

**EASEMENT AGREEMENT**

**THIS EASEMENT AGREEMENT** (hereinafter "**Agreement**") is made and entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between State Farm Mutual Auto Insurance Company, a Illinois Corporation, (hereinafter "**Grantor**"), and the **CITY OF COLUMBIA, MISSOURI**, a body politic and corporate organized and existing pursuant to the laws of the State of Missouri (hereinafter "**Grantee**").

**WITNESSETH**

**WHEREAS**, Grantor owns certain property, commonly known and numbered as 4700 S. Providence Rd. located in the city of Columbia, Missouri and more particularly described in *Exhibit A* hereto (hereinafter "Grantor's Parcel");

**WHEREAS**, Grantor has determined that it is in its best interests to have standby electrical generation services available at Grantor's Parcel;

**WHEREAS**, Grantee has generator equipment already located at Grantor's Parcel;

**WHEREAS**, a separate party who is a tenant at Grantor's Parcel has entered into a certain Local Site Generator Agreement with Grantee, attached hereto as *Exhibit B* and incorporated herein by this reference (hereinafter "Generator Agreement"), with respect to the subject matter hereto;

**WHEREAS**, pursuant to the Generator Agreement, Grantee has agreed to operate and maintain two (2) self-contained diesel generating units of 1,000 kilowatt capacity along with ancillary transformers and switching gear (collectively "Generator") for use as set forth herein and in the Generator Agreement;

**WHEREAS**, in order to operate and maintain the Generator, it is necessary for Grantee to obtain an easement encumbering Grantor's Parcel as described herein; and

**WHEREAS**, Grantor has agreed to grant and convey to Grantee said easement as described herein.

**NOW, THEREFORE**, for and in consideration of the payment of One Dollar (\$1.00), the mutual covenants contained herein, other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. **Grant of Easement**. Grantor, for itself and its successors and assigns, does hereby GRANT, BARGAIN, SELL AND CONVEY to Grantee, its successors and assigns, an exclusive easement in gross (hereinafter "Easement") in, upon, through, over, under and across that portion of Grantor's Parcel, as described in *Exhibit C* attached hereto and incorporated herein by reference (hereinafter "Easement Property"), TO HAVE AND TO HOLD said Easement, together with all rights and appurtenances belonging thereto, subject to the following terms, conditions and covenants:

(a) **Purpose of Easement**. The purpose of the Easement granted hereby is to allow for Grantee's operation, repair and maintenance of the Generator, and for the use of said Generator as further set forth in the Generator Agreement. Without limiting the foregoing, it is expressly agreed that Grantee, its agents, servants, employees and (sub)contractors shall have the exclusive right to enter and occupy the Easement Property for the purpose of doing any and all matters that may be necessary or desirable in connection with the installation, operation, repair and maintenance of the Generator, including but not limited to the right to place in, upon, through, over, under and across the Easement Property all equipment, structures, fixtures, fuel and other items incidental thereto. The Easement wanted hereby shall also include the right to impact and to cast upon the Easement Property and adjoining property of Grantor the noise, dust, vibrations and other such disturbances generated by or resulting from the construction and operation of the Generator and other apparatus associated therewith.

(b) **Term**. The Easement granted hereby shall run for a term of ten (10) years, commencing with the effective date of this Agreement. Thereafter, the term of the Easement and this Agreement shall automatically renew for successive one (1) year terms unless either party shall, at least six (6) months prior to the expiration of the then current term, notifies the other party in writing of its election to terminate this Agreement. In addition, both Parties agree that if the Local Site Generator Agreement terminates prior to this Easement Agreement, then this Easement Agreement will terminate one (1) year after the date of termination of the Local Site Generator Agreement.

(c) **Restrictions of Grantor**. Grantor covenants and agrees that Grantor, its agents, servants, employees, tenants, invitees, legal representatives, successors and assigns shall not do anything which interferes with or obstructs the purposes for which this Easement is granted, or take any action which could interfere with the Generators, including but not limited to any excavation within or fencing of the Easement Property. Grantee shall have the continuing right to a reasonable means of access to and from all portions of the Easement Property at all times, it being specifically understood and agreed that the Easement granted herein shall be deemed to include within its terms the right of Grantee to travel over, upon and across the

remaining portions of Grantor's Parcel as may be reasonably necessary to allow for such access to the Easement Property.

2. **Covenant of Ownership and Authority.** Grantor covenants and warrants unto Grantee that Grantor is the sole owner of the Easement Property; has the full right, title, capacity and authority to grant the Easement granted herein; and that the consent of any other person or entity is not necessary for the execution and performance of this Agreement. The parties further specifically acknowledge and agree that Grantee shall, at all times, be the sole owner of the Generator and all other ancillary equipment and personal property located at the Easement Property, free and clear of any and all claims by any other person(s) or entities whatsoever, including but not limited to Grantor and its lender(s), if any.

