

ANNEXATION AGREEMENT

This Agreement between the City of Columbia, Missouri, a municipal corporation (hereinafter "City") and KW COU, LLC, an Arizona Limited Liability Company duly authorized to conduct business in the State of Missouri, (hereinafter "Owner") is entered into as of the last date of all of the parties to execute the Agreement (the "Effective Date"). In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Owner hereby represents that Owner is the sole legal owner of the following described real estate located in Boone County, Missouri and has the capacity to enter into this Agreement:

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF SECTION 6, TOWNSHIP 48 NORTH, RANGE 11 WEST, BOONE COUNTY, MISSOURI AND BEING PART OF A TRACT AS DESCRIBED IN WARRANTY DEED RECORDED IN BOOK 4822, PAGE 120 AND BEING ALL OF A TRACT OF LAND AS SHOWN BY A SURVEY RECORDED IN BOOK 5907, PAGE 105 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE EAST AND MOST SOUTHERN CORNER OF LOT 2, AMERICAN OUTDOOR BRANDS, PLAT NO. 1 RECORDED IN PLAT BOOK 52, PAGE 68, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF ENTERPRISE DRIVE AND WITH THE EAST LINE OF SAID LOT 2, N 0°19'30"W, 889.06 FEET; THENCE LEAVING SAID EAST LINE AND WITH THE SOUTH LINE OF SAID LOT 2, N 89°40'30"E, 1982.03 FEET TO THE SOUTH AND MOST EAST CORNER OF SAID LOT 2; THENCE LEAVING SAID SOUTH LINE, S 0°19'30"E, 989.74 FEET TO THE SOUTH LINE OF SAID SECTION 6; THENCE WITH SAID SOUTH LINE, S 89°11'00"W, 1381.65 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 6; THENCE CONTINUING WITH SAID SOUTH LINE, S 88°56'05"W 493.46 FEET TO THE SOUTHEAST CORNER OF SAID ENTERPRISE DRIVE RIGHT OF WAY; THENCE LEAVING SAID SOUTH LINE AND WITH THE EAST LINE OF SAID RIGHT OF WAY, N 1°03'55"W, 120.00 FEET; THENCE LEAVING SAID EAST LINE AND WITH THE NORTH LINE OF SAID RIGHT OF WAY, S 88°56'05"W, 55.00 FEET; THENCE CONTINUING ALONG SAID NORTH LINE, 50.47 FEET ALONG A 4950-FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A CHORD, S 89°13'35"W, 50.46 FEET TO THE POINT OF BEGINNING AND CONTAINING 45.15 ACRES.

(hereinafter the "Property").

2. Owner proposes to design and construct certain sanitary sewer extensions to serve the Property, identified as parcel II, and 34 additional parcels (A-HH) containing a total of 675-acres as shown within Exhibit A attached hereto and incorporated herein by this reference (the "Project Area"). Owner shall dedicate at no cost to City the public utility, construction, and all other easements reasonably necessary for the construction, operation, and maintenance of the sanitary sewer lines serving the Project Area.

3. City agrees to allow Owner to connect sanitary sewer lines serving the Property to the City's sanitary sewer system as set forth herein and in accordance with the Sewer Extension Agreement attached hereto as Exhibit B between the City of Columbia and Setzer Properties, LLC, its successors, heirs, or assigns, and any amendments thereto, which is hereby incorporated as if fully set forth herein. The Assignment of Sewer Extension Agreement assigning the rights, privileges, duties, and obligations of Setzer Properties, LLC pursuant to the Sewer Extension Agreement to KW COU, LLC is attached hereto as Exhibit C, and incorporated herein. Owner shall make the connection to the City's sanitary sewer system at Owner's sole cost and expense. Owner shall obtain all necessary permits for the sewer construction and connection and shall pay all fees required to connect the Property to the City's sewer system. Following connection to the City's sanitary sewer system, the Property shall become a sewer customer of the City and subject to payment of all monthly fees and charges as set forth in the city code.

4. All sewer lines and appurtenances serving the Property and Project Area shall be located within standard sewer or utility easements dedicated to the public use and constructed in compliance with City regulations and standards. Construction of the sewer lines and appurtenances shall be inspected by the City as though the property were within the City limits and shall be subject to City approval. The sewer lines and appurtenances shall be conveyed to the City following construction and approval.

5. The sewer lines constructed by Owner to serve the Property and the Project Area shall not be connected to any other property or sewer lines without the express written consent of the City.

6. Code Compliance

- a. Except as provided in Paragraph 6e, development and construction on the Property by Owner shall conform to all Boone County ordinances and standards for the duration the property remains outside the city limits. During such time, Owner agrees to obtain all required approvals from the appropriate Boone County authorities for zoning, platting and all applicable development and construction permits necessary to construct a trucking facility on the Property with an investment estimate of \$35 million to \$40 million and estimated sanitary sewer flow of less than 3,000 gallons per day.
- b. Once annexed into the City, development and construction on the Property shall conform to all City standards, including, but not limited to, the Unified Development Code. Provided, however, any phase of development under construction at the time of annexation may be completed under applicable Boone County requirements together with inspections and approvals by Boone County provided the construction is completed within two (2) years following the date of annexation. Nothing in this Paragraph constitutes a waiver of the obligation to comply with City standards as indicated in Paragraph 6e.
- c. The Property shall be exempt from all City street lighting construction requirements both before and following annexation.

- d. Following construction, all sanitary sewers, storm sewers, streets and sidewalks intended to serve the public shall be forever dedicated to the public use.
- e. In the event of construction and development on the Property prior to annexation, Owner shall construct and maintain the following items in connection with such development as required by the city code as though the Property is located within the City limits: (1) tree preservation areas (note: per city code, tree preservation plans must be approved prior to any land disturbance), if applicable; (2) street frontage landscaping (note: per city code, a landscape plan must be approved prior to any land disturbance); (3) installation of a five (5) foot sidewalk along development's Enterprise Road frontage, and; (4) compliance with the International Fire Code, as adopted and amended by City ordinance ("City Fire Code"). Compliance with this paragraph 6(e) regarding any pre-annexation construction and development is a necessary condition for annexation into City.
 - i. Owner shall submit a tree preservation plan, if applicable, to the City Arborist for approval accompanied by a processing fee payment of \$200.00. If required, such plan shall provide for one or more common lots containing at least 25% of the pre-development climax forest as required by the City's tree preservation ordinance, or, in the alternative, the plan shall provide for 30% of the pre-development climax forest preserved through a combination of common lots and preservation easements, with at least 20% of the pre-development climax forest contained in one or more common lots. The tree preservation easement shall be in a form satisfactory to the City. In presenting the tree preservation plan to the city, Owner shall provide a plan that is in compliance with the requirements of Chapter 29-4.4 (Landscaping, Screening, and Tree Preservation) of the Unified Development Code, as amended and adopted by City Ordinance.
 - ii. Owner shall submit a landscaping plan to the City Arborist for approval accompanied by a processing fee payment of \$200.00. The plan shall comply with the "Street Frontage Landscaping" requirements of Chapter 29-4.4 (Landscaping, Screening and Tree Preservation) of the Unified Development Code, as amended and adopted by City Ordinance.
 - iii. Owner shall submit a photometric lighting plans to the City for approval accompanied by a processing fee of \$100. Such lighting plans shall demonstrate that on-site lighting is in compliance with the requirements of the Chapter 29-4.5 (Exterior Lighting) of the Unified Development Code, as amended and adopted by City Ordinance.
 - iv. Owner shall submit a copy of the proposed final plat and required revision(s) as well as a copy of the proposed construction plans and required revision(s) to the City Fire Marshal for review and approval concurrent with application to seek Boone County Planning and Zoning Commission or County Commission approval of the final plat or issuance of a land disturbance permit authorizing the installation of infrastructure. The plat and plans submitted to the City Fire Marshal shall demonstrate compliance with the City Fire Code.

7. Development and construction on the Property shall be subject to County standards and City standards as specifically set forth in paragraph 6(a)-6(e). During the period when Owner is constructing or developing the Project, if any irreconcilable conflict exists between a County regulation and a City regulation, the Owner, to the extent required by law, shall follow the County regulation including County storm water standards. Owner acknowledges that no conflict is involved where a City regulation, except City storm water standards, imposes a more stringent minimum requirement than a corresponding County regulation or in any instance where the City imposes a regulation that is not imposed by the County. In such instance, Owner shall be required to follow the more stringent requirement.

8. The City address numbering plan shall be complied with in connection with the development of the Property.

9. To the extent allowed by law, at such time as the Property becomes contiguous to the corporate limits of the City, City may, but shall not be obligated to, annex the Property into the City, without further action of the Owner. The City in its sole discretion may, but shall not be required to, delay annexation of the Property until such time the Property is contiguous to the City by property having frontage on an adjacent roadway which serves the Property, or until any other such time the City reasonably and solely determines to be appropriate to annex the Property and provide available municipal services to the Property.

10. Owner irrevocably appoints the City Manager of Columbia, Missouri, as its attorney-in-fact for the sole purpose of presenting a verified petition requesting annexation of the Property to the City Council of Columbia, Missouri. The City Manager may exercise this power of attorney at any time after the Property becomes contiguous to the corporate limits of the City. Any delay in filing such petition shall not be deemed a waiver of any right of the City to file such petition at such time in the future, in the sole discretion of the City, the filing of such petition is deemed advisable.

11. In lieu of the power of attorney granted to the City Manager herein, the City Manager may request the Owner to submit a verified petition requesting annexation. In such event, Owner shall, within such time as specified by the City Manager, submit a verified petition requesting annexation of the Property to the Director of Community Development for presentation to the City Council of Columbia, Missouri. The City Manager may request Owner to present an annexation petition at any time after the Property becomes contiguous to the corporate limits of the City. The provisions of this paragraph shall be enforceable by specific performance.

12. The petition for annexation may request that the Property be placed in Zoning District IG (Industrial), or equivalent, upon annexation. If the proposed ordinance annexing the Property does not place the Property in the zoning district specified herein, Owner may withdraw the petition for annexation. Such withdrawal shall not affect the parties' obligations under this Agreement, including City's obligation to provide sewer service.

