loss or cost incurred by us, including, but not limited to, cost of materials, labor, engineering, reconditioning and reasonable overhead.

8. DEFERRED SHIPMENT: If shipment is deferred at your request, payment of the contract price shall become due when you are notified that the equipment is ready for shipment. If you fail to make payment and/or furnish shipping instructions, we may either extend time for so doing or cancel the contract. In case of deferred shipment at your request, storage and other reasonable expenses attributable to such delay shall be payable by you.

9. LIMITED WARRANTY: Products, auxiliaries and parts thereof that we manufacture for a period of twenty-four (24) months from the date of shipment from our factory, are warranted to the original purchaser only against defective workmanship and material, but only if properly stored, installed, operated, and serviced in accordance with our recommendations and instructions. For items proven to be defective within the warranty period, your exclusive remedy under this limited warranty is repair or replacement of the defective item, at our option, FCA Incoterms 2020 our facility with removal, transportation, and installation at your cost. Products or parts manufactured by others but furnished by us are not covered under this limited warranty. We may provide repair or replacement for other's products or parts only to the extent provided in and honored by the original manufacturers' warranty to us, in each case subject to the limitations contained in the original manufacturer's warranty. No claim for transportation, labor, or special or consequential damages or any other loss, cost or damage is being provided in this limited warranty. You shall be solely responsible for determining suitability for use and in no event shall we be liable in this respect. This limited warranty does not warrant that any product or part we manufacture is resistant to corrosion, erosion, abrasion or other sources of failure, nor do we warrant a minimum length of service. Your failure to give written notice to us of any alleged defect under this warranty within twenty (20) days of its discovery, or attempts by someone other than us or our authorized representatives to remedy the alleged defects therein, or failure to return product or parts for repair or replacement as herein provided, or failure to store, install, or operate said products and parts according to the recommendations and instructions furnished by us shall be a waiver by you of all rights under this limited warranty. This limited warranty is voided by any misuse, modification, abuse or alteration of our product or part, accident, fire, flood or other Act of God, or your failure to pay entire contract price when due. The foregoing limited warranty shall be null and void if, after shipment from our factory, the item is modified in any way or a component of another manufacturer, service as but not limited to; an actuator is attached to the item by anyone other than our factory authorized service personnel. All orders accepted shall be deemed accepted subject to this limited warranty, which shall be exclusive of any other or previous warranty, and this shall be the only effective guarantee or warranty binding on us, despite anything to the contrary contained in the purchase order or represented by any agent or employee of ours in writing or otherwise, notwithstanding, including but not limited to implied warranties.

THE FOREGOING REPAIR AND REPLACEMENT LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY OR OTHERWISE, EXPRESSED OR IMPLIED IN FACT OR BY LAW, AND STATE OUR ENTIRE AND EXCLUSIVE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR ANY CLAIM IN CONNECTION WITH THE

SALE AND FURNISHING OF SERVICES, GOODS OR PARTS, THEIR DESIGN, SUITABILITY FOR USE, INSTALLATION OR OPERATIONS. NEITHER ANY PERFORMANCE OR OTHER CONDUCT, NOR ANY ORAL OR WRITTEN INFORMATION, STATEMENT OR ADVICE PROVIDED BY US OR ANY OF OUR EMPLOYEES OR AGENTS WILL CREATE A WARRANTY, OR IN ANY WAY INCREASE THE SCOPE OR DURATION OF THIS LIMITED WARRANTY.

10. INTELLECTUAL PROPERTY: We shall indemnify and hold you harmless from any amount that you are required to pay to a third-party pursuant to final, non-appealable court order as a result of such third-party's claim that a product sold hereunder infringes any United States patent or copyright of such third party; provided that our obligation of indemnification is contingent upon (a) your notifying us in writing of any such claim within 20 days of receipt thereof, (b) your providing us with exclusive control of the defense and/or settlement thereof, and (c) your cooperating with us in such defense and/or settlement. In the event of such a successful infringement claim by the third party, at our option, we shall either (i) modify the product sold hereunder so that it performs comparable functions without infringement, (ii) obtain a royalty-free license for you to continue using the infringing product or (iii) refund to you the then-depreciated fair market value of the infringing component. We shall have no obligation under this Section to the extent a claim is based upon (a) the combination, operation or use of the product with equipment, products, hardware, software, systems or data that was not provided by us, if such infringement would have been avoided in the absence of such combination, operation or use, or (b) your use of the product in any manner inconsistent with our written materials regarding the use of such product. This Section states our entire liability and your exclusive remedy with respect to any alleged infringement arising from the use of the products sold hereunder or any part thereof and is subject to the other limitations contained in These Terms.

11. LIMITATION OF LIABILITY: IN NO EVENT SHALL WE BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGE TO OR LOSS OF OTHER PROPERTY OR EQUIPMENT, BUSINESS INTERRUPTION, COST OF SUBSTITUTE PRODUCTS, LOSS OF TIME, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, LOSS OF USE, OR DIMINUTION IN VALUE) WHATSOEVER, AND OUR LIABILITY, UNDER NO CIRCUMSTANCES, WILL EXCEED THE CONTRACT PRICE FOR THE GOODS AND/OR SERVICES FOR WHICH LIABILITY IS CLAIMED. ANY ACTION FOR BREACH OF CONTRACT BY YOU, OTHER THAN RIGHTS RESPECTING OUR LIMITED WARRANTY DESCRIBED IN SECTION 9 ABOVE, MUST BE COMMENCED WITHIN 12 MONTHS AFTER THE DATE OF SALE.

12. EXPORT CONTROL COMPLIANCE: You agree and acknowledge that the products are sold in accordance with U.S. export control and sanctions laws, regulations and orders, as they may be amended from time to time. You agree to ascertain and comply with all applicable export and re-export obligations and restrictions, including without limitation, U.S. export and re-export controls under the Export Administration Regulations ("EAR"), International Traffic in Arms Regulations ("ITAR"), and all regulations and orders administered by the U.S. Department of Treasury, Office of Foreign Assets Control (collectively, "U.S. Export Control Laws"). If you are conducting the export from the United States or the re-export from a country outside the United States, you shall comply with such U.S. Export Control Laws and obtain any license or other authorization required to export or re-export the products and related technology. We shall reasonably cooperate and exercise reasonable efforts, at your expense, to support you in obtaining any necessary licenses or authorizations. You shall not export or re-export the products and/or related technology to any country or entity to which such export or re-export is prohibited, including, but not limited to any country or entity under sanction or embargoes administered by the United States. Any diversion contrary to the law of the United States is prohibited. You will not take, and will not solicit us to take, any action that would violate any anti-boycott or any export or import statutes or regulations of the United States or other governmental authorities, and shall defend and indemnify us for any loss or damage arising out of or related to such actions.

13. GENERAL COMPLIANCE WITH LAWS. In addition to your obligations under Section 12 above, you represent and warrant that, in performing your duties under this Agreement, you will comply with, at your sole expense, all applicable laws and regulations of any governmental authority, including, but not limited to your duties involving any required registrations, requirements as to product contents, packaging and labeling, restraint of trade, consumer laws, data privacy, export regulations, and environmental laws. You agree and acknowledge you have had an opportunity to obtain legal advice regarding, and currently comply with, all applicable legal requirements that prohibit unfair, fraudulent or corrupt business practices, including, but not limited to the U.S. Foreign Corrupt Practices Act (FCPA) as well as U.S. and other legal requirements that are designed to combat terrorism and terrorist activities. In addition, neither you nor any of your equity interest owners, officers or directors are named as a "specially designated national" or "blocked person" as designated by the United States Department of the Treasury's Office of Foreign Assets Control under the U.S. PATRIOT Act.

14. INDEMNIFICATION BY YOU. You will indemnify, defend and hold us and our corporate parents and other affiliates and their respective officers, directors, stockholders, members, insurers, attorneys, employees, agents, successors, predecessors, assigns, heirs and personal representatives harmless against any and all liability, claims, suits, actions, losses, liabilities, damages, costs and legal fees arising out of or related to: (i) any conduct of you or any related party as described in Sections 12 or 13 above; or (ii) your breach of any other provision herein.

15. PROPRIETARY INFORMATION: All specifications, drawings, data, manuals, designs, information, ideas, methods, patterns and inventions made, conceived, developed or generated by us incident to the procurement or performance of this order ("Work Product") will vest in, inure to and be the sole property of us. You will not copy, publish or otherwise disclose, in whole or in part, to others such Work Product without the express prior written permission of us. You will not use information furnished hereunder for any purpose other than for operation and maintenance of the goods and services or for any purpose other than as explicitly intended by us. The rights and obligations in this Section 15 will survive termination or expiration of this order. .

16. ARBITRATION: Any controversy or claim arising out of or relating to this Agreement or the breach thereof shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The venue for such proceedings shall be St. Cloud, MN.

17. TEXAS WAIVER OF CONSUMER RIGHTS: If you are entitled to its protection, you hereby agree to waive your rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 et seq., Business & Commerce Code, a law that gives consumers special rights and protections. You warrant that, after consultation with an attorney of your own selection, you voluntarily consent to this waiver.

18. APPLICABLE LAW: The rights and duties of the parties shall be governed by the laws and exclusive jurisdiction of the State of Minnesota without regard to the conflict of law principles thereof. You agree the United Nations Convention on Contracts for the International Sale of Goods or any subsequently enacted treaty or convention shall not apply to These Terms.

19. NO OTHER CONTRACT PROVISIONS; OTHER: These Terms reflect the entire agreement with respect to the products. Terms and conditions of your order shall be without force and effect, except to the extent identical herewith. No dealer, broker, branch manager, agent, employee or representative of ours has any power of authority except to take orders for our products and to submit the same to us, at our factory, for our approval and acceptance on the terms herein or rejection. There are no representations, agreements, obligations, or conditions, expressed or implied, statutory or otherwise, relating to the subject matter hereof, other than herein contained. DeZURIK, Inc. and related terms (we, us and our) shall refer to DeZURIK, Inc. and its affiliates. If any provision hereof is invalid or not enforceable under applicable law, the remaining provisions shall remain in full force and effect. Any assignment of your rights hereunder without our consent (which shall not be unreasonably withheld) shall be void. These Terms shall be binding on your successors and assigns. Our failure to require your performance of any of These Terms shall not serve as a waiver of or diminish our rights to require strict performance of such provision or These Terms.

DeZURIK Quotation

Mellen & Associates Inc

To: CITY OF SMITHVILLE
1 HELVEY PARK DRIVE
SMITHVILLE, MO 64089
USA

Invoice Terms: Net 30 Days

Days Valid: 30

Shipping Point: FOB-Origin

Delivery Notes:

Date of Quote: 09-12-2022

Quote Number: 286891

Project Name:

I.D. (Rep. Use):

Line of Business: 4952 - Municipal Sewage Treatment

Make Order To: Mellen & Associates Inc

Ryan Lemons Sales Engineer

3404 South 11th St

Council Bluffs, IA 61501

USA

Phone 712-322-9333

Fax 712-322-6557

Email ryan@melleninc.com

Currency and Values expressed in USD (\$)

Line #	Cust. Line # Tag #	Qty	Order Code	Unit Price	Total Price
1		1	PEC,16,F1,CI,NBR,CR,TR6-1B0*X Modified PEC: Style - DeZURIK Eccentric Plug Valve, Rectangular Port (AWWA C517) 16: Size - 16 Inch(400mm); (Standard Port), Stainless Steel Bearings, Welded-In Nickel Seat (Except Rubber Lined or Stainless Steel Bodies) F1: End Connection - Flanged, Drilled to ASME Class 125/150 CI: Body Material - Cast Iron, ASTM A126, Class B; (.5"-12" Pressure Rating 175 psi (1210 kPa); (14"& larger Pressure Rating 150 psi (1030 kPa) NBR: Packing - .5" - 3" Acrylonitrile-Butadiene Reinforced filler in a PTFE U-ring, -20 to 180° F. (-29 to 83° C.); 4" & Larger Acrylonitrile-Butadiene Reinforced V-type, -20 to 250° F. (-29 to 121° C.) CR: Plug Facing - Chloroprene; -20 to 180°F (-29 to 83°C) Coating or Paint: 1B0 - 4 mils minimum (non-stainless steel parts) of Blue Epoxy Tnemec 141 (NSF Std. 61) on Exterior with Standard (SP10) surface prep TR6: Option - Pressure Test per AWWA C517, Reverse Pressure, 150 PSI to Face of Plug. Includes DeZURIK Standard Certified Seat and Shell Hydro Test Reports. X: Actuator Type - AUMA SA10.2-13B/GS100.3/AM01.1	\$19,183.00	\$19,183.00
Subtotal					\$19,183.00
Surcharge (3.5%)					\$671.41
Total					\$19,854.41

Quotation

Customer Reference: **31935**

Item: 1 - SA10.2/GS100.3/AM01.1

QUOTATION

AUMA product	Quarter-turn electric actuator
Rated output torque [lbs.ft.]	1,646
Rated output torque [inch.lbs.]	19,747
Rated output torque [Nm]	2,231
Approximate weight (lbs.)	137

SERVICE CONDITIONS

Version	Weather-proof
Operating mode	OPEN - CLOSE duty
Enclosure protection	NEMA type 6P
Color	AUMA silver-grey (similar to RAL 7037)
Ambient temperature	-30 °C to +70 °C (-22 °F to +158 °F)
Nameplates	English - aluminum (US-AL)
Sealing elements	NBR - Nitrile Butadiene Rubber
Corrosion protection	KS