3. **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given if delivered by hand, if mailed and by registered or certified mail (return receipt requested), or if mailed via a nationally recognized overnight courier service which maintains receipts, and in any case, addressed to the parties at the following addresses (or at such other address for a party as shall be specified by like notice), and shall be deemed given on the date on which so hand-delivered, on the third (3<sup>rd</sup>) business day following the date on which mailed by registered or certified mail, or on the following business day if mailed via overnight courier.

To Grantor: Entity: State Farm Mutual Automobile Insurance Company  
ATTN: Lease Administration C-4  
Address: 1 State Farm Plaza  
Bloomington, IL 61701

To Grantee: City of Columbia, Missouri  
ATTN: Director of Utilities  
701 E. Broadway St  
P.O. Box 6015  
Columbia, MO 65205

4. **Enforcement.** Each party shall have the right to sue for and obtain an injunction, prohibitive or mandatory to prevent the breach or enforce the observance of, the restrictions, obligations, covenants and rights contained in this Agreement, in addition to all other remedies available at law or in equity.

5. **Severability.** If any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereto, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein; provided however, that if permitted by applicable law, any invalid, illegal or unenforceable provision may be considered in determining the intent of the parties with respect to the provisions of this Agreement.

6. **Miscellaneous.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be modified or amended only in a writing signed by both of the parties hereto, or their successors or assigns, as the case may be. The paragraph captions are inserted for convenience of reference and are in no way to be construed as a part of this Agreement or as a limitation on the scope of the paragraphs to which they refer, prior negotiations and agreements between the parties hereto regarding the subject matter hereof are superseded by this Agreement and, except as set forth in the Generator Agreement, there are no representations, warranties, understandings or agreements other than those expressly set forth herein. In the event of any conflict between the terms hereof and the terms set forth in the Generator Agreement, the terms set forth herein shall control and prevail. A complete copy of the Generator Agreement, the terms of which are hereby incorporated by reference, is maintained at the offices of Grantee and may be made available upon request.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement in duplicate original counterparts as of the day and year first above written.

Grantee:

CITY OF COLUMBIA, MISSOURI

By: \_\_\_\_\_  
John Glascock, City Manager *JAS*

Attest:

By: \_\_\_\_\_  
Sheela Amin, City Clerk

Approved as to Form:

By: \_\_\_\_\_  
Nancy Thompson, City Counselor /ak *AK*

Grantor:

State Farm Mutual Automobile Insurance Company

By: \_\_\_\_\_  
*[Signature]*

Name: Travis Burrows

Title: Assistant Vice President

Attest: \_\_\_\_\_  
*[Signature]*

By: \_\_\_\_\_  
*[Signature]*

Title: Gina L. Cunningham, Assistant Secretary

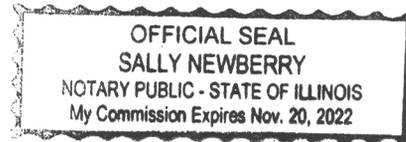
STATE OF Illinois )  
 ) SS.  
COUNTY OF McLean )

On this 30<sup>th</sup> day of September, 2020, before me, a Notary Public within and for said County, personally appeared Travis Burrows (Name), NP Admin Service (Title), known to me to be the person who executed the within Easement Agreement in behalf of State Farm Insurance Company (Organization/Grantor) and acknowledged to me that he or she executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Sally Newberry  
Notary Public

My Commission Expires: Nov 20, 2022



STATE OF MISSOURI )  
 ) SS.  
COUNTY OF BOONE )

On this \_\_\_ day of \_\_\_\_\_, 2020, before me a Notary Public within and for said County, personally appeared \_\_\_\_\_, City Manager, known to me to be the person who executed the within Easement Agreement in behalf of the City of Columbia, Missouri and acknowledged to me that he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## **EXHIBIT A**

### Legal Description of Grantor's Parcel

State Farm Subdivision – Block 1

A Subdivision located in the east ½ section 36 T 48N R13 in Columbia, Boone County, Missouri. Being tract 4 and part of tract 1 of a survey recorded in Book 712, Page 399, Records of Boone County, Missouri.

**EXHIBIT B**

Local Site Generator Agreement Veterans United

(Attached)

LOCAL SITE GENERATOR AGREEMENT  
VETERANS UNITED

THIS AGREEMENT (hereinafter "Agreement") is by and between the City of Columbia, Missouri (hereinafter "City"), a municipal corporations whose address is 701 E. Broadway Columbia, MO 65201 and Mortgage Research Center, LLC dba Veterans United (hereinafter "VU"), a limited liability company whose business address is 1400 Veterans United Dr., Columbia, MO 65203, and is entered into on the date of the last signatory below (hereinafter "Effective Date"). City and VU are each individually referred to herein as a "Party" and collectively as the "Parties."

