

**DEVELOPER AGREEMENT
GUARANTEEING INSTALLATION OF PUBLIC IMPROVEMENTS
IRREVOCABLE LETTER OF CREDIT**

THIS AGREEMENT ("Agreement"), is made and entered into by and between **Jeffrey E. Smith Investment Co. L.C.**, a registered Missouri limited liability company ("Developer") and the **City of Columbia, Missouri**, a municipal corporation of the State of Missouri ("City") and will be effective the date of signature by the Party last executing this Agreement ("Effective Date"). The City and the Developer may hereinafter be collectively referred to as the Parties and individually as a Party.

WITNESSETH:

WHEREAS, the Developer holds title to approximately 15.68 acres of land currently located in the southeast quadrant of the intersection of Nifong Boulevard and Bethel Street in the City of Columbia, Missouri, which is legally described in the attached **Exhibit A**. ("Property"); and

WHEREAS, the Property has been previously platted by a Final Plat known as Gentry Estates, approved by the City Council of the City of Columbia on July 2, 2012; and

WHEREAS, the Property was subject to a Development Agreement dated December 22, 2011 that was subsequently extended on September 11, 2015 and the Parties wish to enter into this Agreement and supersede the terms of the previous Development Agreement.

WHEREAS, certain Developer Public Improvements are required to be completed by the Developer as more fully set forth herein; and

WHEREAS, the Developer wants to provide security or collateral sufficient in the judgment of the City to make reasonable provision for the completion of the required Developer Public Improvements and warranties on such Developer Public Improvements; and

WHEREAS, the Parties desire to establish the Developer Public Improvements guarantees in the form of this Agreement and accompanying Irrevocable Standby Letter of Credit; and

WHEREAS, the Developer and City seek to have Developer, at the Developer's cost, provide the following public infrastructure improvements or services, pursuant to the applicable Codes and Regulations of the City;

NOW, THEREFORE, in consideration of the mutual covenants, promises, declarations and conditions herein provided the Parties agree as follows:

1. **Agreements to Run with the Land.** All of the Property which is legally described in **Exhibit A** shall be subject to this Agreement and the intention of the Parties is that all of the provisions of this Agreement shall run with the entirety of the Property described in **Exhibit A**.

2. **Public Improvements by Developer.** The Developer must, at its cost, install and pay for all public infrastructure improvements or services located within the right of way of Aurora Drive and Nova Way as set forth in attached **Exhibit B** ("Developer Public Improvements"), including but not limited to constructing roadway, sidewalk, curb and gutter, curb inlets, and storm pipes, and all Developer Public Improvements will be completed pursuant to the applicable Codes and Regulation of the City. The Developer Public Improvements will be constructed in accordance with the City Code and the City's *Street, Storm Drain, and Sanitary Sewer Specifications and Standards*, as may be amended, or any successor specifications and standards adopted by the City.

3. **Public Improvements by City.** The City must, at its cost, install and pay for certain public infrastructure improvements or services located along Nifong as set forth in attached **Exhibit C** ("City Public Improvements"), including but not limited to constructing roadway, sidewalk, traffic signal, wedging, curb and gutter, curb inlets, and storm pipes, and all City Public Improvements will be completed pursuant to the applicable Codes and Regulation of the City. The City Public Improvements will be constructed in accordance with the City Code and the City's *Street, Storm Drain, and Sanitary Sewer Specifications and Standards*, as may be amended, or any successor specifications and standards adopted by the City.

4. **Performance Guarantee.** To secure and guarantee performance of its obligations to construct the Developer Public Improvements as set forth herein, the Developer must provide security and collateral in the form of an Irrevocable Letter of Credit, as set forth in attached **Exhibit D**, for an amount equal to one million dollars (\$1,000,000.00) for the Developer Public Improvements ("Security") within thirty (30) days of the Effective Date of this Agreement, payable to the City and guaranteeing the construction, installation, and completion of all required Developer Public Improvements, as set forth in **Exhibit B**, in the time and manner set forth in this Agreement. Nothing in the estimates or specification of component items will in any way limit the City or require release of any portion of the Security based on each line item, and Developer agrees it will continue to be obligated to complete and guarantee completion of all Developer Public Improvements until fully complete and accepted by the City.