13. Except as expressly set forth in paragraph 12 hereof, Owner agrees not to take any action to oppose any annexation initiated by the City which includes the Property. Owner further agrees not to take any action to oppose any annexation initiated by the City or by any property owner which includes any property lying between the Property and the City limits.

14. Owner shall give a copy of this Agreement to each person who buys all or a portion of the Property.

15. If Owner fails to comply with any of the provisions of this Agreement, City may terminate sewer service to the Property and disconnect the sewer lines serving the Property from the City's sanitary

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OWNER

By: [Signature] Member
Signature Title

Kevin Kiernan
Printed Name

Date: April 2, 2025

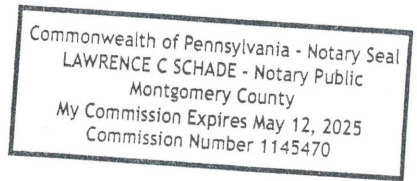
STATE OF PENNSYLVANIA)
) ss
COUNTY OF PHILADELPHIA)

On this 02 day of APRIL, 2025, before me, a Notary Public in and for said state, personally appeared KEVIN KIERNAN, the OWNER of KW COU, LLC, an Arizona Limited Liability Company, known to me to be the person(s) described in and who executed the above agreement and acknowledged to me that said instrument was signed in behalf of said corporation and further acknowledged that they executed the same as a free act and deed for the purposes therein stated and that they have been granted the authority by said corporation to execute the same.

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.

[Signature]
Notary Public

My commission expires: MAY 12, 2025



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

CITY OF COLUMBIA, MISSOURI

By: _____
De'Carlton Seewood, City Manager *CS*

ATTEST:

Date: _____

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor/jc

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

On this _____ day of _____, 20____, before me appeared _____, to me personally known, who, being by me duly sworn, did say that such person 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.

Notary Public

My commission expires: _____.

Exhibit A

Project Area of Connection Agreement

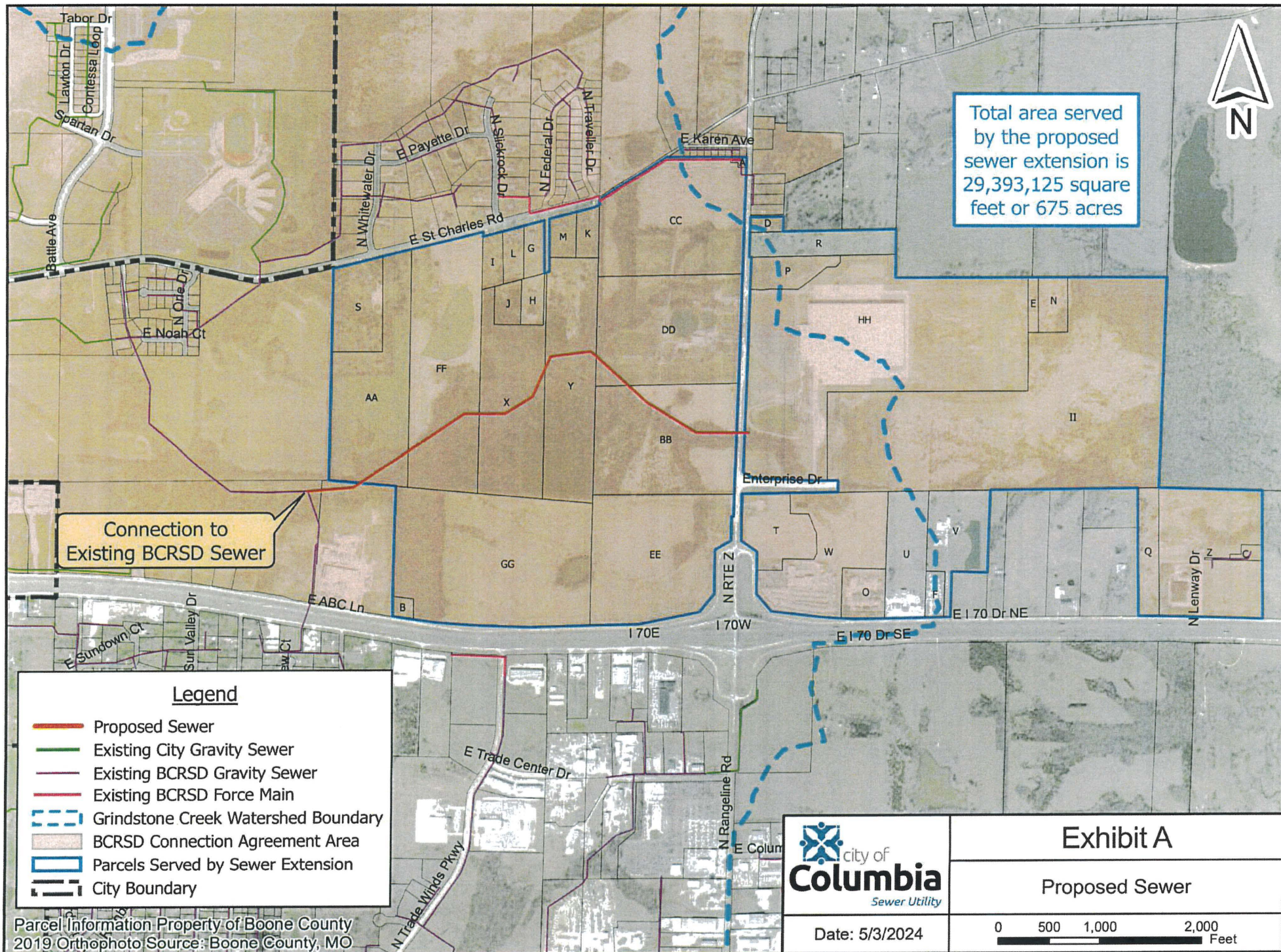


Exhibit B

Approved Connection Agreement (Ordinance # 025683)

025683

Permanent Record
Filed in Clerk's Office

Introduced by Buffaloe
First Reading 5-20-24 Second Reading 6-3-24
Ordinance No. 025683 Council Bill No. B 124-24

AN ORDINANCE

authorizing a sewer extension agreement with Setzer Properties, LLC to serve property located on the east side of Route Z and north of I-70; and fixing the time when this ordinance shall become effective.

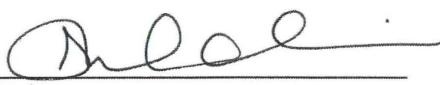
BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a sewer extension agreement with Setzer Properties, LLC to serve property located on the east side of Route Z and north of I-70. The form and content of the agreement shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this 3rd day of June, 2024.

ATTEST:

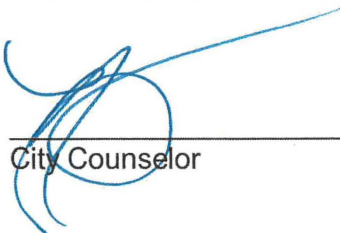


City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor



**SEWER EXTENSION AGREEMENT
BETWEEN
THE CITY OF COLUMBIA
AND
SETZER PROPERTIES, LLC**

This Sewer Extension Agreement (hereinafter "Agreement" or "Contract") by and between the City of Columbia, Missouri, a municipal corporation (hereinafter "City"), and Setzer Properties, LLC, a limited liability company organized in the State of Kentucky and with authority to transact business within the State of Missouri (hereinafter "Developer"), is made and entered into on the date of the last signatory noted below (hereinafter "Effective Date"). City and Developer are each individually referred to herein as a "Party" and collectively as the "Parties".

WHEREAS, Developer owns, or will own, a property located in unincorporated Boone County, east of Columbia city limits, near Interstate 70 Highway and State Route Z, northeast of Enterprise Drive, immediately south of the American Outdoor Brands facility, with a Boone County parcel number of 18-101-06-00-028.00 01 (hereinafter "Property"); and

WHEREAS, Developer intends to develop a trucking facility on Property with an investment estimate of \$35 million to \$40 million; and

WHEREAS, Developer has a need for sewer service at Property with estimated sewer flows of less than 3,000 gallons per day; and

WHEREAS, the January 20, 2010 cooperative agreement entitled GRINDSTONE CREEK WATERSHED – UPPER NORTH FORK; HOMINY BRANCH WATERSHED; LITTLE CEDAR CREEK WATERSHED COOPERATIVE AGREEMENT (hereinafter "Cooperative Agreement") between City and the Boone County Regional Sewer District (hereinafter "BCRSD") requires the Property to receive sewer service from the City and not from the BCRSD; and

WHEREAS, City currently lacks the funding to extend city sewer service to Property; and

WHEREAS, an on-site sewer system for Property is inconsistent with the Cooperative Agreement between the City and BCRSD and is not a viable option for Developer to move forward with the contemplated development; and

WHEREAS, to complete the sewer extension as quickly as possible, Developer desires to self-fund, design and construct the sewer extension in accordance with City standards, City code, and state statutes, and to be eligible for cost reimbursement over the next twenty (20) years through project connection fees charged by City to other property owners in the project drainage area benefitting from their connection to the new sewer extension, as set forth in City code § 22-229; and

WHEREAS, City is willing, if needed, to obtain easements necessary to extend the City sewer system to Property, to work with Developer's design engineers on this development and to charge project connection fees pursuant to City Code § 22-229.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the

Parties agree as follows:

1. Developer, through its designers, developers and subcontractors, shall design and construct the extension of City's sanitary sewer service from the BCRSD sewer line that connects to the City's sewer system to Property as set forth in Exhibit A – Proposed Sewer (hereinafter "Development"), which is attached hereto and fully incorporated herein. Exhibit A – Proposed Sewer reflects the location of the proposed sewer, locations of existing sewers, watershed boundaries, parcels served by the proposed sewer, and the Cooperative Agreement area.
2. Developer shall incur and pay all costs associated with Development, except as otherwise provided herein. Developer shall reimburse City for any costs incurred by City toward Development, including any costs incurred in obtaining easements necessary for Development. In exchange for Developer's completion of the Development, City shall collect project connection fees (defined below) and tender such fees to Developer as described herein.
3. Developer shall comply with all City standards, City ordinances, state and federal and other applicable laws in its work on Development.
4. Developer shall obtain easements necessary for Development. If Developer is unable to obtain easements necessary for Development following appropriate notice, appraisals, good faith offers, counteroffers, and negotiation for acquisition of the easements, then City shall attempt to obtain easements necessary for Development. Developer shall reimburse City for costs incurred in obtaining such easements, including the cost of any compensation paid to individual property owners in exchange for such easements. The City shall provide Developer with copies of all appraisals, good faith offers and counteroffers with respect to the negotiation and acquisition of such easements. The City's reimbursable costs shall not include City's attorneys' fees unless Developer approves such costs in advance. Such reimbursement shall be paid by Developer to City within thirty (30) days of receipt of City's written request for reimbursement. Each easement shall include the obligation to pay the project connection fee as set forth in § 22-229.
5. A preliminary budget for the Development is attached as Exhibit B. Upon completion of Development and thereafter, Developer shall provide City with the final, actual Development cost and other information necessary to determine potential project connection fees and potential reimbursements to Developer over the next twenty (20) years as provided within § 22-229 of City code.
6. City shall facilitate potential reimbursements to Developer as provided within § 22-229 of City code commencing upon the Effective Date and continuing for a twenty-year period. Drainage areas and parcels served by the Development are reflected in Exhibit A – Proposed Sewer. Such parcels shall be considered the project recovery area as defined in § 22-229. Following the Effective Date of this Agreement, the City shall charge the owner of each parcel within the project recovery area a project connection fee as set forth in § 22-229 when such parcel connects to the Development. Each parcel's pro rata share of the reimbursable portion of the project costs is set forth on Exhibit C. The City shall tender project connection fees as follows:

- a. Within thirty (30) days of receipt of a project connection fee, City shall tender project connection fees to Developer to the extent provided in § 22-229. The City shall have no obligation to tender any project connection fee to any party other than the Developer or as otherwise provided in § 22-229.
 - b. Notwithstanding the foregoing, the City shall not have any obligation to tender any project connection fee to Developer or as otherwise provided in § 22-229 until the City has recovered all of its reimbursable costs described in paragraphs 2 and 4 above.
7. Developer shall facilitate BCRSD's inspections of, and obtain appropriate approvals from BCRSD regarding connection to, the BCRSD sewer line that connects with the City sewer system. Parties shall consult with each other regarding work on the Development and shall advise the BCRSD of work on Development. Parties shall notify BCRSD of this Agreement. In the event BCRSD fails to approve Developer's proposed connection to BCRSD's sewer line, then this Agreement shall become null and void and Developer shall be released from any obligation to construct the Development.
8. Following completion and City's Final Acceptance of the Development, except as provided herein, City shall assume responsibility for maintenance of the sanitary sewer extension in a manner similar to the City's maintenance of the City-wide sanitary sewer system. The City's review and acceptance of the Development for the purposes of assumption of maintenance responsibilities shall be based on the City's standard sanitary sewer specifications in place as of the Effective Date.
9. Developer agrees to complete the Development, as set forth herein and in Exhibit A – Proposed Sewer, in a good and workmanlike manner according to City's standards, City code and state law. Developer shall be responsible and agrees to perform all work according to the specifications, plans, material standards, mobilization, setup and construction standards, procedures and quality standards set forth in the Contract Documents. If the Development involves the installation or provision of equipment or goods with manufacturer's warranties, Developer shall transfer the manufacturer's warranty to the City. Developer further warrants and certifies that any manufacturer's warranty may be transferred to the City. If the Development involves installation of manufactured goods or equipment with manufacturer's warranties, Developer shall not install the equipment or goods in a manner that voids or limits the original manufacturer's warranty. Unless otherwise directed in writing by the City or specifically stated herein, Developer shall install the equipment or goods in the manner set forth by the manufacturer.
10. Prior to the City's acceptance of the Development, Developer shall enter into a separate agreement with City providing for Property to be annexed into City when Property becomes contiguous and compact to City limits.
11. Developer shall maintain, on a primary basis and at its sole expense, as of the Effective Date and continuing for five (5) years following the completion of the Development, the following insurance coverages and limits, including endorsements described herein regarding the Development. Developer may assign its insurance obligations under this

Agreement to its general contractor and so long as the general contractor maintains the following coverages, the provisions of this paragraph shall be deemed satisfied. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Developer is not intended to, and shall not in any manner limit or qualify the liabilities or obligations assumed by Developer under this Contract. Coverage to be provided as follows by a carrier with A.M. Best minimum rating of A-VIII.

- a. **Workers' Compensation & Employers Liability.** Developer shall maintain Workers' Compensation insurance coverage in accordance with Missouri Revised Statutes or provide evidence of monopolistic state coverage with the following limits: \$500,000 policy limit for each accident, \$500,000 policy limit for each disease claim, and \$500,000 for each employee with a disease claim. Notwithstanding the foregoing, so long as Developer does not have any employees and is not statutorily required to maintain Workers' Compensation insurance, then such insurance shall not be required of Developer.
- b. **Commercial General Liability.** Developer shall maintain Commercial General Liability at a limit of not less than \$2,000,000 Each Occurrence, \$3,000,000 Annual Aggregate.
- c. **Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.**
- d. **Business Auto Liability.** Developer shall maintain Business Automobile Liability at a limit not less than \$2,000,000 Each Occurrence, \$3,000,000 Annual Aggregate. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Developer does not own automobiles, Developer agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
- e. **Developer may satisfy the minimum liability limits required for Commercial General Liability or Business Auto Liability under an Umbrella or Excess Liability policy.** There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for either Commercial General Liability or Business Auto Liability. Developer agrees to endorse City as an Additional Insured on the Umbrella or Excess Liability, unless the Certificate of Insurance state the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- f. **The City of Columbia, its elected officials and employees are to be Additional Insureds with respect to the Development to which these insurance requirements pertain.** A certificate of insurance evidencing all coverage required is to be provided at least ten (10) days prior to the Effective Date of this Contract between Developer and City. Developer is required to maintain coverages as stated and required to notify City of a Carrier change or cancellation within two (2) business days. City reserves the right to request a copy of the policy. Developer's insurance certificate shall be attached as Exhibit F.

- g. The Parties hereto understand and agree that City is relying on, and does not waive or intend to waive by any provision of this Contract, any monetary limitations or any other rights, immunities, and protections provided by the State of Missouri, as from time to time amended, or otherwise available to City, or its elected officials or employees.
 - h. Failure to maintain the required insurance in force may be cause for termination of this Contract. In the event Developer fails to maintain and keep in force the required insurance or to obtain coverage from its subcontractors, City shall have the right to cancel and terminate this Contract without notice.
 - i. The insurance required by the provisions of this article is required in the public interest and City does not assume any liability for acts of Developer and/or their employees and/or their contractors or subcontractors in the performance of this Contract.
12. To the fullest extent not prohibited by law, Developer shall indemnify and hold harmless the City of Columbia, 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 Developer, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Developer, its subcontractors for part of the Development work), of anyone directly or indirectly employed by Developer or by any of its contractors or subcontractors, or of anyone for whose acts Developer, its contractors or its subcontractor may be liable, in connection with providing these services. This provision does not, however, require Developer to indemnify, hold harmless, or defend the City of Columbia from its own negligence.
13. Developer shall secure all necessary licenses and permits before beginning work, keep necessary records as required, and do all work in such manner as to comply with all ordinances and laws of the city, county, state, and nation as apply to the work herein outlined.
14. Developer shall receive no payment from City for Development work other than potential reimbursements according to § 22-229 of City code. Developer shall, by affidavit, certify to City that all bills and claims properly due and chargeable against the Development have been satisfied and that Developer has complied with the laws relating to the payment of prevailing wage rates and that Developer shall release the City of Columbia from all further claims. The cost of all legal publications, engineering costs, costs reimbursed to the City as described in paragraph 4 above, appraisal costs, costs and attorneys' fees to obtain the private easements necessary for the Development and other costs incidental to the proper consummation of this Contract will be paid by Developer, and the total amount of such costs will be included in the total cost of the Development.
15. Developer shall pay:
- a. For all transportation and utility service not later than the 20th day of the calendar month following that in which the services are rendered.

- b. For all materials, tools, and other expendable equipment, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at the site of the Development.
 - c. Developer shall, at the request of City, furnish satisfactory evidence that all obligations to subcontractors, laborers, workmen, mechanics, materialmen and furnishers of machinery and parts thereof, equipment, tools and all supplies incurred in the furtherance of the performance of the Development have been paid, discharged or waived. If Developer does not pay contractors or subcontractors or suppliers for labor and/or material properly provided, City may, but shall not be required to, pay contractors or subcontractors and suppliers directly. Any payments made to contractors or subcontractors and suppliers shall be charged against to the Developer. City shall not be liable to Developer for any such payments made in good faith. This provision shall not confer any right upon any contractor or subcontractor or supplier to seek payment directly from City.
- 16. Developer shall protect City against all suits for patent infringement on materials, equipment, and methods used. If the Developer is required or desires to use any design, device material, or process covered by letter patent or copyright, Developer shall arrange and provide for such use by suitable agreement with the patentee or owner, and a copy of the agreement may be required by the City. The Developer shall indemnify, defend and save harmless the City from any suit, claims, or damages arising from the infringement upon or use of any patented or copyrighted design, device, material, or process.
- 17. Any employee of Developer or its contractors or subcontractors, who is stationed at the site of the Development and should prove to be quarrelsome, dishonest, incompetent or inexperienced, or should not work for the good of the job, shall, upon written notice from the City, be removed by Developer and replaced by an employee with proper qualifications.
- 18. The Developer's rights, duties, obligations under this Agreement may be assigned, in whole or in part, by Developer, contingent upon prior written consent of City which shall not be unreasonably withheld. Further, Developer's rights, duties, obligations and right to receive reimbursement hereunder shall be automatically assigned upon the sale of the Property in the manner set forth in paragraph 42 below. Developer shall file with the City a complete list of subcontractors together with a list of the kinds of materials used. This list shall be submitted in writing to the City as soon as subcontracts are made and approved by City. Developer is prohibited from holding a retainage on any payment to a subcontractor that provides any services or work on the Development or with respect to any payment for materials, tools, and other expendable equipment used on the Development. Any subcontractor performing work under this Contract at the direction of Developer shall file a "Final Receipt of Payment and Release" form, a copy of which is attached as Exhibit H. This completed form shall be submitted to City.
- 19. ACCIDENT PREVENTION: Precaution shall be exercised at all times for the protection of persons (including employees) and property.
 - a. The safety provisions of applicable laws, and building and construction codes shall be observed. Machinery, equipment, and all hazards shall be guarded or

eliminated in accordance with the safety provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable laws. Current standards of the Occupational Safety and Health Act shall be applied. Developer shall not commit or permit a public or private nuisance during this Development.