WHEREAS, VU has determined it is in its best interest to have standby electrical generation service at a building where VU is a tenant; and

WHEREAS, City has generator equipment already located in that building.

NOW, THEREFORE, in consideration of the mutual covenants set out in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

1. Both Parties agree the City shall operate and maintain its two (2) self-contained diesel generating units, of 1000 kilowatt capacity along with ancillary transformers and necessary switch gear (collectively, the "Generators"), which are located at the building at 4700 S. Providence Rd, Columbia, MO 65203, (hereinafter "Building") for the provision of back-up power generation services. This includes City's storing of fuel at Building to operate the Generators. If VU's electricity requirement increases during the term of this Agreement, then the City agrees that it will replace the generators or upgrade the generating capacity of the Generators provided the Parties can agree upon an amendment in accordance with this Agreement establishing the new amount of the increased monthly rental for the upgraded generation service. The City retains any and all ownership rights to the Generators.
2. Both Parties agree that City has no ownership rights or responsibilities for the pad the Generators are located on, and City has no responsibility upon termination of this Agreement to restore the pad or site of the Generators.
3. City shall, at City's expense, make application for all permits necessary to operate the Generators. City shall own all rights associated with such permits and the emissions generated by the Generators.
4. VU shall not disrupt or interfere with City's rights to operate and maintain the generators pursuant to the terms of the Easement Agreement in effect at the time between City and the owners of the building. City will provide VU with the terms of this Easement Agreement at any time upon VU's request in writing.

5. VU shall pay the City the amount for standby and overhead costs of the Generators according to the following schedule, as applicable:

Year(s)	Monthly Fee
1 to 5	\$1,900.00
6 to 10	\$2,200.00
After Year 10	\$2,500.00

6. From time to time the City shall be entitled to run the Generators. VU shall not be entitled to any payment or reduction in monthly charges for those times the City is using the Generators for purposes set out in this provision.
7. The term of this Agreement shall begin on the Effective Date until November 30, 2028. Thereafter, this Agreement shall automatically renew for successive one (1) year terms unless the Agreement is terminated by either Party as provided herein.
8. Either Party may terminate this Agreement by giving the other Party notice of its intent to terminate in writing at least six (6) months prior to the expiration of the current term. Also, both Parties agree that this Agreement shall automatically terminate should City lose its easement rights to Building to operate and maintain the Generators.
9. Both Parties acknowledge and agree that City will operate and maintain the Generators in good working order, however the City makes no representations whatsoever that the units will be in perfect working order or that the Generators will work as designed at any particular time. VU acknowledges and agrees that this is consistent with the City's position on the electric power generation system wide and is the existing standard in the electric utility industry.
10. In the event that the actions of any governmental entity or any legal decision operates to prevent the use of the Generators or revokes any necessary permits or removes emissions rights, this Agreement shall automatically terminate upon the date on which it becomes unlawful or improper to operate the Generators.
11. No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it, unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties. No provision of this Agreement is intended to, nor shall it in any way, inure to the benefit of a third-party beneficiary under this Agreement.
12. This Agreement represents the entire and integrated agreement between the Parties relative to the contracted services herein. All previous or contemporaneous contracts, representations, promises and conditions relating to the contracted services herein are superseded.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this agreement by their duly authorized representatives as of the date of the last signatory below.

CITY OF COLUMBIA, MISSOURI

BY: \_\_\_\_\_  
John Glascock, City Manager *JAG*

DATE: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Nancy Thompson, City Counselor *AK*

MORTGAGE RESEARCH CENTER, LLC  
DBA VETERANS UNITED

BY: *Amanda Andrade*  
Amanda Andrade, CPO

DATE: *10/22/2020*

## EXHIBIT C

### Legal Description of Easement Property

State Farm Subdivision – Block 1

A Subdivision located in the east ½ section 36 T 48N R13 in Columbia, Boone County, Missouri. Being tract 4 and part of tract 1 of a survey recorded in Book 712, Page 399, Records of Boone County, Missouri.

State Farm Subdivision – Block 1, recorded in plat book 24 page 46 of the Boone County records, described as follows:

Starting at the northeast corner of Lot 1 State Farm Subdivision – Block 1, thence West, along the northerly line thereof, 814.5 feet to the point of beginning.

From the point of beginning, leaving the northerly line of Lot 1 State Farm Subdivision – Block 1, South 76.00 feet; thence West 100.00 feet; thence North 76.00 feet to the northerly line of Lot 1 State Farm Subdivision – Block 1; thence East, along said line, 100.00 feet to the beginning and containing 7600 square feet or 0.17 acres.