The Developer warrants and guarantees that all Developer Public Improvements hereunder will be constructed in a workmanlike manner, of materials as specified by the City's engineering requirements, construction specifications and design standards for a period of two (2) years on workmanship and materials from the date of issuance of a Certificate of Acceptance thereof. The Developer will ensure that any contractor or subcontractor who works on the improvements will also warrant their work to the same extent as Developer. The Developer must convey title to the improvements and any necessary easements to the City via appropriate instrument approved by the City, free and clear of any lien, encumbrance or cloud upon such title, at the time of, and as a condition of, issuance of a Certificate of Acceptance by the City.

The Director of Public Works may approve a reduction in the required amount of the Security whenever, in the Director's reasonable opinion, changed circumstances justify the reduction. Any release of part of or a portion of the Security is only an accommodation to the Developer and is not a waiver of any kind by the City of its rights under this Agreement that the entire Security guarantees each and every improvement.

5. **Security.** The Security guarantees the construction, installation, maintenance, and completion of all Developer Public Improvements in accordance with the approved Developer Public Improvements which are incorporated in this Agreement by reference and as summarized in the attached **Exhibit B** and as required by the ordinances and regulations of the City.

6. **Easement to be Provided at Request of School District.** The Developer shall consult with the Columbia Public School District ("District"), and provide the District any easements necessary for installation of a thirty-foot (30') wide private driveway (not a public street) extending south from the proposed roundabout, running alongside the easterly boundary of the Property, which such private driveway ("Private Driveway") will provide a connection from the roundabout to the parking lots of the District which serve, among other things, Rock Bridge High School. Unless the Private Driveway to be located within such easement is constructed within seven (7) years following the completion of the Developers Public Improvements, the offer to provide and establish such easement shall cease and expire.

7. **Payment Offset for City Public Improvements.** Developer shall pay the City a lump sum fee of one-hundred thousand dollars (\$100,000.00) to offset a portion of the costs incurred by City for the City Public Improvements as summarized in attached **Exhibit C** ("Payment Offset"). This Payment Offset must be submitted to the City within thirty (30) days of the Effective Date.

8. **Completion Date.** The Developer guarantees that all Developer Public Improvements will be installed, constructed and completed in accordance with **Exhibit B** and the ordinances of the City within five (5) years from the Effective Date or before the Nifong Boulevard Improvement Project contractor pre-final inspection date, whichever date comes first ("Completion Date") and the Developer Public Improvements, including all lots, common ground, streets, and improvements, and all adjacent streets used for the hauling of construction equipment, materials and supplies will be safeguarded, protected and kept free of associated mud, trash, weeds, and debris during the construction period and otherwise properly maintained, and constructed all in accordance with City Code and Approved Improvement Plans.

9. **Extension of Time for Completion.** The Developer may seek an extension of this Agreement beyond the amount of time required herein for completion of all Developer Public Improvements by submitting a written request for an extension to the City Council prior to the expiration of the permitted time. The request for an extension must state the reason for the request and the additional time needed. The City Council will have sole discretion to determine if an extension is warranted and may require any security and collateral it deems necessary to ensure completion of all Developer Public Improvements. Upon approval, the extension will begin from a date determined by the City Council.

10. (a) That the City shall, through written authorization of the Director of Public Works, release or reduce portions of the Security upon completion of components within categories and will release corresponding portions of the Security upon completion of categories of improvements so long as a qualified, licensed engineer employed by the Developer certifies to the City the completion of such work; Provided further that in no event will the City release any part of the Security except as provided herein:

(b) In order to obtain such written authorization for a release, upon completion of any such category of improvement the Developer must first make written request for inspection, and include therewith a certification by the Developer's engineer, to the appropriate inspecting authority, with a copy to the City Clerk. Upon receipt of the Developer's written request for inspection and certification by the Developer's engineer, the City (or the appropriate inspecting authority) will (i) inspect the construction, installation and completion of the Developer Public Improvement(s) that have been certified complete by the Developer. Upon receipt of the inspection report, the City's Director of Public Works will review the report, verify that the Developer Public Improvement complies with all laws and requirements of the City, and authorize such release.

