

023357

Permanent Record
Filed in Clerk's Office

Introduced by Treece
First Reading 10-16-17 Second Reading 11-6-17
Ordinance No. 023357 Council Bill No. B 308-17

AN ORDINANCE

approving the Final Plat of Willow Falls, Plat No. 2, a major subdivision; accepting the dedication of rights-of-way and easements; authorizing a performance contract; authorizing a developer agreement; directing the City Clerk to have a certified copy of the developer agreement recorded; accepting conveyances for road access and temporary construction purposes; directing the City Clerk to have the conveyances recorded; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council hereby approves the Final Plat of Willow Falls, Plat No. 2, as certified and signed by the surveyor on April 6, 2017, a major subdivision located on the south side of Sunnyridge Lane and east of Creasy Springs Road, containing approximately 6.53 acres in the City of Columbia, Boone County, Missouri, and hereby authorizes and directs the Mayor and City Clerk to sign the plat evidencing such approval.

SECTION 2. The City Council hereby accepts the dedication of all rights-of-way and easements as dedicated upon the plat.

SECTION 3. The City Manager is hereby authorized to execute a performance contract with The Columbia Development Group, LLC in connection with the approval of the Final Plat of Willow Falls, Plat No. 2. The form and content of the contract shall be substantially as set forth in "Exhibit A" attached hereto.

SECTION 4. The City Manager is hereby authorized to execute a developer agreement guaranteeing installation of public improvements/irrevocable letter of credit with The Columbia Development Group, LLC. The form and content of the agreement shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof.

SECTION 5. The City Clerk is authorized and directed to have a certified copy of the developer agreement recorded in the office of the Boone County Recorder of Deeds.

PREVIOUSLY APPROVED

SECTION 6. The City of Columbia accepts the following conveyances:

Grant of Easement for road access purposes from Columbia Development Group, LLC, dated October 4, 2017, a copy of which is attached to this ordinance.

Agreement for temporary construction easement from Columbia Development Group, LLC, dated October 4, 2017, a copy of which is attached to this ordinance.

SECTION 7. The City Clerk is authorized and directed to have the conveyances recorded in the office of the Boone County Recorder of Deeds.

SECTION 8. This ordinance shall be in full force and effect from and after its passage.

PASSED this 6th day of November, 2017.

ATTEST:



City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor

PERFORMANCE CONTRACT

This contract is entered into on this day 8th ^{November,} of 2017, between the City of Columbia, MO ("City") and **Columbia Development Group, LLC.** (Subdivider).

City and Subdivider agree as follows:

1. Subdivider shall construct, erect and install all improvements and utilities required in connection with the final plat of **Willow Falls, Plat No. 2**, including sidewalks and all improvements and utilities shown on the plat and related construction plans, within 36 months after the City Council approves the plat.
2. If street, utility or other construction of public improvements should occur on or adjacent to land in the subdivision at the initiative of the City Council, as benefit assessment projects, Subdivider agrees to bear Subdivider's equitable and proportionate share of construction costs, as determined by such assessments.
3. No utility service connections or occupancy permits shall be issued to the Subdivider or to any other person for any structure on land in the subdivision unless and until all improvements have been constructed, erected and installed in the structure and upon the lot or lots on which the structure is situated in accordance with all applicable ordinances, rules and regulations of the City.
4. No occupancy permit shall be issued to the Subdivider or any other person for any structure constructed on land in the subdivision unless the street and sidewalk adjacent to the structure have been completed in compliance with the City's Standard Street Specifications.
5. City may construct, erect or install any improvement or utility not constructed, erected or installed by Subdivider as required by this contract. City may perform such work using City employees or City may contract for performance of the work. Subdivider shall reimburse City for all costs and expenses incurred by City in connection with the construction, erection, or installation of improvements in utilities under this paragraph. Subdivider agrees to pay City all expenses and costs, including reasonable attorneys' fees, incurred by the City in collecting amounts owed by Subdivider under this paragraph.
6. City shall not require a bond or other surety to secure the construction of the improvements and utilities required in connection with the final plat.
7. The obligations of Subdivider under this contract shall not be assigned without the express consent of the City Council.

