

Water Main Cost-Share Agreement
Between
City of Columbia, Missouri
And
The Curators of the University of Missouri

THIS AGREEMENT (hereinafter "Agreement") is by and between the City of Columbia, Missouri (hereinafter "City"), a municipal corporation and the Curators of the University of Missouri (hereinafter "University"), a public corporation of the State of Missouri and is entered into on the date of the last signatory below (hereinafter "Effective Date"). City and University are each individually referred to herein as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, City is the owner and operator of a water utility system in Columbia, Missouri;

WHEREAS, University is the owner and operator of a Women's and Children's Hospital, located at 404 N. Keene St, Columbia, MO 65201, that is a customer of City for water services;

WHEREAS, University would like to upgrade the water main line servicing its Women's and Children's Hospital property;

WHEREAS, rather than the University upgrading a private main to serve its property, the City wishes for a public water main to be constructed in the area to improve the reliability of City's infrastructure; and

WHEREAS, both Parties would like to share in the costs of the construction of a public water main in this area pursuant to the terms and conditions set forth in this Agreement;

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. Purpose. The purpose of this Agreement is to formalize the understanding between the Parties for the City to reimburse the University for City's portion of the costs of the public water main being constructed along Portland Street and Lansing Avenue as defined by MU Project number CP172631, Project Title Women's and Children's Hospital Water Main Upgrade (hereinafter "Project"). The Project is illustrated in the Women's and Children's Partnership map, attached hereto as **Exhibit A** and made a part of this Agreement.

2. Bid and Construction.

(a) **Design** -- The University shall let and manage the design contract with the design engineer selected by the University. The design standards ("Design Standards") and bid set will be jointly agreed to by the City and the University.

(b) **Construction** – The University will be responsible for the bid and contract for the construction of the water main. The University will manage the contract and the payments to the contracting party. City hereby grants to the University a 10' wide non-exclusive easement for the University and its contractors to construct, repair and maintain the Project on, through or under any portion of the City's land or right of way comprising or adjacent to the Project. City agrees to assist the University by providing University and its contractors with any requested information or cooperation that is reasonably necessary to complete construction of the Project.

(c) **Contacts** - The City will establish a point of contact from the Utilities Department (the "City Contact") for all construction related activities. The University will establish a point of contact (the "University Contact") for all construction related activities. The University Contact shall communicate with the City Contact, and vice-versa, , any questions or concerns about the construction of the Project.

(d) **Inspection** - The University will contract for or directly provide inspection services for the Project. The University will allow access to the site for the City to observe construction progress and to monitor that the Project is being constructed consistent with the agreed Design Standards.

(e) **Change Order Requests** – Any change order requests that changes the price, timing, or specifications of the City Work will flow from the contractor to the University representative. The University representative responsible for processing change order requests shall communicate the change order request to the City Contact. The City Contact will respond via electronic communication acceptance or rejection of change order request(s) and shall accompany any acceptance of a change order request that increases the cost of the City Work with documentation showing that the increase in price is authorized by the City.

3. Project Cost Responsibility. The University is responsible for all design and construction costs of the water main along Portland Street from Berrywood Drive to Lansing Avenue, as well has the new feed from N. Keene St control valve to the existing fire hydrant on University property. The City is responsible for all design and construction costs of the water main along Lansing Avenue from N. Keene Street to Portland Street. Specific demarcations of cost responsibility for this project are illustrated in the Women's & Children's Partnership map, attached hereto as **Exhibit A**. The estimate of the costs for each Party for the Project is attached hereto as **Exhibit B** and made a part of this Agreement.

4. Ownership. The City will be the owner of the Public Main being constructed. The City will be responsible for all future costs and maintenance of the Public Main once the construction project has been completed. For purposes of this Agreement, the "Public Main" shall be the water main constructed as part of this Project which is located in the City right of way, except it does not include any service line beyond the City's control valve. The University will be responsible for all future costs and maintenance of its service lines from its property to the point of the City's control valve. Specific demarcations of ownership and cost responsibilities are illustrated in the Women's & Children's Partnership map, attached hereto as **Exhibit A**.

5. Payments & Costs

(a) **Payments:** Within 30 days of the University issuing the notice to proceed to the successful contractor the City shall issue to the University an initial payment equal to the Base Cost. Within 15 days of notice from the University that all expenses relating to change order(s) to the Project are finalized, the City shall issue to the University payment equal to the value of such change order(s). The University will be responsible for processing and remitting all payments to the contractor. Within 30 days of notice from the University that all expenses relating to change orders to the Project are finalized, the City shall issue to the University a payment equal to the value of such change order(s).