(c) Except for discretionary releases that may be granted by the Director of Public Works in the public interest, no category of any Developer Public Improvement will be eligible for release until each and every component and requirement that makes up that category of Developer Public Improvement is deemed complete by the City. No category or public improvement may be deemed to be complete until there is a certification by the City that the project is complete. No certification will be issued by the City unless all of the following takes place: (i) the Developer submits a written request to the City for inspection of the Developer Public Improvements; (ii) the inspection is completed by the City's inspector who determines that the Developer Public Improvement are complete and recommends to the City's Director of Public Works that it be released; and (iii) the City's Director of Public Works reviews the City Inspector's inspection report, determines that the Developer Public Improvement complies with all laws and requirements of the City, and authorizes such release.

(d) Upon certification by the City that the construction and installation of a category of Developer Public Improvement is complete (in accordance with section 10 (b) and (c) above), the City will authorize the release of the estimated cost originally retained for that category *minus* a maximum retention of five percent (5%), as otherwise provided in this Section. The Developer will not be released of any responsibility for installation, construction, completion, or maintenance for the required improvements, irrespective of any release that may have been issued based on specific improvements or inspections, prior to final approval of all improvements and release of the entire Security for all categories.

(e) In no event will the City be required to release, disburse or otherwise dispose of more than ninety-five percent (95%) of the Security, until the City has certified as provided herein that all categories of Developer Public Improvements have been completed in accordance with the regulations and ordinances of the City and the "as built drawings" have been approved by the City.

11. **Before Final Release.** Upon completion of all of the Developer Public Improvements and prior to final release the Developer must submit to the City an electronic copy of "as built" drawings which show the actual installation of the said improvements, and that if after the City reviews the "as built" drawings submitted it reasonably determines that all of the improvements have been completed and, as applicable, accepted by the respective utilities, then the City will approve the "as built" drawings. This Agreement will not be deemed to create any commitment by the City to accept any improvement for dedication and maintenance.

12. **Final Release.** Upon approval of the "as built" drawings and completion of the final improvements and certifications required, the final Security must be released not later than expiration of eighteen (18) months after acceptance of the improvements by the City.

13. **Default or Abandonment.** In the event the Developer is in default, or fails to complete the obligations herein, including, but not limited to, the failure to complete the Developer Public Improvements by the Completion Date, or the failure to properly maintain the improvements, including keeping the Developer Public Improvements free of mud, debris, erosion, or otherwise, whichever occurs first, the Developer will forfeit to the City the then current balance of the Security or any portion thereof, which funds the City will thereafter use to complete the Developer Public Improvements or otherwise rectify the Developer's failure hereunder. The City may further apply such necessary amount of the Security to remedy any failure of the Developer to perform its maintenance obligations in the Developer Public Improvements. If the City is required to remedy any failure of the Developer to perform its maintenance obligations during this Agreement, the City may also require Developer to deposit additional security with the City as may be needed.

14. **No Waiver for Failure or Delay to Enforce.** Exercise or waiver by City of any enforcement action under this Agreement or the City's Code does not waive or foreclose any other or subsequent enforcement action whatsoever. The Irrevocable Letter of Credit and any other security placed under this Agreement will be governed by the relevant provisions of the City Code, and the Developer agrees to the provisions thereof as if set forth herein. The City is entitled to its costs, including reasonable attorneys' fees, in enforcement of Developer's obligations under this Agreement.

15. **Amendments or Modifications.** This Agreement may be amended from time to time provided that such amendment be mutually agreed upon in writing and signed by all Parties hereto, including any future Developer of any part of the Property who might otherwise be obligated to perform any of the requirements imposed upon the Developer by this Agreement. Oral modifications or amendments of this Agreement are of no force or effect and Developer will not be released from any obligation to construct the Developer Public Improvements by sale of any portion of the Property without the express written consent of the City and the execution of a substitute Irrevocable Letter of Credit which will, in the sole determination of the City, adequately protect the interest of the public in the required construction of the Developer Public Improvements.