PREVIOUSLY APPROVED

8. The remedies set forth in this contract are not exclusive. City does not waive any other remedies available to enforce Subdivider's obligations under this contract or to recover damages resulting from Subdivider's failure to perform its obligations under this contract.
9. This contract is not intended to confer any rights or remedies on any person other than the parties.

IN WITNESS WHERE OF, the parties have executed this contract on the day and year first above written.

CITY OF COLUMBIA, MISSOURI

BY: 
Mike Matthes, City Manager

ATTEST:


Sheela Amin, City Clerk

APPROVED AS TO FORM:


Nancy Thompson, City Counselor

Subdivider

BY: 

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

ord# 023357

THIS AGREEMENT ("Agreement"), is made and entered into by and between **The Columbia Development Group, LLC**, 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 22.80 acres of land currently located in the City of Columbia, generally located at the western termini of Clydesdale Drive and Armitage Drive, legally described in the attached Exhibit A. ("Property"); and

WHEREAS, the Property has been previously preliminary platted by a Preliminary Plat known as Vanderveen Crossing, Plat No. 9, approved by the City Council of the City of Columbia on July 19, 2004; and

WHEREAS, as a condition of approval of the final plat of Willow Falls, Plat No. 2, certain public improvements are required to be completed by the Developer as more fully set forth herein; and

WHEREAS, the Developer is willing to provide security or collateral sufficient in the judgment of the City to make reasonable provision for the completion of the required public improvements and warranties on such public improvements; and

WHEREAS, the Parties desire to establish the 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. **Public Improvements.** The Developer must, at its cost, install and pay for all public infrastructure improvements or services located within the right of way of Blue Ridge Road as set forth in attached Exhibit D ("Public Improvements"), including but not limited to constructing roadway, sidewalk, pedway pavement, curb and gutter, curb inlets, storm pipes, and flared end sections, and all Public Improvements will be completed pursuant to the applicable Codes and Regulation of the City. The Public Improvements will be constructed in accordance with the City Code and the City's *Street, Storm Sewer, and Sanitary Sewer Specifications and Standards*, in place at the time of construction.

2. **Phasing Plan.** The development of the Property, including final platting, will be phased in numerical order according to the attached Exhibit B ("Phasing Plan"). The Phasing Plan may be amended by Developer. However, unless otherwise authorized by the written consent of the Director of Community Development, Willow Falls, Plat No. 3 will be the next platted phase after the current plat request for Willow Falls, Plat No. 2, and must include the dedication of all right of ways and easements necessary for the construction of the Public Improvements involving Blue Ridge Road.

3. **Performance Guarantee.** The Developer must provide security and collateral in the form of an Irrevocable Letter of Credit, as set forth in attached Exhibit C, for an amount equal to one hundred twenty-five percent (125%) of the estimated cost for the Public Improvements ("Security") within thirty (30) days of the Effective Date of this Agreement, payable to the City and guaranteeing the construction, installation, maintenance, and completion of all required Public Improvements, as set forth in Exhibit D and with the City ordinances regulating the same. The estimated cost for the Public Improvements that serves as the basis for the Irrevocable Letter of Credit sum must be approved by the Director of Public Works before execution and acceptance of the Irrevocable Letter of Credit by the City. Nothing in the estimates or specification of component items will in any way 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 Public Improvements until fully complete and accepted by the City.

The Developer warrants and guarantees that all 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.

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

5. **Completion Date.** The Developer guarantees that all Public Improvements will be installed, constructed and completed in accordance with Exhibit B and Exhibit D and the ordinances of the City within 1) two years after the date of approval of Willow Falls Plat No. 3 or 2) thirty five (35) months after the Effective Date, whichever date occurs first ("Completion Date").

6. **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 Public Improvements by submitting a written request for an extension to the Director of Public Works 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 Director of Public Works 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 Public Improvements. Upon approval, the extension will begin from a date determined by the Director of Public Works.

