



City of Carthage, Missouri

CITY COUNCIL

December 13, 2022 - 6:30 PM
CITY HALL COUNCIL CHAMBERS

AGENDA

- 1. Call to Order**
- 2. Invocation**
- 3. Pledge of Allegiance to Flag**
- 4. Calling of the Roll**
- 5. Reading and Consideration of Minutes of Previous Meeting**
 1. Approval of November 22, 2022 Minutes
- 6. Presentations/Proclamations**
- 7. Public Comments**

(Each person addressing the Council shall state their name and address or the organization or firm represented and is limited to no more than five (5) minutes. The time may be extended by the chair if deemed necessary. Once a person has had their say on a particular issue they are not permitted to once again speak on the issue unless called to answer any further questions by the Council or Chair)
- 8. Reports of Standing Committees**
 1. Agendas and Minutes of Standing Committees
- 9. Reports from Special Committees and Board Liaisons**
 1. Agendas and Minutes of Special Committees
- 10. Report of the Mayor**
- 11. Reports/Remarks of Councilmembers**

(Each Councilmember is limited to no more than two (2) minutes. The time may be extended by the Chair if deemed necessary. Once a Councilmember has had their say on a particular issue they are not permitted to once again speak on the issue unless permitted by the Chair)
- 12. Administrative Reports**
 1. Financial Reports
- 13. Report of Claims Presented Against the City**
 1. Motion and a second to approve the Claims
- 14. Public Hearings**
- 15. Old Business**
- 16. New Business**

1. C.B. 22-48 -- An Ordinance amending the Annual Operating and Capital Budget of the City of Carthage for Fiscal Year 2021-2022 and 2022-2023 for specified funds (General Fund, Fire Protection Tax Fund, Parks/Stormwater Sales Tax Fund and Civic Enhancement Fund) for carry-over items and emergency purchases; and to be considered an emergency ordinance due to unforeseen circumstances which delay would hinder the effective delivery of Municipal Service
2. C.B. 22-49 -- An Ordinance authorizing the Mayor to execute a Master Service Agreement, and Statement of Work (SOW) for Apptegy Website Services, 2201 Brookwood Drive, Suite 115, Little Rock, AR 72202
3. C.B. 22-50 -- An Ordinance authorizing the Mayor to execute a Memorandum of Understanding between the City of Carthage, the Carthage Economic Development Corporation, and the Carthage Water and Electric Plant to agree upon general terms and commit to the financial terms of the agreement
4. C.B. 22-51 -- An Ordinance to amend Section 200 - General Employment Policies of the Personnel Policy Manual of the City of Carthage by amending subsection 207 - Resignation and Retirement
5. C.B. 22-52 -- An Ordinance to amend Section 503 - Holidays Authorized of the Personnel Policy Manual of the City of Carthage by amending Subsection 09 and adding Subsection 10
6. C.B. 22-53 -- An Ordinance rezoning certain property at 828 and 830 West Fairview in the City of Carthage from District A, to District F, Light Industrial, as requested by Philip K and Sharon R Brown, in the City of Carthage, Missouri
7. C.B. 22-54 -- An Ordinance of the City of Carthage, Missouri authorizing the Mayor to execute an Agreement between the City of Carthage, Missouri and the Missouri Highway and Transportation Commission to provide funding for ADA compliant sidewalks and crossings on HH Highway from Steadley Elementary to Creekside Subdivision, in the City of Carthage, Missouri
8. C.B. 22-55 -- An Ordinance of the City of Carthage, Missouri authorizing the Mayor to execute an Agreement between the City of Carthage, Missouri and the Missouri Highway and Transportation Commission providing replacement of Bridge #0720005 on McGregor Street over Missouri/Northern Arkansas Railroad.

17. Mayor's Appointments

1. Civil War Museum Board
2. Police Personnel Administration Board
3. Carthage Tree Board
4. Parks and Recreation Director

18. Resolutions

1. Resolution 1990 -- A Resolution of the City Council of the City of Carthage amending an Administrative Lot Split for property located at 415 N. Parsons Street, in the City of Carthage, Missouri.

2. Resolution 1991 - A Resolution of the City Council of the City of Carthage amending an Administrative Lot Split for property located at 3002 Grand Ave, in the City of Carthage, Missouri.
3. Resolution 1992 -- A Resolution approving the Declaration as Surplus to the City's needs and authorizing the disposition of a 2008 Cub Cadet 4x+B35:H354 EFI Tracker Utility Vehicle, Serial No. 1E22BG400031
4. Resolution 1993 -- A Resolution approving the recommendation of the McCune-Brooks Regional Hospital Trust for the distribution of funds (\$2,000,000) from the Restricted Trust Fund to Missouri Southern Foundation

19. Closing Comments

20. Executive Session

21. Adjournment

PERSONS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE CALL 417-237-7000 (VOICE) OR 1-800-735-2466 (TDD VIA RELAY MISSOURI) AT LEAST 24 HOURS PRIOR TO MEETING



City of Carthage, Missouri

CITY COUNCIL

November 22, 2022 - 6:30 PM
CITY HALL COUNCIL CHAMBERS

MINUTES

The Carthage City Council met in regular session on the above date in the Council Chambers at 06:30 PM with Mayor Dan Rife presiding.

Fire Chief Ryan Huntley gave the invocation.

Police Chief Bill Hawkins led the flag salute.

The following Council Members answered roll call: Robin Harrison, Brandi Ensor, David Armstrong, Trudy Blankenship, Ceri Otero, Alan Snow, Ed Hardesty, Tiffany Cossey, Mark Elliff. Council Member Robin Blair was absent. City Administrator Greg Dagnan and City Attorney Nate Dally were also present.

The following Department Heads were present: Police Chief Bill Hawkins, Fire Chief Ryan Huntley, and City Clerk Miranda Deal. Public Works Director Zeb Carney and Assistant City Administrator Traci Cox were absent.

Mr. Elliff made a motion, seconded by Mr. Hardesty, to approve the minutes of the November 8, 2022 Council Meeting. Motion carried unanimously.

Mayor Rife presented a Proclamation for Small Business Saturday to Carthage Chamber President Julie Reams and Willy Waggoner, owner of Boomers BBQ and Catering and Chamber Board Member. Small Business Saturday is on November 26, 2022.

During Citizens Participation, Betty Ellifson, 1435 Dove Drive, brought up the issue of lack of Ordinance enforcement regarding Nuisances. She expressed concern that something needed to be done about properties with overgrown grass and junk in the yard. She asked the Council to look at ordinances 15-3, 15-4, 15-5, 15-7, and 15-26 and do something to enforce them. She also brought up the issue of the City not taking care of skunks, and also swimming pools that do not have a fence around them. She provided a list of addresses that she has noticed to be in violation of Chapter 15 of the City Code for Council Members who wanted it.

Mr. Snow reported that the Budget Ways & Means Committee met on November 14. They received an update on sales tax numbers, they are still coming in higher than what was expected. The Committee also heard about the Carthage Water and Electric Plant Certificates of Participation that are on the agenda as Council Bill 22-47. The next meeting is scheduled for December 12.

Mrs. Harrison reported that the Committee on Insurance, Audit & Claims did not have a quorum so they did not meet prior to Council. She also reminded everyone that tonight was the second reading of Council Bill 22-46, which changes the employee dress code. The next meeting is scheduled for December 13.

Mr. Elliff reported that the Public Safety Committee met on November 21. Chanti Beckham was present to request road closures for the annual Run Through the Lights 5K that is taking place on December 15. She requested road closures on Fairview from Wynwood to Grand from 6:15-7:30 pm. Mr. Elliff made a motion, seconded by Ms. Ensor, to close Fairview from Wynwood to Grand on December 15 from 6:15-7:30 pm. Motion carried. The committee also heard a complaint about the speed at which cars are traveling on West Macon. Chief Hawkins is going to look into this issue. The next meeting is scheduled for December 19.

Ms. Otero reported that the Public Service Committee met on this date at 5:30 pm. Resolution 1989 on the agenda is a donation from Lowes for \$2500 in materials and labor will be provided as well. They are going to replace the fence at Carter Park around the Futsal courts, which is currently in poor shape. They also discussed the new playground structures and restroom plans for all of the parks. They have \$5 million dollars from the McCune Brooks Hospital Trust and they are wanting to get as many play structures, and restrooms done and have some money left for routine maintenance. They are wanting to spend around \$2.5 million on play structures, possibly 2 larger and 3 smaller structures. They will hopefully have structures and prices to look at for the next Public Service meeting on December 20.

Mr. Armstrong reported that the Public Works Committee is between meetings with the next meeting scheduled for December 6. He stated that he will be unavailable that day and the meeting may need to be rescheduled for a different day that week.

Special Committee and Board Liaison Reports were given by Mr. Elliff for the Jasper County Commission, he also updated the Council on the change of date for the Planning, Zoning and Historic Preservation meeting. Mrs. Harrison reported on the Vision Carthage meeting and Mr. Snow reported on the Carthage Water and Electric Plant Board meeting.

Mayor Rife reported on his attendance at recent CEDC meetings and interviews for the Parks & Recreation Director. He also reported that there would be an email going out about the CMR Christmas dinner for Council and City Staff.

During reports from Council Members, Mr. Elliff reported on his attendance at the November 2 Hall of Heroes ceremony at the YMCA. Mayor Rife was unable to attend the event, but Mr. Elliff said it was a well attended ceremony.

Police Chief Bill Hawkins reported on the Police Car Take Home Project. They needed 6 more cars to complete the project and they have recently found two 2022 models in St. Louis to purchase. He stated that three Police Department employees would be going to St. Louis on Wednesday to retrieve the vehicles. It is unknown when they will be able to get the remaining vehicles, but since they purchased 2022 models instead of 2023, they are saving about \$5,000 on each vehicle. He also mentioned that one of the patrol vehicles has a blown motor, but it is still covered under the warranty.

Fire Chief Ryan Huntley reported that one of his long time engineers has put in his notice. He has interviewed four individuals and they are all certified and ready to start. He expects to have the position filled by December 15.

Mayor Rife also welcomed back Assistant City Administrator Traci Cox, who attended the meeting as an audience member.

City Administrator Greg Dagnan gave out his report prior to the Council Meeting. He reported that most of the committees have heard from the department heads on their 5 year personnel

plan requests. He also mentioned that a planning session will be scheduled after the new year to discuss budget and the personnel requests. There has been an offer made to fill the Economic Director position, once the person has accepted, Mr. Dagnan will bring them to Council to introduce them. He reminded Council that the director will be paid for by the City and Carthage Water & Electric. There have been interviews for the Parks & Recreation Director, the hiring committee was chosen by the Mayor, and at the next Council meeting there will be an announcement on the individual that was chosen. He also mentioned that the City had received the last DMO payment from the CVB.

There was no report of the Claims due to lack of quorum at the Committee on Insurance, Audit & Claims meeting.

C.B. 22-46 -- An Ordinance to amend Section 600 -- City Rules & Regulations of the Personnel Policy Manual of the City of Carthage by amending subsection 605 - Dress Code was placed on second reading followed by a roll call vote of 9 yeas and 0 nays. Ayes: Robin Harrison, Brandi Ensor, David Armstrong, Trudy Blankenship, Ceri Otero, Alan Snow, Ed Hardesty, Tiffany Cossey, Mark Elliff. The Council Bill was approved and numbered Ordinance 22-46.

C.B. 22-47 -- An Ordinance authorizing the City of Carthage, Missouri Certificates of Participation (Carthage Water and Electric Plant), Series 2022, and certain other documents and actions by the City was placed on first reading.

Sarah Granath with Gilmore & Bell was present to answer any questions about the Certificates. Mr. Snow thanked Sarah for explaining the Certificates of Participation at the Carthage Water & Electric Plant Board meeting. Mr. Bryant explained what this Ordinance was for and that they are paying off the 2012 COP's early before receiving the 2022 Series.

Mr. Snow made a motion, seconded by Ms. Otero, to follow emergency protocol and advance Council Bill 22-47 to the second reading.

C.B. 22-47 -- An Ordinance authorizing the City of Carthage, Missouri Certificates of Participation (Carthage Water and Electric Plant), Series 2022, and certain other documents and action by the City was placed on second reading followed by a roll call vote of 9 yeas and 0 nays. Ayes: Robin Harrison, Brandi Ensor, David Armstrong, Trudy Blankenship, Ceri Otero, Alan Snow, Ed Hardesty, Tiffany Cossey, Mark Elliff. The Council Bill was approved and numbered Ordinance 22-47.

Ms. Otero made a motion, seconded by Mr. Armstrong, to approve Resolution 1989 -- A Resolution providing for the formal acceptance of a donation by the City Council of the City of Carthage, Missouri pursuant to City Policy. Resolution 1989 was adopted after a roll call vote of 9 yeas and 0 nays. Ayes: Robin Harrison, Brandi Ensor, David Armstrong, Trudy Blankenship, Ceri Otero, Alan Snow, Ed Hardesty, Tiffany Cossey, Mark Elliff.

During closing comments, Mr. Snow mentioned that the Run Through the Lights 5K can also be walked for those who don't run. He also wished the Carthage Tiger football team good luck at the State Semifinal game this Saturday in Carthage. Ms. Cossey wished everyone a Happy Thanksgiving, Mr. Elliff wished the tigers good luck and a Happy Thanksgiving to all, Ms. Blankenship also wished everyone a Happy Thanksgiving.

Ms. Otero made a motion, seconded by Mr. Snow, to adjourn the regular session of the Council Meeting. Motion carried and meeting adjourned at 7:11 pm.

--NOTICE OF MEETING--
PUBLIC WORKS COMMITTEE

December 6, 2022

5:30 PM

CITY HALL

326 GRANT STREET

COUNCIL CHAMBERS

-- AGENDA--

OLD BUSINESS

1. Consideration and approval of minutes from previous meeting

CITIZENS PARTICIPATION

NEW BUSINESS

1. Discuss Bro Project
2. Consider and Discuss Lot Split 3002 Grand Ave
3. Consider and Discuss Lot Split 415 N. Parsons St
4. Discuss Surplus Item

OTHER BUSINESS

1. Follow up on Nuisance Ordinances

STAFF REPORTS

Zeb Carney & Greg Dagnan

ADJOURNMENT

PERSONS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE CALL 417-237-7000 (VOICE) OR 1-800-735-2466 (TDD VIA RELAY MISSOURI) AT LEAST 24 HOURS PRIOR TO MEETING.

POSTED: 12/02/2022

BY: Rachel Sutherland

PUBLIC WORKS COMMITTEE

Public Works Department 623 E 7th Carthage MO 64836
Tele: (417) 237-7010 Fax: (417) 237-7011

"America's Maple Leaf City"



12-06-2022 PUBLIC WORKS COMMITTEE MEETING MINUTES

Committee Members present: Brandi Ensor, Robin Blair and Ed Hardesty.

Staff Members present: Zeb Carney, Public Works Director, Greg Dagnan, City Administrator and Rachel Sutherland, Public Works Administrative Assistant.

Citizens: Abi Almandinger

Chairman Brandi Ensor called the Public Works Committee meeting to order at 5:30 p.m.

A motion was made by Brandi Ensor to accept the minutes from the November 1, 2022 Committee meeting. All ayes, motion passed.

New Business:

1. The Committee discussed the Bro. Bridge @ McGregor, which will take 32-48 months to get the project started.

Ed Hardesty made a motion to allow the repair project to move forward, all ayes motion carried.

2. Discussion of proposed lot split @ 3002 Grand Ave

Ed Hardesty made a motion to allow the split and forward it to City Council, all ayes, motion carried.

3. Proposed lot split @ 415 N. Parsons for storage units

Robin Blair made a motion to allow the split and forward it to City Council, all ayes, motion carried.

4. Zeb spoke about Surplus Item – 2008 Cub Cadet, used at Recycling Center. Zeb states it is worn out and not worth sending to auction.

Ed Hardesty made a motion to allow disposal of Cub Cadet, all ayes, motion carried.

Other Business:

1. Follow up to the Nuisance Ordinances. Zeb, Shaun and Bill have looked at all houses on the list given to the City, only 2 on list still had violations, showing Shaun is doing good job at catching problems. Greg appreciated the list being brought to the City's attention.

Staff Reports:

Zeb reported on the following:

- Building Permit numbers and revenue for the City generated from projects.
- Recycle Center has had a good increase in traffic.
- Julie has been working on Contractor License renewals. Licenses generate \$34,000.00 per year.
- The Street Department took possession of the new Dump Truck, which was in the Christmas Parade.
- May need to Surplus old Dump Truck in the future.

- This was the first year that both Public Works and City Hall had floats entered in the Parade.
- Baker Blvd. Construction – road not suitable for Truck Traffic if used as a Truck Terminal.
- Go Car Wash lot split finished, close escrow on Thursday 12/8/22.
- Jason Choate has purchased property on Central, East of Casey's for a Car Wash.
- Long John Silver's building has been sold to a Developer.
- Zeb and Julie are working with Republic Services to get the billing straightened out.
- Guaranty Bank has informed that there was no insurance on the Lumber Yard at the time of the fire. We will submit invoices in hopes of recovering some money from Demolition after the fire.

Greg reported on the following:

- The Filing Period started 12/6/22 for running for Council and will be open until 12/27/22. Alan, Dave, and Tiffany attended.
- Traditionally Department Heads have not given reports to Council in order to shorten the meetings. He wants to work on an efficient way to get more information out.
- Carthage is showing good numbers for Economic Growth, where other cities are reporting 95% decrease.
- The employees funded City Hall float.

No further discussion by committee.

Ed Hardesty made a motion to adjourn the meeting at 6:25 p.m. All ayes, motion carried.