ELECTRICAL DATA

Mains voltage	460 Volts AC
Phase	3-Ph
Frequency	60 Hz
Type of duty	S2 - 15 min.
Motor protection	(D-1T-O140) 3 thermal switches, 1 N.C. contact per phase wired in series 140°C, class F insulation, tropicalized winding
Motor type	3 ph AC TENV motor, type AD/VD

MOTOR DATA

Motor designation	VD00071-4-0.12
Nominal power (HP)	1/6
Nominal power (kW)	0.12
Nominal speed (RPM)	1,680
Nominal current (FLA)	1.0
Current approx. I _{max} . (RTA)	1.3
Starting current (LRA)	3.1
COS	0.40

ACTUATOR FEATURES

SA model	SA 10.2
Output speed	13 RPM
Valve attachment	FA10
Output drive	FA10-B4 Ø=30mm; key width=8mm; key height 7mm
Torque switches	(6) single switches Ag (1 NC/1 NO) for each direction
Limit switches	(8.3) tandem switches Ag (2 NC/2 NO), single switches Ag (1 NC/1 NO) for each direction (2 gear train 12 contacts)
Position transm.	(0) Without
Turns per stroke	13 turns per stroke at output drive act.
Operating time (seconds)	60
Reduction gearing	(0) without
Stem protection tube	Without stem tube, with protective screw plug, thread form G2" BSPP

Quotation

Customer Reference: **31935**

Item: 1 - SA10.2/GS100.3/AM01.1 (continued)

ACTUATOR FEATURES (continued)

Heater	(22.1) 110 V-250 V AC/DC self regulating PTC element: 5-20 W (0) without Setting range 30-88 lbs.ft. 88 88 7.9" (200mm) RH - clockwise (300) 1.5-500 rev/stroke adjustable F15 Shell ALVANIA 1029 (S0-000) actuator plug for mounting AM/SEM/AC
Motor heater	
Torque switching	
Set to close lbs.ft.	
Set to open lbs.ft.	
Handwheel	
Close direction	
Limit switching	
Lubricant	
Electrical connection	

GS GEARBOX

GS model	GS 100.3
Version 1	Without
Version 2	Standard
Reduction ratio i	52:1
Mechanical adv.	18.7
Valve coupling	Unbored short spline valve shaft coupling steel
Coupling type	(0) not suitable for potentially explosive atmospheres
Explosion protection	Position A
Mounting position	92 degrees, adjusted at factory
Swing angle	RR: input shaft clockwise, clockwise rotation of the valve shaft
Version	FA16-N according to MSS SP-101 without pilot
Valve attachment	Cast iron housing GJL-250
Housing material	Spheroidal ductile cast iron worm wheel
Worm wheel material	DC1
Duty class	(FA10-EW30) FA10, input shaft Ø=30mm
Gearbox input	F15 Shell ALVANIA 1029
Lubricant	IP68-8-Z - max. 26' (8m) head of water, with pointer cover
Enclosure	

ACTUATOR CONTROLS

Enclosure	AM 01.1
Mounting position	Position A
Controls	(41.00) Standard interface board
Type of signal	(46.14) 110 - 125 V AC internal, or external supply
Input signals	(42.02) OPEN - STOP - CLOSE
Power supply unit	(49.2100P) Transformer, customer output: 115 V AC
Motor controls	(B00.01) Reversing contactors for power class A1
Motor protection	(54.01) Thermal switch
Selector switch	(51.02) 3 positions, 2 levels
LOCAL operation	Push buttons OPEN, STOP, CLOSE
Indication lights	OPEN-red, FAULT-yellow, CLOSE-green
Control elements	(52.19) Push buttons OPEN-STOP-CLOSE; 3 indicating lights; OPEN: Red, FAULT: Yellow, CLOSE: Green

Quotation

Customer Reference: **31935**

Item: 1 - SA10.2/GS100.3/AM01.1 (continued)

ACTUATOR CONTROLS (continued)

Mounting pos. local controls

Face plate

Output signals

Version logic

Seating CLOSED

Seating OPEN

Fault signal

Self locking LOCAL

Self locking REMOTE

Heater

2nd digit

Electrical connection

Position A, selector switch at 6 o'clock in relation to base of controls (standard for SA/SQ)

English-Spanish-French text: Open-Stop-Close/Local-Off-Remote

(44.03) OPEN-CLOSE/LOCAL-REMOTE

Lights illuminated in mid travel

Limit switch

Limit switch

Torque included in collective fault signal (S2 '6'=ON)

With

Without

(53.21) Control unit heater internally supplied, without blinker

(A) Torque switch by-pass for both directions with plug/socket

(SB-080) plug/socket 100mm, 2 x 3/4" NPT; 1 x 1 1/4" NPT

OPTIONAL EXTRAS

Padlock on selector switch

Replacement actuator label reqd.

DRAWINGS

ACTUATOR DIMENSIONAL DWG

OUTPUT DRIVE/MOUNTING FLANGE DWG

POINT-TO-POINT WIRING DWG

[DDS00E211CAADA331](#)

[SK099241](#)

[MSP1A10KC5--F2JE1TPA00R1AC-001-000](#)

OPERATION MANUALS

ACTUATOR OPERATION MANUAL

[\(click here\)](#)

GEARBOX OPERATION MANUAL

[\(click here\)](#)

WIRING DIAGRAM LEGEND

[\(click here\)](#)

Additional Information:

COM# A072095-DS001

- functional replacement for this old unit.



Board of Aldermen Request for Action

MEETING DATE: 10/4/2022

DEPARTMENT: Parks and Recreation

AGENDA ITEM: Resolution 1125, Purchase of Park Signage

REQUESTED BOARD ACTION:

A motion to approve Resolution 1125, authorizing the purchase of park signage from Boulder Designs for signs in three parks in the amount of \$10,400.

SUMMARY:

The Parks and Recreation Master Plan identified a need for park signage. The Parks and Recreation Committee met on July 28, 2022, and they discussed the style of signs for the parks. The Committee wanted to have a brand for park signage. They wanted each park sign to look similar to Courtyard Park. This past winter park signage was added to Courtyard Park. The sign at Courtyard Park was made by a local business in Smithville, Boulder Designs. To make sure the other parks signs look similar, they would have to be done by Boulder Designs.

The Committee decided to choose three parks for FY23, Smith's Fork Park, Wildflower Park and Helvey Park. The cost for each sign is \$3,400. For a total of \$10,400.

The Parks and Stormwater CIP fund has budgeted \$30,000 for park signage. Some of the parks were left out due to construction being done in the near future. The Committee did not want the sign to effect construction or design. Park signage will be added to Heritage, Diamond Crest and Emerald Ridge at a later date.

PREVIOUS ACTION:

POLICY OBJECTIVE:

Click or tap here to enter text.

FINANCIAL CONSIDERATIONS:

\$30,000 is budgeted in the Parks and Stormwater CIP fund

ATTACHMENTS:

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

RESOLUTION 1125

A RESOLUTION AUTHORIZING THE PURCHASE OF PARK SIGNAGE FROM BOULDER DESIGN IN THE AMOUNT OF \$10,400

WHEREAS, the Parks and Recreation Master Plan has identified the need for park signage, and;

WHEREAS, the Parks and Recreation Committee meet to discuss park signage , and recommended signs in Smith's Fork, Wildflower and Helvey Parks;

WHEREAS, The Parks and Stormwater CIP fund has allocated funds for parks signage, and;

WHEREAS, Boulder Designs is the sole contractor for desired park signage.

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

THAT the Board authorizes the purchase of park signage with Boulder Design in the amount of \$10,400.

PASSED AND ADOPTED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 4th day of October 2022.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

Boulder Designs by TJ Northland
18608 Fightmaster Rd.
Trimble, MO 64492
Business: 763.245.2502
tjnorthland@boulderdesigns.net



Delivery / Pick Up / UPS / Ground

Proposal submitted to: Smithville Parks & Rec Date: 8/23/22 Est. delivery date: 10/15/22
Billing address: 107 West Main St. Delivery address: Heuley Park Drive
City / State: Smithville MO City / State: Smithville MO
Phone: 816-532-8130 E-Mail: mdenton@smithvillemo.org
For the Sum Of: \$ 3400 Deposit amount Received: \$ _____ Balance Due: \$ _____

Imprint information:

Letter Size: _____ Approximate shape of rock:

Line #1 Welcome to Color: BlackLine #2 HEULEY PARK Color: BlackLine #3 City of Smithville Color: BlackLine #4 Parks & Recreation Color: Black

Front

Side

Image or Logo: _____ Size: _____ Sliced: _____ Free Standing: _____

Custom options: _____ Approx. size: W 54" H 44" D 12" Weight: 2000 lbs +Imprint area size: See proofColor of rock: BrownCost of rock including custom options \$ 3400Sales Tax \$ 0Total \$ 3400

Note: Cost Excludes: Tax, Shipping or Delivery Charges if Applicable.

Customer agrees that all photographs taken by Boulder Designs® shall be the property of Boulder Designs® and may be used for Boulder Designs® promotional purposes. Customer will allow Boulder Designs® promotional sign to be placed in their yard for 30 days. In the event Boulder Designs® shall employ an Attorney or bring suit to enforce any of the terms or conditions of this Proposal & Agreement, Boulder Designs®, in addition to the amount of its claim, shall be entitled to interest at the rate of 1 1/2 % per month from due date, reasonable attorney fees and the expenses of litigation. This Proposal & Agreement is the entire contract and no oral statements, expressions or opinions shall alter or affect any of the provisions herein. The undersigned Customer acknowledges receipt of a signed copy of the Proposal & Agreement. The above set out prices, specifications and conditions are satisfactory and upon Customer(s) signature(s) being affixed, are hereby accepted.

This Proposal & Agreement may be withdrawn by Boulder Designs® if not accepted within 60 days. In choosing the site it is the Customer/Owners sole responsibility to evaluate and determine the proposed site meets all zoning guidelines, square footage, height and set back restrictions. Customer/Owner is responsible to obtain any and all permits including dig number to determine that there are not any conflicts regarding easement on the property and has made the necessary arrangements to mark the drainage, utility, sewer or power lines before installation begins. Customer/Owner shall bear full responsibility to protect the work area from water damage due to hoses, sprinkler systems, pets, children, service men etc. during the installation and three (3) days after completion. *ACTUAL MEASUREMENTS AND SIZES MAY VARY: COLORS LIMITED TO AVAILABILITY.

Payment Terms: Balance due upon pick-up or at time of delivery of your Custom Rock.

Juli Burns
Boulder Designs® Representative

8/23/22
Date

Customer Acceptance of Proposal Date

Boulder Designs by TJ Northland
18608 Fightmaster Rd.
Trimble, MO 64492
Business: 763.245.2502
tnorthland@boulderdesigns.net



Delivery / Pick Up / UPS / Ground

Proposal submitted to: Smithville Parks & Rec Date: _____ Est. delivery date: _____
Billing address: 107 West Main St. Delivery address: Smith's Fork Park
City / State: Smithville City / State: MO
Phone: 816-532-8130 E-Mail: mdenton@smithvillemo.org
For the Sum Of \$ 3400 Deposit amount Received \$ _____ Balance Due \$ _____

Imprint information:

Letter Size: _____ Approximate shape of rock: _____

Line #1 Welcome to Color: Black

Line #2 Smith's Fork Park Color: Black

Line #3 City of Smithville Color: Black

Line #4 Parks & Recreation Color: Black

Front

Side

Image or Logo: _____ Size: _____ Sliced: _____ Free Standing: _____

Custom options: _____ Approx. size: W 54" H 44" D 12" Weight: 2000 lbs.

Imprint area size: _____

Color of rock: _____

Cost of rock including custom options \$ 3400

Sales Tax \$ 6

Total \$ 3400

Note: Cost Excludes: Tax, Shipping or Delivery Charges if Applicable.

Customer agrees that all photographs taken by Boulder Designs® shall be the property of Boulder Designs® and may be used for Boulder Designs® promotional purposes. Customer will allow Boulder Designs® promotional sign to be placed in their yard for 30 days. In the event Boulder Designs® shall employ an Attorney or bring suit to enforce any of the terms or conditions of this Proposal & Agreement, Boulder Designs®, in addition to the amount of its claim, shall be entitled to interest at the rate of 1 1/4 % per month from due date, reasonable attorney fees and the expenses of litigation. This Proposal & Agreement is the entire contract and no oral statements, expressions or opinions shall alter or affect any of the provisions herein. The undersigned Customer acknowledges receipt of a signed copy of the Proposal & Agreement. The above set out prices, specifications and conditions are satisfactory and upon Customer(s) signature(s) being affixed, are hereby accepted. This Proposal & Agreement may be withdrawn by Boulder Designs® if not accepted within 60 days. In choosing the site it is the Customer/Owner's sole responsibility to evaluate and determine the proposed site meets all zoning guidelines, square footage, height and set back restrictions. Customer/Owner is responsible to obtain any and all permits including dig number to determine that there are not any conflicts regarding easement on the property and has made the necessary arrangements to mark the drainage, utility, sewer or power lines before installation begins. Customer/Owner shall bear full responsibility to protect the work area from water damage due to hoses, sprinkler systems, pets, children, service men etc. during the installation and three (3) days after completion. *ACTUAL MEASUREMENTS AND SIZES MAY VARY: COLORS LIMITED TO AVAILABILITY.