7. **Release.**

(a) That the City may, 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.

(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, , to the appropriate inspecting authority. Upon receipt of the Developer's written request for inspection the City (or the appropriate inspecting authority) will (i) inspect the construction, installation and completion of the Public Improvement(s) that have been noted as complete by the Developer. Upon receipt of the inspection report, the City's Director of Public Works will review the report, verify that the 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 Public Improvement will be eligible for release until each and every component and requirement that makes up that category of 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 Public Improvements; (ii) the inspection is completed by the City's inspector who determines that the 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 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 Public Improvement is complete (in accordance with section 7 (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 Public Improvements have been completed in accordance with the Exhibit D and the City Code and the City's *Street and, Storm Sewer, Specifications and Standards*, in place at the time of construction..

8. **Before Final Release.** Upon completion of all of the Public Improvements and prior to final release of the Security, 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.

9. **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 30 days after acceptance of the improvements by the City.

10. **Default or Abandonment.** In the event the Developer is in default or abandons the subdivision, or fails to complete the obligations herein, including, but not limited to, the failure to complete the Public Improvements by the Completion Date, 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 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 Public Improvements. For the purpose of this Agreement and the City's rights hereunder, any and all of the remaining Security may be applied to completion or maintenance of any City improvements reasonably related to the Public Improvements including, but not limited to, those listed herein, and no limitation of any kind will be implied from the line item calculations of separate improvements.

11. **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.

12. **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 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 Public Improvements.

13. **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.

14. **Notices.** All notices between the parties hereto must be in writing and will be sent

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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:

The Columbia Development Group
% Scott Linnemeyer
3810 Buttonwood Drive, Suite #101
Columbia, MO 65201

with a copy to:

The Columbia Development Group
c/o Scott Atkins
1123 Wilkes Blvd.
Columbia, MO 65205

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.

15. **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 Developer's breach of this Agreement 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 City acceptance of public improvements.

16. **Insurance.** Any Party performing construction of public improvement under this Agreement must provide, at its sole expense, and maintain during construction of any 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.

17. **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.

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

19. **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.

20. **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. .

21. **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.

22. **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.

23. **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.

24. **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, all as hereinabove described in this Agreement unless contained in a prior agreement and not expressly modified herein. 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.

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

CITY OF COLUMBIA, MISSOURI

By: [Signature]
Mike Matthes, City Manager

Date: 11-8-17

ATTEST:

[Signature]
Sheela Amin, City Clerk

APPROVED AS TO FORM:

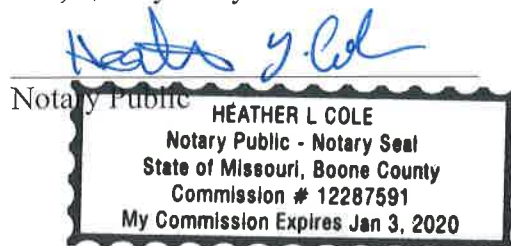
[Signature]
Nancy Thompson, City Counselor

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

On this 8 day of November, 2017, before me appeared Mike Matthes, to me personally known, who, being by me duly sworn, did say that he is the 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.

My commission expires: 1-3-21



DEVELOPER:

The Columbia Development Group, LLC

By: _____

Name Printed: _____

Title: _____

STATE OF MISSOURI

COUNTY OF Boone

)

) ss

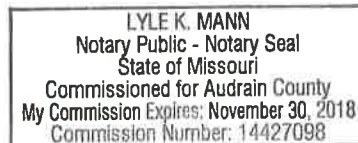
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On this 26th day of September, 2017, before me, a Notary Public in and for said state, personally appeared Scott Linnemeyer, an authorized member of The Columbia Development Group, LLC, known to me to be the person(s) described in and who executed 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.