- b. Developer shall take all necessary steps to protect its own workers, the utility personnel, and the public from unnecessary danger or hazard during the prosecution of the work on this Development. Danger signs, warning signs, flares, lanterns, railings, barriers, sheeting, shoring, etc. shall be erected to prevent accidents from construction, falling objects, rotating machinery, electric lines, and other conditions which might present unusual hazard.
20. The City of Columbia is an equal opportunity, affirmative action employer pursuant to federal, state and local law. Developer shall comply with federal, state and local laws related to Equal Opportunity. Developer shall not discriminate based on race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity or expression, or any other protected category designated by local, state, or federal law.
21. Developer is encouraged to select and use materials manufactured, assembled, or produced in the United States in the performance of this Contract whenever the quality and price are comparable with other goods.
22. Developer shall comply with all applicable provisions of the Americans with Disabilities Act and the regulations implementing the Act, including those regulations governing employment practices. If this Contract involves Developer providing services directly to the public, Developer shall make the services, programs, and activities governed by this Contract accessible to persons with disabilities as required by the Americans with Disabilities Act and its implementing regulations. If this Contract involves construction work, the Development when completed shall comply with the requirements of the Americans with Disabilities Act and the regulations implementing the Act. Payment of funds under this Contract are conditional upon Developer certifying to the City in writing that it and the completed Development complies with the Americans with Disabilities Act and 28 CFR Part 35.
23. All materials provided by Developer shall be new materials of high quality which shall give long life and reliable operation. All equipment shall be modern in design and shall not have been in prior service except as required by factory tests. The workmanship shall be of high quality in every detail.
24. Developer shall keep at the job site a copy of the plans and specifications and shall at all times give City and its designees access thereto.
25. Until Development is accepted by City, it shall be in the custody and under the charge and care of Developer. Developer shall rebuild, repair, restore, or make good, at its own expense, all damages to any portion of the Development before its completion and Final Acceptance, caused by the action of the elements or from any other reason. The City

shall have the right of full possession and use of any or all completed portions of the Development, regardless of the completion time for the Contract, and such possession and/or use shall not release Developer from the proper and adequate maintenance of any street or alley or property over which this work may go, nor shall such possession and/or use be deemed as Final Acceptance by the City.

Developer shall be responsible for a period of one (1) year from and after the date of Final Acceptance by City of the Work covered by this Contract, for any repairs or replacements caused by defective materials, workmanship, or equipment which, in the judgment of City, shall become necessary during such period. Developer shall undertake with due diligence to make the aforesaid repairs and/or replacements within ten (10) days after receiving written notice that such repairs or replacements are necessary.

If Developer should neglect to begin such repairs or replacements within this period, or, in case of emergency, where in the judgment of City, delay would cause serious loss or damage, the repairs and/or replacements may be made by City and charged to Developer.

26. All work scheduled by Developer shall be planned with the consent of City and knowledge of BCRSD and shall not in any way interfere with any utility, highway, railroad, or private property unless consent is given by authorized representatives of City. Developer shall obtain appropriate approvals from BCRSD regarding connection to the BCRSD sewer line that connects with the City sewer system.
27. No provision of this Contract is intended to nor shall it in any way inure to the benefit of any third party, so as to constitute any such person a third-party beneficiary under this Contract.
28. In addition to any failure of Developer to perform any provisions herein, Developer will be in default for the following: If Developer performs the work unsuitably, or neglects or refuses to remove materials or perform anew such work as shall be rejected as defective and unsuitable, or discontinues the prosecution of the Development, or from any other cause whatsoever does not carry on the Development in an acceptable manner, or becomes insolvent or is adjudicated a bankrupt, or commits any act of bankruptcy or insolvency, or allows any final judgment to stand against him unsatisfied for a period of ten (10) days, the City may give notice in writing by registered mail to Developer of such delay, neglect, or default. If within ten (10) days after such notice Developer does not proceed to remedy to the satisfaction of City the fault specified in said notice, City shall have full power and authority, without impairing the obligation of Contract or, to take over the completion of the Development; to appropriate or use any or all material and equipment on the ground that is suitable and acceptable; to enter into agreements with others; or to use other such methods as in its opinion may be required for the completion of Contract in an acceptable manner. Developer shall be liable for all costs and expenses incurred by City in completing the Development.

City may, by written notice, terminate this Contract in whole or in part for failure of Developer to perform any of the provisions thereof. In general, termination for default shall be effective ten (10) days from Developer's receipt of notice.

29. Developer shall comply with all requirements of the prevailing wage law of Missouri Revised Statutes Sections 290.210 to 290.340, including the latest amendments thereto. Unless the Development is exempt from the payment of prevailing wages pursuant to Section 290.230 RSMo, this Contract shall be based upon payment by Developer and its subcontractors of wage rates not less than the prevailing hourly wage rate for each craft or classification of workers engaged on the work as determined by the Missouri Division of Labor Standards. The Missouri Division of Labor Standard Annual Wage Order applicable to this Development is attached as Exhibit I.

In the event prevailing wages are required to be paid in connection with this project, Developer and each subcontractor shall keep an accurate record showing the names, occupations, and crafts of all workers employed, together with the number of hours worked by each worker and the actual wages paid to each worker. At all reasonable hours, such records shall be open to inspection by the Missouri Division of Labor Standards and City. The payroll records shall not be destroyed or removed from the State for at least one year after completion of the work.

In the event prevailing wages are required to be paid in connection with this project, pursuant to Section 290.250 RSMo, Developer shall forfeit as a penalty to City one hundred dollars (\$100.00) for each employee employed, for each calendar day, or portion thereof, such employee is paid less than the said stipulated rates for any work done under said contract, by the employee or by any subcontractor under the employee. After completion of the work and before final payment can be made under this Contract, Developer and each subcontractor must file with City an affidavit stating that they have fully complied with the provisions and requirements of the prevailing wage law of Missouri. The form of the Affidavit of Compliance with the Prevailing Wage Law is attached hereto as Exhibit J.

30. Construction Safety Program Requirements:

- a. Developer shall require all on-site employees or contractors to complete the ten-hour safety training program required pursuant to Section 292.675 RSMo, if they have not previously completed the program and have documentation of having done so. All employees or contractors working on the project are required to complete the program within sixty (60) days of beginning work on the Development.
- b. Any employee found on the worksite subject to this section without documentation of the successful completion of the course required under subsection (a) shall be afforded twenty (20) days to produce such documentation before being subject to removal from the project.
- c. Pursuant to Section 292.675 RSMo, Developer, through its general contractor, shall forfeit as a penalty to City two thousand five hundred dollars (\$2,500.00) plus one hundred dollars (\$100.00) for each employee employed by Developer or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time periods in subsections (a.) and (b.) have elapsed. City shall withhold and retain from the amount due Developer under this Contract, all sums and amounts due and owing City as a result of any violation of this section.

31. Developer shall comply with Missouri Revised Statute Section 285.530 in that Developer shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

Developer shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Developer shall also complete a Work Authorization Affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. The form of the Work Authorization Affidavit is set forth in Exhibit K. Developer shall require all subcontractors to observe the requirements of this section and shall obtain a Work Authorization Affidavit from each subcontractor performing work on the Development.

32. To the extent required by Missouri Revised Statute Section 34.600, Developer certifies it is not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. If any provision of this paragraph, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. This paragraph shall not apply to contracts with a total potential value of less than one hundred thousand dollars (\$100,000.00) or to contractors with fewer than ten (10) employees.
33. Developer shall perform all work on this Development in accordance the requirements set forth in this Contract and as specified in Exhibit A – Proposed Sewer.
34. In no event shall the language of this Contract 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 constitutions or laws.
35. 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.
36. This Contract 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 Contract, 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.
37. Developer shall comply with all federal, state, and local laws, rules, regulations, and ordinances.

38. Notices:

- a. The following persons are designated by the respective Parties to act on behalf of such Party and to receive all written notices and payment invoices:

IF TO CITY:

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

IF TO DEVELOPER:

Setzer Properties, LLC
Attn: Brett Setzer
354 Waller Ave, Ste 150
Lexington, KY 40504

- b. Any notice required by this Contract to be given in writing or that either City or Developer wishes to give to the other in writing shall be signed by or on behalf of the Party giving notice. The notice shall be deemed to have been completed when sent by certified or registered mail to the other Party at the address set forth herein, or delivered in person to said Party or their authorized representative.
- c. Developer's designated representative shall be available to meet with City at any time during the performance of the Development and shall have full authority to act on Developer's behalf on any matter related to this Contract and/or the Development.

39. Counterparts and electronic signatures: This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Agreement or any notice delivered pursuant to this Agreement, shall be deemed to have the same legal effect as original signatures on this Agreement.

40. Contract documents: The Contract Documents include this Contract and the following attachments or exhibits, which are incorporated herein by reference.