Payment Terms: Balance due upon pick-up or at time of delivery of your Custom Rock.

Matthew Denton
Boulder Designs® Representative

8/25/22
Date

Customer Acceptance of Proposal Date _____

Boulder Designs by TJ Northland
18608 Fightmaster Rd.
Trimble, MO 64492
Business: 763.245.2502
tjnorthland@boulderdesigns.net



Delivery / Pick Up / UPS / Ground

Proposal submitted to: Smithville Parks & Rec Date: _____ Est. delivery date: _____
Billing address: 107 West Main St. Delivery address: Wildflower Park
City / State: Smithville City / State: MO
Phone: 816-532-8130 E-Mail: mdenton@smithvillemo.org
For the Sum Of: \$ 3400 Deposit amount Received: \$ _____ Balance Due: \$ _____

Imprint information:

Letter Size: _____ Approximate shape of rock:

Line #1 Welcome to Color: Black

Front

Side

Line #2 Wildflower Park Color: BlackLine #3 City of Smithville Color: BlackLine #4 Park & Recreation Color: Black

Image or Logo: _____

Size: _____

Sliced: _____

Free Standing: _____

Custom options: _____

Approx. size: W 54" H 44" D 12" Weight: 2600 lbsImprint area size: see proof

Color of rock: _____

Cost of rock including custom options \$ 3400Sales Tax \$ 0Total \$ 3400

Note: Cost Excludes: Tax, Shipping or Delivery Charges if Applicable.

Customer agrees that all photographs taken by Boulder Designs® shall be the property of Boulder Designs® and may be used for Boulder Designs® promotional purposes. Customer will allow Boulder Designs® promotional sign to be placed in their yard for 30 days. In the event Boulder Designs® shall employ an Attorney or bring suit to enforce any of the terms or conditions of this Proposal & Agreement, Boulder Designs®, in addition to the amount of its claim, shall be entitled to interest at the rate of 1 ½ % per month from due date, reasonable attorney fees and the expenses of litigation. This Proposal & Agreement is the entire contract and no oral statements, expressions or opinions shall alter or affect any of the provisions herein. The undersigned Customer acknowledges receipt of a signed copy of the Proposal & Agreement. The above set out prices, specifications and conditions are satisfactory and upon Customer(s) signature(s) being affixed, are hereby accepted. This Proposal & Agreement may be withdrawn by Boulder Designs® if not accepted within 60 days. In choosing the site it is the Customer/Owners sole responsibility to evaluate and determine the proposed site meets all zoning guidelines, square footage, height and set back restrictions. Customer/Owner is responsible to obtain any and all permits including dig number to determine that there are not any conflicts regarding easement on the property and has made the necessary arrangements to mark the drainage, utility, sewer or power lines before installation begins. Customer/Owner shall bear full responsibility to protect the work area from water damage due to hoses, sprinkler systems, pets, children, service men etc. during the installation and three (3) days after completion. *ACTUAL MEASUREMENTS AND SIZES MAY VARY: COLORS LIMITED TO AVAILABILITY.

Payment Terms: Balance due upon pick-up or at time of delivery of your Custom Rock.

Julie Burns
Boulder Designs® Representative

8/25/22
Date

Customer Acceptance of Proposal _____ Date _____



City Administrator's Report

September 29, 2022

Police Department Vision, Mission and Values Work

The FY22 Budget included funds for the development of a new vision, mission, and values for the Smithville Police Department. One of the goals was to engage and include every member of the department to lay a foundation for the future. Having a shared sense of purpose will increase commitment, wellbeing, and overall agency effectiveness. The process began in April with command staff working to ensure a common understanding of the scope and process. All departmental employees participated in an online survey and a series of workshops were held to develop and confirm the vision, mission and values. This process is outlined below.

- April 7- Kick off meeting with department command staff to ensure a common understanding of the scope and the process to be used to develop a new vision, mission and values.
- April 15-25- all employees participated in an online survey to gather information for future workshops.
- April 29- police officers and administrative staff came together to reflect on and develop a preliminary vision, mission and values.
- May 5 – a second group of police officers came together to reflect on and develop a preliminary vision, mission and values.
- May 31- command staff came together in a workshop to reflect and develop a preliminary vision, mission and values. The same process used for frontline employees.
- June 1- command staff gathered for a second time to incorporate the work accomplished throughout the process and coalesce around a draft vision, mission, and values for the Smithville Police Department.

The resulting vision, mission and values (outlined below) were introduced to the officers of the Smithville Police Department in a squad meeting on September 28.

Vision

The Smithville Police Department – setting the standard for modern policing and the next generation of leadership.

Mission

The mission of the Smithville Police Department is to build partnerships through innovation, professionalism, and accountability to foster a safer community for all.

Values

We will accomplish our mission and vision through upholding the shared values of:

Compassion – We believe everyone is entitled to human dignity. As individuals, each of us has a unique set of experiences and background. Leading with empathy connects us with the community, each other, and our families. Understanding the needs of others results in better outcomes for the community and increased resiliency for department members.

Integrity – We believe trust and accountability are the cornerstones of our internal and external relationships. Inclusion builds our capacity to be fair and be seen as serving in an impartial and unbiased manner. Being transparent and honest in our interactions and communication helps explain our motives and builds credibility for our actions.

Honor – We believe in the nobility of the law enforcement profession. Responding to a higher calling in a role that is bigger than each of us individually requires the courage and moral fortitude to always strive to do the right thing; for those we serve and each other.

Professionalism – We believe seeking continuous improvement is the key to our success. Improving standards and building competence through adoption of best practices, forward-thinking training, and knowledge sharing leads to increased organizational readiness and reliability. A culture of leading by example and a merit-based rewards system encourages participation in this endeavor.

Upcoming Police Department Community Events

On Wednesday, October 5, from 9-11 a.m., the Smithville Police Department will have a Coffee with a Cop event at Cornerstone Coffee in conjunction with National Coffee with a Cop Day.

On Thursday, October 6, from 4-6 p.m., the department will be at the Dollar General for Snow cones with a Cop. Life 88.5 FM and the organization Taking it to the Streets will be in attendance as well.

Personnel Updates

Alex Threlkeld has been hired as Recreation Manager. Alex comes to us from Warrensburg, where she worked with their Parks and Recreation Department. She begins work on Tuesday, October 4.

Lance McNece, a current part-time maintenance worker in the Parks and Recreation Department, has been promoted to a full-time Parks Maintenance Worker I effective October 10.

Anna Mitchell has announced her resignation. She is pursuing an opportunity with the International City/County Management Association (ICMA) - the professional organization for local government professionals. She will be their Senior Program Manager of Publications and Research. Anna will be able to stay involved with local government while working from home! Her last day with the city will be October 20.

An internal recruitment was initiated this week – the position was posted for internal applicants. An interview process is being developed. As that process unfolds, I will keep the Board updated.

Several other positions are also in recruitment:

- Wastewater Plant Operator
- Water Plant Operator
- Public Works Maintenance Worker
- Water Plant Shift Supervisor
- Recreation Coordinator
- Police Officer

Bulky Item and HHW Reminder

Residents will have the opportunity to discard up to five large and bulky items at their curbside with regular trash collection during the week of October 3.

The next Northland on-site HHW collection event is scheduled for September 10 in Liberty. A calendar of the regional HHW collection events for the remainder of the year may be found at the following link: <https://www.recyclespot.org/HHW/Mobile-Events.aspx>.



Board of Aldermen Request for Action

MEETING DATE: 9/20/2022

DEPARTMENT: Development

AGENDA ITEM: Bill No. 2960-22, Amending Outdoor Storage - 2nd Reading

REQUESTED BOARD ACTION:

A motion to read Bill No. 2960-22 for Second Reading by Title Only to amend provisions of the zoning code pertaining to Outdoor Storage in commercial districts.

SUMMARY:

The ordinance would change the zoning to allow outdoor storage in certain commercial districts where all outdoor storage is currently banned.

BACKGROUND:

The zoning code was amended in 2013 and it was decided to eliminate outdoor storage provisions in commercial districts and require it to be inside buildings in most cases. In order to treat businesses in each district equally and appropriately, changes to the code would be required. Staff researched the history of the various changes to the zoning code since its inception in 1966 and found numerous changes to the code over time. After the first public hearing in July, the Planning Commission discussed certain changes to address outdoor storage if the storage was properly screened with sight-obscuring fencing or other means. Staff continued its research while preparing the proposed draft for the Commission and discovered certain enforcement issues that required additional Commission discussion and input at the August meeting. Staff then drafted an ordinance addressing all the discussion points, and advertised for a second public hearing on the matter. At the September 13, 2022 meeting, a public hearing was again conducted and the Commission voted to recommend the changes and made its formal statement on the reasons. The Commission's statement is attached to the ordinance as Exhibit A.

PREVIOUS ACTION:

The regulations concerning outdoor storage have been created, modified and amended numerous times over the previous 50 years, including the new zoning code adopted in 2013.

POLICY ISSUE:

Improves the climate for businesses to operate in the commercial and industrial districts.

FINANCIAL CONSIDERATIONS:

None

ATTACHMENTS:

- | | |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Plans |
| <input checked="" type="checkbox"/> Staff Report | <input type="checkbox"/> Minutes |
| <input checked="" type="checkbox"/> Other: Planning and Zoning meeting is available for viewing online | |

BILL NO. 2960-22

ORDINANCE 31XX-22

AN ORDINANCE AMENDING SECTIONS OF CHAPTER 400, THE ZONING CODE RELATED TO OUTDOOR STORAGE.

WHEREAS, the Planning Commission advertised and held a public hearing on July 12, 2022, and again for a public hearing on September 13, 2022 related to potential changes to outdoor storage in the commercial and industrial zoning districts; and

WHEREAS, following the public hearings, the Planning and Zoning Commission provided its' statement on the outdoor storage code amendments attached hereto as Exhibit "A" and recommended the approval of this ordinance; and

WHEREAS, the Smithville Board of Aldermen deems it to be in the best interest of the City of Smithville to adopt said amendments to provide for outdoor storage that is both beneficial to the businesses involved and the public.

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

SECTION 1. Chapter 400 of the Code of Ordinance is amended by adding the following new provisions:

(B-1 Districts)

§400.155.B.7

No outdoor storage except the display of merchandise for sale to the public, but only when the business is open and only during daylight hours.

(B-2 and B-3 districts)

§400.160.B.7 and §400.165.B.8

No outdoor storage except the display of merchandise for sale to the public, except outdoor storage completely enclosed in proper storage screening.

(B-4 district)

§400.170.B.8

No outdoor storage except the display of merchandise for sale to the public during business hours, except outdoor storage completely enclosed in proper storage screening.

SECTION 2. This ordinance shall be in full force from and after the date of its passage and approval.

BE IT REMEMBERED that the above was read two times, by title only, **PASSED AND APPROVED** by a majority of the Smithville Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri this 4th day of October, 2022.

Damien Boley, Mayor

ATTEST

Linda Drummond, City Clerk

First Reading: 9/20/2022

Second Reading 10/04/2022

EXHIBIT A

STATEMENT OF PLANNING COMMISSION ON OUTDOOR STORAGE CODE AMENDMENTS

In accordance with 400.560.B, the Planning Commission recommends approval of the foregoing ordinance changes and makes the following statements:

1. These changes are consistent with the intent and purpose of these regulations.
2. The areas of the city which are most likely to be directly affected by these changes are those zoned commercially, and these properties will be affected by the new provisions for outdoor storage behind storage screening where it is currently completely prohibited.
3. This amendment is made necessary as a result of significant investment in commercial construction and the commercial development of the city, as well as the evolving nature of the districts.

Planning and Zoning Commission Chair



Date:	September 6, 2022
Prepared By:	Jack Hendrix
Subject:	Outdoor Storage Ordinance and Findings

The attached Outdoor Storage Ordinance and Findings represent my understanding of the general consensus of the Commission at the August meeting. This ordinance specifically adds new storage provisions to the B-1, B-2, B-3 and B-4 districts that had been removed in 2013. These provisions also delineate different treatment for the B-1 district from those of the B-2 and B-3 districts, as well as a different treatment in the B-4 district. No changes are included in the two industrial districts, for reasons explained herein.

First, the B-1 districts are those districts that are most likely to be incorporated into residentially zoned districts, so the proliferation of outdoor storage would become problematic in the future. There was a consensus that products for display for sale to the public could be allowed, but concerns about the length of time that were presented. To address those comments, staff drafted the current provision specifically to allow display of merchandise, but with two additional restrictions: That such outdoor display of merchandise can only occur during business open hours, and that no such outdoor display of merchandise can occur outside the daylight hours. The second provision is recommended to address the potential 24-hour operations. If in the future a Conditional Use Permit was issued for a gas station, there would be a chance that the specific additional condition of outdoor storage could be lost if the establishment was authorized for 24-hour operations.

Second, the B-2 and B-3 districts were given the same treatment because of their lower likelihood of being adjacent to residential districts. These districts currently have no provision for outdoor storage, so this change opens the opportunity for storing items outdoor and allows for product to be displayed outdoors at all times. If there was a limitation on the display of merchandise provisions here, there would be a significant impact to automobile and farm/home equipment dealers.

