

024934

Permanent Record  
Filed in Clerk's Office

Introduced by Treece

First Reading 2-7-22

Second Reading 2-21-22

Ordinance No. 024934

Council Bill No. B 41-22

**AN ORDINANCE**

authorizing the City Manager to execute an annexation agreement with The Boone County Fire Protection District for property located on the northeast corner of Bethel Church Road and Route K; directing the City Clerk to have the agreement recorded; and fixing the time when this ordinance shall become effective.

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


SECTION 1. The City Manager is hereby authorized to execute an annexation agreement with The Boone County Fire Protection District for property located on the northeast corner of Bethel Church Road and Route K. The form and content of the agreement shall be substantially as set forth in "Attachment A" attached hereto.


SECTION 2. The City Clerk is authorized and directed to have the annexation agreement recorded in the office of the Boone County Recorder of Deeds.

SECTION 3. This ordinance shall be in full force and effect from and after its passage.

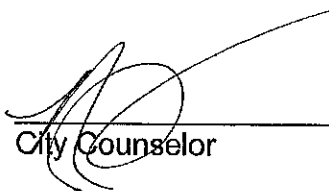
PASSED this 21st day of February, 2022.

ATTEST:

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor and Presiding Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Counselor

## ANNEXATION AGREEMENT

This Agreement between the City of Columbia, Missouri, a municipal corporation (hereinafter "City") and The Boone County Fire Protection District, (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:

Legal description attached as Exhibit A and incorporated herein by reference

(hereinafter the "Property").

2. City agrees to allow Owner to connect sanitary sewer lines serving the Property to the City's sanitary sewer system as set forth 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 to the City's sewer system. Following connection to the City's sanitary sewer system, Owner 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.

3. All sewer lines and appurtenances serving the Property 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.

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

5. 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. 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. Notwithstanding the foregoing, any phase of development under construction at the time of annexation may be completed under Boone County requirements and inspections provided the construction is completed within two (2) years following the date of annexation. Any construction activities occurring more than two (2) years following the date of annexation shall conform to all City standards and be inspected by the

City. Regardless of the date of annexation, in the event of construction and development on the Property prior to annexation, Owner shall construct and maintain public sidewalks (8' pedway along S. Route K and 5' sidewalk along S. Bethel Church Road) as required by the city code as though the Property is located within the City limits. Following construction, all sanitary sewers, storm sewers, streets and sidewalks shall be forever dedicated to the public use.

6. So long as the Property remains outside the City limits, any subdivision of the Property shall be prepared in accordance with the applicable requirements of Boone County. The City shall be provided written notice of the subdivision of the property, but there shall be no requirement that the City approve any plat prior to any action taken on a plat by the Boone County Commission.

7. Prior to annexation, 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 R-1 One-Family Dwelling, 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. All persons claiming under the parties shall conform to and observe the provisions of this Agreement.

18. Owner, 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: 2/22/22

Sheela Amin  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson 87  
Nancy Thompson, City Counselor

STATE OF MISSOURI        )  
  ) ss  
COUNTY OF BOONE        )

On this 22<sup>nd</sup> day of February, 2022, before me appeared De'Carlton Seewood 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.

Kristina Ann Wolf  
Notary Public

My commission expires: 6/23/24



OWNER

By: *David Shorr*  
David Shorr, Chairman Board of Directors

Date: 1-3-22

STATE OF MISSOURI )  
COUNTY OF Boone ) ss

On this 3<sup>rd</sup> day of Jan., 2022 before me, a Notary Public in and for said state, personally appeared David Shorr, Chairman Board of Directors, known to me to be the person(s) described in and who executed the above agreement and acknowledged to me that such agreement was executed as the free act and deed of such person(s).

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.

*Carla A. Creel*  
Notary Public

My commission expires: 3-8-2025

CARLA A. CREEL  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Audrain County  
My Commission Expires: Mar. 08, 2025  
Commission #04474285

**Exhibit A**

**Legal Description of the Property**



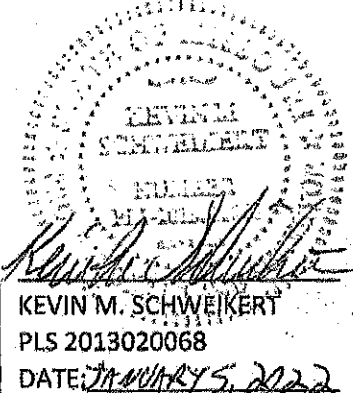
Exhibit A

DESCRIPTION

A TRACT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 47 NORTH, RANGE 13 WEST, BOONE COUNTY, MISSOURI AND BEING A PART OF THE TRACT DESCRIBED BY THE DEED IN BOOK 3580 PAGE 14 OF THE BOONE COUNTY RECORDS;

STARTING AT THE WEST QUARTER CORNER OF SAID SECTION 1; THENCE WITH THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1 S 88°09'05"E, 33.00 FEET TO THE POINT OF BEGINNING:

THENCE FROM THE POINT OF BEGINNING S 88°09'05"E, 357.60 FEET TO THE NORTHWEST CORNER OF THE TRACT SHOWN BY THE SURVEY IN BOOK 487 PAGE 640 OF THE BOONE COUNTY RECORDS; THENCE LEAVING SAID NORTH LINE AND WITH THE LINES OF THE TRACT SHOWN BY SAID SURVEY IN BOOK 487 PAGE 640 S 01°51'05"W, 155.15 FEET; THENCE S 54°28'55"E, 127.95 FEET; THENCE LEAVING THE LINES OF THE TRACT SHOWN BY SAID SURVEY IN BOOK 487 PAGE 640 S 36°29'20"W, 555.50 FEET; THENCE 43.44 FEET WITH A CURVE TO THE RIGHT, CURVE RADIUS 30.00 FEET, CHORD S 77°58'20"W, 39.75 FEET; THENCE N 60°32'30"W, 51.85 FEET; THENCE N 48°29'50"W, 35.35 FEET; THENCE N 08°55'05"W, 96.95 FEET; THENCE N 00°09'40"E, 388.15 FEET; THENCE N 01°18'20"W, 107.10 FEET; THENCE N 00°39'20"E, 55.95 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.93 ACRES.

<b>A DESCRIPTION FOR BOONE COUNTY FIRE DISTRICT</b>	
<b>A TRACT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 47 NORTH, RANGE 13 WEST, BOONE COUNTY, MISSOURI</b>	
<p><b><u>BRUSH AND ASSOCIATES, INC.</u></b>  <b>506 NICHOLS STREET, SUITE A</b>  <b>COLUMBIA, MISSOURI 65201</b>  <b>PHONE: (573)442-3110</b>  <b>FAX (573) 442-4851</b>  <b><u>WWW.BRUSHENGSRV.COM</u></b>  <b>PLSC 321</b></p>	 <p>KEVIN M. SCHWEIKERT          PLS 2013020068          DATE: <u>January 5, 2022</u></p>

STATE OF MISSOURI  
COUNTY OF BOONE ) SS

SUBSCRIBED AND SWORN TO BEFORE ME, A NOTARY PUBLIC  
IN AND FOR BOONE COUNTY, MISSOURI THIS 5 DAY  
OF January, 2022.

Jonathan D. Nolan  
JONATHAN D. NOLAN      NOTARY PUBLIC  
MY COMMISSION EXPIRES:      AUGUST 11, 2023

JONATHAN D NOLAN  
Notary Public - Notary Seal  
Boone County - State of Missouri  
Commission Number 19624338  
My Commission Expires Aug 11, 2023