<u>Exhibit</u>	<u>Description</u>
A	Proposed Sewer
B	Preliminary Development Budget
C	Allocation of Project Costs
D	None – reserved for future use
E	None – reserved for future use
F	Contractor's Insurance Certificate
G	None – reserved for future use
H	Final Receipt of Payment and Release
I	Missouri Division of Labor Standards Annual Wage Order Applicable for the Development
J	Affidavit of Compliance with Prevailing Wage Law
K	Work Authorization Affidavit
L	None – reserved for future use

In the event of a conflict between the terms of any Exhibit or Attachment and the terms of this Contract, the terms of this Contract control. In the event of a conflict between the terms of any Exhibit and any Attachment, the terms of the documents control in the order listed above.

41. This Contract represents the entire and integrated Contract between the Parties relative to the Development herein. All previous or contemporaneous contracts, representations, promises and conditions relating to Developer's work on this Development described herein are superseded.
42. Notwithstanding anything herein to the contrary, this Agreement is conditioned and contingent upon the following contingencies being satisfied on or before October 1, 2024 (the "Contingency Period"):
 - a. BCRSD shall have approved the proposed connection to the BCRSD sewer system; and
 - b. Developer must be satisfied that the proposed Development is feasible and that there is no condition, circumstance or aspect of the Development that is unacceptable, unreasonable or cost-prohibitive, all at Developer's sole and absolute discretion.

If any of the foregoing contingencies are not satisfied as of the expiration of the Contingency Period, then Developer shall have the right to elect to terminate this Agreement by delivering a written notice of termination to City within seven (7) days of the expiration of the Contingency Period. If Developer elects to terminate this Agreement, then the parties shall be released from any further obligations under this Agreement; provided, however, that Developer shall remain obligated to reimburse City for all of the reimbursable costs set forth in paragraphs 2 and 4 above. Such duty to reimburse the City shall survive the termination of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the PARTIES have hereunto set their hands and seals the day and year written below.

CITY OF COLUMBIA, MISSOURI

E-SIGNED by De'Carlton Seewood

By: on 2024-06-04 21:31:10 GMT

De'Carlton Seewood, City Manager *7/13*

Date: _____

ATTEST:

E-SIGNED by Sheela Amin

By: on 2024-06-05 18:46:35 GMT

Sheela Amin, City Clerk

Date: _____

APPROVED AS TO FORM:

E-SIGNED by Nancy Thompson

By: on 2024-06-02 21:33:20 GMT E.K.

Nancy Thompson, City Counselor/ek

CERTIFICATION: I hereby certify that no City funds shall be expended pursuant to this Contract except for potential costs for City to acquire easements necessary to Development which will be reimbursed to City by Developer, and except for potential Development cost reimbursement from City to Developer or as otherwise provided within § 22-229 of City code.

E-SIGNED by Matthew Lue

By: on 2024-05-31 18:26:14 GMT

Director of Finance

SETZER PROPERTIES, LLC

By: *Brett T. Setzer*

Name: Brett T Setzer

Title: Member

Date: 5-20-2024

ATTEST:

By: *Robert J McAtee*

Name: Robert J McAtee

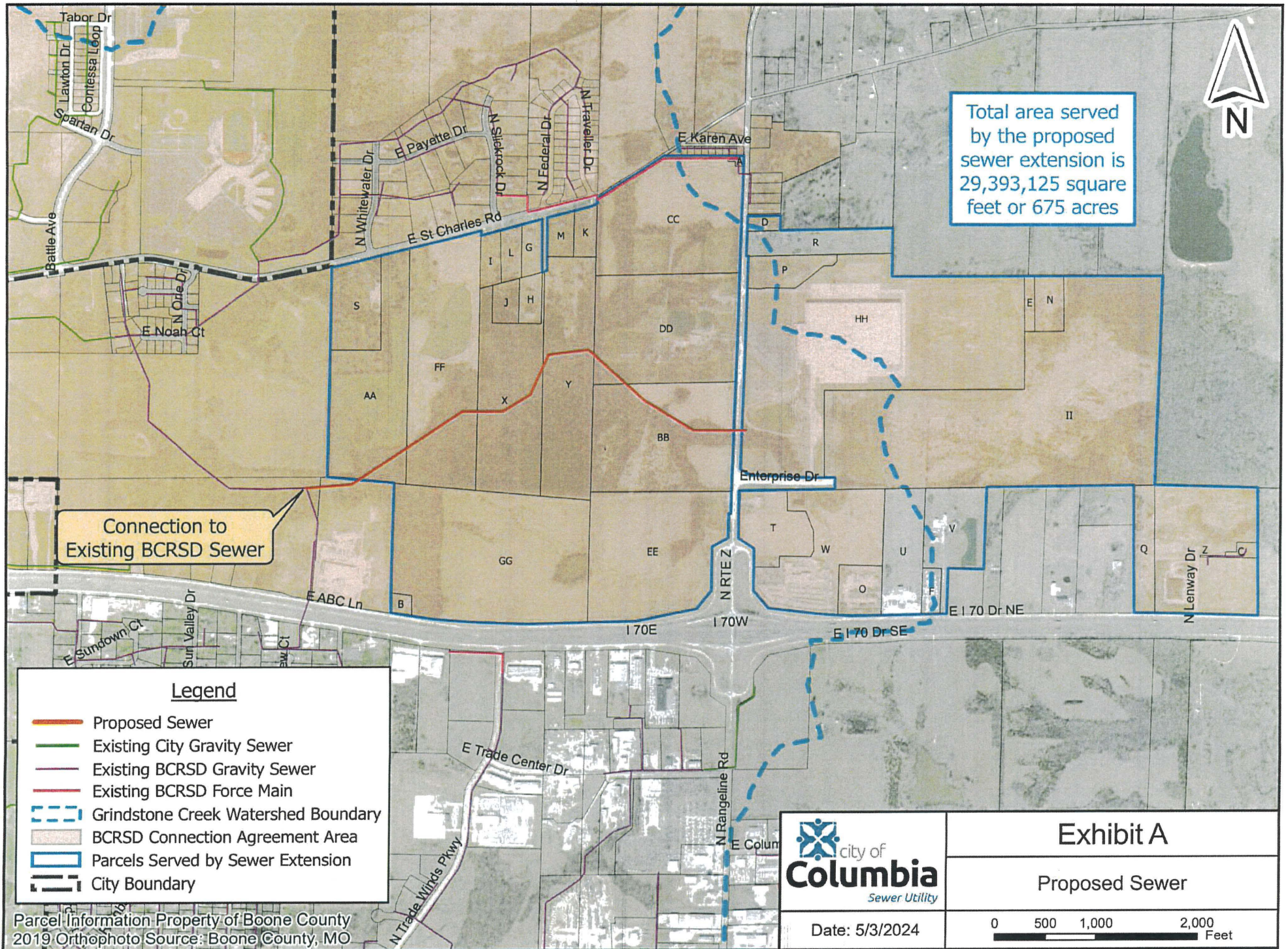


EXHIBIT B - PRELIMINARY DEVELOPMENT BUDGET

Description	Qty.	Unit	Unit Price	Total
SEWER EXTENSION ITEMS				
MOBILIZATION	1	LS	\$25,000.00	\$25,000.00
CLEARING AND GRUBBING	2.75	AC	\$10,000.00	\$27,500.00
SEWER MAIN LINE INSTALLATION	6800	LNFT	\$100.00	\$680,000.00
SEWER MANHOLE INSTALLATION	18	EACH	\$10,000.00	\$180,000.00
ROAD BORE AT ROUTE Z	1	LS	\$20,000.00	\$20,000.00
SWPPP COMPLIANCE & EROSION CONTROL	1	LS	\$20,000.00	\$10,000.00
RESTORATION (LIME, FERTILIZER, SEED & MULCH & TOPSOIL)	2.75	LS	\$5,000.00	\$13,750.00
INSPECTIONS AND TESTING	1	LS	\$10,000.00	\$10,000.00
UTILITY ADJUSTMENTS	1	LS	\$25,000.00	\$25,000.00
SEWER EXTENSION ITEMS SUBTOTAL				\$991,250.00
OTHER COSTS				
ENGINEERING & PERMITTING	1	LSUM	\$44,700.00	\$44,700.00
SURVEYING	1	LSUM	\$24,500.00	\$40,000.00
LEGAL EXPENSESES	1	LSUM	\$25,000.00	\$25,000.00
APPRAISALS	1	LSUM	\$5,000.00	\$5,000.00
EASEMENT ACQUISITION	2.75	ACRE	\$90,000.00	\$247,500.00
OTHER COSTS SUBTOTAL				\$362,200.00
TOTAL SEWER EXTENSION SUBTOTAL				\$1,353,450.00
CONTINGENCY (10%)				\$135,345.00
TOTAL SEWER EXTENSION SUBTOTAL				\$1,488,795.00

Parcel	Acreage*	Percentage of Total**
A	0.27	0.04%
B	0.98	0.15%
C	1.03	0.15%
D	1.10	0.16%
E	1.28	0.19%
F	2.00	0.30%
G	2.50	0.37%
H	2.50	0.37%
I	2.51	0.37%
J	2.52	0.37%
K	2.52	0.37%
L	2.53	0.37%
M	2.59	0.38%
N	3.71	0.55%
O	5.05	0.75%
P	5.40	0.80%
Q	6.24	0.93%
R	8.42	1.25%
S	10.11	1.50%
T	10.19	1.51%
U	11.87	1.76%
V	12.27	1.82%
W	23.30	3.45%
X	26.59	3.94%
Y	28.14	4.17%
Z	29.67	4.40%
AA	29.81	4.42%
BB	35.46	5.26%
CC	36.03	5.34%
DD	36.05	5.34%
EE	37.67	5.58%
FF	40.00	5.93%
GG	58.01	8.60%
HH	91.28	13.53%
II	105.16	15.58%

* Acreage calculated from Boone County Assessor's parcels.