Third, the B-4 district was given similar treatment as the B-2 and B-3 districts except for permanent display of merchandise is limited to business hours. Given the close proximity to residential uses, as well as the increasing pedestrian activity, this limited restriction meets the public welfare requirements.

Lastly, the current I-1 and I-2 provisions allow for "the outdoor storage of manufactured materials or products provided all outside storage is screened from any public right-of-way." There is no provision for display of merchandise due to the

limitation of retail activities in the industrial district related to the building itself. Allowing merchandise display could effectively eliminate the purpose of limiting retail activity in the industrial districts. Again, the I-2 district gains this same authority through the inclusion of all uses in the I-1 district. These provisions also limit the storage screening requirements to just from the public rights of way.

In order to move this to the Board, a recommendation and findings are required. Here is a staff draft of a compliant findings document. If there are suggested changes, it should be through the suggestion of an amendment, a second and a vote.

STATEMENT OF PLANNING COMMISSION ON OUTDOOR STORAGE CODE AMENDMENTS

In accordance with 400.560.B, the Planning Commission recommends approval of the foregoing ordinance changes and makes the following statements:

1. These changes are consistent with the intent and purpose of these regulations.
2. The areas of the city which are most likely to be directly affected by these changes are those zoned commercially, and these properties will be affected by the new provisions for outdoor storage behind storage screening where it is currently completely prohibited.
3. This amendment is made necessary because of significant investment in commercial construction and the commercial development of the city, as well as the evolving nature of the districts.



Board of Aldermen Request for Action

MEETING DATE: 10/4/2022

DEPARTMENT: Public Works

AGENDA ITEM: Bill No. 2961-22, Right of Way Use Agreement with Missouri Network Alliance also known as Bluebird Network. 2nd Reading

REQUESTED BOARD ACTION:

Motion to approve Bill No. 2961-22, authorizing the Mayor to sign a Right-Of-Way Use Agreement For Communications Facilities. 2nd reading by title only.

SUMMARY:

Missouri Network Alliance, also known as Bluebird Network, is a company offering communication services via fiber to their customers. Bluebird is requesting a Use of Right of Way Agreement to install their infrastructure. The City and Legal staff have negotiated the attached agreement for the Boards approval.

This agreement is similar to the many other agreement of other users in the Right of Way. it provides Bluebird the right to install their facilities within City Right of Way and easements subject to permitting, inspection, and restoration.

Bluebird will be servicing CPC of Missouri located in First Park.

PREVIOUS ACTION:

None

POLICY ISSUE:

Continued service and infrastructure maintenance

FINANCIAL CONSIDERATIONS:

There is no financial impact.

ATTACHMENTS:

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

- ☒ Contract - Agreement
- ☐ Plans
- ☐ Minutes

BILL NO. 2961-22

ORDINANCE NO. _____

**ORDINANCE APPROVING A RIGHT-OF-WAY AGREEMENT WITH
MISSOURI NETWORK ALLIANCE, LLC dba BLUEBIRD NETWORK**

WHEREAS, Chapter 510 of the Smithville Code of Ordinances prescribes the method by which the City manages its Rights-of-Way and allows other entities to access and use the Rights-of-Way; and

WHEREAS, prior to any entity being allowed to utilize and/or access the Rights-of-Way a written agreement must be executed by such entity agreeing to the terms of the agreement and the City Code as now enacted and as amended hereafter; and

WHEREAS, Section 510.025 requires Board of Aldermen approval to enter such agreements which shall be entered into on a non-discriminatory basis, provided that the applicant is in compliance with all applicable requirements; and

WHEREAS, Applicant has submitted its application to be granted a Right-of Way permit and has agreed to the terms of the City's current Right-of-Way Agreement, a copy of which is attached hereto Exhibit 1; and

WHEREAS, staff has recommended approval of the proposed Right-of Way Agreement with Applicant.

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

That the Mayor or City Administrator is authorized and empowered to sign on behalf of the City Right-of-Way Agreement with Missouri Network Alliance, LLC dba Bluebird Network attached hereto in the form of Exhibit 1.

Passed by the Board of Aldermen of Smithville, Missouri and approved by the Mayor of Smithville, Missouri this 4th day of October 2022.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

1st reading 09/20/2022

2nd reading 10/04/2022

EXHIBIT 1

RIGHTS-OF-WAY USE AGREEMENT FOR COMMUNICATIONS FACILITIES

THIS AGREEMENT, made and entered into as of the "Effective Date" (as defined in Section 11.1) by and between Missouri Network Alliance, LLC dba Bluebird Network on behalf of its operating subsidiaries and affiliates, a Missouri limited liability company (the "Licensee"), and the City of Smithville, Missouri, State of Missouri (the "City") may sometimes be referred to in this Agreement individually as a "party" or collectively as the "parties."

RECITALS:

WHEREAS, Licensee has requested consent from the City authorizing the use of the City Rights-of-Way to construct, install, maintain, and. operate facilities for telecommunications and optic fiber communications or related capabilities; and

WHEREAS, Missouri law authorizes the City to consent to and regulate the use and occupancy of Rights-of-Way for placement of a System as hereinafter defined; and

WHEREAS, the City is authorized to and has established standards for occupancy of the Rights-of-Way by communications facilities and other uses that are consistent with and recognize the Public Service Commission's duties and jurisdiction; and

WHEREAS, the City and Licensee desire to execute this Agreement, establishing the terms of such use of the Rights-of-Way by Licensee, and incorporating the provisions of the "ROW Code" (as defined in Section 1.2).

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties mutually agree as follows:

SECTION 1. GENERAL

1.1 Preservation of Police Power Authority. Any rights granted to Licensee pursuant to this Agreement are subject to the authority of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public.

1.2 Defined Terms. For purposes of this Agreement, the capitalized terms, phrases, words, and their derivatives shall have the meanings as set forth in the Municipal Code of the City, Chapter 510, as may be amended from time to time (the "Code" or "ROW Code"). For purposes of this Agreement, the following additional terms, phrases, words, and their derivatives shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, and words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive, Words not defined shall be given their common and ordinary meaning.

A. "Agreement" means the Agreement herein agreed to and executed by Licensee.

B. "Antenna" means any device that transmits and/or receives radio waves for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of

communications. A combination of panels, boxes, or other antenna physically connected and designed in conjunction to receive signals at one location in the System shall be considered one (1) Antenna.

- C.** **"City"** means the City of Smithville, Missouri.
- D.** **"Collocation"** means the shared use of Facilities, including, but not limited to, the placement of conduit owned by more than one Rights-of-Way user in the same trench or boring and the placement of equipment owned by more than one user in the same or connected conduit. Collocation does not include interconnection of Facilities or the sale or purchase of capacity (whether bundled or unbundled).
- E.** **"Communications"** means the transmission via the Facilities, in whole or in part, between or among points specified by the user, of information of the user's choosing (e.g., data, video, voice), without change in the form or content of the information as sent and received, regardless of the statutory or regulatory scheme to which such transmissions may be subject.
- F.** **"Communications Service"** means the transmission via Facilities, in whole or in part, of any writings, signs, signals, pictures, sounds, or other forms of intelligence through wire, wireless, or other means, including, but not limited to, any "telecommunications service," "enhanced service," "information service," or "Internet service," as such terms are now, or may in the future be, defined under federal law, and including all instrumentalities, Facilities, apparatus (Communications Facilities), and services (among other things, the receipt, forwarding, and delivery of telecommunications) incidental to or designed to directly or indirectly facilitate or accept such transmission and shall also include "video services" as defined in § 67.2677 RSMo., unless the Licensee has obtained a franchise from the City to separate franchising requirements and application, or rental of conduit or physical facilities.
- G.** **"Facilities"** means any portion of a System located in, along, over, upon, under, or through the Rights-of-Way.
- H.** **"Rights-of-Way"** means the surface and space on, above and below every municipal street, alley, road, highway, lane or City right-of-way dedicated or commonly used now or hereafter for utility purposes, including, but not limited to, overhead lighting facilities. This term shall not include any county, state, or federal rights-of-way or any property owned or controlled by any Person or Agency other than the City, except as provided by applicable Laws or pursuant to an agreement between the City and any such Person or Agency. "Rights-of-Way" shall not include public property owned or leased by the City and not intended for right-of-way use, including, but not limited to, parks and City Hall or public works facility property.
- I.** **"System"** means the cables, wires, lines, towers, wave guides, optic fiber, Antennae,

and any associated converters, equipment, or other facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing Communications to or from locations within the City.

1.3 Agreement Subject to Provisions of ROW Code. This Agreement fully incorporates the provisions of the ROW Code as if fully set forth herein, and Licensee agrees as a part of this Agreement to abide by the provisions of such Code as now adopted or as amended and other applicable ordinances of the City as a ROW User, and to be subject to the enforcement by the City as provided therein and in this Agreement as a material term herein. This Agreement may establish Licensee obligations that are supplementary to the ROW Code, and nothing in this Agreement shall be deemed to waive any obligation or requirement applicable to Licensee authorized or established by the ROW Code. The consent to use the Rights-of-Way authorized by this Agreement is subject to the continuing accuracy during the term of this Agreement of the application information provided by and maintained by Licensee for this authorization as provided to and on file with the City.

SECTION 2. GRANT OF AUTHORITY TO USE THE RIGHTS-OF-WAY

2.1 Agreement Non-Exclusive. This Agreement shall grant nonexclusive privileges to use the Rights-of-Way. The City specifically reserves the right to grant, at any time, such additional agreements or other rights to use the Rights-of-Way for any purpose and to any other person, including itself, as it deems appropriate, subject to applicable federal and state law. Nothing in this Agreement shall relieve Licensee from its obligations to apply for and obtain all necessary permits for installation of its Facilities including excavation, building, electrical, zoning, etc. before installation of its Facilities within the ROW.

2.2 Nature of Rights Granted by this Agreement. This Agreement shall not convey title to Licensee, equitable or legal, in the Rights-of-Way, and gives only the right to occupy Rights-of-Way for the purposes and for the period stated in this Agreement and subject to the requirements herein. This Agreement also shall not grant the right to use Facilities owned or controlled by the City or a third-party without the separate consent of the City or such third-party owning or controlling the Facilities, nor shall it excuse Licensee from obtaining appropriate access or pole attachment agreements before locating on Facilities controlled or owned by the City or a third party.

2.3 Grant. Subject to the terms and conditions of this Agreement, the ROW Code and the conditions set forth on Exhibit A attached to and incorporated by reference into this Agreement, Licensee is hereby granted the nonexclusive right and privilege to construct, operate, and maintain Facilities in, through, over, above and along the City's Rights-of-Way and utility easements (to the extent, but only to the extent authorized by such Rights-of-Way or other easement), for the purposes of supplying Communications Services within the City and to sell or lease transmission capacity on its System to other non-residential entities, subject, however, to the terms and conditions herein set forth within this Agreement and the Code and all such special conditions as may be set forth in Exhibit A. Notwithstanding the above, Licensee shall not grant or convey to its customers as set forth in the previous sentence any right to physically access the Licensee's System via the City's Right- of-Way (as granted to Licensee in this Agreement), but Licensee customers may utilize the System installed by Licensee to transmit data without permission from the City. As a condition of this grant, Licensee is required to obtain and maintain any permit, license certification, grant,

registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission or the Missouri Public Service Commission, subject to Licensee's right to timely challenge in good faith the requirements of any such permit, license certification, grant, registration or any other authorization. In the event that the use of the Rights-of-Way is proposed to change or to provide services other than as described, Licensee shall be required to seek amendment hereto prior to commencing such service or changed use.

Except as set forth above, this Agreement does not provide Licensee the right to install any Antenna or Antenna support structures in the rights-of-way, rent conduit or physical facilities to third-parties nor provide services not authorized herein, except to the extent set forth in the Uniform Small Wireless Facility Deployment Act, and then only to the extent as authorized by City Code.

2.4 Use of Rights-of-Way; Police Powers; Licensee's Use Subordinate. The Licensee shall construct and maintain its Facilities in accordance with all applicable federal, state and local laws, codes and ordinances, including all permit requirements and fee payments, in effect as of the Effective Date or adopted after the Effective Date, to the extent the same are not in contravention of applicable law. The City makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of Licensee's Facilities on any particular segment of Rights-of-Way. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon Licensee. The use of the Rights-of-Way authorized by this Agreement shall in all matters be subordinate to the City's use of and rights to the same, and Licensee shall be limited to such uses as have been expressly granted to Licensee by the City. Licensee shall excavate in or install Facilities in the Rights-of-Way in locations and in a manner only as authorized by a specific permit granted by the City. Licensee shall further be subject to the City's exercise of its powers, including but not limited to its administration and regulation related to the management of the Rights-of-Way exercised in a competitively neutral and non-discriminatory reasonable manner.

2.5 No Interference. Licensee shall construct and maintain its Facilities to be so located, constructed and maintained as to cause minimum interference with the proper use of all Rights-of-Ways and so as not to materially interfere with other users of the Rights-of-Way. Except as may otherwise be provided, Licensee shall provide reasonable notice to all City residents affected by the proposed work prior to commencement of such work. All construction and maintenance by Licensee or its subcontractors shall be performed in accordance with generally accepted industry standards and any standard specifications, drawings, and procedures adopted by the City.