16. **Recording and Effect of Agreement.** This Agreement may be recorded by the City Clerk in the land records of Boone County, Missouri, at the sole cost and expense of Developer and will constitute a covenant running with the land and will be binding upon the heirs, successors, and assigns of the Developer.

17. **Designation.** The Developer is an independent contractor, and nothing contained herein will constitute designation of the Developer or any of its employees or agents as an agent or employee of the City.

18. **Notices.** All notices between the parties hereto must be in writing and will be sent by certified or registered mail, return receipt requested, by personal delivery against receipt or by

overnight courier, will be deemed to have been validly served, given or delivered immediately when delivered against receipt or three (3) business days after deposit in the mail, postage prepaid, or one (1) business day after deposit with an overnight courier, and must be addressed as follows:

If to the City:
City of Columbia
City Manager
701 E. Broadway
Columbia, MO 65205

with a copy to:
City of Columbia
Director of Public Works
701 E. Broadway
Columbia, MO 65205

If to Developer:
Jeffrey E. Smith Investment Co. L.C.
c/o Brian Kimes
206 Peach Way
Columbia, MO 65203

with a copy to:
Haden and Colbert, LLC
Attn: Caleb Colbert
827 E. Broadway, Ste. B
Columbia, MO 65201

Each party will have the right to specify that notice is to be addressed to another address by giving to the other party ten (10) days written notice thereof.

19. **Hold Harmless.** Developer, at its sole cost and expense, hereby agrees to indemnify, protect, release, defend (with counsel acceptable to the City) and hold harmless the City, its municipal officials, elected officials, boards, commissions, officers, employees, attorneys, and agents from and against any and all causes of action, claims, demands, all contractual damages and losses, economic damages and losses, all other damages and losses, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, out of either Developer breach of this Agreement or any action or inaction of Developer, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Developer may be liable, occurring during the construction of Developer Public Improvements related to the Development which results in injury to any third party, except to the extent such injury arises from or is caused by the sole or gross negligence or willful misconduct of the City, its elected officials, officers, employees, agents or contractors. The indemnification, duty to defend and hold harmless obligations set forth in this Section will survive for a period of five (5) years from the date of the later of City acceptance of Developer Public Improvements or the last day of any warranty work relating to such Developer Public Improvements.

20. **Insurance.** Any Party performing construction of public improvement under this Agreement must provide, at its sole expense, and maintain during construction of any Developer Public Improvements related to this Agreement, commercial general liability insurance with a reputable, qualified, and financially sound company licensed to do business in the State of Missouri. The insuring company, unless otherwise approved by the City, must have a rating of not less than "A," and it must protect the insured Party, the City, and the City's officials, officers, and employees from claims which may arise from the construction operations, whether such

operations are by the insured Party, its officers, directors, employees and agents, or any of its subcontractors. This liability insurance must include, but will not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from all insured Party operations, products, services or use of automobiles, or construction equipment. The amount of insurance for required herein must be in no event less than the individual and combined sovereign immunity limits established by § 537.610 RSMo., for political subdivisions; provided that nothing herein will be deemed to waive the City's sovereign immunity. An endorsement must be provided which states that the City is named as an additional insured and stating that the policy will not be cancelled or materially modified so as to be out of compliance with the requirements of this Section, or not renewed without 30 days advance written notice of such event being given to the City.

21. **Sovereign Immunity.** Nothing in this Agreement shall constitute or be construed as a waiver of the City's governmental or official immunity or its officers or employees from liability or suit pursuant to Section 537.600 RSMo.

22. **No Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement.

23. **Power of the City.** Notwithstanding anything set forth in this Agreement to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the City to act in its capacity as a public body. All financial obligations of the City shall be subject to future appropriation of the City in accordance with applicable laws and requirements. Further, nothing herein shall relieve Developer from complying with all applicable laws and requirements.

24. **Authorized Employees.** Developer acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Developer therefore covenants that it is not knowingly in violation of Section 285.530(1), RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on any project which is the subject of this Agreement, and that its employees are lawfully eligible to work in the United States. Developer will execute an Immigration Law Compliance Affidavit in substantially the same form as attached hereto in **Exhibit E** and will cause any person or entity performing work on any public infrastructure project to confirm compliance with Section 285.530(1) and execute an Immigration Law Compliance Affidavit.