City of Carthage, Missouri

BUDGET WAYS & MEANS COMMITTEE

December 12, 2022 - 5:30 PM
CITY HALL COUNCIL CHAMBERS

AGENDA

- 1. Call to Order**
- 2. Old Business**
 1. Approval of November 14, 2022 Minutes
- 3. Citizens Participation**

(Citizens wishing to speak should notify Department Head or Committee Chair in advance)
- 4. New Business**
 1. Consider and discuss new contract for website services
 2. Consider and discuss MOU between Carthage Water & Electric, City of Carthage, and the CEDC
 3. Consider and discuss 3% COLA for January 1, 2023
 4. Staff Reports
- 5. Adjournment**

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City of Carthage, Missouri
**COMMITTEE ON
INSURANCE/AUDIT AND CLAIMS**

December 13, 2022 - 5:00 PM
CITY HALL COUNCIL CHAMBERS

AGENDA

- 1. Call to Order**
- 2. Old Business**
 1. Approval of November 08, 2022 Minutes
 2. Review & Approval of the Claims Report
- 3. Citizens Participation**

(Citizens wishing to speak should notify Department Head or Committee Chair in advance)
- 4. New Business**
 1. Consider and discuss Section 207 - Resignation Notice Policy of the Personnel Policy Manual
 2. Consider and discuss Section 503 - Holidays Authorized of the Personnel Policy Manual
 3. Staff Reports
- 5. Adjournment**

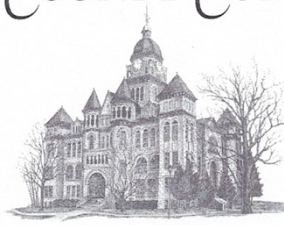
PERSONS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE CALL 417-237-7000 (VOICE) OR 1-800-735-2466 (TDD VIA RELAY MISSOURI) AT LEAST 24 HOURS PRIOR TO MEETING

John Bartosh
Presiding Commissioner

Tom Flanigan
Eastern District Commissioner

Daricus K. Adams
Western District Commissioner

JASPER COUNTY COMMISSION



302 S. Main ST
Carthage, MO 64836

Carthage: 417-358-0421
Joplin: 417-625-4350

Toll Free: 800-404-0421
Fax: 417-358-0483

COMMISSION AGENDA NOVEMBER 29, 2022 9:00 A.M. JASPER COUNTY COURTHOUSE ROOM 101

1. CALL TO ORDER

PRAYER

PLEDGE OF ALLEGIANCE

2. ROLL CALL

3. APPROVAL OF MINUTES

4. PRESENTATIONS

5. REPORTS AND COMMUNICATIONS

6. ELECTED OFFICIALS/CITIZENS REQUESTS

7. COMMISSIONER'S REPORTS

8. UNFINISHED BUSINESS

9. NEW BUSINESS

- **Act on Resignation and Appointment to the Domestic Violence Board**
- **Act on Appointments to the Developmental Disability Resources Board**
- **Act on Re-Appointments to the Mental Health Fund Board**
- **Act on Speed Limit Signs for Schaffer's Subdivision**
- **Act on Memorandum of Understanding with the City of Joplin for the Broadband Consulting Services.**

10. PUBLIC HEARINGS

PUBLIC PARTICIPATION FROM AUDIENCE WHEN ADDRESSED YOU WILL BE ALLOWED THREE MINUTES TO SPEAK.

ELECTED OFFICIALS/CITIZENS WISHING TO BE HEARD UNDER ELECTED OFFICIALS/CITIZENS REQUEST MUST REQUEST TO SPEAK TO COMMISSION BY 4:00 P.M. ON THE FRIDAY PRIOR TO THE COMMISSION MEETING ON TUESDAY. CITIZENS SPEAKING TIME WILL BE LIMITED TO FIVE MINUTES.

THE NEWS MEDIA MAY OBTAIN COPIES OF THIS NOTICE BY CONTACTING:
COMMISSION OFFICE, 302 S. MAIN, COURTHOUSE, ROOM 101, CARTHAGE 417-358-0421

NOTICE POSTED NOVEMBER 23, 2022, AT 4:00 P.M.

(RSMO 610.020)

John Bartosh
Presiding Commissioner

JASPER COUNTY COMMISSION

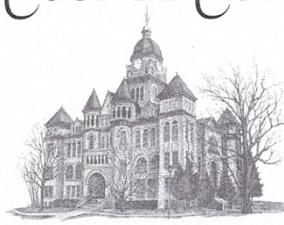
302 S. Main ST
Carthage, MO 64836

Tom Flanigan
Eastern District Commissioner

Carthage: 417-358-0421
Joplin: 417-625-4350

Daricus K. Adams
Western District Commissioner

Toll Free: 800-404-0421
Fax: 417-358-0483



COMMISSION AGENDA
DECEMBER 6, 2022
9:00 A.M.
JASPER COUNTY COURTHOUSE ROOM 101

1. CALL TO ORDER
 PRAYER
 PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. APPROVAL OF MINUTES
4. PRESENTATIONS
5. REPORTS AND COMMUNICATIONS
6. ELECTED OFFICIALS/CITIZENS REQUESTS
7. COMMISSIONER'S REPORTS
8. UNFINISHED BUSINESS
9. NEW BUSINESS
10. PUBLIC HEARINGS

PUBLIC PARTICIPATION FROM AUDIENCE WHEN ADDRESSED YOU WILL BE ALLOWED THREE MINUTES TO SPEAK.

ELECTED OFFICIALS/CITIZENS WISHING TO BE HEARD UNDER ELECTED OFFICIALS/CITIZENS REQUEST MUST REQUEST TO SPEAK TO COMMISSION BY 4:00 P.M. ON THE FRIDAY PRIOR TO THE COMMISSION MEETING ON TUESDAY. CITIZENS SPEAKING TIME WILL BE LIMITED TO FIVE MINUTES.

THE NEWS MEDIA MAY OBTAIN COPIES OF THIS NOTICE BY CONTACTING:
COMMISSION OFFICE, 302 S. MAIN, COURTHOUSE, ROOM 101, CARTHAGE 417-358-0421

NOTICE POSTED DECEMBER 2, 2022, AT 4:00 P.M.

(RSMO 610.020)



City of Carthage, Missouri

TREE BOARD

December 6, 2022 - 4:00 PM
Carthage Parks and Recreation Office
521 Robert Ellis Young Drive
Carthage, MO 64836

AGENDA

1. Old Business

1. Approval of Previous Meeting Minutes.

2. Citizens Participation

(Citizens wishing to speak should notify Department Head or Committee Chair in advance)

3. New Business

1. Arbor Day.
2. Food Truck Friday.

4. Staff Reports

5. Other Business

6. Adjournment

PERSONS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE CALL 417-237-7000 (VOICE) OR 1-800-735-2466 (TDD VIA RELAY MISSOURI) AT LEAST 24 HOURS PRIOR TO MEETING



City of Carthage, Missouri

TREE BOARD

December 6, 2022 - 4:00 PM

City Hall Council Chambers

326 Grant Street

Carthage, MO 64836

MINUTES

1. Old Business

1. Approval of Previous Meeting Minutes.

ACTION: Motion to item 1.1. by Bryan Stringer second by Renae Brownfield;

Motion with a 3:0

AYES: Renae Brownfield, Noah Smith, Bryan Stringer

NOES: None

ABSTAIN: None

2. Citizens Participation

(Citizens wishing to speak should notify Department Head or Committee Chair in advance)

3. New Business

1. Discuss and Accept Jason Cutler as a new member to the Carthage Tree Board. Mr. Smith discussed approving Jason Cutler application to join the Carthage Tree Board. Mr. Cutler explained his previous work history in Tree Care Service as well as being an ISA Board Certified Master Arborist.

ACTION: Motion to item 3.1. by Bryan Stringer second by Renae Brownfield;

Motion passed with a 3:0

AYES: Renae Brownfield, Noah Smith, Bryan Stringer

NOES: None

ABSTAIN: None

2. Arbor Day.

Mr. Smith confirmed that Arbor Day activities will take place at Fairview Elementary on April 11th at 10AM and will consist of handing out seedlings to the 3rd grade as well as a lesson and planting a tree.

3. Food Truck Friday.

Mr. Smith discussed the opportunity to work with the Chamber of Commerce and the Parks and Recreation Department on Saturday, April 22nd for an Earth Day event instead of participating in the Food Truck Friday Event. It will be discussed later what it will consist of and how the Tree board will participate.

- 4. Staff Reports**
- 5. Other Business**
- 6. Adjournment**

**McCune Brooks Regional Hospital Trust
Regular Meeting of the Board of Trustees
December 7, 2022
2:00 p.m.
Schmidt Associates Conference Room**

Agenda

- | | | |
|-------|--|------------------------------|
| I. | Call to Order | Ron Petersen |
| II. | Guest update on Parks Project (10 Minutes) | Greg Dagnan
City Engineer |
| III. | Approval of August 24, 2022 Minutes | Ron Petersen |
| VI. | Financial Statement Report & Review | Stan Schmidt |
| VII. | Review and approval of Grant Application | Ron Petersen |
| VIII. | Next meeting date | Ron Petersen |
| IX. | Adjournment | Ron Petersen |

MCCUNE BROOKS REGIONAL HOSPITAL

FINANCIAL STATEMENTS

OCTOBER 31, 2022





ACCOUNTANT'S DISCLAIMER REPORT

To Management
McCune Brooks Regional Hospital
3125 Dr. Russell Smith Way
Carthage, MO 64836

The accompanying financial statements of McCune Brooks Regional Hospital as of and for the year-to-date ending October 31, 2022 omit substantially all disclosures. The financial statements were not subjected to an audit, review, or compilation engagement by us and we do not express an opinion, a conclusion, nor provide any assurance on them.

Schmidt Associates, LLC

November 14, 2022



America Counts on CPAs

McCune Brooks Regional Hospital
Statements of Financial Position
October 31, 2022

Assets

Assets

Cash in bank- New trust disbursement	\$ 9,766.32
New Trust investment	14,417,068.32
Escrow account	<u>5,086,516.50</u>
Total Assets	<u><u>\$ 19,513,351.14</u></u>

Liabilities and Net Position

Liabilities

Accounts payable	\$ 5,536,516.50
Total Liabilities	<u>5,536,516.50</u>

Net Position

Operational capital- Fund balance	19,562,855.42
Restricted- expendable for specifics	(5,699,967.31)
Restricted- non expendable	322,626.00
Retained earnings	<u>(208,679.47)</u>

Total Net Position	<u>13,976,834.64</u>
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Total Liabilities and Stockholders' Equity	<u><u>\$ 19,513,351.14</u></u>
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Substantially all disclosures ordinarily included in Accrual basis financial statements are omitted, and no assurance is provided on these financial statements.

McCune Brooks Regional Hospital

Statements of Activities

**6 Months Ended
October 31, 2022**

Income

Interest and dividend income- bond/escrow	13,873.07
Interest and dividend income-Trust	116,793.36
Interest income	15.69
Gain (Loss) realized and unrealized	(312,128.70)

Total Income	(181,446.58)
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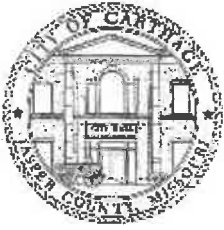
Operating Expenses

Bank charges	7,359.82
Grants	13,873.07
Legal and professional fees	6,000.00

Total Operating Expenses	27,232.89
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Net Income (Loss)	\$ (208,679.47)
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Substantially all disclosures ordinarily included in Accrual basis financial statements
are omitted, and no assurance is provided on these financial statements.



AGENDA

Planning, Zoning, and Historic Preservation Commission

Thursday, December 8, 2022 5:30 pm

City Hall Chambers

326 Grant St. / Carthage MO 64836

Call to Order

Minutes of Previous Meeting Monday, October 3, 2022

Public Hearing

1. Request for Rezoning property located at 828 & 830 W Fairview from 'A' First Dwelling to 'F' Light Industrial.

Staff Report

New Business

Old Business

1. 353 Tax Abatement Update

Next Meeting:

Adjourn

Commission Members

Voting Members:	Chairman	Abi Almandinger	1220 S Main	417-793-6589
	Vice Chairman	Jim Swatsenbarg	601 Howard	417-358-1690
	Secretary	Harry Rogers	1350 S Main St	417-358-4527
	Member	Jim Hunter	1514 S River	417-850-5355
	Member	Alan Bull	614 E Centennial	417-388-2309
	Member	Bill Barksdale	1314 S Garrison	417-388-2464
	Member	Joshua Anderson	1205 S Main	417-793-2196

Non-Voting Members:	Mayor	Dan Rife	City Hall	417-237-7003
	City Administrator	Greg Dagnan	City Hall	417-237-7003
	Asst. City Administrator	Traci Cox	City Hall	417-237-7003
	Councilmember	Mark Elliff	1511 Grand Ave	417-359-3662

Staff:	Public Works Director	Zeb Carney	Public Works Department	417-237-7010
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Public Works Department 623 E Seventh Carthage MO 64836 Tele: (417) 237-7010 Fax: (417) 237-7011 Email: pwd@carthagemo.gov

Planning, Zoning, and Historic Preservation Commission
Meeting Minutes December 8, 2022

Attendees: Abi Almandinger, Jim Swatsenbarg, Alan Bull, Jim Hunter

Staff & Council: Greg Dagnan, Zeb Carney, Rachel Southerland, and Mark Elliff

Guests: Phillip Brown

The meeting was called to order at 5:30 PM by Abi Almandinger, Chair.

First order of business was to approve the minutes of the last meeting, held October 3, 2022. Alan Bull made a motion to accept the minutes as written; second by Jim Hunter; motion passed unanimously.

Second order of business was to hold a Public Hearing concerning a request to rezone vacant lots located at 828 and 830 West Fairview from A, Residential to F, Light Industrial. The request was made by Phillip Brown who was present and spoke in favor. The rezoning is supported by staff; there were no unfavorable comments. Jim Hunter made a motion to grant the rezoning request; second by Jim Swatsenbarg; motion passed unanimously.

The next order of business was to update our progress on Section 353, Tax Abatement.

Greg Dagnan presented proposed versions of *Resolution No. 2023-01, a Certificate of Corporate Resolution of the Carthage Redevelopment Corporation, Inc.*; proposed *Articles of Agreement of Carthage Redevelopment Corporation, Inc.*; and proposed *City Ordinance (unnumbered) to add Chapter 17 Article 5; Urban Development and Establish the Carthage Redevelopment Corporation in the City of Carthage, Missouri.*

The proposals were reviewed by the Commission and revisions were offered. Greg Dagnan and City Attorney Nate Dally will continue to perfect the documents for presentation to Council.

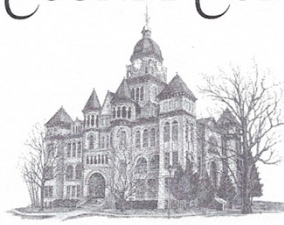
Alan Bull made a motion to adjourn the meeting at 6:25 PM; motion passed unanimously.

John Bartosh
Presiding Commissioner

Tom Flanigan
Eastern District Commissioner

Daricus K. Adams
Western District Commissioner

JASPER COUNTY COMMISSION



302 S. Main ST
Carthage, MO 64836

Carthage: 417-358-0421
Joplin: 417-625-4350

Toll Free: 800-404-0421
Fax: 417-358-0483

COMMISSION AGENDA
DECEMBER 13, 2022
9:00 A.M.
JASPER COUNTY COURTHOUSE ROOM 101

1. CALL TO ORDER
 - PRAYER
 - PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. APPROVAL OF MINUTES
4. PRESENTATIONS
5. REPORTS AND COMMUNICATIONS
6. ELECTED OFFICIALS/CITIZENS REQUESTS
 - **Jasper County Sheriff-Surplus Tasers.**
7. COMMISSIONER'S REPORTS
8. UNFINISHED BUSINESS
9. NEW BUSINESS
 - **Act on Closing Documents for the Real Estate Transaction with VIA Real Estate LLC.**
 - **Act on Fee Increases for the Environmental Office at the Jasper County Health Department.**
 - **Act on Request for Qualifications Proposals for Jail Population Study.**
 - **Act on Bid for Contract Cleaning Services for Annex I, the Jasper County Juvenile Center and the New Jasper County Courts Building in Joplin.**
10. PUBLIC HEARINGS

PUBLIC PARTICIPATION FROM AUDIENCE WHEN ADDRESSED YOU WILL BE ALLOWED THREE MINUTES TO SPEAK.

ELECTED OFFICIALS/CITIZENS WISHING TO BE HEARD UNDER ELECTED OFFICIALS/CITIZENS REQUEST MUST REQUEST TO SPEAK TO COMMISSION BY 4:00 P.M. ON THE FRIDAY PRIOR TO THE COMMISSION MEETING ON TUESDAY. CITIZENS SPEAKING TIME WILL BE LIMITED TO FIVE MINUTES.

THE NEWS MEDIA MAY OBTAIN COPIES OF THIS NOTICE BY CONTACTING:
COMMISSION OFFICE, 302 S. MAIN, COURTHOUSE, ROOM 101, CARTHAGE 417-358-0421

NOTICE POSTED DECEMBER 9, 2022, AT 4:00 P.M.