2.6 Notification, Joint Installation and Collocation Requirements. Licensee shall, prior to any excavation or installation within the Rights-of-Way for which joint installation opportunities are commercially reasonable for Licensee, make commercially reasonable efforts to provide sufficient notification and joint installation opportunity on a shared-cost basis to potential users of the Rights-of-Way under such written policy or direction as may be established by the City. Licensee shall further make its installed facilities available to other licensees on a nondiscriminatory competitively neutral basis consistent with the requirements of federal law codified at § 47 U.S.C. 224.

2.7 Licensee Responsible for Costs. Licensee shall be responsible for all reasonable

costs borne by the City that are directly associated with Licensee's installation, maintenance, repair, operation, use, and replacement of its Facilities within the Rights-of-Way that are not otherwise accounted for as part of the permit fee established pursuant to the ROW Code and not contrary to any applicable requirements of Sections 67.1830 to 67.1846 RSMo. All such costs shall be itemized and the City's books and records related to these costs shall be made available upon request to the Licensee. Licensee shall be responsible for its own costs incurred in removing or relocating its Facilities when required to do so by the City due to City requirements relating to maintenance and use of the Rights-of-Way for City purposes.

SECTION 3. TERM

This Agreement shall be effective for a term of ten (10) years from the Effective Date ("Term subject to earlier termination or forfeiture as provided herein. So long as Licensee has not breached the terms of this Agreement (after any applicable cure periods) and/or forfeited the License and Privilege as set forth Section 6.1, this Agreement may be renewed by Licensee upon 90 days written notice to the City, for a 5-year term. Such notice shall be given during the last year of the original Term. Subject to the terms set forth above, Licensee shall also have the right to extend this Agreement for a second and final renewal term of 5 years so long as notice is given in the same fashion as above during the final year of the first renewal term. Notwithstanding the above, for purposes of any of the terms or renewals hereof, Licensee shall only have the right to exercise nay right to cure, on no more than 2 occasions during nay term or renewal.

SECTION 4. TAXES

The Licensee agrees to pay all applicable taxes including but not limited to license taxes, business taxes, video services provider fees, and other applicable taxes of the City and failure to pay such taxes shall be considered a material breach of this Agreement. Licensee shall be subject to audit by City and at City's sole expense no more than twice per year and during normal business hours and with reasonable notice, and shall itemize by category of service the amount received and taxes paid for services provided by Facilities in the Right-of-Way. Such taxes shall be in addition to compensation, if any, required by the City by ordinance subject to any limitations of applicable state or federal law. Nothing herein shall limit the ability of the City to alter, amend, modify or expand any taxes that may be lawfully assessed on Licensee's business activities or otherwise.

SECTION 5. TRANSFER OF AGREEMENT OR FACILITIES

5.1 Transfer of Agreement. The Licensee shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or voluntary sale, or by ordinary sale, consolidation, or otherwise, this Agreement or any of the rights or privileges granted by this Agreement, without the prior consent of the City, which consent will not be unreasonably withheld. Notwithstanding the foregoing sentence, Licensee may sell, transfer, lease or assign this Agreement or its rights under this Agreement, in whole or in part, with prior written notice to the City if to; (a) any entity controlling, controlled by or under common control with Licensee; (b) any surviving successor entity or newly created successor entity in the event of a merger, reorganization or consolidation involving Licensee. The City reserves the right to be reimbursed for its reasonable costs relating to a transfer of ownership. Licensee shall not change its name under which it does business with the public without providing at least 30 days prior notice to the City.

5.2 Sale or Lease of Facilities. Except as otherwise may be provided by law, Licensee shall not lease, sell, sublet or otherwise transfer possession or control or use of the Facilities, or any portion thereof, for any purpose to any person that has not obtained a duly issued Agreement, or other grant by the City to use the Rights-of-Way and which includes the authority to use or maintain such leased or transferred Facilities. Notwithstanding the above, the customers of Licensee as set forth in the previous sentence shall not have any right conferred in any agreement between Licensee and its customer to physically access the Licensee's System and/or City's Right-of-Way unless such customers have received and executed any and all agreements, permits, and approvals with the City required for such access. Notwithstanding the foregoing, Customers of Licensee may utilize the System installed by Licensee to transmit data.

SECTION 6. FORFEITURE OF LICENSE AND PRIVILEGE.

6.1 In case of failure on the part of the Licensee, its successors and assigns, to comply with any of the provisions of this Agreement, including the provisions of the Code, or if the Licensee, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this Agreement, including the provisions of the City's Code of Ordinances, the Licensee, its successors and assigns, shall forfeit all rights and privileges permitted herein, and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings: Before the City proceeds to forfeit this Agreement, it shall first serve a written notice upon the Licensee, setting forth in detail the neglect or failure complained of, and the Licensee shall have thirty (30) days thereafter in which to cure the default by complying with the conditions of this Agreement. If at the end of such thirty (30) day period the City determines that the conditions have not been complied with, the City shall after reasonable notice and hearing, take action by an affirmative vote of the City Council present at the meeting and voting, to terminate the Agreement; setting out the grounds upon which said Agreement is to be canceled or terminated. Nothing herein shall prevent the City from taking any other action or remedy as may be set forth in the City's Code of Ordinances or as may otherwise exist at law. All remedies described in this section are cumulative and in addition to any other rights and remedies to which a party may be entitled at law, in equity or under this Agreement.

SECTION 7. GENERAL CONDITIONS

7.1 Compliance With Laws. In performing activities and exercising its rights and obligations under this Agreement, the Licensee shall comply with all applicable federal, state and local laws, ordinances, regulations and policies, including, but not limited to, all laws, ordinances, regulations and policies relating to construction, bonding, insurance, and use of public property.

7.2.1 Insurance. In addition to the requirements of the ROW Code, except as may be prohibited by law, Licensee shall provide, at its sole expense, and maintain during the term of this Agreement commercial general liability insurance with a reputable, qualified, and financially sound company licensed, authorized or permitted to do business in the State of Missouri, and unless otherwise approved by the City, with a rating by Best of not less than "A," that shall be endorsed to cover Licensee, the City, and the City's officials, officers, and employees in the event of claims which may arise from operations under this Agreement, whether such operations are by the Licensee, its officers, directors, employees and agents, or any subcontractors of Licensee. This liability insurance shall include, but shall not be limited to, protection against claims arising from

bodily and personal injury and damage to property, resulting from all Licensee operations, products, services or use of automobiles, or construction equipment. The amount of insurance for Single Limit Coverage applying to Bodily and Personal Injury and Property Damage shall be at least \$2,000,000.00, but in no event less than the individual and combined sovereign immunity limits established by § 537.610 RSMo. for political subdivisions; provided that nothing herein shall be deemed to waive the City's sovereign immunity. An endorsement shall be provided which states that the City is named as an additional insured and stating the policy shall not be cancelled or materially modified so as to be out of compliance with the requirements of this Section, or not renewed without thirty (30) days' advance written notice of such event being given to the City Administrator. Licensee shall make best efforts to provide thirty (30) days' advance written notice to the City Administrator if the policy is intended to be cancelled or materially modified so as to be out of compliance with the requirements of this Section.

7.2.2 Exception. The insurance requirements set forth in Section 7.2.1 shall not apply to Licensee to the extent and for such period during this Agreement as Licensee is exempt from such requirements pursuant to 67.1830(6)(a), and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars (\$25,000,000.00) in net assets and is therefore otherwise exempt.

7.3 Enforcement; Attorneys' Fees. The City shall be entitled to enforce this Agreement through all remedies lawfully available, and Licensee shall pay the City its costs of enforcement including reasonable attorneys' fees in the event that Licensee is determined judicially to have violated the terms of this Agreement.

7.4 Relationship of the Parties. Under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture, or employment between the parties.

7.5 Relocation or Removal of Facilities.

7.5.1 In addition to the requirements of the ROW Code, the City may, in its exercise of the public interest, require that Licensee, at Licensee's sole cost and expense, relocate or reinstall any of Licensee's Facilities when other licensees within the same Facility are also so required to relocate or reinstall their similar facilities. The City shall give reasonable notice of such requirement to Licensee, including the location of facilities to be relocated, and a reasonable time to relocate such facilities. Licensee shall forthwith remove or relocate such Facilities within the reasonable time provided by the City in its written notice, which shall not be less than 90 days, other than on an emergent basis. The cost of such relocation, removal, or reinstallation of the Licensee's portion of the Facilities shall be the exclusive obligation of said Licensee without expense to the City. The parties shall work in good faith to establish the new location for the Facilities and to attempt reasonably limit any disruption of Licensees services to its customers.

7.5.2 Licensee shall, upon request and notice of not less than 90 days of any person other than the City requesting relocation of Facilities and holding a validly issued building or moving permit, and within forty-eight (48) hours prior to the date upon which said person intends to exercise its rights under said permit, Licensee shall thereupon temporarily raise, lower, or relocate its wires or other Facilities as may be required for the person to exercise the rights under the permit. Notwithstanding the above, in the event of an emergency as determined by the City, the notice required above shall not be required and Licensee shall act immediately. Except where good cause is approved by the City, a permit-holder must make its request at least 14 days prior to the date it intends to exercise its rights under the permit. If applicable, Licensee will, within 7

days of its receipt of such a request, deliver to the permit-holder an invoice for the services. However, Licensee will not be required to honor any such request unless and until the permit-holder makes payment in advance for any expenses incurred, or to be incurred by said Licensee pursuant to said person's request. If any Facilities are not relocated in accordance with this section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages.

7.6 No Cause of Action Against the City. The Licensee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from any of the provisions or requirements of this Agreement, or because of the enforcement thereof by the City, or for the failure of the City to have the authority to grant, all, or any part, of the rights herein granted; provided that said Licensee expressly acknowledges that it accepted the rights herein granted under this Agreement in reliance upon its independent and personal investigation and understanding of the power of authority of the City to enter into this Agreement herein with Licensee; provided further that the Licensee acknowledges by its acceptance of this Agreement that it has not been induced to enter into this Agreement upon any understanding, or promise, whether given verbally or in writing by or on behalf of any party, or by any other person concerning any term or condition of this Agreement not expressed herein; provided further that the Licensee acknowledges by the acceptance of this Agreement that it has carefully read the provisions, terms, and conditions hereof and all incorporated provisions and is willing to, and does accept, all of the risk attendant to said provisions, terms, and conditions of this Agreement. Nothing herein shall be deemed to waive the City's sovereign immunity.

SECTION 8. INDEMNIFICATION

8.1 Licensee at its sole cost and expense, hereby agrees to indemnify, protect, release, defend (with counsel reasonably acceptable to the City) and hold harmless the City, its municipal officials, elected officials, boards, commissions, officers, employees, attorneys, and agents from and against any and all causes of action, claims, demands, all damages and losses, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, from the action or omission of Licensee, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Licensee is liable, in constructing, operating, maintaining, repairing, restoring or removing facilities, or in carrying on Licensee's business or operations in the City, or out of the fact that the City entered into this Agreement with Licensee, the rights granted to Licensee, or the activities performed, or failed to be performed, by Licensee under this Agreement, or otherwise, except to the extent arising from or caused by the negligent or willful misconduct of the City, its elected officials, officers, employees, agents or contractors,. This indemnity shall apply, without limitation, to any claim or cause of action for invasion of privacy, defamation, antitrust, negligence, theft, fire, violation or infringement of any copyright, trademark, trade name, service mark or patent or intellectual property right of any person, whether or not any act or omission complained of is authorized, allowed or prohibited by this Agreement. The indemnification, duty to defend and hold harmless obligations set forth in this Section shall survive for a period of five (5) years from the date of expiration or termination of this Agreement.

SECTION 9. NOTICE

9.1 Any notice, demand, consent, approval, request or other communication required or permitted to be given to either party under with respect to this Agreement (collectively, "Notice") must be in writing and must be delivered in person, by a reputable overnight delivery service or by certified mail, postage prepaid, return receipt requested, to the appropriate address(es) set forth below:

If Notice to Licensee:

Missouri Network Alliance, LLC dba Bluebird Network
Attn: Contract Management
4215 Philips Farm Road, Suite 103
Columbia, MO 65201

With a copy to: Contract.Management@bluebirdnetwork.com

If Notice to City:

City of Smithville
Attn: City Administrator
107 West Main Street
Smithville, MO 64089

With a copy to: [Chuck Soules -- csoules@smithvillemo.org](mailto:csoules@smithvillemo.org)

9.2 If notice is given by personal delivery, a receipt indicating that personal delivery was made must be obtained. Notice will be deemed effective on the date of receipt by the addressee as shown on the receipt if given by personal delivery, on the return receipt if notice is given by certified mail or the confirmation of delivery form if notice is given by overnight delivery service. Rejection or refusal to accept or the inability to deliver because of a changed address of which no notice was given will be deemed to be receipt of the notice as of the date of rejection, refusal or inability to deliver. Either party may change its address for notice by giving notice of address change to the other party in the manner for giving notice prescribed in Section 9.1.

SECTION 10. MISCELLANEOUS

10.1 This Agreement, together with all Exhibits, shall constitute the entire Agreement between the parties as to the subject matter of this Agreement, and no negotiations or discussions prior to the Effective Date shall be of any effect.