(b) **Costs.** It is expressly understood by both Parties that in no event will the total amount to be paid by City for design and construction costs (excluding maintenance) under the terms of this Agreement exceed **two hundred twenty thousand dollars (\$220,000)**, unless otherwise agreed to by both Parties in writing. On behalf of City, the additional funding under this Agreement may be authorized with a signature by both the Director of Utilities and the Director of Finance.

6. Termination. This Agreement may be terminated at any time during its term upon mutual agreement by both Parties, or by the non-defaulting Party upon occurrence of an event of default. In order to terminate upon default, the non-defaulting Party may provide written notice of the default to the other Party. If the default is not cured within fifteen (15) calendar days' from receipt of the written notice, then the non-defaulting Party shall terminate this Agreement for failure to perform. The written notice will be effective immediately upon its receipt.

7. Event of Default. Either Party is in default if the Party (i) fails to perform or observe a material term or condition of this Agreement, (ii) becomes insolvent, files a voluntary petition in bankruptcy, makes a general assignment of the Agreement for the benefit of its creditors, or consents to the appointment of a receiver, trustee or liquidator, or (iii) the purported assignment of this Agreement in a manner inconsistent with the terms of this Agreement.

8. No Assignment. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.

9. Notices. Any notice, demand, request, or communication required or authorized by the Agreement shall be delivered either by hand, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid to:

If to City:

City of Columbia
Utilities Department
ATTN: Director
P.O. Box 6015
Columbia, MO 65205-6015

If to University:

University of Missouri
Vice Chancellor – Operations
ATTN: Director Campus Facilities
Planning, Design, & Construction
325 Jesse Hall
Columbia, MO 65211

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or U.S. mail.

10. No Third-Party Beneficiary. No provision of the Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such person a third-party beneficiary under the Agreement.

11. General Laws. The University shall comply with all federal, state and local laws, rules, regulations and ordinances.

12. No Waiver of Immunities. In no event shall the language of this Agreement constitute or be construed as a waiver or imitation 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 laws.

13. Hold Harmless Agreement. to the fullest extent not prohibited by law, the University shall indemnify and hold harmless the City, its directors, officers, agents, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney's fees) for bodily injury and/or property damage arising by reason of any act or failure to act, negligent or otherwise, of the University, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with the University or a subcontractor for part of the services), of anyone directly or indirectly employed by the University or by any subcontractor, or of anyone for whose acts the University or its subcontractor may be liable, in connection with the services provided for in the construction of Project. This provision does not, however, require the University to indemnify, hold harmless, or defend the City from its own negligence.

14. Governing Law and Venue. This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or 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.

15. Amendment. Except as otherwise provided for herein, 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.

16. Contract Documents. This Agreement includes the following attachments or exhibits, which are incorporated herein by reference:

| Exhibit: | Description: |
|-----------------|--|
| A | Women's and Children's Partnership map |
| B | Estimate of Costs dated 2/21/2018 |

In the event of a conflict between the terms of any of the Contract Documents and the terms of this Agreement, the Terms of this Agreement control. In the event of a conflict between the terms of any Contract Documents, the terms of the documents control in the order listed above.

17. Entire Agreement. 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.

[SIGNATURES ON FOLLOWING PAGE]

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: 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

CERTIFICATION: I hereby certify that this contract is within the purpose of the appropriation to which it is to be charged, Account No. _____, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