(RSMO 610.020)

CITY OF CARTHAGE
REVENUE & EXPENSE REPORT (UNAUDITED)
AS OF: NOVEMBER 30TH, 2022

	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	% OF BUDGET	BUDGET BALANCE
<u>REVENUES</u>					
110-GENERAL REVENUE	11,892,511.00	725,648.49	3,934,943.55	33.09	7,957,567.45
121-PUBLIC HEALTH	249,128.00	11,252.02	47,811.94	19.19	201,316.06
122-LANDFILL CLOSURE	1,000.00	1,953.22	6,966.26	696.63 (	5,966.26)
123-LODGING TAX	165,600.00	78,287.18	133,146.02	80.40	32,453.98
124-CIVIC ENHANCEMENT	(60.00)	195.72	704.60	1,174.33-(	764.60)
125-STORMWATER	15.00	31.80	113.60	757.33 (	98.60)
126-PUBLIC SAFETY GRANT	0.00	12,000.00	12,000.00	0.00 (	12,000.00)
127-CDBG	0.00	0.00	0.00	0.00	0.00
128-PARKS/STM WTR	1,298,104.00	106,037.66	622,809.22	47.98	675,294.78
129-TIF & CID SPECIAL TAX	75.00	158.77	567.21	756.28 (	492.21)
130-INMATE SECURITY FUND	3,500.00	353.18	1,680.20	48.01	1,819.80
131-FIRE PROTECTION TAX	643,798.00	57,591.46	325,717.48	50.59	318,080.52
141-FAIR ACRES SPORTS COM	0.00	0.00	0.00	0.00	0.00
142-GOLF COURSE	706,076.00	18,842.65	310,380.60	43.96	395,695.40
161-CAPITAL IMPROVEMENTS	1,466,998.00	115,470.97	652,029.37	44.45	814,968.63
162-PARKS & RECREATION	261,235.00	474.15	4,419.45	1.69	256,815.55
163-MYERS PARK	400.00	489,277.47	490,788.06	2,697.02 (	490,388.06)
164-JUDICIAL EDUCATION FU	250.00	7.57	39.89	15.96	210.11
165-USE TAX	704,370.00	1,416.63	5,077.89	0.72	699,292.11
175-Public Fac/Bond Fund	1,337,591.00	9,826.92	35,034.82	2.62	1,302,556.18
221-ECONOMIC DEVELOPMENT	33,344.00	39.88	142.48	0.43	33,201.52
222-AMERICAN RESCUE PLAN	1,503,851.00	5,008.90	1,515,242.93	100.76 (	11,391.93)
341-CW & EP	0.00	0.00	0.00	0.00	0.00
342-MCCUNE-BROOKS HOSPITA	0.00	0.00	0.00	0.00	0.00
343-LIBRARY OPERATING	0.00	15,044.84	54,178.70	0.00 (	54,178.70)
344-LIBRARY BUILDING	0.00	0.00	0.00	0.00	0.00
345-POWERS MUSEUM	0.00	0.00	0.00	0.00	0.00
346-POWERS CAPITAL	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
TOTAL REVENUES	20,267,786.00	1,648,919.48	8,153,794.27	40.23	12,113,991.73
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CITY OF CARTHAGE
REVENUE & EXPENSE REPORT (UNAUDITED)
AS OF: NOVEMBER 30TH, 2022

	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	% OF BUDGET	BUDGET BALANCE
EXPENDITURES					
110-GENERAL REVENUE	12,692,758.00	1,056,387.41	4,256,129.73	33.53	8,436,628.27
121-PUBLIC HEALTH	229,255.00	50,288.88	132,435.42	57.77	96,819.58
122-LANDFILL CLOSURE	438,246.00	0.00	0.00	0.00	438,246.00
123-LODGING TAX	199,000.00	1,577.09	7,250.21	3.64	191,749.79
124-CIVIC ENHANCEMENT	0.00	0.00	0.00	0.00	0.00
125-STORMWATER	0.00	0.00	0.00	0.00	0.00
126-PUBLIC SAFETY GRANT	0.00	0.00	5,661.30	0.00 (	5,661.30)
127-CDBG	0.00	0.00	0.00	0.00	0.00
128-PARKS/STM WTR	1,592,408.00	264,258.04	685,507.39	43.05	906,900.61
129-TIF & CID SPECIAL TAX	0.00	0.00	0.00	0.00	0.00
130-INMATE SECURITY FUND	0.00	0.00	373.00	0.00 (	373.00)
131-FIRE PROTECTION TAX	693,600.00	2,606.00	84,975.69	12.25	608,624.31
141-FAIR ACRES SPORTS COM	0.00	0.00	0.00	0.00	0.00
142-GOLF COURSE	691,077.00	88,763.28	299,116.01	43.28	391,960.99
161-CAPITAL IMPROVEMENTS	2,024,142.00	0.00	23,043.63	1.14	2,001,098.37
162-PARKS & RECREATION	260,000.00	0.00	0.00	0.00	260,000.00
163-MYERS PARK	300,197.00	6,829.00	368,766.01	122.84 (	68,569.01)
164-JUDICIAL EDUCATION FU	0.00	0.00	0.00	0.00	0.00
165-USE TAX	321,171.00	0.00	16,526.00	5.15	304,645.00
175-Public Fac/Bond Fund	2,451,007.00	15,350.00	51,563.75	2.10	2,399,443.25
221-ECONOMIC DEVELOPMENT	31,819.00	0.00	0.00	0.00	31,819.00
222-AMERICAN RESCUE PLAN	1,288,247.00	89,283.00	799,437.48	62.06	488,809.52
341-CW & EP	0.00	0.00	0.00	0.00	0.00
342-MCCUNE-BROOKS HOSPITA	0.00	0.00	0.00	0.00	0.00
343-LIBRARY OPERATING	0.00	163,000.00	484,000.00	0.00 (	484,000.00)
344-LIBRARY BUILDING	0.00	0.00	0.00	0.00	0.00
345-POWERS MUSEUM	0.00	0.00	0.00	0.00	0.00
346-POWERS CAPITAL	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
GRAND TOTAL EXPENDITURES	<u>23,212,927.00</u>	<u>1,738,342.70</u>	<u>7,214,785.62</u>	<u>31.08</u>	<u>15,998,141.38</u>
REVENUES OVER/(UNDER) EXPENDITURES	(2,945,141.00)	(89,423.22)	939,008.65		(3,884,149.65)

*** END OF REPORT ***

FUND-ACCT. NO.	ACCOUNT NAME	CASH	INVESTMENTS	FUND TOTAL
<u>110-GENERAL REVENUE</u>				
110-10000.000	Claim on Pooled Cash	1,902,328.33		
110-10002.000	Investment Account		4,202,930.41	
	TOTAL 110-GENERAL REVENUE	1,902,328.33	4,202,930.41	6,105,258.74
<u>121-PUBLIC HEALTH</u>				
121-10000.000	Claim on Pooled Cash	356,292.77		
121-10002.000	Investment Account		104,935.03	
	TOTAL 121-PUBLIC HEALTH	356,292.77	104,935.03	461,227.80
<u>122-LANDFILL CLOSURE</u>				
122-10000.000	Claim on Pooled Cash	515,281.78		
122-10002.000	Investment Account		30,066.96	
	TOTAL 122-LANDFILL CLOSURE	515,281.78	30,066.96	545,348.74
<u>123-LODGING TAX</u>				
123-10000.000	Claim on Pooled Cash	158,331.60		
	TOTAL 123-LODGING TAX	158,331.60	0.00	158,331.60
<u>124-CIVIC ENHANCEMENT</u>				
124-10000.000	Claim on Pooled Cash	54,179.85		
	TOTAL 124-CIVIC ENHANCEMENT	54,179.85	0.00	54,179.85
<u>125-STORMWATER</u>				
125-10000.000	Claim on Pooled Cash	8,802.46		
	TOTAL 125-STORMWATER	8,802.46	0.00	8,802.46
<u>126-PUBLIC SAFETY GRANT</u>				
126-10000.000	Claim on Pooled Cash	112,730.10		
	TOTAL 126-PUBLIC SAFETY GRANT	112,730.10	0.00	112,730.10
<u>128-PARKS/STM WTR</u>				
128-10000.000	Claim on Pooled Cash	588,762.15		
128-10002.000	Investment Account		262,337.53	
	TOTAL 128-PARKS/STM WTR	588,762.15	262,337.53	851,099.68
<u>129-TIF & CID SPECIAL TAX</u>				
129-10000.000	Claim on Pooled Cash	43,952.33		
	TOTAL 129-TIF & CID SPECIAL TAX	43,952.33	0.00	43,952.33
<u>130-INMATE SECURITY FUND</u>				
130-10000.000	Claim on Pooled Cash	21,935.89		
	TOTAL 130-INMATE SECURITY FUND	21,935.89	0.00	21,935.89

FUND-ACCT. NO.	ACCOUNT NAME	CASH	INVESTMENTS	FUND TOTAL
<u>131-FIRE PROTECTION TAX</u>				
131-10000.000	Claim on Pooled Cash	1,291,597.64		
131-10002.000	Investment Account		524,675.04	
	TOTAL 131-FIRE PROTECTION TAX	1,291,597.64	524,675.04	1,816,272.68
<u>141-FAIR ACRES SPORTS COMPLEX</u>				
141-10000.000	Claim on Pooled Cash	0.00		
	TOTAL 141-FAIR ACRES SPORTS COMPLEX	0.00	0.00	0.00
<u>142-GOLF COURSE</u>				
142-10000.000	Claim on Pooled Cash	361,287.27		
	TOTAL 142-GOLF COURSE	361,287.27	0.00	361,287.27
<u>161-CAPITAL IMPROVEMENTS</u>				
161-10000.000	Claim on Pooled Cash	3,518,482.48		
	TOTAL 161-CAPITAL IMPROVEMENTS	3,518,482.48	0.00	3,518,482.48
<u>162-PARKS & RECREATION</u>				
162-10000.000	Claim on Pooled Cash	103,654.60		
	TOTAL 162-PARKS & RECREATION	103,654.60	0.00	103,654.60
<u>163-MYERS PARK</u>				
163-10000.000	Claim on Pooled Cash	382,625.67		
163-10002.000	Investment Account		78,701.24	
	TOTAL 163-MYERS PARK	382,625.67	78,701.24	461,326.91
<u>164-JUDICIAL EDUCATION FUND</u>				
164-10000.000	Claim on Pooled Cash	4,287.38		
	TOTAL 164-JUDICIAL EDUCATION FUND	4,287.38	0.00	4,287.38
<u>165-USE TAX</u>				
165-10000.000	Claim on Pooled Cash	392,156.89		
	TOTAL 165-USE TAX	392,156.89	0.00	392,156.89
<u>175-Public Fac/Bond Fund</u>				
175-10000.000	Claim on Pooled Cash	1,946,154.46		
175-10002.000	Investment Account		906,824.71	
	TOTAL 175-Public Fac/Bond Fund	1,946,154.46	906,824.71	2,852,979.17
<u>221-ECONOMIC DEVELOPMENT</u>				
221-10000.000	Claim on Pooled Cash	11,039.83		
	TOTAL 221-ECONOMIC DEVELOPMENT	11,039.83	0.00	11,039.83
<u>222-AMERICAN RESCUE PLAN ACT</u>				
222-10000.000	Claim on Pooled Cash	718,030.48		
222-10002.000	Investment Account		1,491,878.71	
	TOTAL 222-AMERICAN RESCUE PLAN ACT	718,030.48	1,491,878.71	2,209,909.19

CITY OF CARTHAGE
CASH & INVESTMENTS BY FUND
AS OF: NOVEMBER 30TH, 2022

FUND-ACCT. NO.	ACCOUNT NAME	CASH	INVESTMENTS	FUND TOTAL
<u>343-LIBRARY OPERATING</u>				
343-10000.000	Claim on Pooled Cash	279,096.76		
343-10000.100		0.00		
343-10002.000	Investment Account		1,322,724.84	
TOTAL 343-LIBRARY OPERATING		279,096.76	1,322,724.84	1,601,821.60
<u>344-LIBRARY BUILDING</u>				
344-10000.000	Claim on Pooled Cash	0.00		
TOTAL 344-LIBRARY BUILDING		0.00	0.00	0.00
<u>345-POWERS MUSEUM</u>				
345-10000.000	Claim on Pooled Cash	0.00		
TOTAL 345-POWERS MUSEUM		0.00	0.00	0.00
<u>346-POWERS CAPITAL</u>				
346-10000.000	Claim on Pooled Cash	0.00		
TOTAL 346-POWERS CAPITAL		0.00	0.00	0.00
TOTAL CASH & INVESTMENTS		12,771,010.72	8,925,074.47	21,696,085.19
		=====	=====	=====

*** END OF REPORT ***

AN ORDINANCE AMENDING THE ANNUAL OPERATING AND CAPITAL BUDGET OF THE CITY OF CARTHAGE FOR FISCAL YEARS 2021 – 2022 AND 2022 - 2023 FOR SPECIFIED FUNDS (GENERAL FUND, FIRE PROTECTION TAX FUND, PARKS/STORMWATER SALES TAX FUND AND CIVIC ENHANCEMENT FUND) FOR CARRY-OVER ITEMS AND EMERGENCY PURCHASES; AND TO BE CONSIDERED AN EMERGENCY ORDINANCE DUE TO UNFORESEEN CIRCUMSTANCES WHICH DELAY WOULD HINDER THE EFFECTIVE DELIVERY OF MUNICIPAL SERVICE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI as follows:

SECTION I: The City of Carthage’s 2022 – 2023 Annual Operating and Capital Budget for the **General Fund**, is hereby amended to reflect supplemental appropriations from the unallocated and unappropriated Fund Balance, for:

- a.) the Police Department**, is hereby amended to reflect a supplemental appropriation of an amount not to exceed \$44,000 to the Capital Outlay line item, as a carry-over from Fiscal Year 2022 for the Parking Lot Fence; and
- b.) the Parks & Recreation Department** is hereby amended to reflect a supplemental appropriation of an amount not to exceed \$42,000 to the Capital Outlay line item, as a carry-over from Fiscal Year 2022 for a 50 Foot Bi-Energy Towable Manlift; and
- c.) the Memorial Hall Department** is hereby amended to reflect a supplemental appropriation of an amount not to exceed \$37,900 to the Capital Outlay line item, as a carry-over from Fiscal Year 2022 for Ceiling in Main Auditorium (\$22,900), Lighting in Main Auditorium (\$15,000), and an amount not to exceed \$6,424 to the Building Maintenance line item for the emergency repair of the elevator; and
- d) the Civil War Museum Department** is hereby amended to reflect a supplemental appropriation of an amount not to exceed \$6,000 to the Capital Outlay line item, as a carry-over from Fiscal Year 2022 for New Video; and
- e) the IT Department** is hereby amended to reflect a supplemental appropriation of an amount not to exceed \$15,782 to the Capital Outlay line item, as a carry-over from Fiscal Year 2022 for Firewall Replacement (\$8,000) and Council Chamber AV Improvement (\$7,782); and
- f) the Fire Department** is hereby amended to reflect a supplemental appropriation of an amount not to exceed \$2,875 to the Building Maintenance line item for the emergency replacement of the electric water heater.

SECTION II: The City of Carthage’s 2022 – 2023 Annual Operating and Capital Budget for the **Fire Protection Sales Tax Fund**, is hereby amended to reflect supplemental appropriations from the unallocated and undesignated fund balance, for:

- An amount not to exceed \$63,300 to the Capital Projects line item for carry-over projects; Inflatable Rescue Boat (\$23,300) , Self-Contained Breathing Apparatus Project (\$20,000), and Personal Protective Equipment (\$18,000).

SECTION III: The City of Carthage's 2022 – 2023 Annual Operating and Capital Budget for the **Parks Storm Water Sales Tax Fund**, is hereby amended to reflect supplemental appropriations from the unallocated and unappropriated Fund Balance, for:

- An amount not to exceed \$41,000 to the Capital Outlay line item, for carry-over of the addendum to the Dick Horton Contract (\$30,000) and the Tree Inventory and Maintenance (\$11,000).

SECTION IV: The City of Carthage's 2022 – 2023 Annual Operating and Capital Budget for the **Civic Enhancement Fund**, is hereby amended to reflect supplemental appropriations from the unallocated and unappropriated fund balance, for:

- A supplemental appropriation of up to \$5,000,000 for Grant Revenues from the McCune Brooks Hospital Trust Fund to the Capital Outlay expense line item for the Parks Master Plan Project.

SECTION V: The City of Carthage's 2021 – 2022 Annual Operating and Capital Budget for the **General Fund**, is hereby amended to reflect supplemental appropriations from the unallocated and unappropriated Fund Balance, for:

- An amount not to exceed \$279,685.05 to the Capital Outlay line item for Lease Purchase payments from Lease Proceeds, pursuant to a year end journal entry.

SECTION IV: This ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF _____, 2022.

Dan Rife, Mayor

ATTEST:

Miranda Deal, City Clerk

COUNCIL BILL NO. 22-49

ORDINANCE NO. _____

An Ordinance authorizing the Mayor to execute a Master Service Agreement, and Statement of Work (SOW) for Apptegy Web Site Services, 2201 Brookwood Drive, Suite 115, Little Rock AR 72202.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI, THE MAYOR CONCURRING HEREIN, AS FOLLOWS:

SECTION I: The Mayor of the City of Carthage is hereby authorized to execute on behalf of the City of Carthage, a Master Service Agreement, and Statement of Work (SOW) for Apptegy Web Site Services, 2201 Brookwood Drive, Suite 115, Little Rock AR 72202, a copy of which is attached hereto and incorporated herein as if set out in full.

SECTION II: This ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED THIS __ DAY OF _____, 2022.

Dan Rife, Mayor

ATTEST:

Miranda Deal, City Clerk

Powering Your Online Identity

Apptegy started in 2014 with the goal of enabling schools to build a strong brand and communicate more effectively with their audiences. In 2015, we worked with our first three beta clients. Today, in 2022 we've partnered with more than 2,500 clients in all 50 states to build their website, custom mobile app, and notification system.

What Makes Us Different

1 Thrillshare's Ease of Use

With our publishing platform, Thrillshare, **you don't need to have any programming knowledge** to update your city's website, app or notification system. Now promoting your success stories across all communication channels can be done right from your smartphone.

“

I have to tell you, this platform is GREAT. Thrillshare simplifies the process of posting things to various school online resources to the point where I can see where we will be sharing so much with parents, especially on the APP.

...

2 The User Experience for Your Community

Wherever your community interacts with you online, **they'll be able to engage with ease**. No more pinching or pulling to view your website on a smartphone or being redirected somewhere else from your app.

All of you at Apptegy have been absolutely wonderful to work with. We have received great feedback on our new website and app, and one of our most recent posts reached more people than we ever have! That would never have happened without Thrillshare!

”

3 Your Experience Working With Us

From the beginning, Apptegy set out to be more than a software provider. We strive to be a true partner and resource for our clients. That commitment and our personal, fast and easy support has earned Apptegy an unheard of **99% client retention rate**.