10.2 The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of any other provision.

10.3 No term or condition of this Agreement will be deemed to have been waived by a party unless the waiver is made in writing and is signed by the party against whom the waiver is claimed. No waiver of default or breach of this Agreement or consent to the default or breach will be deemed to have been waived or consented to unless the waiver or consent is made in writing and signed by the party against whom the waiver or consent is claimed. The waiver of or consent

to a breach or default of this Agreement will not be deemed to be a waiver of or consent to any other breach or default of this Agreement, or to or any subsequent breach or default of the same term, or condition of this Agreement. No course of dealing or conduct or failure of a party to strictly enforce any term, right or condition of this Agreement constitutes a general waiver or relinquishment of the term, right or condition.

10.4 The rights and remedies of the Parties shall be cumulative and in addition to any other rights and remedies provided by law or equity. The laws of the State of Missouri shall govern this Agreement and any actions arising pursuant to the terms of this Agreement shall be brought in the Circuit Courts of Clay County Missouri.

10.5 This Agreement is for the benefit of the parties and not for any other person or entity. This Agreement creates no third-party beneficiary rights.

10.6 Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war, and other disasters beyond the Licensee's or the City's control.

SECTION 11. SUBCONTRACTORS DUTIES.

11.1 All subcontractors utilized by Licensee in performance of any of the work authorized hereby shall execute an acknowledgement and acceptance of the duties, responsibilities liabilities and indemnities of the Licensee with regard to the work to be performed by such subcontractor, and shall provide to the City a copy of the certificate insurance required hereby, including naming the City as an additional insured without waiving any of the City's sovereign immunity.

SECTION 12. EFFECTIVE DATE AND ACCEPTANCE.

12.1 This Agreement shall be effective on the date that this Agreement is last signed by both parties ("Effective Date"). The parties acknowledge that this Agreement is a lawful contract between the City and Licensee and that Licensee agrees to the terms hereof and entered into this Agreement voluntarily and with full authority to execute this Agreement.

IN WITNESS WHEREOF, this Agreement is entered into as of the Effective Date.

CITY OF SMITHVILLE

By: _____
Name: Damien Boley
Title: Mayor

LICENSEE

DocuSigned by:
Douglas Zerr
By: _____
Name: Douglas Zerr
Title: SVP of Engineering

ACKNOWLEDGEMENT AND ACCEPTANCE:

Subcontractor named below hereby acknowledges and accepts the duty to perform the work assigned to such subcontractor by Licensee pursuant to the terms hereof as well as an acknowledgement and acceptance of the duties, responsibilities liabilities and indemnities of the Licensee and shall provide to the City a copy of the certificate of insurance required hereby, including naming the City as an additional insured without waiving any of the City's sovereign immunity. . Subcontractor also acknowledges subcontractor must obtain all needed city business license for such work to be performed by the subcontractor prior to beginning such work.

Authorized Representative NAME: _____

ADDRESS: _____

Contact number for Supervisor of work: _____

Email Address for Supervisor of work: _____

CERTIFICATE OF INSURANCE REQUIRED BY THE AGREEMENT MUST BE ATTACHED PRIOR TO BEGINNING ANY WORK

SUBCONTRACTOR NAME:

Authorized representative

Date _____

EXHIBIT A
SPECIAL CONDITIONS

The following special conditions shall be a condition of this Agreement and shall supersede any provision in this Agreement to the contrary:

1. All new Facilities shall be installed underground, except where good cause is shown otherwise, or, with such good cause, above ground on existing poles through private agreement(s) with existing franchise holders. Licensee will not be allowed to erect any additional poles in the Right-of-Way, except as set forth in the City Code regarding Small Wireless Facilities. Ground-mounted pedestals customarily installed for underground facilities shall be authorized subject to applicable permit requirements, provided that such pedestals or equipment that are larger or otherwise not customarily found within the City shall not be deemed authorized by this Agreement.
 - a. All underground cables must be installed using directional bore technology except where open excavations are necessary for beginning or terminating a directional bore.
 - b. Cables shall be placed so as not to interfere with any existing utilities or facilities owned by the City or any other company legally authorized to own or place utilities or facilities located within City Rights-of-Way.
 - c. All backfilling and surface restoration following any necessary open excavations shall be accomplished by Licensee in accordance with City requirements in effect at the time of the excavation and such work shall be completed within 30 days of the substantial completion of the work. Licensee, at its expense, will replace and restore all Rights-of-Way to a condition substantially similar to the condition of the Right-of-Way existing immediately prior to the commencement of work. In the case of any disturbance of pavement, sidewalks, driveways, lawns, or any other surface within the Right-of-Way, Licensee shall, at its expense, promptly replace, restore, and maintain same to the same condition, as required by the City's ROW repair specifications and such work shall be completed within 30 days of the substantial completion of the work. Licensee shall be responsible for payment of a penalty \$100.00 for each day the restoration is not timely completed as set forth herein.
 - d. All work shall conform to all applicable safety, construction, and technical specifications and codes and standards as well as all federal, state, county, and city construction requirements.
 - e. Licensee shall participate in and use the Dig-Rite or Missouri One Call in advance of the commencement of work.
 - f.

City shall have the right to inspect or correct all construction and installation work of Licensee to ensure compliance with the terms of this Agreement, City Code, or Missouri law. Except in the event of an emergency as determined by the City in its sole discretion, notwithstanding the immediately preceding sentence, Licensee shall have first opportunity to timely make any repairs that are its responsibility hereunder upon notice from City (temporary repairs, if needed, must be completed within 24 hours from the sending of notice, with permanent repairs to be completed within 14 days from the sending of notice). Licensee shall never have the right to make repairs to (1) City Facilities, Communication Systems, or City utility infrastructure or (2) Facilities or Communication Systems of other Licensees

- g. Permission is hereby granted to Licensee to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming into contact with Licensee's wires and cables. All such trimming will be done under the supervision and direction of any City official to whom such duties have been or may be delegated.
2. An irrevocable standby letter of credit may be provided by Licensee to the City, in a form approved by the City Attorney, in lieu of any other bond requirement to guarantee completion and maintenance of any improvements installed or excavations made in public rights-of-way or easements in accordance with applicable permit, specifications and ordinances of the City. Licensee shall be subject to the requirements of this Agreement and applicable ordinance of the City Code, including but not limited to the ROW Code regarding such bonds, but such security shall be maintained with the City at all times during the Agreement and may be drawn on by the City where required to remedy damage, maintenance or costs of the City incurred due to Licensee's non-compliance with any provision herein or applicable provision of law regarding its use of the rights-of-way. Surety in the form of bonds or other security shall not be required to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to RSMo 67.1830(6)(a) and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets.
 3. Licensee acknowledges and agrees that pursuant to its obligation to pay all applicable taxes it shall pay the City's gross receipts license tax as a provider of exchange telephone services if telephone services are provided, and shall remit to the City such tax on gross receipts as required by the Municipal Code, or as may be amended, regardless of technology used by Licensee to provide such services, including but not limited to wire, wireless, internet-based transmissions, and switched or unswitched, to the extent permitted by law.
 4. If the City, in its sole discretion, determines that prior to Licensee's installation there is insufficient space available in any City Right-of-Way to accommodate an installation or relocation of Licensee's cables, Licensee shall reroute its cables via City Right-of-Way where sufficient space is available.
 5. All backfilling and surface restoration following any necessary open excavations shall

be accomplished by Licensee in accordance with City requirements in effect at the time of the excavation. Licensee shall, at its expense, replace and restore all Rights-of-Way to a condition substantially similar to the condition of the Right-of-Way existing immediately prior to the commencement of work. In the case of any disturbance of pavement, sidewalks, driveways, lawns, or any other surface within the Right-of-Way, Licensee shall, at its expense, promptly replace, restore, and maintain same to the same condition as required by the City's ROW repair specifications.

6. Before the commencement of operations, Licensee shall procure and maintain insurance in such amounts and kinds of coverage as may be required by the City Administrator or designee. All coverage shall comply with all of the terms of Section 7.2 (including all subparts thereto) to the Rights-of-Way Use Agreement For Communications Facilities Agreement.
7. Licensee shall not be entitled to damages from City resulting from the closing, vacation, or relocation of any streets, alleys, or right-of-way.
8. City shall have the right to inspect or correct all construction and installation work in order to ensure compliance with the terms of this Agreement, City Code, or Missouri law.
9. Licensee shall not be relieved of any of its obligations by reason of City's failure to enforce prompt compliance.
10. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of riots, insurrection, war, or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, then the time allowed for performance of such act shall be extended by a period equivalent to the period of such delay.



Board of Aldermen Request for Action

MEETING DATE: 10/4/2022

DEPARTMENT: Administration/Finance

AGENDA ITEM: Approve Bill No. 2962-22 Adopt FY2023 Annual Operating Budget – 1st Reading.

REQUESTED BOARD ACTION:

A motion to approve Bill No. 2962-22, Adopt FY2023 Annual Operating Budget. 1st reading by title only.

SUMMARY:

City staff have worked collectively since January 2022 to determine the needs, and eventually propose recommendations, for the FY2023 Budget. On May 15, 2022, the Board of Aldermen met to hold a Financial Summit to discuss the goals and priorities of the City for upcoming fiscal year. Later in the budget preparation process, the City Administrator and Finance Director presented the proposed FY2023 Budget at the August 16, 2022, Board of Aldermen Work Session. During this Work Session, budget recommendations were discussed which were formed based upon input from the Financial Summit. Budgeted fund cashflows for major funds were presented, and the five-year CIP was reviewed. The Board provided feedback and input during the Work Session, which includes these changes to the five-year CIP, along with other recent changes/recommendations:

- During the five-year CIP review, the Board recommended inclusion of a Pedestrian Crosswalk and Flashing Beacon near Maple Elementary School. The Board also discussed additional outside funding/cost sharing opportunities to support the expenditures associated with this project. Based upon this discussion, a project expenditure budget of \$70,000 with a 50% cost sharing opportunity of \$35,000 in revenue is slotted for FY2023 in the Transportation Sales Tax Fund.
- The 4th Street and 4th Terrace Waterline project budget has also been increased from \$500,000 to \$575,000 with the addition of replacing the 4" watermain between Spelman, Manzanola, and 6th Street as the line has deteriorated to the point in which repair is no longer possible and full replacement is required. The CWWF Fund is in an appropriate position to support this increase in project expense.
- The Emerald Ridge Neighborhood Park & Signage project budget has been increased from \$150,000 to \$300,000 with a potential (right now, an unsecured) 50% Land Water Conservation Fund (LWCF) revenue match. In addition, the

timeline for completing the project has been pushed to FY2024. Staff is currently in the process of applying for these funds and can evaluate project feasibility following the result of the LWCF grant application.

- Engineering for Commercial Street Sidewalks was originally presented in the budget for \$150,000 in FY2023. The City will be contracting with BG Consultants for \$105,000 to do Commercial Streets engineering, a savings of \$45,000 from the original estimate. This expenditure update has been made in the Transportation Sales Tax Fund.
- As the FY2022 budget year ends, staff will not be utilizing \$200,000 in budgeted General Fund monies for the Streets/Parks Facility engineering. There will be substantial savings in the Streets Department Professional Services line item because of this decision. Instead, these monies will be slated to use in the Proposed FY2023 Budget for the renovation of a portion of the Litton Visitor Center for Parks and Public Works Administration staffing. The General Fund Proposed FY2023 CIP includes this \$200,000 as an update for the budget.
- In early September 2022, Public Works Utility staff received information regarding the EPA's Lead and Copper Rule which aims to protect public health and reduce exposure to lead and copper in drinking water by requiring inspections and planning to support lead and galvanized service line replacement. Based upon discussions with HDR Engineering, Inc., Public Works staff anticipate the service lines inspections and replacement plan development to cost about \$200,000. These funds have been added to the CWWS Fund Budget for the Proposed FY2023 Budget.
- Staff received the results of the DNR application for funding of the Diamond Crest Neighborhood Multi-Use Trail and the application was not successful in receiving funds for the FY2023 Budget year. The presented revenue budget included a \$181,000 grant from DNR to offset an estimated \$281,000 in expenditures for the project. Based upon this application news, the projected revenues and expenditures have been shifted from FY2023 to FY2024.
- In late September 2022, staff received a worker's compensation loss update from Midwest Public Risk, the City's insurance provider. Based upon this loss information, staff have increased the worker's compensation budgets for all City departments by a combined \$30,540. The original budget for FY2023 was \$152,700 for all General Fund departments and the CWWS Utilities department and this increase equates to a new budget amount of \$183,240.

The Proposed FY2023 Budget Book is included in the packet and the budget document incorporates Board direction from budget work sessions as well as ongoing board goals and recommendations of recently completed planning processes. This document will be finalized with updates to performance measures, as well as some other final additions to fulfill GFOA (Government Finance Officers Association) financial reporting criteria before

submitted for the GFOA Distinguished Budget Award. After approval of the budget, the final budget document will be posted to the City website under the "Annual Operating Budgets" page found under the Finance Department page.

