

GENERATORS SALE AGREEMENT

THIS AGREEMENT (hereinafter "Agreement") is made by and between Shelter Mutual Insurance Company, a for profit business corporation whose address is 1817 West Broadway, Columbia, MO 65218 (hereinafter "Shelter"), and the City of Columbia, Missouri, a municipal corporation whose address is 701 E. Broadway, Columbia, MO 65201 (hereinafter "City"), and is entered into on the date of the last signatory below (hereinafter "Effective Date"). City and Shelter are each individually referred to herein as a "Party" and collectively as the "Parties."

WHEREAS, City owns two (2) generators and associated transformers and switchgear, located on the property of Shelter, that have been operating under a Local Site Generator Agreement between the Parties; and

WHEREAS, the Local Site Generator Agreement is terminating and City would like to sell the two (2) generators and associated transformers and switchgear; and

WHEREAS, Shelter would like to purchase from City these two (2) generators and associated transformers and switchgear;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the Parties hereto agree as follows:

1. DEFINITIONS

1.1. *Terms Defined Above.* As used in this Agreement, the terms "Agreement," "Shelter," "City," and "Effective Date" will have the meanings indicated above.

1.2. *Additional Defined Terms.*

(a) "Appraisal Report": This is the report from Martin Energy Group Services, dated July 29, 2016, making an appraisal on Generators. The report is attached hereto as EXHIBIT 1.

(b) "Generators": These are two (2) City-owned Caterpillar Generators and two (2) City-owned Howard Industries transformers, and one (1) City-owned Western Power Products Primary Metering Equipment, and one (1) General Electric Switchgear Cabinet located on the Shelter Property, 1817 West Broadway, Columbia, MO 65218, appraised in the Appraisal Report, and as described as follows:

- (i) CATERPILLAR DIESEL GENERATOR - SHELTER# 1
Model# 3512
Serial # 1GZ00482
- (ii) CATERPILLAR DIESEL GENERATOR- SHELTER# 2
Model# 3512

Serial # 1GZ00483

- (iii) Howard Industries 1500 KVA Transformer
Catalog Number 9194-435219-037
Serial No. 1041610199
- (iv) Howard Industries 1500 KVA Transformer
Catalog Number 9194-435219-037
Serial No. 1041620199
- (v) Western Power Products Primary Metering Equipment
Catalog Number 72-2-0672-SP
Serial No. EN-0720335
- (vi) General Electric Switchgear Cabinet
Serial No. 29084

2. PROPERTY TO BE SOLD, PAYMENT, DELIVERY

- 2.1. *Property to be Sold.* City agrees to sell Generators, as defined in this Agreement, to Shelter.
- 2.2. *Payment.* Shelter agrees to pay the amount of two-hundred forty thousand dollars (\$240,000) to City for Generators.
- 2.3. *Delivery.* Ownership of Generators shall transfer upon City's receipt of full payment by Shelter.

3. LIMITED WARRANTY

GENERATORS ARE BEING SOLD AS IS, IN THEIR CURRENT CONDITION. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CITY EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY, LEGAL OR EQUITABLE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, RESPECTING THE GENERATORS AS DEFINED IN THIS AGREEMENT.

4. INDEMNITY PROVISIONS

- 4.1. *Hold Harmless Agreement.* To the fullest extent not prohibited by law, Shelter shall indemnify and hold harmless City, its directors, officers, agents, and employees from and against all claims, damages, losses, and expenses (including

but not limited to attorney's fees) arising by reason of any act or failure to act, negligent or otherwise, of Shelter, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Shelter), of anyone directly or indirectly employed by Shelter or by any subcontractor, or of anyone for whose acts Shelter or its subcontractor may be liable, in connection with this Agreement and the sale of Generators. This provision does not, however, require Shelter to indemnify, hold harmless, or defend City from its own actions, inactions (willful or otherwise), or its own negligence.

- 4.2. *No Waiver of Sovereign Immunity.* 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. GOVERNING LAW AND VENUE

This agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this Agreement shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.