Scope & Deliverables

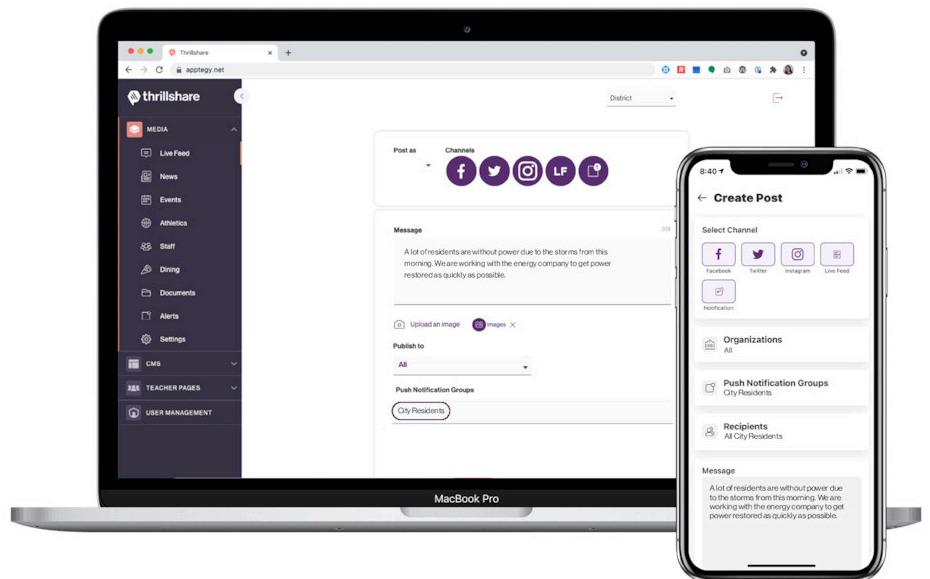
At Apptegy, we've developed the first publishing platform for school districts and municipalities, so your team manages all of your communication channels from a single place. This means you'll share more stories with your community without creating more work for your staff.

By eliminating the technological barrier required to communicate, Thrillshare makes it easy to assign roles and privileges to your team to update what they care most about. With this level of customization and control, you can be confident about consistent messaging being shared with your community.

Publishing Platform

From the beginning, Thrillshare was designed to contain all of your communication channels in one place.

Built specifically for school districts and municipalities, Thrillshare not only manages your website, but also your custom mobile app, all of your social media channels, and notification system. Keeping information up-to-date is **as easy as it gets**, from the staff directory to your calendar and news.



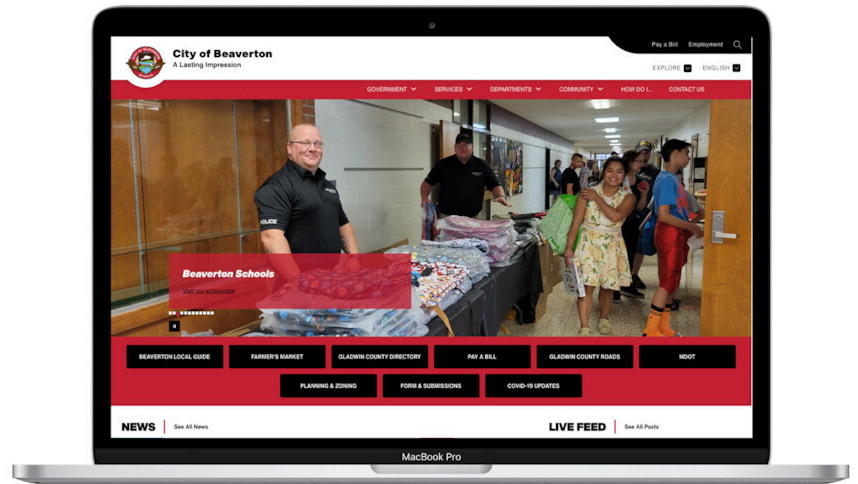
Mobile Apps

We build beautiful mobile apps for **Android and iPhone** that focus on what really matters: the user experience. A user experience that delights community members means they will continue to come back to the app for meaningful information.



Websites

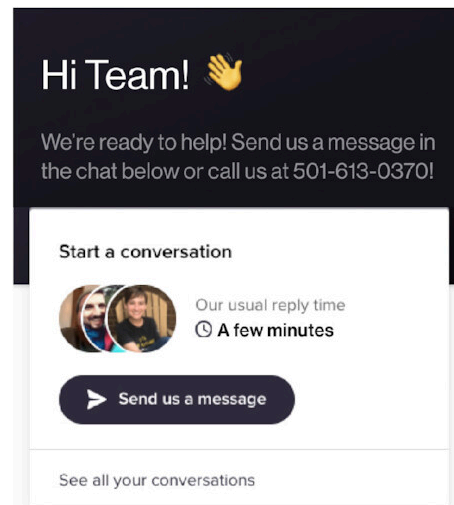
We will work with you to understand how you want your city's brand to come across by creating a new website. This gives you the opportunity to showcase what makes your city unique, while also allowing users to easily access information about your city. We want your website to stay fresh and never grow stale, so we **include a free re-design** with each year of our partnership.



Transition & Support

We handle all of the heavy lifting including design, development, static content migration, training and ongoing support. Your own dedicated contacts at Apptegy during implementation and after launch make it an easy transition for your team.

With **unlimited training and prompt support**, every Thrillshare user will always have someone to assist with any questions that arise.



Response Time

Our average response time is 60 seconds, and most requests for support are closed within 30 minutes. Here are some ways to reach us:

- Live Chat (online)
- Phone
- Email

I. Estimated Transition Timeline

Kick-off

Week 1

We get our partnership started with a meeting to introduce stakeholders on your side and ours. In this meeting, we will cover our detailed roadmap, initial designs, and the overall structure of the planned implementation.

Design

Weeks 2-3

We create a mockup as a first draft and iterate from there. Since we've already established a good understanding of what you're looking for in the kick-off call, this process is typically quite fast.

Development & Content Migration

Weeks 4-6

Once we're done with the development, we migrate your static content for you. After our team has gone through your entire website and app and confirmed that everything is working, we will ask you to approve the content and functionality as well.

Training Sessions

Weeks 7-8

An ideal training schedule will include a setup call with your project lead, in-depth sessions for all of your power users, and introduction sessions for casual users.

Launch Campaign

Weeks 9-10

Flipping the switch is all it takes: we just point your domain to our servers and the change to the new website will be instant.

Of course we don't want the switch to go unnoticed by your community. That's why we design an entire launch campaign around the app and website with you. You'll get a custom marketing playbook, including graphics, videos, and a launch plan.

Support

Ongoing

Now that you are live, we work together to drive adoption of your new website and mobile app. You will be working closely with your Client Success Manager on marketing strategies and our Support Team on any questions your users have after the switch.

II. Order Form

Client Name: City of Carthage, Missouri			
Address: 326 Grant Street, Carthage		Email: mayor.rife@carthagemo.gov	
Missouri 64836		Phone: 417-237-7000	
Description	Price	Qty	Subtotal
Mobile App Development (one-time) One-time app development for iOS and Android apps for the city *Billed one-time	\$9,500	1	\$9,500
App Development Discount (one-time) Discounting app development for agreement signed by 12/31/22	-\$4,750	1	-\$4,750
Thrillshare (annual) Thrillshare Publishing Platform (desktop and mobile) for ~15,500 residents *Billed and payable in full annually *For Clients that elect automatic renewal, pricing subject to 3% annual increases after last year of initial purchased term (see Terms for more info)	\$7,750	1	\$7,750
Website design and hosting Up to 1 re-design per contract year Included in Thrillshare cost	\$0	1	\$0
Support, service, and training Included in Thrillshare cost	\$0	1	\$0
Static content migration Included in Thrillshare cost	\$0	1	\$0

III. Payment Schedule

Payment Schedule: Payable subject to the terms of Agreement	Amount
Total of the above, collectively, the "Services"	\$12,500.00
60 Days from signature	\$ 4,750
July 2023 "Client Start Date"	\$ 7,750
July 2024 (if renewed)	\$ 7,750
	*Subject to 3% increase for renewal

This Order Form and Master Services Agreement (collectively, the "Agreement") is entered into as of the date listed below between Apptegy, Inc. ("Apptegy"), and the client listed above ("Client"). This Agreement includes and incorporates the above Order Form, as well as the attached Master Services Agreement ("MSA"). By signing below, Client acknowledges receipt of this Agreement, including the Order Form and the MSA, and hereby accepts and agrees to be bound by this Agreement.

Client

By:  **SIGNATURE**
Dan Rife

Name: Dan Rife

Title: Mayor

Date:

Date

Apptegy, Inc.

By: 
2022-12-08 16:07:46 (PST)

Name: Ally Cantrell

Title: Sales Representative



Master Services Agreement

The following terms and conditions are a binding part of the Order Form and Master Services Agreement of Apptegy, Inc. (together with its affiliates, agents, and assigns, "**Apptegy**") between Apptegy and the Client that is set out in the Order Form. References to the "**Agreement**" below collectively include the Order Form (including and incorporating the terms and conditions set out in the "**Estimated Transition Timeline**" and the "**Schedule of Pricing**" that is provided with this Agreement) and the following terms and conditions. This Agreement provides the terms and conditions for Client to purchase and use Apptegy's Services (as defined below). Capitalized terms used but not otherwise defined in the following terms and conditions will have the meanings given to them in the Order Form.

1. Integration with Other Documents. This Agreement is the entire agreement between Apptegy and Client with respect to the Services, except as expressly set out below. No separate written or online agreements or terms and conditions will be incorporated in this Agreement or otherwise bind the parties unless expressly set out in this Agreement or in a Client Addendum (as defined below). The Client Addendum will control and govern with respect to all matters expressly set out in the Client Addendum, and this Agreement will control and govern in all circumstances. To be enforceable on the parties, any amendment, modification, or additions to the terms and conditions of this Agreement must be set out in a separate written addendum to this Agreement confirming such amendments, modifications, and/or additions in writing (a "**Client Addendum**").

2. Services; License. During the Term, Apptegy will provide, and Client and the individuals allowed to access the Services by or on behalf of Client ("**User(s)**") may access and use, the products and services set out in the Schedule of Pricing (collectively, "**Services**"). Client hereby grants Apptegy a limited, nonexclusive, revocable, worldwide, fully-paid, royalty-free license to use, copy, and modify Client's information, material, data, photographs, videos, intellectual property (including without limitation all copyrights, trademarks, service marks, and similar rights), and other content (collectively, "**Client Content**") for providing and improving the Services. Client's right to access and use the Services, and Apptegy's license to Client Content, will automatically terminate upon termination or expiration of this Agreement.

3. Fees. Client will pay to Apptegy all fees set out in the Schedule of Pricing. Upon execution of this Agreement, Apptegy will submit an initial invoice to Client for the first year of Services and for all other fees due upon execution. Apptegy will invoice all subsequent-year fees on or about the anniversary of the launch date for Client's Services (the "**Client Launch Date**"). Client agrees to pay all invoices in full within 30 days of the date of the invoice. Client agrees that (i) development and implementation fees are due in full upon execution of this Agreement, (ii) fees for use of the Services are payable in annual portions for each year of the Term as set out in the Schedule of Pricing, (iii) fees for use of the Services are subject to Three Percent (3%) annual increases, starting the first renewal year after the last year of the term initially purchased by Client and continuing each year thereafter, as set out in the Schedule of Pricing, and (iv) discounts for purchases of bundled Services will automatically expire if Client cancels any of the bundled Services and Client will thereafter be invoiced for the full price of the continuing Services. Client acknowledges that fees for Services do not include taxes, duties, and other government charges, including sales, use, consumption, VAT, GST, and other withholding, as applicable, and Client is solely responsible for any such obligations.

4. Term. The term of this Agreement ("**Term**") will start on the date Apptegy receives an executed Agreement from Client and will terminate on the anniversary of the Client Launch Date that is after the number of years initially purchased by Client, as set out in the Schedule of Pricing, plus any renewal periods. This Agreement and its terms will automatically renew for successive, additional periods of one (1) year upon Client's payment of an invoice for such period. Subject only to applicable procurement and appropriations law, Client agrees that it may not terminate this Agreement before the expiration of any then-current Term without cause, unless Client pays Apptegy all fees in full for all term years of the then-current Term, as set out in the Schedule of Pricing, plus payment of any previously discounted amounts for the Services during the Term. All fees paid to Apptegy are non-refundable, subject only to applicable procurement and appropriations law.

5. Performance Terms. In addition to this Agreement, the rights and obligations of the Client and Apptegy with respect to the providing, accessing, and using the Services will also be subject to and governed by the Apptegy Terms of Use ("**Terms of Use**") and Privacy Policy ("**Privacy Policy**"), available at the following links: <https://www.apptegy.com/terms-and-conditions/> and <https://www.apptegy.com/privacy-policy/>. The Terms of Use and Privacy Policy, as each may be amended, are incorporated into this Agreement in their entirety, as applicable to Client. Without limiting the generality of the foregoing, the Terms of Use and Privacy Policy set out and govern the terms and conditions for Services availability, User eligibility and acceptable use, data privacy and security, regulatory notices and information, warranties, disclaimers, and liability limitations, and other related terms. By executing this Agreement, Client agrees that it has reviewed the Terms of Use and Privacy Policy and agrees to be bound by all terms and conditions therein.

6. Carrier Restrictions. Apptegy provides unlimited text, voice, and email messaging to Client subject to restrictions placed on Apptegy by mobile and wireless carriers and network operators (collectively, "**Carriers**"). For example, Carriers have (i) placed limits on the number of characters that may be included in messages sent via the Services and (ii) placed restrictions on the type of messaging content that may be sent through the Services. Carrier restrictions are not within the control of Apptegy and are subject to change without notice. When a Carrier places new or modified restrictions on Apptegy, certain features and functions of the Services may change as a result without notice to you. Client agrees that Apptegy will not be responsible or liable for any change in Services that arise from or in connection with Carrier restrictions.

7. TCPA/CTIA Compliance. Client is exclusively responsible for complying with applicable laws and regulations governing communications sent via the Services by Client and Users under Client's account, including, but not limited to, the Telephone Consumer Protection Act of 1991, as it may be amended ("**TCPA**"), and the requirements and policies of CTIA – The Wireless Association ("**CTIA**"). Client is encouraged to establish and implement methods and procedures to ensure compliance with applicable laws and regulations, including the TCPA and the CTIA, and to inform and train each of its employees, contractors, and representatives who will be creating and sending communications on the methods and procedures. Apptegy may provide Client with materials and information about such laws and regulations, including the TCPA and the CTIA; Client acknowledges that all such materials and information is provided for general education purposes only. No such act by or information from Apptegy (whether individually or taken as a whole) will create or be deemed to create responsibility or liability on the part of Apptegy with respect to Client's compliance with the laws and regulations governing the communications sent via the Services by Client and Users under Client's account, including the TCPA and/or the CTIA.

8. COPPA Notice and Compliance. If Client allows children under the age of thirteen (13) to use the Services, or if Client provides, or allows a User to provide, personal information about children under the age of thirteen (13) under or in connection with the Services, Client is exclusively responsible for complying with the Children's Online Privacy Protection Act, as it may be amended ("**COPPA**"), in connection with use of the Services by Client and Users under Client's account. Client consents to Apptegy's collection, use, and storage of personal information via the Services about or from children in accordance with this Agreement. Client is encouraged to establish and implement methods and procedures to ensure compliance with COPPA, and to inform and train each of its employees, contractors, and representatives who will be creating and sending communications on the methods and procedures. Apptegy may provide Client with materials and information about complying with COPPA; Client acknowledges that all such materials and information is provided for general education purposes only. No such act by or information from Apptegy (whether individually or taken as a whole) will create or be deemed to create responsibility or liability on the part of Apptegy with respect to Client's compliance with COPPA.

Apptegy's Terms of Use and Privacy Policy, accessible as set out above, confirm that Apptegy may collect information about child users as a necessary part of providing the Services to Client (for example: contact information for communications sent via Media and Rooms, posts made on chat or messaging tools in Rooms, information included in assignments and other class content submitted in Rooms, as applicable). Except as required by applicable privacy laws, some or all of this information may not be private as to the individual child, parent, or guardian. For example, information shared by a User via the chat feature of Rooms will be visible to Client, as the party paying for and/or otherwise providing access to the Services to child users or others. In some circumstances, information provided by or about a child may be available or visible to other individual Users. For example, information about a child that is posted in the group messaging tool in the Child's Room may be visible to one or more other individual Users that are also authorized users for the same Room. Client warrants that Client has obtained and will maintain the required parent or guardian consent for Apptegy's collection, use, and disclosure of information for any children under the age of thirteen (13) with access to the Services. Client is exclusively responsible for obtaining all such consents. Apptegy will collect, use, and disclose such information in accordance with COPPA and the Privacy Policy.

9. Third Party Functions. Apptegy relies on third-party providers and partners for parts of the Services (for example: posting a message or communication on Facebook or Twitter account; hosting Client websites). APPTEGY IS NOT RESPONSIBLE FOR ANY CONSEQUENCE, LOSS, OR DAMAGE (DIRECT OR INDIRECT) ARISING FROM OR RELATING TO THE PARTS OF THE SERVICES MANAGED OR MADE AVAILABLE BY OR VIA THIRD-PARTY PROVIDERS AND PARTNERS. Please see the Terms of Use and Privacy Policy for more information.

10. Disclaimers; Limited Liability. Apptegy provides the Services subject to certain disclaimers and limitations of liability. Please see the Terms of Use and Privacy Policy for more information.

11. Intellectual Property. Nothing in this Agreement or the performance of this Agreement will convey, license, or otherwise transfer any right, title, or interest in any intellectual property or other proprietary rights held by either party, except as expressly set out in the Agreement. Apptegy retains all right, title, and interest in all intellectual property rights, including patent, trademark, trade secret, and copyright (whether registered or unregistered), in and to the Services and the underlying software and technologies, all related technical documentation, and all derivative works, improvements, and modifications to any of the foregoing. Client agrees the foregoing is necessary to Apptegy providing the Services.

12. Compliance with Laws. The parties agree to comply with all laws applicable to the use of the Services and performance of this Agreement.

13. Miscellaneous. The Order Form and Master Services Agreement, together with (i) the Terms of Use and Privacy Policy, and (ii) the Client Addendum, if applicable, is the entire agreement between the parties with respect to the subject matter, and supersedes all prior agreements and understandings, whether written or oral. If any conflict or ambiguity exists with respect to any term or condition of any of the foregoing, the following priority will govern and control: (1) if applicable, the Client Addendum for all matters expressly addressed in the Client Addendum; then (2) this Order Form and Master Services Agreement for all other matters; then (3) the Terms of Use and Privacy Policy. Apptegy is not subject to any obligations that are not expressly identified in this Agreement, a Client Addendum, or the Terms of Use and Privacy Policy.