Staff has incorporated some changes to the budget following the work session which includes unspent FY2022 expenditures in the Fiscal Year 2023 Budget:

- The Street Division in Public Works did not coordinate completion of the 2022 Street Striping Program (\$25,000 Budget) during FY2022. This \$25,000 will be rolled into the FY2023 Budget for a total Street Striping Program Budget of \$50,000.
- The City has contracted with Irvinbilt Construction to complete the Raw Water Pump Station (paid for using ARPA Funds) for the contracted price of \$2,983,795. \$927,307 in funds remain to be paid on the project contract and this rollover amount will be budgeted for FY2023. All ARPA funding (both Clay County and direct Treasury payments) has been received in FY2022, so the ARPA fund has the necessary revenues to support the completion of the project (if there are no significant change orders).
- The City has contracted with Snyder & Associates to complete Quincy Boulevard engineering for a contracted price of \$75,450. This engineering was budgeted in the Parks & Stormwater Fund in FY2022, and as of September 2022, \$67,732 in funds remain to be paid on the contract and this rollover amount will be budgeted for FY2023.
- The City has contracted with HDR Engineering to complete engineering for the West Bypass of the 144th Street Lift Station for a contracted price of \$346,050. As of September 2022, \$173,749 in funds remain to be paid on the contract and this rollover amount will be budgeted for FY2023.
- The City has contracted with HDR Engineering to complete engineering for Downtown Streetscape Phase III (Bridge Street) for a contracted price of \$181,380. \$116,022 in funds remain to be paid on the contract and this rollover amount will be budgeted for FY2023.
- The City has contracted with David E. Ross to complete the construction of the Aerobic Digester for a contracted price of \$491,900 and this entire amount of funds remain to be paid on the contract. This rollover amount will be budgeted for FY2023.
- The City has contracted with Surveying and Mapping, LLC for the completion of a Geographic Information System for the contracted price of \$212,080. \$15,250 in

funds remain to be paid on the contract and this rollover amount will be budgeted for FY2023.

- The City has contracted with Veenstra & Kimm, Inc. for the completion of 4th Street and 4th Terrace Watermain Improvements for the contracted price of \$89,290. \$80,837 in funds remain to be paid on the contract and this rollover amount will be budgeted for FY2023.

Updated Total Budget Summary – For October 18, 2022 Approval

	2023 Projected Beginning Balance	2023 Proposed Revenues	2023 Proposed Expenditures	2023 Projected Ending Balance
General Fund	3,315,925	5,466,340	6,310,310	2,471,955
Capital Improvement Sales Tax Fund	394,454	1,160,435	1,355,370	199,519
Capital Projects Fund	181,855	40,000	-	221,855
Combined Water/Wastewater Fund	6,318,249	9,340,817	13,070,115	2,588,951
Debt Service Fund	255,934	354,845	343,040	267,739
Park and Stormwater Sales Tax Fund	749,556	672,435	497,750	924,241
Sanitation Fund	61,219	915,860	900,600	76,479
Special Allocation Fund	48,041	705,000	703,000	50,041
CID Fund	83,790	380,250	335,618	128,423
Transportation Sales Tax Fund	354,072	589,713	702,246	241,539
Vehicle And Equipment Replacement Fund	157,400	422,100	381,750	197,750
American Rescue Plan Act Fund	953,273	-	953,270	3
Donation Fund	16,500	10,500	20,000	7,000
Appointed Council Fund	2,045	-	1,650	395
Judicial Education Fund	3,447	-	3,447	-
Technology Upgrade Fund	2,474	-	2,474	-
DWI Recovery Fund	14,312	4,000	12,000	6,312
Police Training Fund	14,500	3,000	12,000	5,500
Grand Total	\$ 12,927,046	\$ 20,065,295	\$ 25,604,640	\$ 7,387,701

Previous Total Budget Summary – Presented August 16, 2022

	2023 Projected Beginning Balance	2023 Proposed Revenues	2023 Proposed Expenditures	2023 Projected Ending Balance
General Fund	3,173,805	5,414,248	6,067,570	2,520,483
Capital Improvement Sales Tax Fund	261,454	1,152,100	1,305,370	108,184
Capital Projects Fund	181,855	40,000	-	221,855
Combined Water/Wastewater Fund	5,067,869	9,320,817	12,040,625	2,348,061
Debt Service Fund	255,934	354,845	343,040	267,739
Park and Stormwater Sales Tax Fund	762,118	845,100	861,000	746,218
Sanitation Fund	63,719	915,860	900,600	78,979
Special Allocation Fund	183,291	705,000	703,000	185,291
Commons CID Fund	126,096	377,250	483,773	19,573
Transportation Sales Tax Fund	348,072	582,250	702,250	228,072
Vehicle And Equipment Replacement Fund	170,382	422,100	381,750	210,732
American Rescue Plan Act Fund	-	-	-	-
Donation Fund	16,500	10,500	20,000	7,000
Appointed Counsel Fund	2,045	-	2,045	-
Judicial Education Fund	3,447	-	3,447	-
Technology Upgrade Fund	2,474	-	2,474	-
DWI Recovery Fund	13,972	4,000	12,000	5,972
Police Training Fund	14,500	3,000	12,000	5,500
Grand Total	\$ 10,647,533	\$ 20,147,070	\$ 23,840,944	\$ 6,953,659

PREVIOUS ACTION:

The Board of Alderman approved the FY2022 Budget last October.

POLICY OBJECTIVE:

Approval of operating and capital budget to achieve Board of Aldermen goals in FY2023

FINANCIAL CONSIDERATIONS:

Adopting expenditure and revenue budget for FY2023 which establishes spending and receipting authority for the City in FY2023.

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: FY22 City of Smithville Budget Book | |

BILL NO. 2962-22

ORDINANCE NO. 31XX-22

AN ORDINANCE ADOPTING THE FY2023 ANNUAL OPERATING BUDGET FOR THE CITY OF SMITHVILLE, MISSOURI, AND AUTHORIZING THE EXPENDITURES OF FUNDS FOR MUNICIPAL SERVICES.

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

THAT, for the purpose of financing the conduct of affairs of the City of Smithville, Missouri during the fiscal year from November 1, 2022, and ending October 31, 2023 inclusive, the budget of the City's revenue and expenses for such period prepared and submitted to the Smithville Board of Aldermen by the City Administrator is hereby approved and adopted as the Official Budget of the City of Smithville, Missouri; and

THAT, the amounts set forth in the various funds are hereby appropriated to such uses, and authority is hereby given to the City Administrator of the City of Smithville to expend the amounts shown for the purposes indicated; and

THAT, the amounts for each fund, as shown in the Annual Budget shall not be increased or decreased except by the Board of Aldermen approval, but the various objects of expenses comprising the total appropriation for any fund may be increased or decreased at the discretion of the City Administrator, providing the adjustments shall not increase the total amount appropriated for that fund.

INTRODUCED, READ, PASSED AND ADOPTED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE THIS 18th DAY OF OCTOBER 2022.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

First Reading: 10/04/2022

Second Reading: 10/18/2022



Board of Aldermen Request for Action

MEETING DATE: 10/4/2022

DEPARTMENT: Public Works

AGENDA ITEM: Bill No. 2963-22 - Chapter 510 Revisions – 1st Reading

REQUESTED BOARD ACTION:

A motion to approve Bill No. 2963-22, Chapter 510 revisions 1st reading by title only.

SUMMARY:

Over the past couple summers, several new fiber companies have received agreements with the City of Smithville to install new communication lines and fiber for internet services. Staff has been very accommodating with contractors and sub-contractors installing this new infrastructure. There have been several instances where both public infrastructure and private services have been damaged by all the installations. To date, for the most part, the contractors have been responsive in making repairs and paying for damages. Staff reviewed Chapter 510 of the city code and found a few areas that weren't clear nor necessarily being followed. The proposed revisions clarify the process and responsibilities of the many services using the City Right of Way.

Summarizing:

- The Ordinance clarifies what area the Franchisee can use, Right of Way, and other easements
- The Ordinance specifically requires contractors and subcontractors to obtain business licenses with the City. Current practice has been only the General contractor held the license
- The ordinance holds all contractors and sub-contractors to the provisions of the agreements the City has with the Franchise holder. The contractor is responsible for the same requirements that the Franchisee has agreed to.
- The ordinance requires all contractors and sub-contractors to carry their own insurance and bond, and indemnify the City for any damages.
- The contractor or sub-contractor must have a responsible person in charge on site that can clearly communicate with staff.

Ultimately, the Franchisee is the owner of the new infrastructure and responsible to the City through the Right of Way agreement but some of these companies are so large that access and communication with them is difficult and very time consuming. And many times it becomes a finger pointing game. This Ordinance will place responsibility

on the person/ company actually doing the work in the Right of Way for any issues that occur.

PREVIOUS ACTION:

N/A

POLICY ISSUE:

Right of Way management

FINANCIAL CONSIDERATIONS:

There is no financial impact

ATTACHMENTS:

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

- ☐ Contract
- ☐ Plans
- ☐ Minutes

BILL NO. 2963-22

ORDINANCE NO. _____

**REPEALING ORDINANCE SECTION 510.015 DEFINITIONS AND ENACTING
NEW ORDINANCE SECTION 510.015 DEFINITIONS
AND
ORDINANCE ENACTING SECTION 510.021 COMPLIANCE WITH CHAPTER 610
AND
REPEALING ORDINANCE SECTION 510.025 FRANCHISE OR RIGHTS-OF-WAY
AGREEMENT REQUIRED AND ENACTING A NEW ORDINANCE SECTION
510.025 FRANCHISE OR RIGHTS-OF-WAY AGREEMENT REQUIRED
AND
ENACTING SECTION 510.041 COMMUNICATION
AND
ENACTING SECTION 510.042 INDEMNIFICATION AND LIABILITY**

WHEREAS city staff has identified issues relating to how a Right-of Way is defined in Section 510.015 regarding which Easements may be used after obtaining a Right-of-Way Agreement or Permit from the city pursuant to Chapter 510. Section 510.015 DEFINITIONS currently defines Rights-of-Way or ROW as follows:

RIGHTS-OF-WAY or ROW

The area on, below or above a public roadway, highway, street or alleyway in which the City has an ownership interest, and including such adjacent area of such public ways within such ownership interest as made available by the City for rights-of-way use herein, but not including:

- 1. Easements obtained by utilities or private easements in platted subdivisions or tracts;*
- 2. Railroad rights-of-way and ground utilized or acquired for railroad facilities; or*
- 3. Poles, pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses utilized by a utility owned or operated by a governmental entity pursuant to Chapter 91, R.S.Mo., or pursuant to a charter form of government.*

WHEREAS city wishes to make clear that a ROW does not include certain Easements. The City Attorney as drafted a suggested change to this definition to read as follows:

RIGHTS-OF-WAY or ROW

The area on, below or above a public roadway, highway, street or alleyway in which the City has an ownership interest, and including such adjacent area of such public

ways within such ownership interest as made available by the City for rights-of-way use herein, but not including:

1. Easements obtained by utilities or private easements in platted subdivisions or tracts;

2. Railroad rights-of-way and ground utilized or acquired for railroad facilities; or

3. Poles, pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses utilized by a utility owned or operated by a governmental entity pursuant to Chapter 91, R.S.Mo., or pursuant to a charter form of government.

4. Easements held by the City for sewer, pedestrian access, stormwater, waterline, or drainage. Access to any such easement shall require a separate agreement with the city.

WHEREAS city staff has requested clarification of whether a franchisee or permit holders under chapter 510 Rights-Of-Way Management, must also comply with the requirements of chapter 610 Business Regulations.

WHEREAS while believing that there is nothing in chapter 510 Rights-Of-Way Management that exempts compliance with chapter 610 Business Regulations, the city Attorney has drafted and recommended that to remove all potential confusion (reasonable or otherwise) that the city pass a new Ordinance in the following form.

***Section 510.021 Compliance with Chapter 610.** Unless otherwise required by law, nothing in Chapter 510 shall exempt any franchisee or permit holder under Chapter 510 Rights-Of-Way Management with complying with all applicable provisions of Chapter 610 Business Regulations or any other applicable ordinance. Unless otherwise required by law, compliance with Chapter 610 Business Regulations shall be in addition to any other requirement of Chapter 510 Rights-Of-Way Management.*

WHEREAS city staff has identified issues relating to franchise or permit holder(s) subcontracting with person(s) or entities who do not have a franchise agreement with or a permit to work in the city's ROW. While the city believes that §510.025(D) already makes it clear that such subcontracting or assignment is improper, the city wants to make that even more clear.

WHEREAS §510.025(D) of the city Ordinances currently reads as follows:

***D. Transferability.** Except as provided in this Chapter or as otherwise required by law, no franchise, agreement, or permit may be transferred without the written application to, and consent of the City based on the requirements and policies of this Chapter. The City shall not unreasonably withhold its consent to transfer as provided herein, but any costs incurred shall be paid by the applicant.*

WHEREAS the city attorney has drafted and recommended that to address this issue the city pass a new Ordinance Section 510.025 and specifically new subsection 510.025(D) in the following form.

*D. **Transferability.** Except as provided in this Chapter or as otherwise required by law, no franchise agreement, or permit may be transferred or subcontracted to any Person without the written application to and consent of the City based on the requirements and policies of this Chapter. Any such transfer or subcontract, even if consented to by the city, will not relieve the franchisee or permit holder from all the responsibilities (including insurance and bond) of the franchisee or permit holder. The city shall not unreasonably withhold its consent to the transfer or subcontract as provided herein, upon the compliance with this chapter, or as otherwise required by law, but any costs incurred by the city shall be paid by the applicant.*

WHEREAS City staff has identified issues relating to the difficulty the city has on occasion with communicating with contractors/franchisee/permit holders working in the city right of way.

WHEREAS the city Attorney has drafted and recommended that to address this issue the city pass a new Ordinance in the following form.