Lyle K. Mann
Notary Public

My commission expires: 11-30-18



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EXHIBIT A

(Legal Description of property)

DESCRIPTION FOR REMNANT TRACT FOR WILLOW FALLS PLAT NO. 2
COLUMBIA DEVELOPMENT GROUP, LLC
JOB #140418

MAY 30, 2017

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 49 NORTH, RANGE 13 WEST, COLUMBIA, BOONE COUNTY, MISSOURI AND BEING ALL OF THE LAND SHOWN IN THE SURVEY RECORDED IN BOOK 2461, PAGE 148 EXCEPTING THEREFROM ALL THAT PART LOCATED WITHIN BRADLEY PLACE PLAT NO. 1, RECORDED IN PLAT BOOK 40, PAGE 45, AND FURTHER EXCEPTING ALL THAT PLATTED AS WILLOW FALLS PLAT NO. 1 RECORDED IN PLAT BOOK 49, PAGE 28.


DAVID T. BUTCHER, PLS-2002014095

5/31/2017
DATE



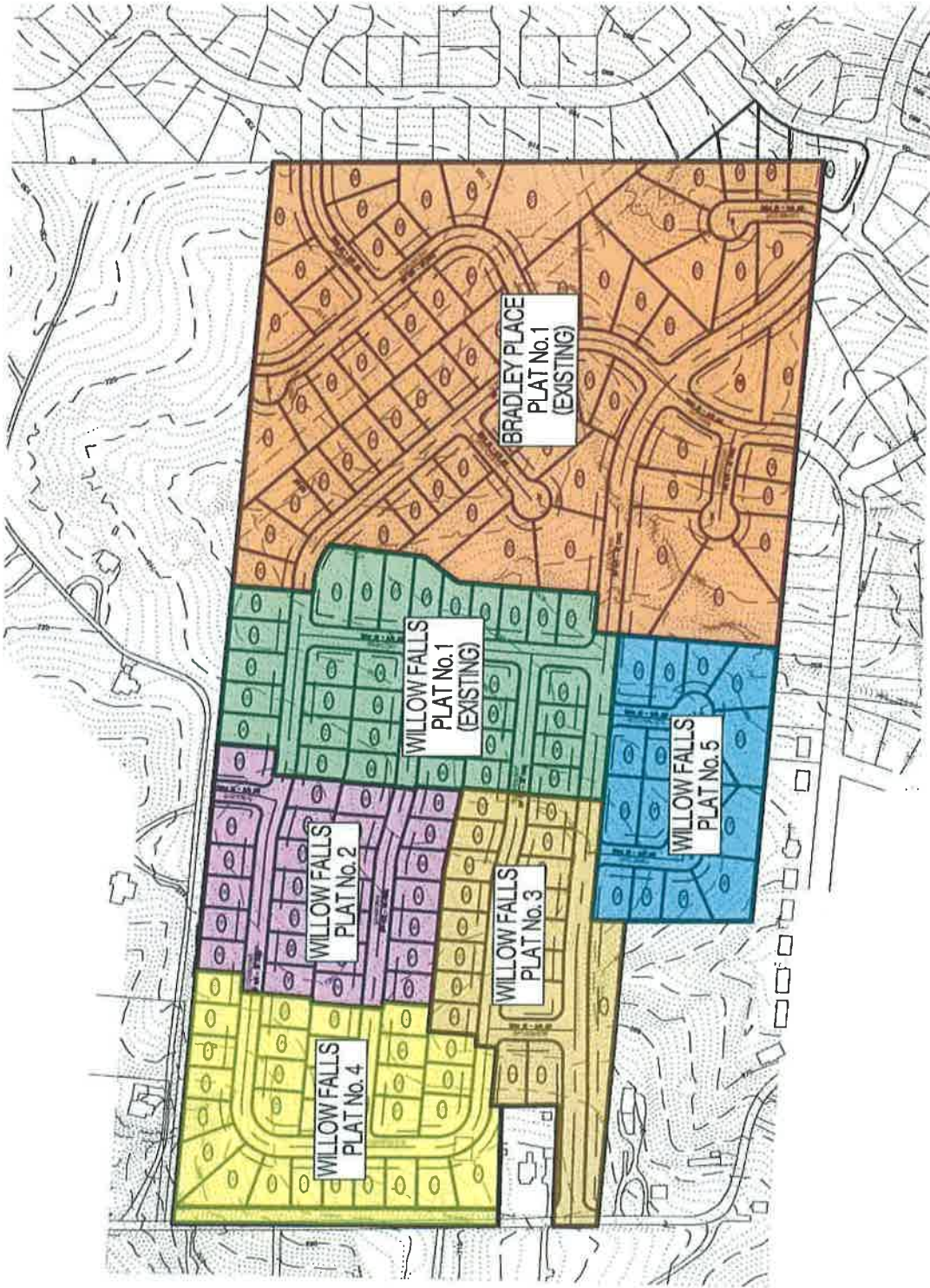
EXHIBIT B

(Phasing Plan)

WILLOW FALLS

PHASING EXHIBIT

SCALE: 1"=400'



NOTE:

PHASES 3, 4 & 5 MAY BE REVISED IF APPROVED BY THE DIRECTOR OF COMMUNITY DEVELOPMENT. IF REVISED IT IS UNDERSTOOD THAT THE EXTENSION OF BLUE RIDGE ROAD FROM IT'S CURRENT TERMINUS TO GREASY SPRINGS ROAD SHALL TAKE PLACE IN PHASE 3.

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EXHIBIT C

(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: Landmark Bank, N.A.
Address: 801 East Broadway
Columbia, MO 56201
Phone: (573) 499-7333
Fax: _____

Amount: _____

Term: One (1) year from date hereof

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") and authorize the City of Columbia to draw on Landmark Bank, N.A. (the "Bank") up to an aggregate amount not to exceed three hundred sixty-six thousand, seven hundred eleven dollars and twenty-five cents (\$366,711.25) for the purpose of securing the obligations of the Applicant to construct Blue Ridge Road in accordance with the Developer Agreement Guaranteeing Installation of Public Improvements dated _____.

Draws against this Letter of Credit shall be payable upon presentation by the City of drafts at sight drawn on the Bank up to an aggregate not to exceed three hundred sixty-six thousand, seven hundred eleven dollars and twenty-five cents (\$366,711.25) and an accompanying affidavit on the part of the City, stating under oath that the Applicant has defaulted on the Applicant's obligations with respect to construction of Blue Ridge Road.