This Agreement is governed by the laws of the state in which Client is located, without regard to conflict of law principles. The parties irrevocably submit to the exclusive jurisdiction and venue of the federal courts having jurisdiction where Client is located for any dispute that relates to the Services or this Agreement. Except as set out in this Agreement, this Agreement may not be amended or modified without the prior written consent of both parties. Neither party may assign this Agreement without the prior written consent of the other party, except in connection with a merger, acquisition, or sale of all or substantially all of a party's assets or voting securities. If any provision(s) of this Agreement is held invalid or unenforceable, such invalidity or unenforceability will not invalidate or render the Agreement unenforceable, but rather the Agreement will be construed as if not containing the unenforceable provision(s), and the rights and obligations of the parties will be construed and enforced to honor the parties' original intent to the maximum extent permitted under applicable law. This Agreement will inure to the benefit of the successors and assigns of the parties. The Agreement may be executed in multiple counterparts and executed by original, facsimile, or electronic signature (including PDF, Proposify, HelloSign, and similar methods), each of which when delivered will be deemed an original, and all of which together will constitute one agreement.



COUNCIL BILL NO. 22-50

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CARTHAGE ECONOMIC DEVELOPMENT CORPORATION AND THE CARTHAGE WATER AND ELECTRIC PLANT TO AGREE UPON GENERAL TERMS AND COMMIT TO THE FINANCIAL TERMS OF THE AGREEMENT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER

COUNTY, MISSOURI as follows:

SECTION I: The Mayor of the City of Carthage is hereby authorized to execute on behalf of the City of Carthage a Memorandum of Understanding between the City of Carthage, the Carthage Economic Development Corporation, and the Carthage Water and Electric Plant to agree upon the general and financial terms of the MOU.

SECTION II: That all ordinances or parts of ordinances therefore enacted, which are in conflict herewith, are hereby repealed.

SECTION III: This ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF _____, 2022.

Dan Rife, Mayor

ATTEST:

Miranda Deal, City Clerk

Sponsored by: Budget Ways and Means

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU" or "Memorandum"), is entered into on _____, 2023 (the "Effective Date"), by and between:

The City of Carthage located at 326 Grant St, Carthage, Missouri 64836.

The Carthage Economic Development Corporation located at 627 W. Centennial, Carthage, Missouri 64836.

The Carthage Water and Electric Plant located at 627 W. Centennial, Carthage, Missouri 64836.

1. **MISSION**

This partnership on which the Parties are intending to collaborate, has the following intended mission in mind:

To position Carthage as an inclusive and welcoming community of choice that attracts and supports a diverse workforce and economy.

2. **PURPOSE AND SCOPE**

The Parties intend for this Memorandum to provide the cornerstone and structure for any and all future agreements being considered by the Parties and which may be related to an economic development partnership.

3. **OBJECTIVES**

The Carthage Economic Development Corporation and their economic development director will be the lead agency for economic development in Carthage, Missouri. The parties intend to work together to retain, expand, and attract businesses that contribute to the overall economic growth, diversification, and resiliency of the region. Funding for the economic director position will be created through a partnership between the City of Carthage and the Carthage Water and Electric Plant. The objectives of the Board of Directors of the Carthage Economic Development Corporation and their economic development director will be to implement the goals and priorities described in the strategic plan proposed and adopted by the Ady Advantage Consulting group. These objectives are summarized below:

- Alignment/Regionalism
- Readiness
- Marketing/Differentiation

4. **EVALUATION**

The board of the Carthage Economic Development Corporation will evaluate this program and the Economic Development Director, at least quarterly. This evaluation will be shared

with management representatives of the City of Carthage and of the Carthage Water and Electric plant. This program evaluation will be based upon the milestones set forth in the adopted City consulting strategic plan that includes the three core pillars listed above, but further details eight focus areas, 22 strategies, and 81 unique tactics.

RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES

Any Party may decide not to proceed with the partnership contemplated herein for any reason or no reason. 45 days notice, provided in writing, should be sent to all Parties if any Party decides to disengage from the terms of this MOU.

The City of Carthage will provide full support and guidance to the economic development director and this economic development program. The City of Carthage will contribute \$20,000 in Fiscal Year 23, \$70,000 in Fiscal Year 24, and \$70,000 in Fiscal Year 25, to the Carthage Economic Development Corporation to be designated for this program. This payment will consist of one lump sum provided to the Carthage Economic Development Corporation before August 31st of each year.

The Carthage Water and Electric Plant will provide full support and guidance to the economic development director and this economic development program. The Carthage Water and Electric Plant will contribute \$70,000 to the Carthage Economic Development Corporation to be designated for this program. Additionally, the Carthage Water and Electric Plant will provide payroll services, employee benefits, office space and office support for the economic development director as agreed between the Carthage Water and Electric Plant and the Carthage Economic Development Corporation. See the attached employment contract.

Carthage Economic Development Corporation shall regularly update officials from the City of Carthage and the Carthage Water and Electric Plant by appearing at City Council Meetings/Board of Director Meetings at least quarterly to describe the progress of the program and list strategic plan milestones met.

5. TERMS OF UNDERSTANDING

The term of this Memorandum shall be for a period of 3 years from the effective date and may be extended upon the written mutual agreement of both Parties.

6. LEGAL COMPLIANCE

The Parties acknowledge and understand that they must be able to fulfill their responsibilities under this Memorandum in accordance with the provisions of the law and regulations that govern their activities. Nothing in the Memorandum is intended to negate or otherwise render ineffective any such provisions or operating procedures. The Parties assume full responsibility for their performance under the terms of this Memorandum.

If at any time either Party is unable to perform their duties or responsibilities under this memorandum the affected Party shall immediately provide written notice to the other Parties to establish a date for resolution of the matter.

7. **NOTICE**

Any notice or communication required or permitted under this Memorandum shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such address as one may have furnished to the other in writing.

8. **AUTHORIZATION AND EXECUTION**

The signing of this Memorandum does not constitute a formal undertaking, and as such, it simply intends that the signatories shall strive to reach, to the best of their abilities, the goals and objectives stated in this MOU.

This Agreement shall be signed by City of Carthage, The Carthage Economic Development Corporation, and Carthage Water and Electric, and shall be effective for three years as of the date first written above.

(First Party Signature)
City of Carthage
326 Grant St
Carthage, Missouri
64836

(Date)

(Second Party Signature)
Carthage Economic Development Corporation
627 W Centennial Ave
Carthage, Missouri
64836

(Date)

(Third Party Signature)
Carthage Water and Electric Plant
627 W Centennial Ave
Carthage, Missouri
64836

(Date)

Conditional Offer of Employment

Applicant: Jeff Meredith
Position: CEDC Economic Development Director

Dear Jeff,

It is with great pleasure that Carthage Economic Development Corporation (CEDC) offers you the position of Carthage Economic Development Corporation Economic Development Director.

This position includes the following salary/benefits:

- Full-time, exempt position that is not eligible for overtime
- Any and all future modifications in salary, including but not limited to cost-of-living adjustments, to be made under the sole discretion of the CEDC Board and independent of other CEDC positions.
- Benefits will coincide with the benefit package available to all CWEP employees (including but not limited to health insurance, pension, vacation, paid holidays, etc.)
- CEDC will provide employee with a cell phone
- CEDC will reimburse employee for any relocation expenses, up to \$3,000 in total
- CEDC will provide the following through arrangement with CWEP:
 - Office space
 - Office furnishings
 - Laptop or desktop computer
 - Internet access
 - Use of office equipment, such as printers, scanners, etc.

Additional conditions of employment:

- Applicant is subject to CWEP hiring practices, which includes a background check and worker's compensation claim history inquiry.
- Employee will report directly to the CEDC Board.
- Employee will pay for necessary expenses out of employee's own funds and will submit expense reports with itemized receipts to the CEDC for reimbursement. CEDC will reimburse employee at least monthly, subject to approval of the CEDC President and CEDC Treasurer.
- Employee is required to report to City Council and CWEP Board in a manner and timing to be determined by CEDC Board.
- The Ady Strategic Plan will be the basis of employee's work program and evaluation.
- Employee will coordinate activities with the CEDC President.

This offer of employment is contingent upon the Applicant's acknowledgement and successful completion of the foregoing job conditions and may be revoked by CEDC at any time before the hiring process is complete. If hired, Applicant's employment with CEDC is considered at will, meaning either CEDC or the employee may terminate the employment relationship at any time with or without notice or cause.

By signing below, I acknowledge that I have read, understand, and agree to the above criteria pertaining to the job offer I am receiving from CEDC. I understand that any misrepresentation in the hiring process may result in not being hired or being terminated post-hire. I declare that the information I have provided during the hiring process is true and accurate and I accept the conditional job offer as presented.

Applicant Signature

Date

COUNCIL BILL NO. 22-51

ORDINANCE NO. _____

An Ordinance to amend Section 200 – General Employment Policies of the Personnel Policy Manual of the City of Carthage by amending subsection 207 – Resignation and Retirement.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI as follows:

SECTION I: Section **200 – General Employment Policies** of the Personnel Policy Manual is hereby amended by amending subsection **207 – Resignation and Retirement**.

207. Resignation and Retirement:

01. Notice of Resignation: In order to terminate employment in good standing, regular full-time employees are required to give at least two (2) weeks notice, and part-time employees, at least one (1) week notice prior to the effective date of resignation. Department Heads and/or Exempt Employees are required to give at least thirty (30) days notice prior to the effective date of resignation.

02. Advanced Notice of Resignation: It is the responsibility of an employee who plans to resign from employment with the City to notify their immediate supervisor in advance as follows:

1. A written resignation will be submitted to the supervisor at least two weeks before the effective date for regular full-time employees, one (1) week for part-time employees, and thirty (30) days for exempt employees/departments heads. Accrued vacation does not count as notice. Leave, paid or unpaid, may not be taken during the employee's resignation notice period unless pre-authorized by the employee's Department Head or the City Administrator.

2. Failure to give adequate notice will be recorded in the resigning employee's personnel file and may be cause for denying re-employment with the City and forfeiture of any vacation paid upon separation pursuant to Section 502.08.

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

PASSED AND APPROVED THIS _____ DAY OF _____, 2021.

Dan Rife, Mayor

ATTEST:

Miranda Deal, City Clerk

Sponsored by: Insurance, Audit and Claims

An Ordinance to amend Section 503 – Holidays Authorized of the Personnel Policy Manual of the City of Carthage by amending Subsection 09 and adding Subsection 10.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI as follows:

SECTION I: Section **503 – Holidays Authorized** of the Personnel Policy Manual is hereby amended by amending Subsection 09 and adding Subsection 10.

- 503. Holidays Authorized:** All full-time employees are authorized the following paid holidays each year: New Year's Day - January 1
Martin Luther King Jr. Day – Third Monday in
January President's Day - Third Monday in
February
Memorial Day - Last Monday
in May Juneteenth – June 19
Independence Day - July 4
Labor Day - First Monday in
September Veteran's Day -
November 11
Thanksgiving Day - Fourth Thursday in
November Thanksgiving Friday
Christmas
Eve -
December
24 Christmas
Day -
December
25 Personal
Leave Day

In the event a holiday falls on a Saturday, the preceding Friday shall be observed. In the event that a holiday falls on a Sunday, the following Monday shall be observed. In the event Christmas Eve falls on a Sunday the preceding Friday shall be observed as the holiday.

In the event Christmas Day falls on a Saturday then the preceding Thursday and Friday shall be observed as the Christmas Eve and Christmas Day holidays.

- 01. Holiday Pay:** "Holiday Pay" is defined as a benefit to all employees which provides compensation for time not worked on a holiday or additional compensation for required time worked on the holiday.
- 02. Part-Time employees, who are not required to work on a holiday** which falls on a day which they normally would have worked, shall be paid for the hours which they normally would have worked but no additional compensation (i.e., if they normally work four (4) hours on the day of a holiday, they shall be paid for the four (4) hours which they are not working). If the holiday falls on a day which

they normally would not have worked, the employee shall receive no compensation for that day.

03. **Part-Time employees, who are required to work on a holiday**, shall be given an extra ½ hour of pay for each hour worked, in addition to their normal hourly pay, but no additional compensation. Example: A Part-Time employee who works eight (8) hours on a holiday will be paid for 12 hours total.
04. **Full-Time Employees Not Required to Work on a Holiday** (civilian only): All full-time employees, who are not required to work on a holiday, shall be paid straight time for the hours they normally would have worked but no additional compensation. Since the employee is not required to work on the holiday, the hours spent off the job shall not be considered as "working time" as defined by the Fair Labor Standards Act.
05. **Full-Time Employees Required to Work on a Holiday** (Civilian only): All full-time employees, who are required to work on a holiday, will be paid for the hours which they normally would have worked, as a holiday benefit, plus they shall be paid time and one half for the hours they actually work on the holiday.
06. **Police Officers and Firefighters Not Required to Work on a Holiday:** Classified Police Officers and Firefighters, who are not scheduled to work on a holiday, will receive their "Base Pay" plus, as a holiday benefit, shall receive eight hours credit for each holiday listed.
07. **Police Officers and Firefighters Required to Work on a Holiday (previously scheduled)** Classified Police Officers and Firefighters, who are required to work on a holiday as a part of their normal work schedule, shall be paid their "Base Pay" plus, as a holiday benefit, they shall be paid an amount equal to straight time for the number of hours they work (i.e., A Police Officer who works a 12-hour shift will receive 12 hours as a holiday bonus. Firefighters who work a 24-hour shift will receive a 24-hour holiday bonus).
08. **Police Officers and Firefighters Required to Work on a Holiday (not previously scheduled):** Police Officers and Firefighters who are required to work on a holiday, and such work is not a part of their normal work schedule, shall be given credit for the holiday, as listed in Paragraph "07". In addition, the employee will be paid according to the City's Overtime Policy for the time worked. This requirement to work a holiday, which is not normally scheduled, should be reserved for emergency situations.
09. **Exempt Positions:** Employees who are in an exempt position as classified by the Fair Labor Standards Act will be paid their full workweek salary if they work any hours during the workweek in which the holiday falls. Exempt employees are not entitled to any additional holiday benefit pay, regardless of whether the employee is required or not required to work on the holiday.
10. **Non-Payment:** An employee who is separated or commences an authorized or unauthorized leave without pay on the last scheduled workday preceding or following a holiday, will not receive holiday pay.

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

PASSED AND APPROVED THIS _____ DAY OF _____, 2022.

Dan Rife, Mayor

ATTEST:

Miranda Deal, City Clerk

Sponsored by: Insurance, Audit and Claims

COUNCIL BILL NO. 22-53

ORDINANCE NO. _____

An Ordinance rezoning certain property at 828 and 830 West Fairview in the City of Carthage from District A, to District F, Light Industrial, as requested by Philip K and Sharon R Brown, in the City of Carthage, Missouri.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI as follows:

SECTION I: The following described property is hereby rezoned from District A, to District F, Light Industrial to wit:

TRACT I: ALL OF LOTS NUMBERED THIRTEEN (13) AND FOURTEEN (14) IN SOUTH SIDE ADDITION LOCATED ON PART OF THE NORTHWEST QUARTER OF SECTION 16 TOWNSHIP 28 RANGE 31, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

Commonly Known as 828 Fairview:

SECTION II: The following described property is hereby rezoned from District A, to District F, Light Industrial to wit:

TRACT II: ALL OF LOT NUMBERED FIFTEEN (15) IN SOUTH SIDE ADDITION LOCATED IN THE NORTHWEST QUARTER OF SECTION 16 TOWNSHIP 28 RANGE 31, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

Commonly Known as 830 Fairview:

SECTION III: This ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF _____, 2022.

Dan Rife, Mayor

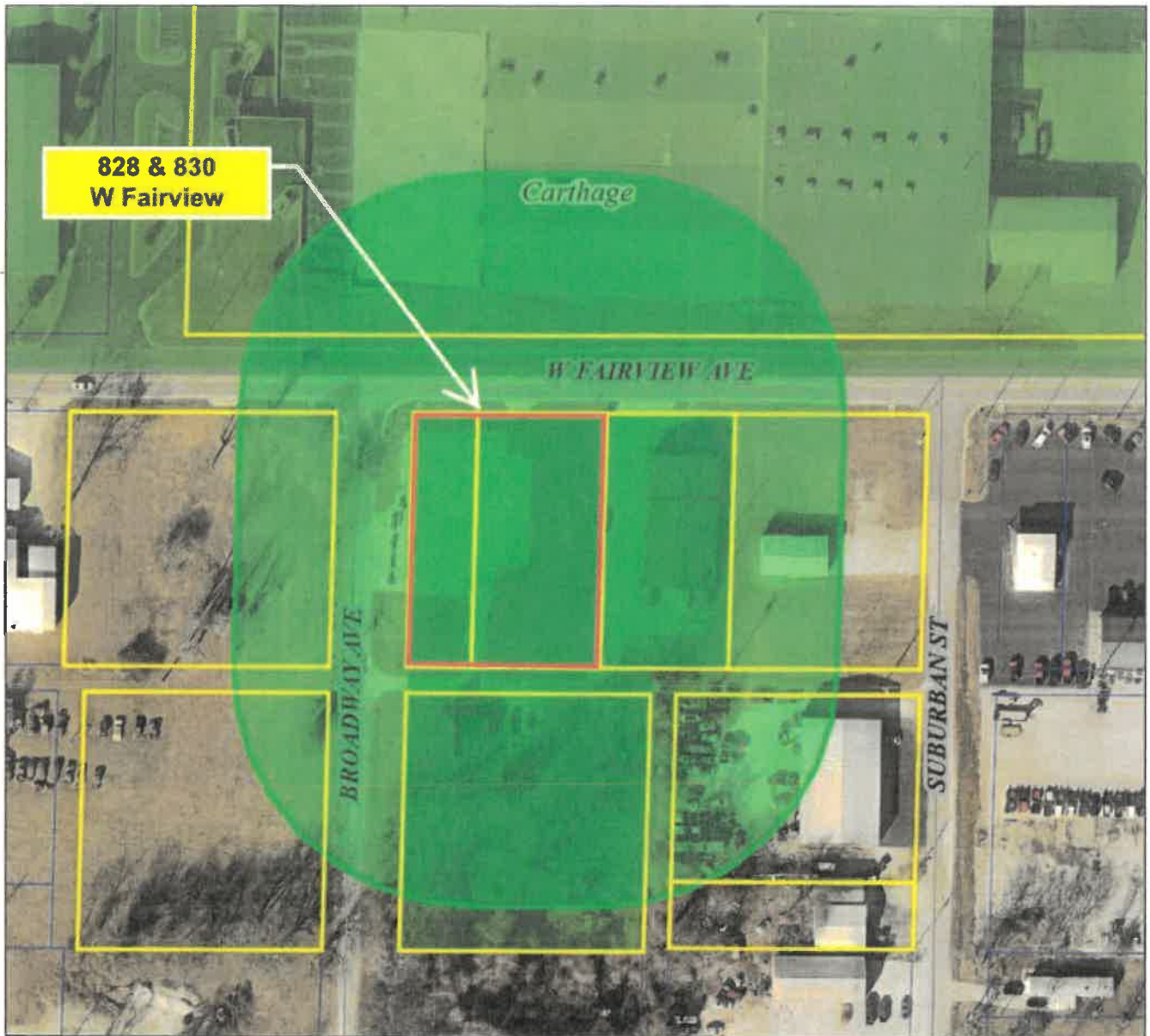
ATTEST:

Miranda Deal, City Clerk

22-53 Sponsored by: Planning, Zoning and Historic Preservation Commission

185' Property Ownership Map

828 & 830 W Fairview

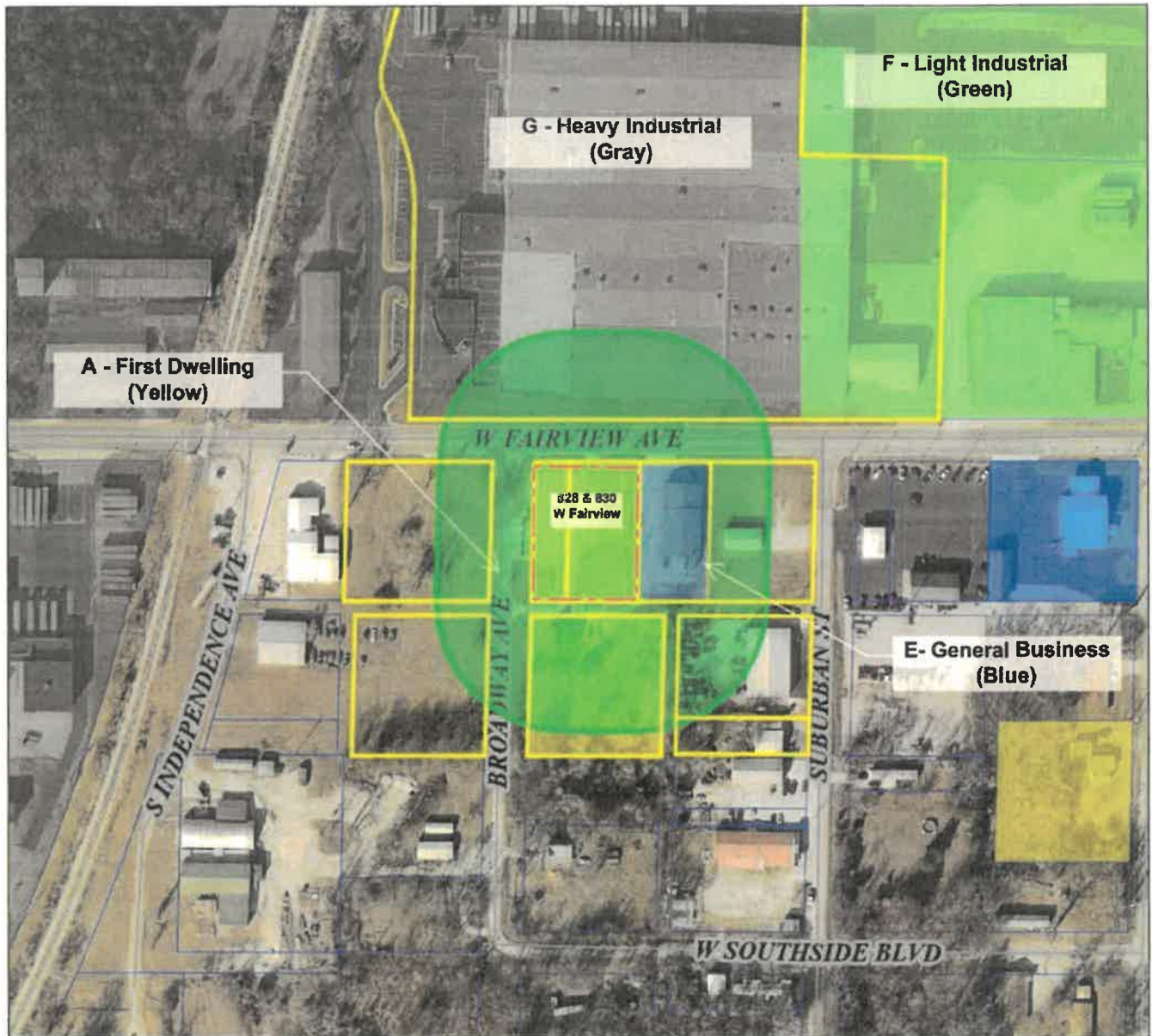


Any split parcels recorded after the middle of May will not display until the next tax year.

Date created: 11/20/2022
Last Data Uploaded: 11/18/2022 1:57:35 AM

Developed by  Schneider
GEOSPATIAL

Current Zoning Map



COUNCIL BILL NO. 22-54

ORDINANCE NO. _____

An Ordinance of the City of Carthage, Missouri authorizing the Mayor to execute an Agreement between the City of Carthage, Missouri and the Missouri Highway and Transportation Commission to provide funding for ADA compliant sidewalks and crossings on HH Highway from Steadley Elementary to Creekside Subdivision, in the City of Carthage, Missouri.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI as follows:

SECTION I: The agreement with Missouri Highway and Transportation Commission for the Alternatives Funds Program Agreement (TAP-1601(705)) for ADA compliant sidewalks, curbs, ramps, entrances and crosswalks along Rte. HH/Fir Road, from Steadley Elementary east to Chapel Road, and then south to the crosswalk located south of Creekside Subdivision, and the Missouri Highway and Transportation Commission Sidewalk Improvements Agreement, attached hereto as Exhibit A and incorporated herein by reference is approved as a contractual obligation of the city of Carthage, Missouri.

SECTION II: The Mayor is hereby authorized and directed to execute said agreement, in Exhibit A, on behalf of the City of Carthage, Missouri, and to affix the municipal seal hereto and to attest the same.

SECTION III: This ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF _____, 2022.

Dan Rife, Mayor

ATTEST:

Miranda Deal, City Clerk

CB 22-54 Sponsored by: Public Works Committee

CCO Form: DE65
Approved: 12/07 (BDG)
Revised: 12/21 (BDG)
Modified:

TAP – 1601(705)

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
SIDEWALK IMPROVEMENTS AGREEMENT**

THIS AGREEMENT is made and entered into by and between the Missouri Highways and Transportation Commission (hereinafter, "Commission"), whose address is P.O. Box 270, 105 W. Capitol, Jefferson City, Missouri 65102, and the City of Carthage, Missouri (hereinafter, "City"), whose address is 326 Grant, Carthage, MO 64836.

WITNESSETH:

WHEREAS, the Commission owns and operates, as part of the State Highway System, Route HH located within the City limits in Jasper County; and

WHEREAS, the City is desirous of performing certain tasks related to the installation and maintenance of sidewalk improvements within the City limits.

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

(1) PROPOSAL: The City proposes and the Commission will allow the installation, including maintenance, of sidewalk improvements on Commission right-of-way as provided in this Agreement.

(2) LOCATION: The general location of the sidewalk improvements to be installed and maintained pursuant to this Agreement is along the south side of Route HH, from the East entrance to Steadley Elementary School to Chapel Road and then South to the crosswalk located south of Creekside Subdivision, City of Carthage, Jasper County, Missouri, as shown on the attachment marked as Exhibit A, which is incorporated herein by reference.

(3) COSTS: All costs associated with the construction of the proposed sidewalk improvements, including, but not limited to, signing, traffic signals, and traffic control during construction, will be borne entirely by the City, with no cost incurred by the Commission.

(4) PLANS: The City shall have detailed plans prepared at no cost to the Commission, which are to be submitted to the Commission's District Engineer for the Commission's review and approval. The Commission's District Engineer, in his/her sole discretion, may require modifications to the plans prior to approving the plans.

(5) TRAFFIC CONTROL DEVICES: All pavement marking, signs, and traffic signals installed with the proposed improvements shall be in accordance with the latest revision of the *Manual on Uniform Traffic Control Devices for Streets and Highways*.

(6) RELOCATION: The City shall secure the removal, relocation or adjustment of any public or private utilities located on private easements or public right-of way, if the construction of the herein contemplated improvements so required, without cost to the Commission.

(7) INSPECTION: The City will allow inspection of the construction and maintenance activities of the herein contemplated improvements by the Commission's District Engineer, or his authorized representative, at any time and shall take no attempts to prevent said inspection. Within thirty (30) days following notice by the City to the Commission that construction is complete, the Commission will inspect the work to determine that it is acceptable. The sidewalk improvements will not be placed in operation until the Commission authorizes.

(8) INDEMNIFICATION:

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

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

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

(2) To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the Missouri Department of Transportation and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$500,000 per claimant and \$3,500,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

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

protections as provided by federal and state constitution or law.

(9) OWNERSHIP AND MAINTENANCE: All improvements made pursuant to this Agreement within the state-owned right-of-way shall become the Commission's property. The City, at its sole cost and expense, is responsible for maintaining all sidewalks constructed or installed pursuant to this Agreement in fully operational, safe and aesthetically acceptable condition. All future alterations, modifications, or maintenance of the sidewalk improvements will be the responsibility of the City. Maintenance by the City will include, but is not limited to, crack repair, patching holes, removing litter, debris, trash, and leaves, and removal of snow and ice (through methods approved by the Commission). All sidewalks constructed pursuant to this Agreement shall be maintained in a condition safe for use of the sidewalks by the general public at all times. If the City fails to maintain the sidewalks in a safe condition, the Commission may cancel this Agreement and remove the sidewalks from Commission right of way or the Commission may maintain the sidewalks at the City's cost and expense.

(10) PERMITS: Before beginning work, the City shall secure from the Commission's District Engineer a permit for the proposed improvement. The City shall comply with any additional conditions placed on the permit by the Commission.

(11) BOND: The City shall secure sufficient bond, as determined by the Commission's District Engineer or his authorized representative, for the construction of the proposed improvement on Commission right-of-way.

(12) CONSTRUCTION OF IMPROVEMENTS: All construction of the proposed improvements shall be according to the latest editions of the Missouri Highways and Transportation Commission's *Standard Specifications for Highway Construction*, Standard Plans for Highway Construction, and the Missouri Department of Transportation's *Approved Products List for Traffic Signals and Highway Lighting*.

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

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

(15) AUDIT OF RECORDS: The City must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its designees or representatives during the period of this Agreement and any extension thereof, and for three (3) years from the date of final payment made under this Agreement.

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

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

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

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

(20) SECTION HEADINGS: All section headings contained in this Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

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

(22) NO INTEREST: By constructing and maintaining the sidewalk improvements on Commission right of way, the City gains no interest in Commission right-of-way whatsoever. The Commission shall not be obligated to keep the constructed improvements in place if the Commission, in its sole discretion, determines removal or modification of the improvements is in the best interests of the state highway system. In the event the Commission decides to remove the improvements, the City shall not be entitled to a refund of the funds expended by the City pursuant to this Agreement.

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

(24) VOLUNTARY NATURE OF AGREEMENT: Each party to this Agreement warrants and certifies that it enters into this transaction and executes this Agreement freely and voluntarily and without being in a state of duress or under threats or coercion.

(25) ENTIRE AGREEMENT: This Agreement represents the entire understanding between the parties regarding this subject and supersedes all prior written or oral communications between the parties regarding this subject.

(26) DURATION: Unless otherwise terminated pursuant to (9) or (16), above, or through mutual agreement of the parties, this Agreement shall be in effect for a continuing duration upon execution of this Agreement.

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

Executed by the City on _____(DATE).

Executed by the Commission on _____(DATE).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF CARTHAGE

By_____

By_____

Title_____

Title_____

ATTEST:

ATTEST:

Secretary to the Commission

By_____

Title_____

Approved as to Form:

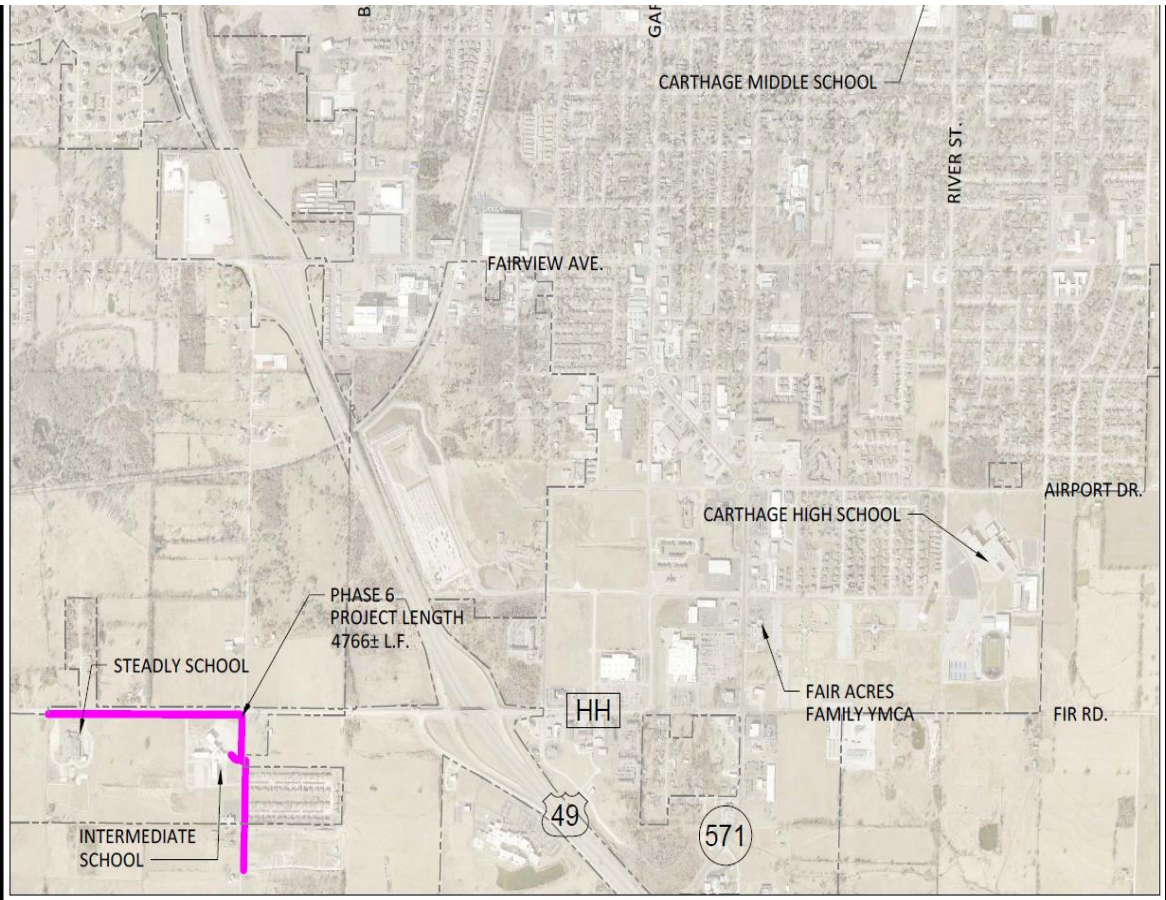
Approved as to Form:

Commission Counsel

Title_____

Ordinance Number:_____

Exhibit A



CCO Form: FS25
Approved: 04/95 (MGB)
Revised: 03/17 (MWH)
Modified: 10/22 (MWH)

CFDA Number: 20.205
CFDA Title: Highway Planning and Construction
Award name/number: TAP – 1601(705)
Award Year: 2023
Federal Agency: Federal Highway Administration, Department of Transportation

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

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

WITNESSETH:

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

(1) PURPOSE: The United States Congress has authorized, in Infrastructure Investment and Jobs Act (IIJA), 23 U.S.C. §101, §106, §133, and §208, funds to be used for transportation enhancements activities. The purpose of this Agreement is to grant the use of such transportation enhancement funds to the City.

(2) .

(2) LOCATION: The transportation alternatives funds which are the subject of this Agreement are for the project at the following location: New ADA compliant sidewalks, curbs, ramps, entrances and crosswalks along Rte. HH/Fir Road, from Steadley Elementary east to Chapel Rd. and then south to the crosswalk located south of Creekside Subdivision.

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

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the

project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City. The City may not be eligible for future Transportation Alternatives Funds if the City does not meet the reasonable progress policy.

(4) INDEMNIFICATION:

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

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

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

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

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

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

(6) COMMISSION REPRESENTATIVE: The Commission's Southwest District

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

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

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

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

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

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

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

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

1. Withholding of payments under this Agreement until the City complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (7) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

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

(12) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and

the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

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

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

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

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

(A) Any federal funds for project activities shall only be available for

reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. The federal share for this project will be 64 percent not to exceed \$330,707.20. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

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

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

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

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

(21) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES: A person may offer to donate funds, materials or services in connection with this project. Any donated funds, or the fair market value of any donated materials or services that are accepted and incorporated into this project shall be credited according to 23 U.S.C. §323.