***Section 510.041 Communication.** Every franchisee or permit holder performing any work in the ROW shall always have someone present at the site of the work who is capable of reasonably and thoroughly communicating with the city and who is authorized to do so on behalf of the franchisee or permit holder.*

WHEREAS city staff has identified issues relating to a franchisee or permit holder allegedly causing damage to the city's property, or the property of third Person(s) because of work performed pursuant to the franchise or permit. The city wishes to make clear that the franchisee or permit holder must indemnify and save the city harmless from all liability and costs, including attorney's fees claimed by any person claiming injury because of the work. Further that the franchisee or permit holder shall be responsible for all reasonable damages incurred by the city or any third persons because of the work. While the city believes that chapter 510 already requires all franchisee or permit holders be responsible for all reasonable damages, the city wants to make that even more clear.

WHEREAS the city Attorney has drafted and recommended that to address this issue the city pass a new Ordinance in the following form.

***Section 510.042 Indemnification and Liability.** Every franchisee or permit holder or other Person performing any work in the ROW shall indemnify and save the City harmless from all liability and costs, including attorney's fees claimed by*

any Person because of the work. Every franchisee or permit holder or other Person shall be responsible for all reasonable damages incurred by the city or any third persons because of the work.

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

Effective Immediately the City of Smithville repeals the existing Section 510.015 DEFINITIONS, and the City of Smithville enacts the new Ordinance Section 510.015 DEFINITIONS which shall read as follows.

Section 510.015 Definitions.

The following definitions shall apply to this Chapter, except that where the definitions set forth in Section 67.1830, R.S.Mo., as may be amended, are required by law to apply to specific uses of the rights-of-way, such definitions shall apply to such circumstances.

ABANDONED FACILITIES

Those facilities owned by a ROW user that are not in use or cannot be utilized by the owner in the future.

ADMINISTRATIVE FEE

That fee charged by the City to administer all aspects of rights-of-way management to recover its cost of this management.

APPLICANT

Any person required to apply for a rights-of-way permit.

CITY

The City of Smithville, Missouri, a municipal corporation and any duly authorized representative.

CITY ADMINISTRATOR

The City Administrator, Smithville, Missouri, or his or her authorized designee.

CITY SPECIFICATIONS

The City of Smithville design and constructions standards adopted pursuant to Section **520.020**, on file with the City Clerk as of the date of this Chapter, and incorporated herein, and as may be amended from time to time by the authority of the City Administrator establishing such specifications and procedures consistent with the requirements and purposes of this Chapter.

CONSTRUCT

Includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the rights-of-way.

EMBEDDED

To surround tightly or incorporate.

EMERGENCY

Any incident that requires immediate intrusion and work within the rights-of-way to restore service to a user.

EXCAVATE

Any removal of the surface or subsurface earth or boring or tunneling activity within the public rights-of-way.

FACILITY

All/any lines, pipes, irrigation systems, wires, cables, conduit facilities, poles, towers, vaults, pedestals, boxes, or other equipment owned or controlled by an entity other than the City.

FACILITY-BASED SERVICE PROVIDER

A service provider owning or possessing facilities in the rights-of-way.

FCC

The Federal Communications Commission.

GOVERNING BODY

The Mayor and the Board of Aldermen of the City of Smithville, Missouri.

GOVERNMENTAL ENTITY

Any subdivision of the governments within the United States of America.

PAVEMENT

The improved surface of the public way with concrete, asphalt, aggregate or other treated materials.

PERSON

An individual, person or body natural or corporate.

PSC

The Missouri Public Service Commission.

PUBLIC EASEMENT

Any easement for utilities, access, or other use dedicated to the City or in the name of the City irrespective of whether the easement is held in trust by the City for private and public users and regardless of whether private utilities or others in addition to or other than the City are actually using the easements.

PUBLIC IMPROVEMENT

Any public project undertaken by the City for the public good.

PUBLIC LANDS

Any real property owned by the City not used as rights-of-way or considered to be rights-of-way.

REPAIR

The temporary work necessary to make the rights-of-way usable for the public.

RESELLER SERVICE PROVIDER

A person providing service within the City that does not have its own facilities in the rights-of-way, but instead uses the rights-of-way by interconnecting with or using the network elements of another ROW user utilizing the rights-of-way, and/or by leasing excess capacity from a facility-based service provider.

RESTORATION

Returning the rights-of-way surface to its original condition, or better.

RIGHTS-OF-WAY or ROW

The area on, below or above a public roadway, highway, street or alleyway in which the City has an ownership interest, and including such adjacent area of such public

ways within such ownership interest as made available by the City for rights-of-way use herein, but not including:

- 1.** Easements obtained by utilities or private easements in platted subdivisions or tracts.
- 2.** Railroad rights-of-way and ground utilized or acquired for railroad facilities; or
- 3.** Poles, pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses utilized by a utility owned or operated by a governmental entity pursuant to Chapter 91, R.S.Mo., or pursuant to a charter form of government.
- 4.** Easements held by the City for sewer, pedestrian access, stormwater, waterline, or drainage. Access to any such easement shall require a separate agreement with the city.

RIGHTS-OF-WAY PERMIT

The authorization to make excavations or perform work for the construction, installation, repair or maintenance of any type of facility within the rights-of-way.

RIGHTS-OF-WAY USER or ROW USER

Such persons and entities maintaining, constructing or installing facilities in the public rights-of-way of the City unless otherwise expressly exempted by law. The term shall not include the City; provided that the City shall nevertheless comply with all such requirements applicable to ROW users to the extent such compliance is otherwise required by State or Federal law.

SERVICE

That function provided to property adjoining the public rights-of-way from a service provider.

WORK

- 1.** Construction, alteration, maintenance, installation, storage, or location of facilities installed below, on or above ground in the public rights-of-way, other than excavation, that also:
 - a.** Causes or threatens to cause any obstruction or interference to any vehicular or pedestrian traffic or traffic lane in the rights-of-way.
 - b.** Involves temporary or permanent storage of materials or equipment on rights-of-way.
 - c.** Causes or reasonably may cause damage to any public improvement within the rights-of-way; or
 - d.** Causes removal, replacement or alteration to any safety feature or requirement within the rights-of-way, including but not limited to removal of manhole covers, altering lighting, traffic signage or signals, placement or removal of traffic barricades, etc.
- 2.** Work shall not include routine or other maintenance on poles, boxes, or other facilities that does not result in one (1) or more of the circumstances described in Subsection **(1)(a)** through **(d)** herein.

AND

Effective Immediately the City of Smithville enacts Ordinance Section 510.021 which shall read as follows.

Section 510.021 Compliance with Chapter 610. *Unless otherwise required by law, nothing in Chapter 510 shall exempt any franchisee or permit holder under Chapter 510 Rights-Of-Way Management with complying with all applicable provisions of Chapter 610 Business Regulations or any other applicable ordinance. Unless otherwise required by law, compliance with Chapter 610 Business Regulations shall be in addition to any other requirement of Chapter 510 Rights-Of-Way Management.*

AND

Effective Immediately the City of Smithville repeals the existing Section 510.025, and the City of Smithville enacts the new Ordinance Section 510.025 which shall read as follows.

Section 510.025 Franchise Or Rights-Of-Way Agreement Required.

A. Agreement Or Franchise Required. *Except when otherwise authorized by applicable law, no Row user may construct, maintain, own, control, or use facilities in the rights-of-way without a franchise or ROW agreement with the City as provided herein. All such franchises and agreements shall be approved by ordinance of the Governing Body on a non-discriminatory basis, provided that the applicant is in compliance with all applicable requirements. Such franchises and agreements shall be deemed to incorporate the terms of this Chapter and other applicable laws of the City, except as may be expressly stated in such agreements and franchises. Reseller service providers shall not be required to obtain a franchise or agreement but shall be required to register with the City prior to providing service on forms provided by the City.*

1. Franchise. *A franchise shall be required from the City in conformance with all applicable franchise procedures for any Row user seeking to use the rights-of-way for purposes of providing or distribution of electricity, gas, water, steam, lighting, or sewer public utility service in the City, except where otherwise provided by law. Such franchise may be granted only after satisfaction of all applicable procedural or substantive requirements established by City ordinances or other law.*

2. ROW Agreement. *A ROW agreement with the City shall be required for all Row users not set forth in Subsection (A)(1), irrespective of any State licensing, franchise or certificate that may also be held by the Row user, except as otherwise required herein or by law. Such agreements shall conform to all applicable law but shall not be subject to procedures applicable to franchises, and the City may, if appropriate, approve form agreements that may be executed by the Mayor after approval by the Board of Aldermen.*

3. Incidental Uses. *Incidental uses of the public rights-of-way may be permitted without a franchise or ROW agreement pursuant to a rights-of-way permit issued by the City Administrator. The City Administrator may establish such application,*

requirements and conditions applicable to such uses consistent with the purposes of this Chapter or as otherwise established by law.

B. Franchises And Agreements Non-Exclusive. *The authority granted by the City in any agreement or franchise shall be for non-exclusive use of the rights-of-way. The City specifically reserves the right to grant, at any time, such additional agreements or other rights to use the rights-of-way for any purpose and to any other person, including itself, as it deems appropriate, subject to all applicable law. The granting of an agreement or franchise shall not be deemed to create any property interest of any kind in favor of the ROW user.*

C. Lease Required For Public Lands. *Unless otherwise provided, use or installation of any facilities in, on or over public lands of the City not constituting rights-of-way shall be permitted only if a lease agreement or other separate written approval has been negotiated and approved by the City with such reasonable terms and conditions as the City may require.*

D. Transferability. *Except as provided in this Chapter or as otherwise required by law, no franchise agreement, or permit may be transferred or subcontracted to any Person without the written application to and consent of the City based on the requirements and policies of this Chapter. Any such transfer or subcontract, even if consented to by the city, will not relieve the franchisee or permit holder from all the responsibilities (including insurance and bond) of the Franchisee or Permit holder. The City shall not unreasonably withhold its consent to the transfer or subcontract as provided herein, upon the compliance with this chapter, or as otherwise required by law, but any costs incurred by the city shall be paid by the applicant.*

E. Application For Franchise Or Agreement Required.

1. Application. *An application for franchise or ROW agreement shall be presented to the City Administrator in writing and shall include all such information as is required by this Section. The ROW user shall be responsible for accurately maintaining the information in the application during the term of any franchise or agreement and shall be responsible for all costs incurred by the City due to the failure to provide or maintain as accurate any application information required herein.*

2. Application Fee. *An application fee for review, documentation and approval of such agreement or franchise shall be established by the City Administrator to recover any actual costs anticipated and incurred by the City in reviewing, documenting, or negotiating such agreement or franchise, including reasonable legal fees, provided that no costs, if any, of litigation or interpretation of Section 67.1830 or 67.1832, R.S.Mo., shall be included if such inclusion is prohibited by law as to that applicant. If the actual costs are thereafter determined to be less than the application fee, such amount shall be returned to the applicant after written request therefrom; if the actual costs reasonably exceed the application fee, the applicant shall, after written notice from the City, pay such additional amount prior to issuance by the City of any final approval. Nothing herein shall be construed to prohibit the City from also charging reasonable compensation for use of the public rights-of-way where such a fee is not contrary to applicable law.*

3. Application Form. A ROW user shall submit a completed application for franchise or ROW agreement on such form provided by the City, which shall include information necessary to determine compliance with this Chapter.

4. Approval Process. After submission by the ROW user of a duly executed and completed application and application fee, and executed franchise or ROW agreement as may be provided by the City Administrator, or as modified by the City Administrator in review of the specific circumstances of the application, all in conformity with the requirements of this Chapter and all applicable law, the City Administrator shall submit such franchise or agreement to the Board of Aldermen for approval. Upon determining compliance with this Chapter, the Board of Aldermen shall authorize execution of the franchise or agreement (or a modified agreement otherwise acceptable to the City consistent with the purposes of this Chapter), and such executed franchise or agreement shall constitute consent to use the public rights-of-way; provided that nothing herein shall preclude the rejection or modification of any executed franchise or agreement submitted to the City to the extent such applicable law does not prohibit such rejection or modification, including where necessary to reasonably and in a uniform or non-discriminatory manner reflect the distinct engineering, construction, operation, maintenance, public work or safety requirements applicable to the applicant.

AND

Effective Immediately the City of Smithville enacts Ordinance Section 510.041 which shall read as follows.

Section 510.041 Communication. *Every franchisee or permit holder performing any work in the ROW shall always have someone present at the site of the work who is capable of reasonably and thoroughly communicating with the city and who is authorized to do so on behalf of the franchisee or permit holder.*

AND

Effective Immediately the City of Smithville enacts Ordinance Section 510.042 which shall read as follows.

Section 510.042 Indemnification and Liability. *Every franchisee or permit holder or other Person performing any work in the ROW shall indemnify and save the City harmless from all liability and costs, including attorney's fees claimed by any Person because of the work. Every franchisee or permit holder or other Person shall be responsible for all reasonable damages incurred by the city or any third persons because of the work.*

**PASSED AND ADOPTED BY THE BOARD OF ALDERMEN OF THE CITY OF
SMITHVILLE THIS 18th DAY OF OCTOBER 2022**

DAMIEN BOLEY, MAYOR

ATTEST:

LINDA DRUMMOND, CITY CLERK

1st reading 10/04/2022

2nd reading 10/18/2022