The sight draft drawn under this letter of credit must bear on it 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 (1) year from the date issued and shall automatically renew annually for additional year(s) with the entire term of this Letter of Credit not to exceed three (3) years, unless the Applicant requests not to renew this Letter of Credit and receives approval by an authorized representative of the City within sixty (60) days prior to an annual expiration date.

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. 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 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

PREVIOUSLY APPROVED

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.

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 A" 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. If the Bank has designated a local nominated person and confirmer or registered agent, Exhibit A shall also include a true and correct copy of the Bank's resolution, minutes, or excerpts from its bylaws, in which the Bank designates the nominating person and confirmer or registered agent and the authority related thereto.

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: _____

If Bank is located outside the State of Missouri:

Nominated Person and Confirmer

or

Registered Agent

Authorized Signature

Name: _____

Title: _____

Authorized Signature

Name: _____

Title: _____

PREVIOUSLY APPROVED

EXHIBIT A: EVIDENCE OF AUTHORITY OF BANK'S OFFICER OR AGENT TO EXECUTE LETTER OF CREDIT NO. _____.

[Attach Bank resolution, minutes or bylaws or affidavit of Bank president evidencing authority of Bank office or agent to sign Letter of Credit No. _____ dated _____. If applicable, also attach the Bank resolution, minute, bylaws or affidavit of Bank President evidencing the authority of the Bank designated as the Nominated Person and Confirmer and /or the authority of the designated Registered Agent.]