(22) DISADVANTAGED BUSINESS ENTERPRISES (DBE): The Commission will advise the City of any required goals for participation by disadvantaged business enterprises (DBEs) to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

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

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

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

(26) AUDIT REQUIREMENT : If the City expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the City expend(s) less than seven hundred fifty thousand dollars (\$750,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

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

Remainder of Page Intentionally Left Blank

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

Executed by the City on _____(DATE)

Executed by the Commission on _____(DATE)

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF CARTHAGE

By _____

Title _____

Title _____

ATTEST:

ATTEST:

Secretary to the Commission

By _____

Title _____

Approved as to Form:

Approved as to Form:

Commission Counsel

Title _____

Ordinance No _____

Exhibit A - Location of Project

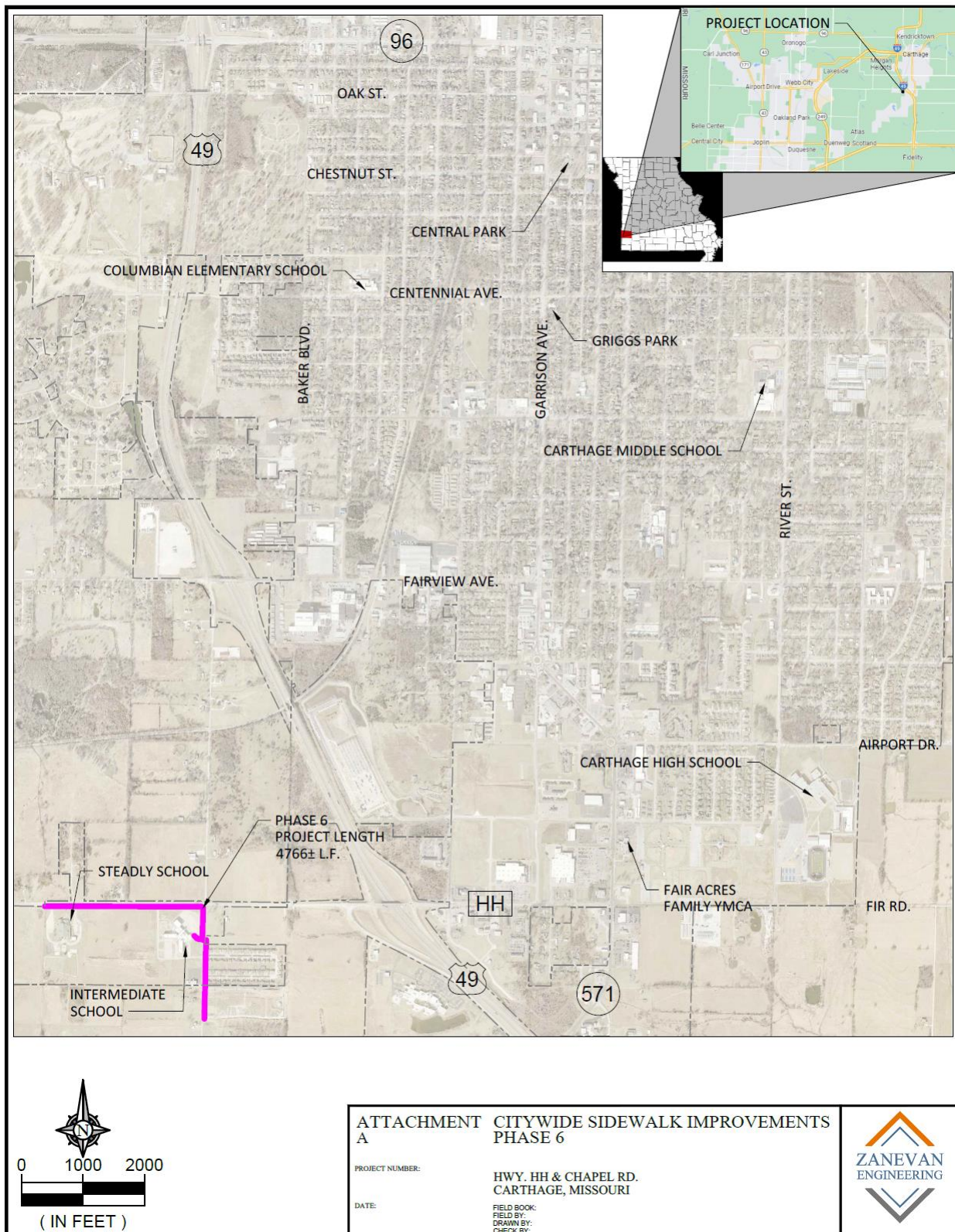


Exhibit B – Project Schedule

Project Description: Project: TAP – 1601(705), ADA compliant sidewalks, crosswalks and entrances along Rte. HH/Fir Rd. and continuing south along Chapel Rd

Task	Date
Date funding is made available or allocated to recipient	10/2022
Solicitation for Professional Engineering Services (advertised)	12/2022
Engineering Services Contract Approved	02/2023
Conceptual Study (if applicable)	
Preliminary and Right-of-Way Plans Submittal (if Applicable)	08/2023
Plans, Specifications & Estimate (PS&E) Submittal	03/2024
Plans, Specifications & Estimate (PS&E) Approval	06/2024
Advertisement for Letting	07/2024
Bid Opening	08/2024
Construction Contract Award or Planning Study completed (REQUIRED)	09/2024

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

**Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and a Supplemental Agreement is required to modify this date.

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

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

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

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

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

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

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

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

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

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

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

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

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

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

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

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

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

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

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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

1. Minimum wages (29 CFR 5.5)

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

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

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

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

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

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

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

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

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

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

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

2. Withholding (29 CFR 5.5)

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records (29 CFR 5.5)

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

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

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or

subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

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

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

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

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

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

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

4. Apprentices and trainees (29 CFR 5.5)

a. Apprentices (programs of the USDOL).

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

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

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

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

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

b. Trainees (programs of the USDOL).

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

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

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

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility (29 CFR 5.5)

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

3. Withholding for unpaid wages and liquidated damages.

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

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

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance

with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

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

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

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

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant

who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

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

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

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

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

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

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**
This provision is applicable to all Federal-aid projects funded
under the Appalachian Regional Development Act of 1965.

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

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

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

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

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

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

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

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

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

COUNCIL BILL NO. 22-55

ORDINANCE NO. _____

An Ordinance of the City of Carthage, Missouri authorizing the Mayor to execute an Agreement between the City of Carthage, Missouri and the Missouri Highway and Transportation Commission providing replacement of Bridge on McGregor Street over Missouri/Northern Arkansas Railroad.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI as follows:

SECTION I: The agreement with Missouri Highway and Transportation Commission providing for an Off-System Bridge Program Agreement (BRO-R117(01)) for the replacement of Bridge #0720005 on McGregor Street over Missouri/Northern Arkansas Railroad, attached hereto as Exhibit A and incorporated herein by reference is approved as a contractual obligation of the city of Carthage, Missouri.

SECTION II: The Mayor is hereby authorized and directed to execute said agreement, in Exhibit A, on behalf of the City of Carthage, Missouri, and to affix the municipal seal hereto and to attest the same.

SECTION III: This ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF _____, 2022.

Dan Rife, Mayor

ATTEST:

Miranda Deal, City Clerk

CCO Form: FS13
Approved: (DPP)
Revised: 09/22 (MWH)
Modified:

CFDA Number: CFDA #20.205
CFDA Title: Highway Planning and Construction
Award name/number: BRO – R117(01)
Award Year: 2022 - 2024
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
OFF-SYSTEM BRIDGE PROGRAM AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Carthage, a municipal corporation in the State of Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, the Congress of the United States has authorized, in the Infrastructure Investment and Jobs Act (IIJA), 23 U.S.C. §133, §144 and title VIII of division J, Public Law No. 117-58, the Secretary of Transportation to grant funds to states for projects for the replacement and rehabilitation of toll-free public bridges which are not part of any Federal-Aid System and which are under the jurisdiction of and maintained by a public authority and are open to public travel; and

WHEREAS, the City desires to replace a certain bridge, more specifically described below, under the Off-System Bridge Program. Said improvement is to be designed and constructed in compliance with the provisions of 23 U.S.C. §133, §144 and title VIII of division J, Public Law No. 117-58, and applicable federal directives.

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

(1) PURPOSE: The improvement contemplated by this Agreement, and designated as Project BRO-R117(01) by the Commission is on CART/County Road in Jasper County. The length of this improvement is 0.038 mile(s). This improvement involves a bridge which has been inventoried by the City or Commission in accordance with 23 U.S.C. §144.

(2) LOCATION: The general location of the improvement is shown on the attachment labeled "Exhibit A" and that attachments incorporated by reference. The location is as follows:

Bridge #0720005 on McGregor Street over Missouri/Northern Arkansas Railroad

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual [and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) INDEMNIFICATION:

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

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

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

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

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

(5) MAINTENANCE: Upon completion of this improvement, the City shall accept control and maintenance of the improved road as a part of its road system and at its own cost and expense. Once construction of this improvement is completed, all obligations of the Commission under this Agreement shall terminate.

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

(7) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signals, and markings in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

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

(9) PERMITS: The City shall secure approval or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the improvements contemplated by this Agreement.

(10) DISADVANTAGED BUSINESS ENTERPRISES (DBE): It is the policy of the U.S. Department of Transportation and the Commission that businesses owned by socially and economically disadvantaged individuals (DBE's), as defined in 49 C.F.R. Part 26, have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

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

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq.*), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et*

seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

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

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

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

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

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

1. Withholding of payments under this Agreement until the City complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (11) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

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

(13) INSPECTION OF PERFORMANCE: The City shall insure that representatives of the Commission and the FHWA shall have access to the project for the purpose of inspecting and reviewing work performed in connection with this Agreement.

(14) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. All progress payment requests must be submitted for reimbursement within 90 days of the project completion date for the final phase of work. The City shall repay any progress payments which involve ineligible costs.

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

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

Any federal funds for project activities shall only be available for reimbursement of eligible

costs that have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by City will be reimbursed at the pro-rata share established for each project phase. The pro-rata share for federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The pro-rata share for the Construction Phase shall be established at concurrence in award and cannot be increased. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

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

(18) AUDIT REQUIREMENTS: If the City expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the City expend(s) less than seven hundred fifty thousand dollars (\$750,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

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

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

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

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

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

(24) CONFLICT OF INTEREST: The City shall comply with conflict of interest policies identified in 23 CFR 1.33. A conflict of interest occurs when an entity has a financial or personal interest in a federally funded project.

(25) MANDATORY DISCLOSURES: The City shall comply with 2 CFR 200.113 and disclose, in a timely manner, in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

[Remainder of Page Intentionally Left Blank]

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

Executed by the City on _____(DATE).

Executed by the Commission on _____(DATE).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF CARTHAGE

Title _____

By _____
Title _____

ATTEST:

ATTEST:

Secretary to the Commission

Clerk

Approved as to Form:

Approved as to Form:

Commission Counsel

Title_____

Ordinance No. _____

Exhibit A - Location of Project

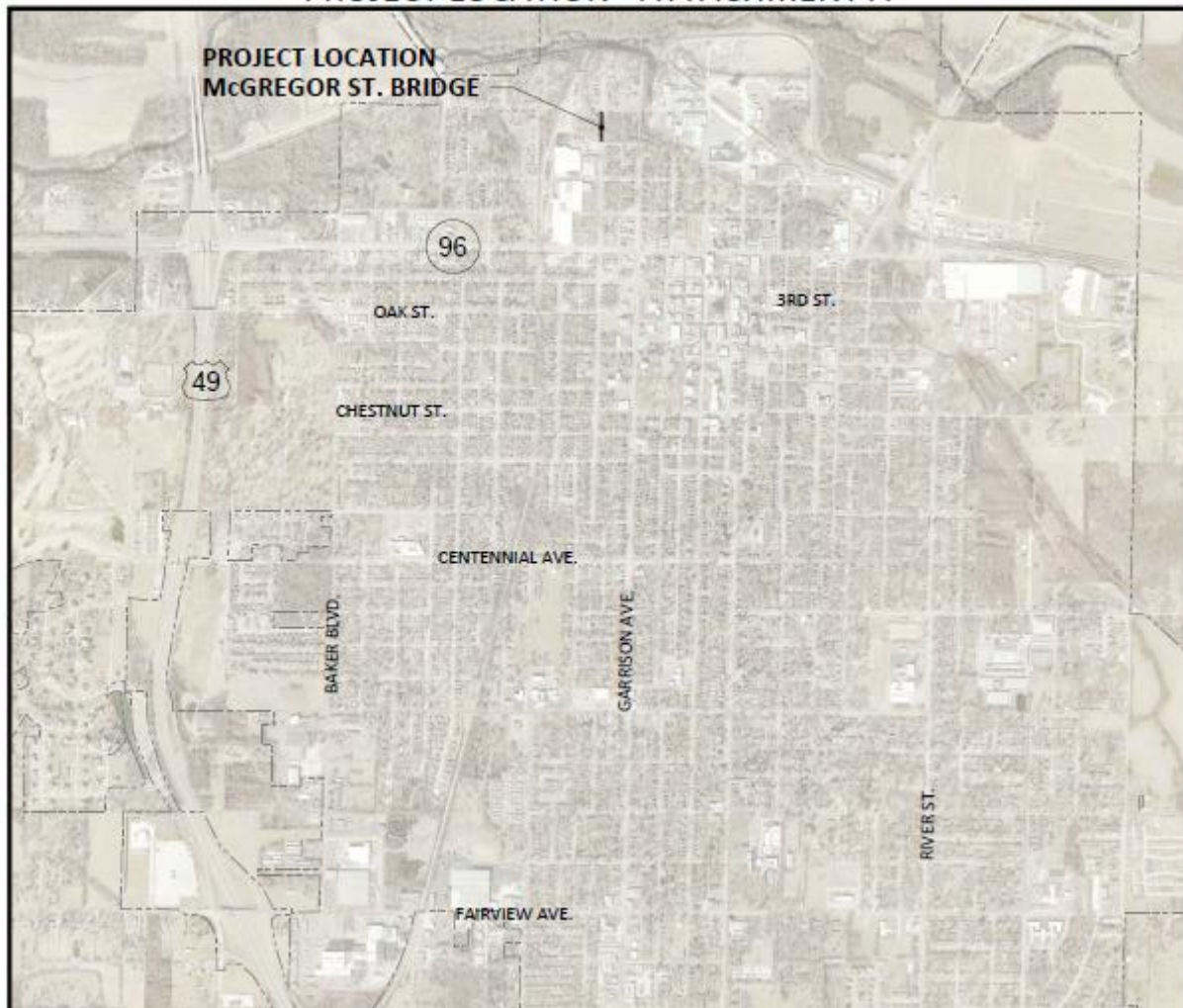


Exhibit B – Project Schedule

Project Description: Bridge #0720005 on McGregor Street over Missouri/Northern Arkansas Railroad

Task	Date
Date funding is made available or allocated to recipient	10/2022
Solicitation for Professional Engineering Services (advertised)	12/2022
Engineering Services Contract Approved	02/2023
Conceptual Study (if applicable)	
Preliminary and Right-of-Way Plans Submittal (if Applicable)	08/2023
Plans, Specifications & Estimate (PS&E) Submittal	03/2024
Plans, Specifications & Estimate (PS&E) Approval	06/2024
Advertisement for Letting	07/2024
Bid Opening	08/2024
Construction Contract Award or Planning Study completed (REQUIRED)	09/2024

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

**Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and a Supplemental Agreement is required to push this date back.

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

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

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

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

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

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

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

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

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

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

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

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

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

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

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

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

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

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

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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

1. Minimum wages (29 CFR 5.5)

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

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

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

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

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

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

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

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

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

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

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

2. Withholding (29 CFR 5.5)

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records (29 CFR 5.5)

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

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

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or

subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

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

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

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

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

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

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

4. Apprentices and trainees (29 CFR 5.5)

a. Apprentices (programs of the USDOL).

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

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

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

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

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

b. Trainees (programs of the USDOL).

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

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

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

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility (29 CFR 5.5)

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

3. Withholding for unpaid wages and liquidated damages.

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

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

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance

with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

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

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

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

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant

who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

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

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

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

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

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

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**
This provision is applicable to all Federal-aid projects funded
under the Appalachian Regional Development Act of 1965.

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

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

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

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

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

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

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

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

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

Mayor's Appointments

December 2022

Civil War Museum

3 Year Term – 7 Members – Meets on Call

<u>NAME</u>	<u>PHONE</u>	<u>ADDRESS</u>	<u>APPOINTED</u>	<u>EXPIRES</u>
Steve Cottrell	358-7230	2187 W Oak St	03/13/2001	Dec-25
Steve Weldon	782-4508	1901 Quincy St	03/13/2001	Dec-25

Police Personnel Administration Board

4 Year Term – 4 Members – Meets on Call, Police Department

<u>NAME</u>	<u>PHONE</u>	<u>ADDRESS</u>	<u>APPOINTED</u>	<u>EXPIRES</u>
John H Patrick	358-2314	1002 Durward Hall Drive	01/24/2006	Dec-26

Carthage Tree Board

3 Year Term – 5 Members – Meets on Call

<u>NAME</u>	<u>PHONE</u>	<u>ADDRESS</u>	<u>APPOINTED</u>	<u>EXPIRES</u>
Jason Cutler	848-9549	2135 Alison St	12/07/2022	Dec-23

Parks and Recreation Director

<u>NAME</u>	<u>EFFECTIVE DATE</u>
Abi Almandinger	December 28,2022



RESOLUTION NO. 1992

A RESOLUTION APPROVING THE DECLARATION AS SURPLUS TO THE CITY'S NEEDS AND AUTHORIZING THE DISPOSITION OF A 2008 Cub Cadet 4x+B35:H354 EFI TRACKER UTILITY VEHICLE, SERIAL NO. 1E22BG40031

WHEREAS, City Department Heads exercise direct supervision over inventories of supplies, and the sale, trade, or disposition of surplus supplies and equipment belonging to the City; and

WHEREAS, the Purchasing Officer, is responsible (with Council approval) for the disposition or *sale* of salvage, obsolete, or surplus materials, to prevent deterioration and value loss of no longer used materials, and to reduce storage costs; and

WHEREAS, the Public Works Director has discussed, and the Public Works Committee recommends, declaring the above listed equipment as obsolete and surplus to the City's needs for consideration by the full City Council of declaring such items as surplus and obsolete.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI, THE MAYOR CONCURRING HEREIN, AS FOLLOWS:

That the aforesaid 2008 Cub Cadet 4x+B35:H354 EFI TRACKER UTILITY VEHICLE, SERIAL NO. 1E22BG40031 is determined and declared to be obsolete and surplus to the City's needs and is hereby authorized for appropriate disposal by City Staff or donation to another agency.

PASSED AND APPROVED THIS _____ DAY OF _____ 2022

Dan Rife, Mayor

ATTEST:

Miranda Deal, City Clerk

Public Works Committee

RESOLUTION NO. 1993

A RESOLUTION APPROVING THE RECOMMENDATION OF THE McCUNE-BROOKS REGIONAL HOSPITAL TRUST FOR THE DISTRIBUTION OF FUNDS (\$2,000,000) FROM THE RESTRICTED TRUST FUND TO MISSOURI SOUTHERN FOUNDATION.