** Percentage based on total area of 675 acres.



Date: 5/3/2024

Exhibit C

Allocation of Project Costs

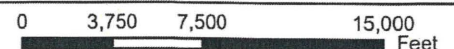


Exhibit F

Client#: 643700

SETZEPROPE

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/03/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh & McLennan Agency LLC 360 East Vine Street, Ste 200 Lexington, KY 40507 859 254-8023	CONTACT NAME: Paula J Hardin	FAX (A/C, No):
	PHONE (A/C, No, Ext): 859-244-7637	E-MAIL ADDRESS: Paula.Hardin@MarshMMA.com
INSURED Setzer Properties, LLC 354 Waller Ave Ste 150 Lexington, KY 40504	INSURER(S) AFFORDING COVERAGE	
	INSURER A: The Charter Oak Fire Insurance Company	NAIC # 25615
	INSURER B: Travelers Property Casualty Co. of Amer	25674
	INSURER C: Travelers Casualty Ins. Co. of America	19046
	INSURER D:	
	INSURER E:	
INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			Y6307R989737COF24	03/01/2024	03/01/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BA8R0361252414G	03/01/2024	03/01/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			CUP8R09421A2414	03/01/2024	03/01/2025	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	UB000T067059	12/27/2023	12/27/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Property located in unincorporated Boone County, east of Columbia city limits, near Interstate 70 Highway and State Route Z, Northeast of Enterprise Drive, immediately south of the American Outdoor Brands facility, with a Boone County parcel number of 18-101-06-00-028.00 01.

(See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

City of Columbia, Missouri PO Box 615 Columbia, MO 65205	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Chris P. Bennett

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DESCRIPTIONS (Continued from Page 1)

Certificate Holder is named Additional Insured with regard to the liability policies of the Named Insured, but only with respect to and to the extent of the liabilities assumed by the Named Insured under written contract, agreement or permit and subject to the provisions and limitations of the policy.

The General Liability Insurance is Primary; any other insurance maintained by the contractor & Owner is excess & non-contributory, when required by written contract, agreement or permit and subject to the provisions and limitations of the policy.

Exhibit H

FINAL RECEIPT OF PAYMENT AND RELEASE

KNOW ALL PERSONS BY THESE PRESENTS, THAT:

_____ hereinafter called "Subcontractor" who heretofore entered into a Subcontract with _____, hereinafter called "Contractor", for the performance of work and/or the furnishing of material for the construction of a project entitled:

(Project Title and Project Number)

for the City of Columbia, Missouri, hereinafter called "Owner", which said Subcontract is by this reference incorporated herein, in consideration of such final payment by Contractor, DOES HEREBY:

1. ACKNOWLEDGE that they have been paid in full all sums due them for everything done by them, or done by their subcontractors, material vendors, equipment and fixture suppliers, agents and employees, or otherwise in performance of the work called for by the aforesaid Contract and all modifications or extras or additions thereto, for the construction of said project or otherwise.
2. RELEASE and fully, finally, and forever discharge Contractor and the Owner of and from any and all suits and actions, claims and demands of whatsoever kind or character arising out of or in any manner related to anything and everything done or omitted by Subcontractor, its agents and employees, in the performance of or connected with its/their performance of said work, or otherwise.
3. REPRESENT that all of its employees, subcontractors, material vendors, equipment and fixture suppliers and everyone else has been paid in full all sums due them, or any of them, in connection with performance of said work, or anything done or omitted by them or any of them in connection with the construction of said improvements, or otherwise.

DATED, this _____ day of _____, 20_____.

Name of Subcontractor

Typed or Printed Name

Signature

Title

Exhibit I

Missouri

Division of Labor Standards

WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

Annual Wage Order No. 31

Section 010
BOONE COUNTY

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by

Todd Smith, Director
Division of Labor Standards

Filed With Secretary of State: March 8, 2024

Last Date Objections May Be Filed: April 8, 2024

Prepared by Missouri Department of Labor and Industrial Relations

Building Construction Rates for
BOONE County

Section 010

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$61.30
Boilermaker	\$32.35*
Bricklayer-Stone Mason	\$55.22
Carpenter	\$51.42
Lather	
Linoleum Layer	
Millwright	
Pile Driver	
Cement Mason	\$45.65
Plasterer	
Communication Technician	\$57.87
Electrician (Inside Wireman)	\$58.36
Electrician Outside Lineman	\$32.35*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$32.35*
Glazier	\$65.64
Ironworker	\$69.98
Laborer	\$43.79
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$59.96
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$65.05
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$41.79
Plumber	\$72.46
Pipe Fitter	
Roofer	\$55.00
Sheet Metal Worker	\$58.29
Sprinkler Fitter	\$65.10
Truck Driver	\$32.35*
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

**The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in RSMo Section 290.210.

OVERTIME and HOLIDAYS

OVERTIME

For all work performed on a Sunday or a holiday, not less than twice (2x) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work.

For all overtime work performed, not less than one and one-half (1½) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work or contractual obligation. For purposes of this subdivision, "**overtime work**" shall include work that exceeds ten hours in one day and work in excess of forty hours in one calendar week; and

A thirty-minute lunch period on each calendar day shall be allowed for each worker on a public works project, provided that such time shall not be considered as time worked.

HOLIDAYS

January first;
The last Monday in May;
July fourth;
The first Monday in September;
November eleventh;
The fourth Thursday in November; and
December twenty-fifth;

If any holiday falls on a Sunday, the following Monday shall be considered a holiday.

Exhibit J

AFFIDAVIT OF COMPLIANCE WITH THE PREVAILING WAGE LAW

Before me, the undersigned Notary Public, in and for the County of _____,

State of _____, personally came and appeared _____,

(Name)

_____, of the _____,

(Position)

(Company Name)

a (Corporation), (Partnership), (Proprietorship), and after being duly sworn, did depose and say that all provisions and requirements set out in Chapter 290, Sections 290.210 through and including 290.340, Missouri Revised Statutes, pertaining to the payment of wages to workmen employed on public works projects have been fully satisfied and there has been no exception to the full and complete compliance with said provisions and requirements and with Annual Wage Order No. _____ issued by the Missouri Division of Labor Standards on the _____ day of _____, 20_____, in carrying out the Contract and work in connection with:

(Name of Project)

located at _____ in

_____ County, Missouri, and completed on the _____ day of

_____, 20_____.

(Signature)

Personally appeared before me, a Notary Public, within and for the County of

_____,
State of Missouri, the person whose signature appears above, PERSONALLY AND KNOWN TO ME AND ACKNOWLEDGED, that signed the foregoing Affidavit for the purposes therein stated.

Subscribed and sworn to me this _____ day of _____, 20_____.

My Commission expires _____, 20_____.

(Notary Public)

Exhibit K

NOTICE TO OFFERORS

Sections 285.525 To 285.550 RSMo.

Pursuant to section 285.530 (1) RSMo., No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri.

As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. {RSMo 285.530 (2)}

An Employer may enroll and participate in a federal work authorization program and shall verify the employment eligibility of every employee in the employer's hire whose employment commences after the employer enrolls in a federal work authorization program. **The E-verify system issues a Memorandum of Understanding once enrollment is complete; the City of Columbia requires a copy of this document be attached to the Work Authorization Affidavit.** The employer shall retain a copy of the dated verification report received from the federal government. Any business entity that participates in such program shall have an affirmative defense that such business entity has not violated subsection 1 of this section. {RSMo 285.530 (4)}

For offerors that are not already enrolled and participating in a federal work authorization program, E-Verify is an example of this type of program. Information regarding E-Verify is available at:
<http://www.dhs.gov/e-verify>

County of _____)
)SS.
 State of _____)

(Notary Public)

Exhibit C

Assignment of Sewer Extension Agreement (Ordinance # 025809)

025809

Permanent Record
Filed in Clerk's Office

Introduced by Buffaloe
First Reading 10-21-24 Second Reading 11-4-24
Ordinance No. 025809 Council Bill No. B 253-24

AN ORDINANCE

authorizing consent to assignment of a sewer extension agreement with Setzer Properties, LLC and KW COU, LLC serving property located on the east side of Route Z and north of I-70; 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 Manager is hereby authorized to execute a consent to assignment of a sewer extension agreement with Setzer Properties, LLC and KW COU, LLC serving property located on the east side of Route Z and north of I-70. The form and content of the agreement shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this 4th day of November, 2024.

ATTEST:

[Signature]
City Clerk

[Signature]
Mayor and Presiding Officer

APPROVED AS TO FORM:

[Signature]
City Counselor
(acting)

ASSIGNMENT OF SEWER EXTENSION AGREEMENT

THIS ASSIGNMENT OF SEWER EXTENSION AGREEMENT is executed by and between **Setzer Properties, LLC**, a Kentucky limited liability company (“Assignor”) and **KW COU, LLC**, an Arizona limited liability company (the “Assignee”), on this 5th day of ~~September~~ November, 2024 (“the Effective Date”).

BACKGROUND RECITALS [“Recitals”]

WHEREAS, on or about June 3, 2024, Assignor entered into that certain Sewer Extension Agreement between the City of Columbia and Setzer Properties, LLC (the “Sewer Agreement”);

WHEREAS, the Sewer Agreement vested certain rights, privileges, duties and obligations in Assignor with respect to the construction of the sewer project defined in the Sewer Agreement as the “Development”;

WHEREAS, pursuant to paragraph 18 of the Sewer Agreement, Assignor reserved the right to assign its rights, privileges, duties and obligations under the Sewer Agreement;

WHEREAS, Assignor desires to assign all of its rights, privileges, duties and obligations under the Sewer Agreement to Assignee and Assignee desires to accept and assume all of Assignor’s rights, privileges, duties and obligations under the Sewer Agreement.

Agreement

NOW, THEREFORE, in view of the foregoing Recitals, which Assignor and Assignee hereby acknowledge to be true, accurate and complete, the parties hereby agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are incorporated in and made a part of this Agreement.
2. **Assignment.** Notwithstanding anything contained in the Sewer Agreement to the contrary, Assignor hereby grants, transfers and assigns to Assignee all of Assignor’s right, privilege, title, and interest in, to and under, and obligations, duties and liabilities under, the Sewer Agreement effective as of the Effective Date. The foregoing assignment includes Assignor’s right to receive payment of project connection fees from the City of Columbia as described in the Sewer Agreement.
3. **Assumption of Sewer Extension Agreement.** Notwithstanding anything contained in the Sewer Agreement to the contrary, (a) Assignee hereby accepts and assumes all of Assignor’s right, privilege, title, and interest in, to and under, and obligations, duties and liabilities under, the Sewer Agreement effective as of the Effective Date; and (b) Assignee agrees to perform all covenants and obligations of the “Developer” under the Sewer Agreement.