Michelle Nix, City Director of Finance

UNIVERSITY: CURATORS OF THE
UNIVERSITY OF MISSOURI

BY: _____

DATE: 5/24/18

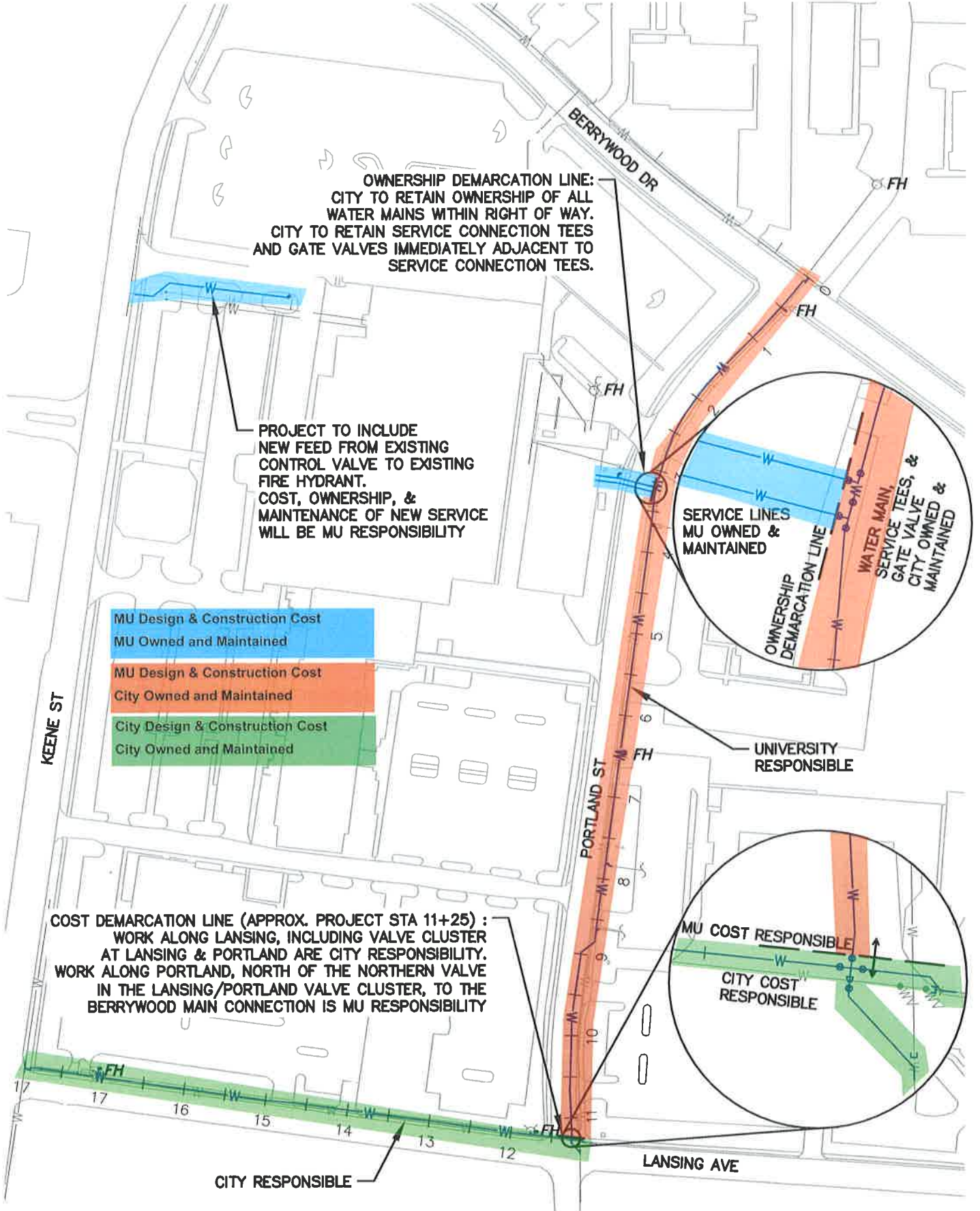
ATTEST:

BY: _____
Cindey Starnor

APPROVED AS TO FORM:

BY: _____
Steve R. [Signature], Counselor

EXHIBIT A - WOMEN'S & CHILDREN'S PARTNERSHIP



OWNERSHIP DEMARCATION LINE:
 CITY TO RETAIN OWNERSHIP OF ALL
 WATER MAINS WITHIN RIGHT OF WAY.
 CITY TO RETAIN SERVICE CONNECTION TEES
 AND GATE VALVES IMMEDIATELY ADJACENT TO
 SERVICE CONNECTION TEES.

PROJECT TO INCLUDE
 NEW FEED FROM EXISTING
 CONTROL VALVE TO EXISTING
 FIRE HYDRANT.
 COST, OWNERSHIP, &
 MAINTENANCE OF NEW SERVICE
 WILL BE MU RESPONSIBILITY

- MU Design & Construction Cost
MU Owned and Maintained
- MU Design & Construction Cost
City Owned and Maintained
- City Design & Construction Cost
City Owned and Maintained

SERVICE LINES
 MU OWNED &
 MAINTAINED

OWNERSHIP DEMARCATION LINE

**WATER MAIN,
 SERVICE TEES, &
 GATE VALVE**
 CITY OWNED &
 MAINTAINED

UNIVERSITY RESPONSIBLE

MU COST RESPONSIBLE

CITY COST RESPONSIBLE

COST DEMARCATION LINE (APPROX. PROJECT STA 11+25) :
 WORK ALONG LANSING, INCLUDING VALVE CLUSTER
 AT LANSING & PORTLAND ARE CITY RESPONSIBILITY.
 WORK ALONG PORTLAND, NORTH OF THE NORTHERN VALVE
 IN THE LANSING/PORTLAND VALVE CLUSTER, TO THE
 BERRYWOOD MAIN CONNECTION IS MU RESPONSIBILITY