WHEREAS, the City of Carthage established the McCune-Brooks Regional Hospital Trust (Trustee) in December 2011 for the benefit of the citizens of Carthage, as an irrevocable common law trust under Missouri law; and

WHEREAS, the City approved the sale of the Hospital Property, including all property described as the "Leased Property" and the "Assumed Assets" under the Lease, to Mercy-Carthage for the Purchase Price; and

WHEREAS, the remaining amounts paid by Mercy-Carthage pursuant to the Asset Purchase Agreement were deposited in the McCune-Brooks Regional Hospital Trust; and

WHEREAS, the Grantors of the Trust have agreed that as part of the Lease Agreement all net lease proceeds received by Grantor shall be held, administered, and distributed upon the recommendations of the Trustee, subject to the approval of the City Council; and

WHEREAS, the Trustee may at any time make recommendations for distribution of the principal, and net income, subject to the approval of the City Council, for only the following purposes:

- a) to or for the benefit of the welfare and healthcare related purposes of the citizens of the greater Carthage. Missouri metropolitan area;
- b) to reconstitute and provide funds to operate the Hospital, if needed, upon termination of the Lease Agreement;
- c) to pay any liabilities and obligations of McCune-Brooks under the Lease Agreement;
- d) to enforce the terms of the Lease Agreement, including hiring consultants and attorneys;
- e) to pay the costs necessary for McCune-Brooks to continue its affairs during the term of the Lease Agreement and to wind up its affairs during the Lease Term, including the cost of attorneys, auditors and accountants; and

WHEREAS, the Trustee has recommended the distribution of funds pursuant to section a) above, for grant awards to the following recipient:

Missouri Southern Foundation	\$2,000,000
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NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI, THE MAYOR CONCURRING HEREIN, AS FOLLOWS:

That the City Council of the City of Carthage, Missouri does hereby approve the recommendation of the Trustee for the distribution of funds pursuant to section a) above, and the attached application.

PASSED AND APPROVED THIS _____ DAY OF _____, 2022.

ATTEST:

Dan Rife, Mayor

Miranda Deal, City Clerk



MISSOURI SOUTHERN STATE UNIVERSITY

Office of the President

October 6, 2022

Members of the Board of Directors
McCune Brooks Regional Hospital Trust
c/o Schmidt Associates
1105 Industrial Drive
Carthage, Missouri 64836

Greetings from Missouri Southern State University!

Enclosed please find an application to the McCune Brooks Regional Hospital Trust in support of a transformational project at Missouri Southern – the Health Science Innovation Center (HSIC). The completion of the HSIC will allow MSSU to keep pace with the rapidly growing demand for health science professionals in Carthage, Jasper County, and Southwest Missouri. We very much appreciate the McCune Brooks Regional Hospital Trust considering this opportunity to join the University in changing the future of healthcare in our community.

To date, MSSU has received over \$5 million in total commitments to the Health Science Innovation Center eligible for a match from the state. Should the McCune Brooks Regional Hospital Trust proceed with a grant of \$2 million, approximately half of the total project will be funded, with design and construction beginning soon.

Missouri Southern is grateful to the Trust's leadership for considering our proposal for this important project. We stand ready to answer any questions that might assist you in reaching a decision, including making a presentation at a future board meeting. On behalf of the students, faculty, staff, and thousands of MSSU alumni who call Carthage home – thank you!

Best regards,

Dean Van Galen, Ph.D.
President

MCCUNE BROOKS REGIONAL HOSPITAL TRUST
Data Sheet for Organizations Requesting Grants

1. **Legal name of your organization:** The Missouri Southern Foundation on behalf of Missouri Southern State University
2. **Is your organization qualified as a 501(c)(3) tax-exempt organization by the IRS a tax-exempt entity?** YES ☒ NO ☐

IRS letter dated November 12, 1968, is attached on page seven as verification of the Missouri Southern Foundation's tax-exempt status.

3. **Organization's taxpayer identification number:** 43-0907114
4. **Brief statement of the purpose of your organization.**

Missouri Southern State University was established in 1932 as a junior college and became a four-year college in 1967. Since that time, the university has helped thousands of Jasper County residents advance their career goals while also directly serving the workforce needs of Southwest Missouri. Today, the university has 4,155 students, of which Carthage is one of the top feeder school districts. In addition, of the 52,000 living Missouri Southern alumni, 6,195 (12%) currently reside in Carthage, Missouri.

While Missouri Southern offers over one hundred bachelor's degree program options in business, education, arts, sciences, and technology, its academic strength lies in the health sciences. Missouri Southern is recognized as the leading provider of health science graduates in the region offering degrees in nursing, dental hygiene, radiological technology, respiratory therapy, emergency medicine/paramedic, and healthcare administration.

The Carthage community has always played a significant role in the development of the university, with many notable Carthaginians having campus buildings named in their honor, including Sen. Richard M. Webster, Rep. Robert Ellis Young, Thomas Taylor, and Mills Anderson. Throughout the years, many more Carthage residents have served on the Boards of Regents and Governors over the years, including Ray Grace, Bill Putnam, Pat Phelps, Carolyn Phelps, Liz Deffenbaugh, Nancy Perry, Tracy Flanigan, and Mariann Morgan. The university is proud of this connection with Carthage and seeks to strengthening that bond in the years ahead.

5. **How much money is your organization requesting from the McCune Brooks Regional Hospital Trust?**

Missouri Southern requests the McCune Brooks Regional Hospital Trust consider a \$2 million gift payable over five years (\$400,000 per year in calendar years 2023 through 2027) to support the construction of the Health Science Innovation Center. These funds will be matched by the State of Missouri to create a \$4 million total impact on the project.

6. When does your organization anticipate the need for funds it is requesting?

Receipt of a first installment from the McCune Brooks Regional Hospital Trust in calendar year 2023 will allow the university to access matching funds from the State of Missouri (*see section 9 below*) and start construction at the soonest possible date.



7. Please write a brief statement as to the purpose for which these funds are being requested. If you need additional space, you may write on the back or attach a statement to this form.

Missouri Southern proposes the creation of a \$30 million “best in class” facility to strengthen the university’s position as a leader in health science education (*most notably the preparation of nurses, dental hygienists, respiratory therapists, radiologists, and pre-professionals such as future doctors, dentists, and physical therapists*). The Health Science Innovation Center will contain state-of-the-art teaching and training facilities, including a large simulation hospital, expanded cadaver lab, radiologic technology laboratory, and research facilities for students, faculty, and university partners.

The centerpiece of this facility will be the simulation hospital, which will contain four acute care rooms, two critical care rooms, three patient examination rooms, an operating room, labor and delivery suite, and an interdisciplinary skills lab. Each of these areas will closely simulate the “real world” environment of a healthcare facility in communities such as Carthage, thereby giving the students and graduates immediate familiarity and impact upon entering the workforce.

The Health Science Innovation Center will complement our current health science facility named in honor of Dr. Julio Leon, which houses faculty offices and classrooms for those programs. The Health Science Innovation Center will contain immersive learning labs that build upon the classroom experience health science students receive in Leon Hall with no duplication in the new facility of existing resources.

Should the McCune Brooks Regional Hospital Trust make a \$2 million investment in the Health Science Innovation Center at Missouri Southern, the university will recognize that investment with an appropriate naming opportunity. As architectural plans are finalized for this transformational facility, more information will be available to allow the trustees of the McCune Brooks Regional Hospital Trust to select a space for naming that honors their commitment to the future of health care in Carthage.



8. If the McCune Brooks Regional Hospital Trust consents to recommend a grant to your organization of the funds requested for the purpose you have set forth in your response to Item 7 above, it will be because the trustee has determined that the purpose forwarded by the grant is for the general welfare and healthcare benefit of the citizens of Carthage, Missouri, and healthcare related purposes of the greater Carthage, Missouri, metropolitan area. Please write a brief statement as to how this requested grant to your organization will meet these purposes. If you need additional space, you may write on the back or attach a statement to this form.

The construction and equipping of the Health Science Innovation Center will increase both the quality and number of graduates in the university's health science programs. More health science graduates from Missouri Southern means Carthage's healthcare providers can better meet the growing demand for services. This will have a direct impact the City of Carthage's economic vitality and quality of life.

For example, the construction of the Health Science Innovation Center will allow Missouri Southern to **double the number of nursing graduates annually** (from 30 to 60) by 2024 (pending approval of the State Board of Nursing). To illustrate this demand, as of October 1, 2022, there were 264 vacancies advertised on Indeed.com for nurses needed within 15 miles of Carthage. The ability of Missouri Southern to double the number of nursing graduates and fill those Carthage vacancies will have a direct impact on the welfare of the citizens of Carthage for decades to come.

With all its economic strengths, the Achilles heel of the healthcare industry in communities such as Carthage is its ability to attract and retain talent. History has proven in the last 50+ years that homegrown nursing talent is more likely to be retained than temporary nurses recruited from across the country. MSSU's ability to produce nurses is currently limited to an annual cohort of 30 graduates. Assisting entities such as Missouri Southern in increasing their capacity to educate local students in the health sciences and meet the workforce demands in important sectors like healthcare is critical for communities such as Carthage.

Missouri Southern already plays a leadership role in providing physicians and dentists to Carthage through a memorandum of understanding with Kansas City University – Joplin. This program is known as the MSSU / KCU Early Acceptance Program (MKEAP). Currently, 25 MKEAP students are admitted simultaneously to both Missouri Southern's three-year pre-med program and to KCU's medical school. The same will be true beginning Fall 2023 for 10 pre-dental students. This early acceptance program allows students to know as college freshmen that they will 1) complete their bachelor's degree in three years; and 2) have guaranteed admittance to KCU's medical or dental schools. The intent of this program is to educate local students at both Missouri Southern and KCU-Joplin, thereby increasing the chance that they will complete their residency and set up practice in Jasper County, including Carthage. While the first MKEAP medical class is currently in residency and the first MKEAP dental class will enter Missouri Southern next fall, the potential for MSSU and KCU to have a significant impact on Carthage's quality of life through more practicing physicians and dentists is evident. The proposed Health Science Innovation Center will be utilized by MKEAP student in addition to other health science students and will be a "point of pride" in recruiting an annual cohort of students to the MKEAP program.

9. What are the sources of funds your organization relies upon to achieve its goals? You need not list individual donors by name. Also, please provide a balance sheet and income statement for your organization.

The total cost of the Health Science Innovation Center is \$30 million. In June 2022, Missouri Governor Mike Parson authorized matching funds of \$15 million for this facility and identified it as one of the state's highest priority projects. As commitments are received from entities such as the McCune-Brooks Regional Hospital Trust, those state matching funds may be accessed. To date, the university has documented commitments for the Health Science Innovation Center exceeding \$5 million. A commitment from the McCune-Brooks Regional Hospital Trust will allow the university to access additional matching funds and accelerate the timeline for construction.

If \$15 million in funds are committed for the project in 2022 – allowing Missouri Southern to access the matching \$15 million in state funds – construction can begin in mid-2023 and the building may occupied by the end of 2024. This timeline would allow Missouri Southern to potentially graduating its first expanded cohort of nurses, *(pending approval by the State Board of Nursing)* by May 2027. These new graduates will have an immediate impact on Carthage's effort to more fully staff its healthcare businesses in the years to come.

The Missouri Southern Foundation's *"Comparative Statement of Financial Position"* as of June 30, 2022, is contained on page eight of this application.

10. Please list the name, address, Email address & phone # of the presiding officer of your organization.

Dr. Dean Van Galen
President, Missouri Southern State University
3950 East Newman Road, Hearn Hall 206; Joplin, MO 64801
Phone: 417-625-9501; email: vangalen-d@mssu.edu

11. Please list the names, addresses, and phone numbers of four (4) officers or members of your organization, other than your presiding officer, who will be available to the Trust, or Trust's appointee, for the purpose of interviews about the organization and for the purpose of being a source of information about your organization.

Dr. Brad Hodson
Executive Vice President, Missouri Southern State University and
Executive Director, Missouri Southern Foundation
3950 East Newman Road, Hearn Hall 208; Joplin, MO 64801
Phone: 417-625-3072; email: hodson-b@mssu.edu

Dr. Lisa Toms
Provost and Vice President for Academic Affairs, Missouri Southern State University
3950 East Newman Road, Hearn Hall 206; Joplin, MO 64801
Phone: 417-625-3172; email: toms-l@mssu.edu

Ms. Lorinda Hackett
Dean of the College of Health, Life Sciences, and Education, Missouri Southern State University
3950 East Newman Road, Taylor Education Building 218; Joplin, MO 64801
Phone: 417-625-9307; email: hackett-l@mssu.edu

Dr. Lisa Beals
Chair of the Department of Nursing, Missouri Southern State University
3950 East Newman Road, Leon Health Sciences Building 245; Joplin, MO 64801
Phone: 417-625-9775; email: beals-l@mssu.edu

12. Please identify an individual for follow up contact to review effectiveness of the grant.

Dr. Lisa Toms
Provost and Vice President for Academic Affairs, Missouri Southern State University
3950 East Newman Road, Hearn Hall 206; Joplin, MO 64801
Phone: 417-625-3172; email: toms-l@mssu.edu

Completed Affidavit **must** be included with application for consideration!

501(c) (3) VERIFICATION AFFIDAVIT

The undersigned, a duly appointed officer of the Missouri Southern Foundation, (hereinafter referred to as the "Organization") hereby certifies that, as of the date shown below, the Organization is operating as an exempt organization as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, that said Organization has provided to the McCune Brooks Regional Hospital Trust a copy of its letter from the Internal Revenue Service informing the Organization of the determination of its exempt status, and that the Organization has not in the past year lost or relinquished its exemption status for any reason.

Dated this 6th day of October 2022.

BY: 
J. Bradford Hodson
Executive Director
Missouri Southern Foundation

Submit this completed application to:

**McCune Brooks Regional Hospital Trust
c/o Schmidt Associates
1105 Industrial Drive; Carthage, MO 64836**

Requests will be reviewed at the next scheduled meeting of the Trustees.



U.S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE

DISTRICT DIRECTOR

STL:EO:68-226

St. Louis, Missouri 63101

NOV 12 1968

IN REPLY REFER TO

Form L-178

F:3:32

Missouri Southern Foundation
 Missouri Southern College
 Newman & Duquessne Road
 Joplin, Missouri 64801

PURPOSE Charitable	
ADDRESS INQUIRIES & FILE RETURNS WITH DISTRICT DIRECTOR OF INTERNAL REVENUE	
St. Louis	
FORM 990-A RE- QUIRED	ACCOUNTING PERIOD ENDING
☒ YES ☐ NO	; December 31

Gentlemen:

On the basis of your stated purposes and the understanding that your operations will continue as evidenced to date or will conform to those proposed in your ruling application, we have concluded that you are exempt from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code. Any changes in operation from those described, or in your character or purposes, must be reported immediately to your District Director for consideration of their effect upon your exempt status. You must also report any change in your name or address.

You are not required to file Federal income tax returns so long as you retain an exempt status, unless you are subject to the tax on unrelated business income imposed by section 511 of the Code, in which event you are required to file Form 990-T. Our determination as to your liability for filing the annual information return, Form 990-A, is set forth above. That return, if required, must be filed on or before the 15th day of the fifth month after the close of your annual accounting period indicated above.

Contributions made to you are deductible by donors as provided in section 170 of the Code. Bequests, legacies, devises, transfers or gifts to or for your use are deductible for Federal estate and gift tax purposes under the provisions of section 2055, 2106 and 2522 of the Code.

You are not liable for the taxes imposed under the Federal Insurance Contributions Act (social security taxes) unless you file a waiver of exemption certificate as provided in such act. You are not liable for the tax imposed under the Federal Unemployment Tax Act. Inquiries about the waiver of exemption certificate for social security taxes should be addressed to this office, as should any questions concerning excise, employment or other Federal taxes.

This is a determination letter.

Your attention is directed to section 504 of the Internal Revenue Code.

Very truly yours,

E. P. Trotter

District Director

FORM L-178 (6-64)

Missouri Southern Foundation
Comparative Statement of Financial Position
Pre-Audit

	<u>6/30/2022</u>	<u>6/30/2021</u>
ASSETS		
Cash in Bank	\$727,716.26	\$880,693.08
Commerce Bank - Joplin Tomorrow	\$72,911.32	\$69,961.32
Edward Jones	\$0.00	\$154,275.00
Investment - Schwab-FEG	\$1,766,692.14	\$1,875,026.85
Investment-Schwab FEG-Youngman Investment Center	\$699,268.70	\$820,771.01
Investment - Schwab-FEG Investment -Humphreys Scholars	\$785,132.02	\$904,665.12
Investment - FEG Private Capital Opportunities	\$1,068,715.00	\$384,675.00
Investment - FEG Select	\$19,495,203.75	\$26,176,231.52
Investment- Schwab FEG Investment-Gift Annuities	\$261,456.91	\$209,563.74
Community Investments	\$11,388.69	\$12,905.59
Beneficial interest in trusts	\$16,297,823.28	\$16,297,823.28
CSV - Life insurance policies	\$154,027.99	\$154,105.05
Campaign receivables	\$798,488.67	\$803,488.67
Video Board receivable	\$458,146.28	\$482,834.56
Other promises receivable	\$2,457,009.32	\$2,457,009.32
Downtown Library	\$0.00	\$720,000.00
Security Deposit	\$0.00	\$9,000.00
Notes Receivable - JTF	\$0.00	\$0.00
	<u>\$45,053,980.33</u>	<u>\$52,413,029.11</u>
Liabilities and Net Assets		
Liabilities		
Accounts Payable Accruals	\$38,598.05	\$34,651.75
Annuity Obligations	\$204,130.15	\$103,251.36
Total Liabilities	<u>\$242,728.20</u>	<u>\$137,903.11</u>
Net Assets		
Unrestricted	\$1,856,725.33	\$4,137,660.00
With Restriction	\$42,954,526.80	\$48,137,466.00
Total Net Assets	<u>\$44,811,252.13</u>	<u>\$52,275,126.00</u>
Total Liabilities and Net Assets	<u>\$45,053,980.33</u>	<u>\$52,413,029.11</u>