25. **Inspection.** Upon reasonable prior notice, the City may conduct such periodic inspections of the projects herein, including any applicable phase, as may be generally provided in the applicable law or regulation for inspection thereof pursuant to comply with the terms of this Agreement. The Developer shall not deny the City and its officers, employees, agents and independent contractors the right to inspect upon reasonable prior written request, all engineering or construction contracts or documents pertaining to the construction of the public infrastructure or any applicable phase thereof.

26. **Governing Law.** This Agreement will be construed according to the laws of the State of Missouri. The Parties must comply with all local, state, and federal laws and regulations relating to the performance of this Agreement.

27. **Venue.** Any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, must be instituted only in the Circuit Court of Boone County, Missouri.

28. **Entire Agreement.** This Agreement contains the entire and complete agreement between the City and the Developer with respect to the requirements imposed upon the Developer for the providing of financial security for the construction and installation of certain improvements and supersedes the rights and obligations of the Parties established in the December 22, 2011 Development Agreement as amended on August 17, 2015 in the First Amended and Restated Development Agreement. Parties agree that this Agreement constitutes a lawful contract between the Parties and the Developer hereby acknowledges and agrees that this Agreement and the City's ordinances and regulations applicable to this Agreement constitute lawful exercises of the City's authority and police power.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day set forth below each of their signatures.

CITY OF COLUMBIA, MISSOURI

By: _____
John Glascock, Interim City Manager

ATTEST:

Date: _____

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor *dt*

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

On this ____ day of _____, 2019, before me appeared John Glascock, to me personally known, who, being by me duly sworn, did say that he is the Interim City Manager of the City of Columbia, Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of the City and that this instrument was signed and sealed on behalf of the City by authority of its City Council and the City Manager acknowledged this instrument to be the free act and deed of the City.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal, at my office in Columbia, Boone County, Missouri, the day and year last above written.

Notary Public

My commission expires: _____.

Developer:

Jeffrey E. Smith Investment Co. L.C.

By: 

Name Printed: Jeffrey Smith

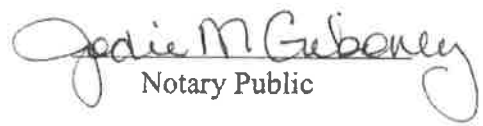
Title: CEO

STATE OF MISSOURI)
) ss
COUNTY OF Boone)

On this 30 day of July, 2019, before me, a Notary Public in and for said state, personally appeared, known to me to be the person(s) described in and who executed the above agreement and acknowledged to me that such agreement was executed as the free act and deed of such person(s) or that such person(s) executed the same as the free act and deed of such company.

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

JODIE M GIBONEY
Notary Public - Notary Seal
State of Missouri, Boone County
Commission # 16801929
My Commission Expires July 12, 2020


Notary Public

My commission expires: July 12, 2020

EXHIBIT A

(Legal Description of Property)

Gentry Estates - Lots 1, 2, 7, and 3
Recorded in plat book 46 page 23
Warranty deed recorded in book 1418 page 179
M-N Zoning (Mixed-Use Neighborhood)

March 21, 2019

Four tracts of land located in the southwest quarter of Section 25 T48N R13W and the northwest quarter of Section 36 T48N R13W, in Columbia, Boone County, Missouri, being part of Gentry Estates recorded in plat book 46 page 23 further described as follows:

Tract 1

All of Lot 1 of Gentry Estates recorded in plat book 46 page 23, containing 2.32 acres.

Tract 2

All of Lot 2 of Gentry Estates recorded in plat book 46 page 23, containing 3.01 acres.

Tract 3

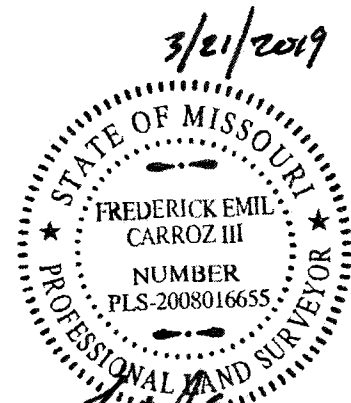
All of Lot 3 of Gentry Estates recorded in plat book 46 page 23, containing 10.15 acres.