4. **Intent.** The foregoing assignment is intended to, and shall, result in Assignee acquiring any and all rights, privileges and powers of the "Developer" under the Sewer Agreement. As of the Effective Date, all references in the Sewer Agreement to the "Developer" shall be deemed to mean and refer to Assignee.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the Effective Date hereinabove first set forth.

ASSIGNOR:

Setzer Properties, LLC, a Kentucky limited liability company

Date of Signature:

9-23-2024

By:

Brett Setzer
Brett Setzer, its Member

ASSIGNEE:

KW COU, LLC, an Arizona limited liability company

Date of Signature:

By: KW COU Manager, LLC, an Arizona limited liability company, Manager

By: Four Pine #2, LLC, an Arizona limited liability company, Manager

By:

Kevin M. Kiernan, Manager

4. **Intent.** The foregoing assignment is intended to, and shall, result in Assignee acquiring any and all rights, privileges and powers of the "Developer" under the Sewer Agreement. As of the Effective Date, all references in the Sewer Agreement to the "Developer" shall be deemed to mean and refer to Assignee.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the Effective Date hereinabove first set forth.

ASSIGNOR:

Setzer Properties, LLC, a Kentucky limited liability company

Date of Signature:

By: _____
Brett Setzer, its Member

ASSIGNEE:

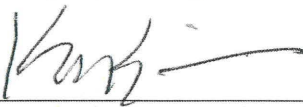
KW COU, LLC, an Arizona limited liability company

Date of Signature:

9/27/2024

By: KW COU Manager, LLC, an Arizona limited liability company, Manager

By: Four Pine #2, LLC, an Arizona limited liability company, Manager

By: 
Kevin M. Kiernan, Manager

CONSENT TO ASSIGNMENT

By signing below, the City of Columbia consents to the foregoing assignment of the Sewer Agreement. As of the Effective Date, Assignee shall be deemed the "Developer" under the Sewer Agreement. Otherwise, the Sewer Agreement shall remain in full force and effect.

CITY:

City of Columbia, Missouri

By: _____

De'Carlon Seewood, City Manager

Date: November 5, 2024

ATTEST:

Sheela Amin, City Clerk

Approved as to form:

Nancy Thompson, City Counselor

CERTIFICATION: I hereby certify that no City funds shall be expended pursuant to this Agreement except for potential costs for City to acquire easements necessary to Development which will be reimbursed to City by Developer, and except for potential Development cost reimbursement from City to Developer or as otherwise provided within Section 22-229 of City code.

By: _____

Director of Finance

Exhibit D

First Amendment to Sewer Extension Agreement (Ordinance # 025822)

025822

Permanent Record
Filed in Clerk's Office

Introduced by Buffaloe

First Reading 11-4-24

Second Reading 11-18-24

Ordinance No. 025822

Council Bill No. B 265-24

AN ORDINANCE

authorizing a first amendment to the sewer extension agreement with KW COU, LLC, successor in interest to Setzer Properties, LLC, to serve property located on the east side of Route Z and north of I-70; 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 Manager is hereby authorized to execute a first amendment to the sewer extension agreement with KW COU, LLC, successor in interest to Setzer Properties, LLC, to serve property located on the east side of Route Z and north of I-70. The form and content of the amendment shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof. Any actions taken by or on behalf of the City in connection with such amendment prior to the date of this ordinance are hereby approved and ratified.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this 18th day of November, 2024.

ATTEST:




City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor

**FIRST AMENDMENT
to the
SEWER EXTENSION AGREEMENT
BETWEEN
THE CITY OF COLUMBIA, MISSOURI
AND
SETZER PROPERTIES, LLC**

This Amendment No. 1 to the Sewer Extension Agreement between the **CITY OF COLUMBIA, MISSOURI** a municipal corporation ("CITY"), and **KW COU, LLC**, an Arizona Limited Liability Company authorized to transact business within the State of Missouri ("Assignee Developer"), is made as of the date of the last signatory noted below.

RECITALS

- A. WHEREAS, on or about June 2, 2024, CITY and Setzer Properties, LLC entered into an Agreement ("Sewer Extension Agreement") for connection to and provision of City sewer services for certain unincorporated land located in Boone County near Interstate I-70 Highway and State Route Z (Ordinance No. 025683); and
- B. WHEREAS, on or about November 4, 2024, pursuant to paragraph 18 of the Sewer Extension Agreement, Setzer Properties, LLC assigned, and Assignee Developer accepted, all of Setzer Properties, LLC's rights, privileges, title, and interest in, to and under, and obligations, duties and liabilities under said Sewer Extension Agreement (Bill No. B253-2024); and
- C. WHEREAS, Assignee Developer intends to purchase the subject property of said Sewer Extension Agreement; and
- D. WHEREAS, the Parties hereto desire to formally amend the Sewer Extension Agreement with this First Amendment (hereinafter "First Amendment") and desire to be bound by the terms contained in the Sewer Extension Agreement as amended or supplemented by those terms contained in this First Amendment.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual benefit to be derived by the parties, it is agreed to amend the Sewer Extension Agreement, as follows:

- 1. Section 10 of the Sewer Extension Agreement shall be deleted in its entirety and replaced with the following:

"Prior to the City's acceptance of the Development, or reimbursements paid to Developer, Developer shall enter into a separate agreement with City providing for

Property to be annexed into the City when Property becomes contiguous and compact to City limits. Said agreement shall be in substantially the same form as the Annexation Agreement attached hereto as "Exhibit D."

2. Section 38(a) of the Sewer Extension Agreement shall be deleted in its entirety and replaced with the following:

"a. The following persons are designated by the respective Parties to act on behalf of such Party and to receive all written notices and payment invoices:

IF TO CITY:

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

IF TO DEVELOPER:

KW COU, LLC
Attn: Kevin Kiernan
2525 E. Broadway Blvd. Suite 201
Tucson, AZ 85716"

3. All other terms of the Sewer Extension Agreement shall remain unchanged and in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed this First Amendment to the Sewer Extension Agreement Between the City of Columbia and Setzer Properties, LLC , on the day and year last written below.

CITY OF COLUMBIA, MISSOURI

By: _____
De'Carlton Seewood, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor/jc

CERTIFICATION: I, hereby certify that no City funds shall be expended pursuant to this Contract except for potential costs for City to acquire easements necessary to Development which will be reimbursed to City by Developer, and except for potential Development cost reimbursement from City to Developer or as otherwise provided within § 22-229 of City code.

By: _____
Matthew Lue, Finance Director

KW COU, LLC

E-SIGNED by Kevin Kiernan

By: _____
on 2024-10-23 21:19:26 GMT

Title: _____
Managing Partner

ATTEST:

E-SIGNED by Lance Dunkley
By _____
on 2024-10-24 14:25:26 GMT

President

Name and Title

October 23, 2024

Date

ANNEXATION AGREEMENT

This Agreement between the City of Columbia, Missouri, a municipal corporation (hereinafter "City") and KW COU, LLC, an Arizona Limited Liability Company duly authorized to conduct business in the State of Missouri, (hereinafter "Owner") is entered into as of the last date of all of the parties to execute the Agreement (the "Effective Date"). In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Owner hereby represents that Owner is the sole legal owner of the following described real estate located in Boone County, Missouri and has the capacity to enter into this Agreement:

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF SECTION 6, TOWNSHIP 48 NORTH, RANGE 11 WEST, BOONE COUNTY, MISSOURI AND BEING PART OF A TRACT AS DESCRIBED IN WARRANTY DEED RECORDED IN BOOK 4822, PAGE 120 AND BEING ALL OF A TRACT OF LAND AS SHOWN BY A SURVEY RECORDED IN BOOK 5907, PAGE 105 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE EAST AND MOST SOUTHERN CORNER OF LOT 2, AMERICAN OUTDOOR BRANDS, PLAT NO. 1 RECORDED IN PLAT BOOK 52, PAGE 68, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF ENTERPRISE DRIVE AND WITH THE EAST LINE OF SAID LOT 2, N 0°19'30"W, 889.06 FEET; THENCE LEAVING SAID EAST LINE AND WITH THE SOUTH LINE OF SAID LOT 2, N 89°40'30"E, 1982.03 FEET TO THE SOUTH AND MOST EAST CORNER OF SAID LOT 2; THENCE LEAVING SAID SOUTH LINE, S 0°19'30"E, 989.74 FEET TO THE SOUTH LINE OF SAID SECTION 6; THENCE WITH SAID SOUTH LINE, S 89°11'00"W, 1381.65 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 6; THENCE CONTINUING WITH SAID SOUTH LINE, S 88°56'05"W 493.46 FEET TO THE SOUTHEAST CORNER OF SAID ENTERPRISE DRIVE RIGHT OF WAY; THENCE LEAVING SAID SOUTH LINE AND WITH THE EAST LINE OF SAID RIGHT OF WAY, N 1°03'55"W, 120.00 FEET; THENCE LEAVING SAID EAST LINE AND WITH THE NORTH LINE OF SAID RIGHT OF WAY, S 88°56'05"W, 55.00 FEET; THENCE CONTINUING ALONG SAID NORTH LINE, 50.47 FEET ALONG A 4950-FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A CHORD, S 89°13'35"W, 50.46 FEET TO THE POINT OF BEGINNING AND CONTAINING 45.15 ACRES.

(hereinafter the "Property").

2. Owner proposes to design and construct certain sanitary sewer extensions to serve the Property, identified as parcel II, and 34 additional parcels (A-HH) containing a total of 675-acres as shown within Exhibit A attached hereto and incorporated herein by this reference (the "Project Area"). Owner shall dedicate at no cost to City the public utility, construction, and all other easements reasonably necessary for the construction, operation, and maintenance of the sanitary sewer lines serving the Project Area.