PREVIOUSLY APPROVED

EXHIBIT D

(Depiction of Required Improvements)

PRELIMINARY PLAT
VANDERVEEN CROSSING, PLAT No. 9

A MAJOR SUBDIVISION LOCATED IN THE SECTION 35
TOWNSHIP 49 NORTH, RANGE 13 WEST
COLUMBIA, BOONE COUNTY, MISSOURI
MAY, 2004

OWNER & DEVELOPER
STATE STREET CONSTRUCTION, INC.
1000 WEST 10TH STREET
COLUMBIA, MO 65204

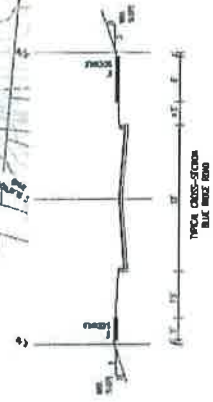
VANDERVEEN CROSSING PLAT No. 9
1:1 SCALE

CROCKETT
ENGINEERING
CONSULTANTS, LLC



	1,064.0 FT
	1,028.4 FT
	101.6 FT
	1,012.5 FT

33' Pavement
5' Sidewalk
Storm Sewer
8' Pedway



- NOTES**
- 1) OWNER'S RESPONSIBILITY TO BE CARRIED BY THE CITY AND LOCAL GOVERNMENT.
 - 2) ALL PAVEMENT SHALL BE CONSTRUCTED TO BE 3" MINIMUM OF 1" MINIMUM. OTHERS ARE CONSIDERED AS PER CITY OF COLUMBIA. ALL PAVEMENT SHALL BE CONSTRUCTED TO BE 3" MINIMUM OF 1" MINIMUM. OTHERS ARE CONSIDERED AS PER CITY OF COLUMBIA.
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Willow Falls - Blue Ridge Extension**Preliminary Budget****Mobilization**

Mobilization, GPS Setup & SWPPP Maintenance	1.00	LS	\$5,000.00	\$5,000.00
				\$5,000.00

Erosion Control

Erosion Control Allowance per acre	4.00	AC	\$2,000.00	\$8,000.00
				\$8,000.00

Clearing and Earthwork

Mass Excavation	25,000.00	CY	\$2.50	\$62,500.00
Fine Grade Pavement Subgrade	3,901.00	SY	\$1.00	\$3,901.00
Backfill Curbs w/ On-Site Material	2,128.00	LF	\$1.25	\$2,660.00
				\$69,061.00

Storm Pipe

18-30" Storm Sewer	102.00	LF	\$50.00	\$5,100.00
Curb Inlet	2.00	EA	\$3,500.00	\$7,000.00
18-30" Flared End Section	1.00	EA	\$600.00	\$600.00
Rip Rap w/ Filter Fabric	20.00	CY	\$60.00	\$1,200.00
Granular Backfill	50.00	TN	\$16.00	\$800.00
				\$14,700.00

Concrete Paving

7" PCCP on 4" Base - 33' Wide Street	1,064.00	LF	\$135.00	\$143,640.00
4" PCC City Pedway - 8' Wide	8,100.00	SF	\$4.00	\$32,400.00
4" PCC City Sidewalk - 5' Wide	5,142.00	SF	\$4.00	\$20,568.00
				\$196,608.00

Total = **\$293,369.00**

Notes:**For budget purposes only.**

Budget excludes all permits, fees, engineering, staking, layout and testing.

Budget does not include any work with unsuitable material or hazardous material.

Mass rock allowance included in above total. Quantity is estimated. Based upon availability of blasting.

Budget does not include rock excavation.

Budget does not include any relocating of utilities or any off-site utility work, unless noted above.

Budget does not include any sod, landscaping or irrigation.

Excludes any offsite improvements of roadways.

Budget excludes electric, gas and telecom utilities.

Emery Sapp & Son's does not guarantee the accuracy of the quantities shown.

**PRICING IS FOR BUDGET PURPOSES ONLY.
ESS RESERVES THE RIGHT TO ADJUST PRICING AND QUANTITIES UPON RECEIPT OF FINAL PLANS.**