Tract 4

All of Lot 7 of Gentry Estates recorded in plat book 46 page 23, containing 0.20 acre.

EXHIBIT "A"
SHEET 1 OF 2
PROJECT # 14119

Engineering Surveys and Services
1113 Fay Street Columbia, Missouri 65201
573-449-2646 - www.ESS-Inc.com
Missouri Land Surveying Corporation #2004004672



[Handwritten Signature]
FREDERICK E. CARROZ III
PROFESSIONAL LAND SURVEYOR
PLS - 2008016655

EXHIBIT B

(Developer Public Improvement Obligations)

- Construction of Aurora Drive roadway and sidewalk on east side of roadway from Nova Way to station 1+86 (Nifong Plans)/station 9+19.46 (Aurora Plans).
- Construction of the roundabout at Aurora Drive and Nova Way including connecting sidewalk on northeast side.
- Construction of Nova Way roadway and sidewalk on north side of roadway.
- Construction of the roundabout at Nova Way and Peachtree Drive including connecting sidewalk on all sides of the roundabout.
- Design of the Traffic Signal Plan and receive City approval for the intersection of Aurora Drive and Nifong Boulevard. On or before August 31, 2019, bid ready documents shall be approved by the City such that the Traffic Signal Plan can be bid with the Nifong Boulevard Improvement Project.
- Redesign and receive City approval of Nova Way and Peachtree Drive.
- Donation of easements along Lots 1, 2, 3 and 7 of Gentry Estates necessary for the construction of the Nifong Boulevard Improvement Project no later than three (3) business days following the Effective Date.

EXHIBIT C

(City Public Improvement Obligations)

- Construction of sidewalk along the south side of Nifong Boulevard.
- Construction of the traffic signal at the intersection of Aurora Drive and Nifong Boulevard.
- Design and construction of the wedging at the intersection of Aurora Drive and Nifong Boulevard.
- Construction of Aurora Drive roadway and sidewalk on east side of roadway from Nifong Boulevard to station 1+86 (Nifong Plans)/station 9+19.46 (Aurora Plans).
- Evaluate the stormwater improvements necessary upon completion of the construction of Aurora Drive and Nova Way.

EXHIBIT D

(Irrevocable Standby Letter of Credit)

Date: _____

IRREVOCABLE LETTER OF CREDIT NO. _____

Beneficiary:
City of Columbia, MO
P.O. Box 6015

Columbia, MO 65205

Applicant:

Issuer:
Name of Bank: _____

Address: _____

Phone _____
Fax: _____

Amount: \$1,000,000.00

Initial One Year Term with Automatic Extensions until released by the City of Columbia

Attention: Chief Financial Officer

We hereby establish our Irrevocable Letter of Credit No. _____ in favor of the City of Columbia, MO (the "City") for the account of _____ (applicant/developer) and authorize the City of Columbia to draw on _____ (the "Bank") up to an aggregate amount not to exceed \$_____, for the purpose of completing certain public improvements related to Applicant/Developer's Gentry Estates project, which is generally located at the southeast corner of the intersection of Nifong Boulevard and Bethel Street in Columbia, Missouri, on the terms and conditions set forth in this Letter.

This Letter of Credit is available by payment with the Bank against presentation of the City of Columbia draft(s) at sight drawn on the Bank up to an aggregate amount not to exceed \$1,000,000.00, for those certain public improvements related to Applicant/Developer's Gentry Estates project which Applicant/Developer is obligated to complete.

The sight draft drawn under this letter of credit must bear on its face the clause "Drawn under _____ (the Bank) Letter of Credit No. _____ for full or partial payment."

The initial term of this Letter of Credit will be one year from the date issued and shall automatically renew for up to four (4) additional one year renewal terms, until released by the City of Columbia, Missouri, unless we notify you in writing by overnight courier to City of Columbia; Attn: Finance Director; 701 E. Broadway; Columbia, MO 65205 at least 60 days prior to any such expiration date that we elect not to extend this Letter of Credit for any such additional period.