3. City agrees to allow Owner to connect sanitary sewer lines serving the Property to the City's sanitary sewer system as set forth herein and in accordance with the Sewer Extension Agreement attached hereto as Exhibit B between the City of Columbia and Setzer Properties, LLC, its successors, heirs, or assigns, and any amendments thereto, which is hereby incorporated as if fully set forth herein. The Assignment of Sewer Extension Agreement assigning the rights, privileges, duties, and obligations of Setzer Properties, LLC pursuant to the Sewer Extension Agreement to KW COU, LLC is attached hereto as Exhibit C, and incorporated herein. Owner shall make the connection to the City's sanitary sewer system at Owner's sole cost and expense. Owner shall obtain all necessary permits for the sewer construction and connection and shall pay all fees required to connect the Property to the City's sewer system. Following connection to the City's sanitary sewer system, the Property shall become a sewer customer of the City and subject to payment of all monthly fees and charges as set forth in the city code.

4. All sewer lines and appurtenances serving the Property and Project Area shall be located within standard sewer or utility easements dedicated to the public use and constructed in compliance with City regulations and standards. Construction of the sewer lines and appurtenances shall be inspected by the City as though the property were within the City limits and shall be subject to City approval. The sewer lines and appurtenances shall be conveyed to the City following construction and approval.

5. The sewer lines constructed by Owner to serve the Property and the Project Area shall not be connected to any other property or sewer lines without the express written consent of the City.

6. Code Compliance

- a. Except as provided in Paragraph 6e, development and construction on the Property by Owner shall conform to all Boone County ordinances and standards for the duration the property remains outside the city limits. During such time, Owner agrees to obtain all required approvals from the appropriate Boone County authorities for zoning, platting and all applicable development and construction permits necessary to construct a trucking facility on the Property with an investment estimate of \$35 million to \$40 million and estimated sanitary sewer flow of less than 3,000 gallons per day.
- b. Once annexed into the City, development and construction on the Property shall conform to all City standards, including, but not limited to, the Unified Development Code. Provided, however, any phase of development under construction at the time of annexation may be completed under applicable Boone County requirements together with inspections and approvals by Boone County provided the construction is completed within two (2) years following the date of annexation. Nothing in this Paragraph constitutes a waiver of the obligation to comply with City standards as indicated in Paragraph 6e.
- c. The Property shall be exempt from all City street lighting construction requirements both before and following annexation.

- d. Following construction, all sanitary sewers, storm sewers, streets and sidewalks intended to serve the public shall be forever dedicated to the public use.
- e. In the event of construction and development on the Property prior to annexation, Owner shall construct and maintain the following items in connection with such development as required by the city code as though the Property is located within the City limits: (1) tree preservation areas (note: per city code, tree preservation plans must be approved prior to any land disturbance), if applicable; (2) street frontage landscaping (note: per city code, a landscape plan must be approved prior to any land disturbance); (3) installation of a five (5) foot sidewalk along development's Enterprise Road frontage, and; (4) compliance with the International Fire Code, as adopted and amended by City ordinance ("City Fire Code"). Compliance with this paragraph 6(e) regarding any pre-annexation construction and development is a necessary condition for annexation into City.
 - i. Owner shall submit a tree preservation plan, if applicable, to the City Arborist for approval accompanied by a processing fee payment of \$200.00. If required, such plan shall provide for one or more common lots containing at least 25% of the pre-development climax forest as required by the City's tree preservation ordinance, or, in the alternative, the plan shall provide for 30% of the pre-development climax forest preserved through a combination of common lots and preservation easements, with at least 20% of the pre-development climax forest contained in one or more common lots. The tree preservation easement shall be in a form satisfactory to the City. In presenting the tree preservation plan to the city, Owner shall provide a plan that is in compliance with the requirements of Chapter 29-4.4 (Landscaping, Screening, and Tree Preservation) of the Unified Development Code, as amended and adopted by City Ordinance.
 - ii. Owner shall submit a landscaping plan to the City Arborist for approval accompanied by a processing fee payment of \$200.00. The plan shall comply with the "Street Frontage Landscaping" requirements of Chapter 29-4.4 (Landscaping, Screening and Tree Preservation) of the Unified Development Code, as amended and adopted by City Ordinance.
 - iii. Owner shall submit a photometric lighting plans to the City for approval accompanied by a processing fee of \$100. Such lighting plans shall demonstrate that on-site lighting is in compliance with the requirements of the Chapter 29-4.5 (Exterior Lighting) of the Unified Development Code, as amended and adopted by City Ordinance.
 - iv. Owner shall submit a copy of the proposed final plat and required revision(s) as well as a copy of the proposed construction plans and required revision(s) to the City Fire Marshal for review and approval concurrent with application to seek Boone County Planning and Zoning Commission or County Commission approval of the final plat or issuance of a land disturbance permit authorizing the installation of infrastructure. The plat and plans submitted to the City Fire Marshal shall demonstrate compliance with the City Fire Code.

7. Development and construction on the Property shall be subject to County standards and City standards as specifically set forth in paragraph 6(a)-6(e). During the period when Owner is constructing or developing the Project, if any irreconcilable conflict exists between a County regulation and a City regulation, the Owner, to the extent required by law, shall follow the County regulation including County storm water standards. Owner acknowledges that no conflict is involved where a City regulation, except City storm water standards, imposes a more stringent minimum requirement than a corresponding County regulation or in any instance where the City imposes a regulation that is not imposed by the County. In such instance, Owner shall be required to follow the more stringent requirement.

8. The City address numbering plan shall be complied with in connection with the development of the Property.

9. To the extent allowed by law, at such time as the Property becomes contiguous to the corporate limits of the City, City may, but shall not be obligated to, annex the Property into the City, without further action of the Owner. The City in its sole discretion may, but shall not be required to, delay annexation of the Property until such time the Property is contiguous to the City by property having frontage on an adjacent roadway which serves the Property, or until any other such time the City reasonably and solely determines to be appropriate to annex the Property and provide available municipal services to the Property.

10. Owner irrevocably appoints the City Manager of Columbia, Missouri, as its attorney-in-fact for the sole purpose of presenting a verified petition requesting annexation of the Property to the City Council of Columbia, Missouri. The City Manager may exercise this power of attorney at any time after the Property becomes contiguous to the corporate limits of the City. Any delay in filing such petition shall not be deemed a waiver of any right of the City to file such petition at such time in the future, in the sole discretion of the City, the filing of such petition is deemed advisable.

11. In lieu of the power of attorney granted to the City Manager herein, the City Manager may request the Owner to submit a verified petition requesting annexation. In such event, Owner shall, within such time as specified by the City Manager, submit a verified petition requesting annexation of the Property to the Director of Community Development for presentation to the City Council of Columbia, Missouri. The City Manager may request Owner to present an annexation petition at any time after the Property becomes contiguous to the corporate limits of the City. The provisions of this paragraph shall be enforceable by specific performance.

12. The petition for annexation may request that the Property be placed in Zoning District IG (Industrial), or equivalent, upon annexation. If the proposed ordinance annexing the Property does not place the Property in the zoning district specified herein, Owner may withdraw the petition for annexation. Such withdrawal shall not affect the parties' obligations under this Agreement, including City's obligation to provide sewer service.

13. Except as expressly set forth in paragraph 12 hereof, Owner agrees not to take any action to oppose any annexation initiated by the City which includes the Property. Owner further agrees not to take any action to oppose any annexation initiated by the City or by any property owner which includes any property lying between the Property and the City limits.

14. Owner shall give a copy of this Agreement to each person who buys all or a portion of the Property.

15. If Owner fails to comply with any of the provisions of this Agreement, City may terminate sewer service to the Property and disconnect the sewer lines serving the Property from the City's sanitary

sewer system. City shall give Owner one hundred eighty (180) days prior written notice of its intent to terminate sewer service.

16. This Agreement is not intended to confer any rights or remedies on any person other than the parties.

17. The benefits and burdens of this Agreement are intended to attach to and run with the land and shall be binding on and inure to the benefit of the parties and their respective legal representatives, successors, heirs and assigns. However, no assignment of the rights and obligations herein shall be made without prior written consent of the City. All persons claiming under the parties shall conform to and observe the provisions of this Agreement.

18. Owner on behalf of itself and its successors, heirs, or assigns, at Owner's 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, contractual damages and losses, economic damages and losses, any and 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 Owner's breach of this Agreement or any action or inaction of Owner, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Owner may be liable, occurring during the construction of public improvements related to Owner's 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 paragraph shall survive for a period of five (5) years from the date of the later of City's acceptance of public improvements or the last day of any warranty work relating to such public improvements.

19. This Agreement shall be construed according to the laws of the State of Missouri. The parties shall comply with all local, state, and federal laws and regulations relating to the performance of this Agreement.

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

21. This Agreement contains the entire and complete agreement between the City and the Owner. The parties agree that this Agreement constitutes a lawful contract between the parties and the Owner hereby acknowledge and agree 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.

22. The City shall record this Agreement in the office of the Boone County Recorder of Deeds.

[SIGNATURES ON FOLLOWING PAGES.]

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

CITY OF COLUMBIA, MISSOURI

By: _____
De'Carlton Seewood, City Manager

ATTEST:

Date: _____

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor/jc

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

On this ____ day of _____, 20____, before me appeared_____,
to me personally known, who, being by me duly sworn, did say that such person 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.

Notary Public

My commission expires: _____.

OWNER

By: _____
Signature Title

Printed Name

Date: _____

STATE OF _____)
COUNTY OF _____) ss

On this _____ day of _____, 20____, before me, a Notary Public in and for said state, personally appeared _____, the _____ of KW COU, LLC, an Arizona Limited Liability Company, known to me to be the person(s) described in and who executed the above agreement and acknowledged to me that said instrument was signed in behalf of said corporation and further acknowledged that they executed the same as a free act and deed for the purposes therein stated and that they have been granted the authority by said corporation to execute the same.

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.

Notary Public

My commission expires: _____.

Exhibit A

Project Area of Connection Agreement

Exhibit B

Approved Connection Agreement (Ordinance # 025683)

Exhibit C

Assignment of Sewer Extension Agreement (Bill/Ord #)