6. MISCELLANEOUS

- 6.1. *Entire Agreement.* The terms and conditions of this Agreement constitute the complete and exclusive statement of the Agreement between the Parties.
- 6.2. *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 City and Shelter.
- 6.3. *Assignment Prohibited.* Shelter shall not assign, transfer, or delegate any interest in this Agreement without the prior written consent of City. Any such attempted delegation or assignment shall be null and void.
- 6.4. *Solely for Benefit of Parties.* This agreement is for the sole benefit of City and Shelter. Nothing in this agreement is intended to confer any rights or remedies on any third party.
- 6.5. *Severable.* Should any provision or section of this Agreement be void, unenforceable for any reason or unlawful, then that provision or section shall be deemed severable from this Agreement and shall not affect the enforceability or validity of any of the remaining provisions or sections of the Agreement or the Agreement as a whole.

- 6.6. *Access Control.* The City shall continue to maintain its locks on the General Electric switchgear cabinet. Shelter shall contact the City in the event access is needed to the switchgear cabinet.

[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 to this Agreement.

CITY OF COLUMBIA, MISSOURI

By: _____
Mike Matthes, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:


By: _____
Nancy Thompson, City Counselor

Shelter Mutual Insurance Company

BY: 

TITLE: Director, General Services

DATE: 11/8/16

ATTEST
BY: 
TITLE: Counselor

GENERATORS SALE AGREEMENT

EXHIBIT 1

Martin Energy Group Services
Appraisal Report
Dated July 29, 2016



MARTIN
ENERGY GROUP SERVICES LLC

EQUIPMENT APPRAISAL SUMMARY
OF
(2) CATERPILLAR GENERATOR SETS

PREPARED FOR:

John Wulff

Key Accounts / Utility Services

710 E. Broadway, 4th Floor

Columbia, MO 65205

PREPARED BY:

Harlan Martin

Senior Sales Advisor

39415 Excelsior Drive

Latham, MO 65050

APPRAISAL PROCESS

A sales comparison approach we deemed to be the most appropriate and professional method to determine a fair market value of the subject property.

An on-site inspection was performed with our Senior Sales Advisor and Diesel Service Technician on June 22, 2016.

SALES COMPARISON APPROACH

Our Sales Comparison Approach estimates value by comparing the generator sets with other similar generators sold in a comparable market, considering adjustments made for all the differences that affect actual value, such as options, features and characteristics of value, in market, and in time.

LOCATION OF THE GENERATORS

The subject property is located at:

Shelter Insurance Companies
1817 West Broadway
Columbia, MO 65218

INTENDED USE / USERS OF THE APPRAISAL

This appraisal is to be used to establish a fair market sales price for the above mentioned power generation equipment. The intended user(s) of this appraisal is for the Utility Services of Columbia, MO.

ASSUMPTIONS AND LIMITING CONDITIONS

It is believed that the basic engine, generator, and switchgear are in good working order. However, we found the cooling system to be very inadequate. Therefore, we believe that these units cannot be counted on to produce more than 1000 KW in an ambient of 90* F. or more.

Therefore, we would believe the actual fair market value on the wholesale market as is indicated on the appraisal sheet.

Nevertheless, to anyone who can use them for the building to which they are already connected, they should be worth 25% over our appraisal price.

The appraiser does not assume any responsibility for the mechanical condition of the generator equipment that may affect the values contained in this appraisal report.

DESCRIPTION OF GENERATION EQUIPMENT

CATERPILLAR DIESEL GENERATOR - SHELTER # 1

Model # 3512

Serial # 1GZ00482

Hours of Operation: 164

Number of starts: n/a

KW Hours: 94668

Condition of Unit: Fair

APPRAISED UNIT VALUE:

\$ 120,000.00

CATERPILLAR DIESEL GENERATOR - SHELTER # 2

Model # 3512

Serial # 1GZ00483

Hours of Operation: 164

Number of Starts: n/a

KW Hours: 84461

Condition of Unit: Fair

APPRAISED UNIT VALUE:

\$ 120,000.00

TOTAL APPRAISED VALUE:

\$ 240,000.00

I certify that, to the best of my knowledge and belief:

- The statements of facts contained in this report are true and correct.
- The report analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions. These are my personal, impartial, unbiased, experienced based analysis, opinions and conclusions.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- I have made a personal inspection of the power generation equipment that is the subject of this report.
- My compensation is not contingent upon the development, reporting, of a predetermined value, or direction in value, that favors the cause of the client, the amount of the estimate of value, attainment of stipulated result, or the occurrence of the subsequent event directly to the intended use of this appraisal.

Sincerely,

Harlan Martin ~ Senior Sales Advisor

Signature: Harlan Martin

Date: 7/29/16