Demand for payment as per "Exhibit A" may be made in the form of a fax, by courier, United States postal service mail or other telecommunication facility. A fax or other written demand for payment must be followed by the appropriate original sight draft specified above within three (3) business days of the sending of such telecommunication. As used herein, the term "business day" means a day on which the Bank is open for the purpose of conducting commercial banking business.

If demand for payment is made by City of Columbia hereunder at or prior to 12:00 p.m. C.S.T./C.D.T., on a business day and such demand for payment conforms to the terms and conditions hereof, payment

shall be made to City of Columbia of the amount demanded, in immediately available funds, not later than 3:00 p.m., C.S.T./C.D.T., on the same business day. If the demand for payment does not conform to the terms and conditions of this Letter of Credit, the bank shall give City of Columbia prompt notice not later than 3:00 p.m., C.S.T. /C.D.T., on the same business day.

If demand for payment is made by City of Columbia hereunder after 12:00 p.m. C.S.T./C.D.T., on a business day and such demand for payment conforms to the terms and conditions hereof, payment shall be made to City of Columbia of the amount demanded, in immediately available funds, not later than 3:00 p.m., C.S.T./C.D.T., the next business day. If the demand for payment does not conform to the terms and conditions of this Letter of Credit, the bank shall give City of Columbia prompt notice not later than 3:00 p.m., C.S.T. /C.D.T., on the next business day.

Any demand for payment hereunder shall not exceed the aggregate amount.

Partial draws are permitted.

It is a condition of this Letter of Credit that it shall be automatically extended for up to four (4) additional one year renewal terms until released by the City of Columbia, Missouri, unless we notify you in writing by overnight courier to City of Columbia; Attn: Finance Director; 701 E. Broadway; Columbia, MO 65205 at least 60 days prior to any such expiration date that we elect not to extend this Letter of Credit for any such additional period.

This Letter of Credit may not be transferred or assigned.

This Letter of Credit shall be governed by the Laws of the State of Missouri.

Communications with respect to this Letter of Credit shall be in writing and shall be addressed to the bank at its address set forth above, specifically referring to the number of this Letter of Credit.

Attached hereto as "Exhibit B" is a true and correct copy of the Bank's resolution, minutes or excerpts from the Bank's bylaws adopted by the Board of Directors in compliance with the Board's bylaws which are still in effect, giving requisite authority to the officer or agent signing this Letter of Credit to do so on behalf of the Bank.

We, the Issuer, hereby agree with City of Columbia that all drafts presented in accordance with the terms and conditions of this Letter of Credit will be duly honored upon presentation to us or to the Bank's designated nominated person and confirmer.

Name of Bank: _____

Authorized Signature

Name: _____

Title: _____

EXHIBIT A: TO LETTER OF CREDIT NO. xxx-xxxx

CERTIFICATE WITH RESPECT TO AUTHORIZED SIGNATURES

The undersigned, City Manager, for the City of Columbia, MO (the "City"), hereby certifies to _____, (the "Bank"), with reference to the Bank's Irrevocable Letter of Credit No. xxx-xxxx (the "Letter of Credit") dated L/C Date, that the following persons are duly authorized officers or agents of the City for the Purpose of performing all duties of authorized representative as defined in the Letter of Credit and the following are the true and genuine signatures, respectively, of such officers or agents:

<u>Name</u>	<u>Office</u>	<u>Signature</u>
Janet Frazier	Interim Finance Director	
James McDonald	Assistant Finance Director	
John Glascock	Interim City Manager	

This certificate amends and supersedes any prior certificates with respect to authorized signatures received by the Bank in connection with the Letter of Credit.

IN WITNESS WHEREOF, the City has executed and delivered this certificate as of the _____ day of _____, 20____.

CITY OF COLUMBIA

By:

Name: _____
John Glascock

Attest: _____
Sheela Amin

Approved as to form:

Nancy Thompson

EXHIBIT B: EVIDENCE OF AUTHORITY OF BANK'S OFFICER OR AGENT TO EXECUTE LETTER OF CREDIT NO. XX-XXXX.