CITY RESPONSIBLE

Exhibit B - Estimate of Costs

Project Number: CP172631
 Project Name: Women's & Childrens Hospital Water Main Upgrade
 Final DD Estimate
 2/21/2018

Bid Date: 5/1/2018

| Design Costs | | Comments | | | | MUHC | City of Columbia |
|-------------------------|-------------------------|--------------------------------------|--|--|--------------------|--------------------|-------------------|
| 100 | Basic Services | SKW Proposed Fees | | | \$30,200.00 | \$22,600.00 | \$7,600.00 |
| 200 | Additional Services Fee | Fire pump survey | | | \$13,200.00 | \$13,200.00 | \$0.00 |
| 210 | Amendment #2 | New service entrance plumbing design | | | \$14,430.00 | \$14,430.00 | \$0.00 |
| 630 | Site Survey | Limited to areas adjacent to WCH | | | \$17,000.00 | \$17,000.00 | \$0.00 |
| 640 | Soils Investigation | Budgetary | | | \$5,000.00 | \$3,537.74 | \$1,462.26 |
| 650 | Additional Surveying | | | | \$0.00 | \$0.00 | \$0.00 |
| 900 | Other Design Costs | | | | \$0.00 | \$0.00 | \$0.00 |
| 910 | | | | | \$0.00 | \$0.00 | \$0.00 |
| 1300 | Advertising | | | | \$50.00 | \$35.38 | \$14.62 |
| 1400 | Reproduction | | | | \$3,000.00 | \$2,122.64 | \$877.36 |
| Design Subtotals | | | | | \$82,880.00 | \$72,925.75 | \$9,954.25 |

| Base Bid and Alternates | | Comments | included | cost | | MUHC | City of Columbia |
|------------------------------------|----------|---------------------|----------|--------|---------------------|---------------------|---------------------|
| 2000 | Base Bid | SKW Estimated Costs | | | \$530,000.00 | \$375,000.00 | \$155,000.00 |
| 2010 | alt 1 | | | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| 2020 | alt 2 | | | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| 2030 | alt 3 | | | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Base Bid and Alts Subtotals | | | | | \$530,000.00 | \$375,000.00 | \$155,000.00 |

| Other Construction Costs | | Comments | | | | MUHC | City of Columbia |
|-------------------------------------|--------------------------|--------------------------|-----|--------------|---------------------|--------------------|--------------------|
| 2100 | Direct Purchases | | | | \$0.00 | \$0.00 | \$0.00 |
| 2300 | Construction Contingency | \$565,000.00 | 10% | | \$56,500.00 | \$39,976.42 | \$16,523.58 |
| 2310 | | | | | \$0.00 | \$0.00 | \$0.00 |
| 2400 | | | | | \$0.00 | \$0.00 | \$0.00 |
| 2500 | Concrete Testing | Budgetary | | | \$15,000.00 | \$10,613.21 | \$4,386.79 |
| 2510 | Structural Testing | | | | \$0.00 | \$0.00 | \$0.00 |
| 2520 | Soils Testing | Budgetary | | | \$20,000.00 | \$14,150.94 | \$5,849.06 |
| 2530 | | | | | \$0.00 | \$0.00 | \$0.00 |
| 2600 | PD&C Fee | 5.00% | | | \$31,075.00 | \$21,987.03 | \$9,087.97 |
| 5340 | BUDGET PROTECTION | BUDGET PROTECTION | 0% | \$530,000.00 | \$0.00 | \$0.00 | \$0.00 |
| 5400 | Construction Services | | | | \$0.00 | \$0.00 | \$0.00 |
| Other Construction Subtotals | | | | | \$122,575.00 | \$86,727.59 | \$35,847.41 |

| Miscellaneous Costs | | Comments | gsf or tons | unit cost | | MUHC | City of Columbia |
|--------------------------------|----------------------------|----------|-------------|-----------|---------------------|---------------------|---------------------|
| 6000 | Other Contracts | | | | \$0.00 | \$0.00 | \$0.00 |
| 6100 | Start-up Costs | | | | \$0.00 | \$0.00 | \$0.00 |
| 6200 | Special Services Equipment | | | | \$0.00 | \$0.00 | \$0.00 |
| 6410 | MUHC Capitalized Labor | | | | \$21,987.03 | \$21,987.03 | \$0.00 |
| 6500 | Other | | | | \$0.00 | \$0.00 | \$0.00 |
| 6530 | Parking Costs | | | | \$0.00 | \$0.00 | \$0.00 |
| Miscellaneous Subtotals | | | | | \$21,987.03 | \$21,987.03 | \$0.00 |
| Total Project Cost | | | | | \$757,442.03 | \$556,640.38 | \$200,801.65 |