

NOTE: THE BOARD OF ALDERMEN MEETING WILL BE HELD IN-PERSON AND VIRTUALLY VIA ZOOM (link is below).

Please note, individuals may attend in-person or virtually via Zoom. Doors will open 30 minutes prior to the start of each meeting. Due to the ongoing pandemic, occupancy will be limited to 14 attendees per meeting to accommodate social distancing. While masks are recommended, proof of vaccination will be required for individuals who wish not to wear a mask. Failure to provide proof of vaccination will require a mask to be worn while in City Hall.

Please click this URL to join. <https://us02web.zoom.us/j/86069443126>; Webinar ID: 860 6944 3126

Or One tap mobile:

+19292056099,,86069443126# US (New York); +13017158592,,86069443126# US (Washington DC)

Via phone: US: +1 312 626 6799

Persons interested in making their views known on any matter on the agenda should send an email with their comments to the City Clerk at jfrazier@claytonmo.gov. All comments received will be distributed to the entire Board before the meeting.

**CITY OF CLAYTON BOARD OF ALDERMEN
TUESDAY, APRIL 12, 2022
CITY HALL – 10 N. BEMISTON AVENUE
CLAYTON, MO 63105
7:00 P.M.**

ROLL CALL

MINUTES – March 29, 2022

PUBLIC REQUESTS & PETITIONS

PUBLIC HEARING

1. Ordinance – To approve an amendment to Section 405.1370, Planned Unit Development District, relating to first floor uses within mixed-use buildings. (Bill No. 6894)
2. Ordinance – To approve an amendment to Section 405.1190, relating to public benefits in Special Development Districts. (Bill No. 6895)

CITY MANAGER REPORT

1. Ordinance – To appoint certain successors to the Board of Directors of the 7730 Bonhomme Community Improvement District (CID). (Bill No. 6896)
2. Ordinance – To approve a contract with Corrective Asphalt Materials, LLC for the FY2022 Asphalt rejuvenation project. (Bill No. 6897)

EXECUTIVE SESSION

1. Legal issues and negotiation (pursuant to Sections 610.021(1), (12) RSMO)

Subject to a motion duly made in open session and a roll call vote pursuant to Section 610.022 the Board of Aldermen may also hold a closed meeting, with a closed vote and record for one or more of the reasons as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, negotiation of a contract pursuant to Section 610.021(12) RSMO., proprietary information pursuant to Section 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO.

THE CITY OF CLAYTON

Board of Aldermen
Virtual Zoom Meeting
March 29, 2022
7:00 p.m.

Minutes

The meeting was open to individuals to attend in-person or virtually via Zoom.

Mayor Harris called the meeting to order and requested a roll call. The following individuals were in attendance:

Attendance:

In-person: Aldermen: Rich Lintz, Bridget McAndrew, Susan Buse, Becky Patel, Gary Feder, Mayor Harris, City Manager Gipson, and City Attorney O'Keefe.

Virtually: Alderman Ira Berkowitz,

Motion made by Alderman McAndrew to approve the March 10, 2022, March 15, 2022 and March 18, 2022 minutes. Alderman Berkowitz seconded.

Motion to approve the minutes passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

Mayor Harris read an email (*copy available in the city clerk's office*) from Kathleen Gund related to the Boards and Commissions' term expirations.

RECOGNITION

Representing the MOCCFOA-Eastern Division, Nancy Sulin, City Clerk, City of Wentzville and Amanda Harris, City of Des Peres, presented City Clerk June Frazier with a Certificate for achieving the Continuing Missouri Registered City Clerk recognition.

AN ORDINANCE TO CONSIDER APPROVING A SECOND AMENDMENT TO SUBLEASE AGREEMENT RELATING TO THE REDEVELOPMENT OF 227 S. CENTRAL

City Manager Gipson reported that the City and the Developer entered into a Sublease Agreement for Parking Spaces ("Parking Agreement") for the subject property on May 14, 2019. The Parking agreement was amended on January 11, 2022.

The January 11, 2022, amendment in addition to the original May 14, 2019, Parking Agreement omitted direct payment for leased spaces to St. Louis County as required by the City and County's July 26, 2005 agreement for the Shaw Park Parking Garage. The proposed amendment corrects this omission and requires the Developer to submit payment for leased spaces to the County.

Gary Carter, Director of Economic Development, was in attendance to answer questions.

Alderman Lintz introduced Bill No. 6892, to approve an amendment to the parking agreement for 227 S. Central Avenue to be read for the first time by title only. Alderman Berkowitz seconded.

City Attorney O’Keefe reads Bill No. 6892, first reading, an Ordinance Approving and Authorizing Execution of Second Amendment to Sublease Agreement for Parking Spaces Related to 227 S. Central Avenue by title only.

The motion passed unanimously on a voice vote.

Motion made by Alderman Lintz that the Board give unanimous consent to consideration for adoption of Bill No. 6892 on the day of its introduction. Alderman Berkowitz seconded.

The motion passed unanimously on a voice vote.

Alderman Lintz introduced Bill No. 6892, to approve an amendment to the parking agreement for 227 S. Central Avenue to be read for the second time by title only. Alderman Berkowitz seconded.

City Attorney O’Keefe reads Bill No. 6892, second reading, an Ordinance Approving and Authorizing Execution of Second Amendment to Sublease Agreement for Parking Spaces Related to 227 S. Central Avenue by title only.

The motion passed on a roll call vote: Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman Buse – Aye; Alderman McAndrew – Aye; Alderman Patel – Aye; Alderman Feder – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6751 of the City of Clayton.

AN ORDINANCE TO CONSIDER APPROVING AN AMENDMENT TO SECTION 215.605 “FAILURE TO SUPERVISE MINORS”

City Manager Gipson reported that the role of the *All In Clayton Coalition* is to achieve community level change by reducing and preventing youth substance abuse. The *Coalition* collaborates with the Clayton Police Department to educate the community on the dangers of social hosting. Social hosting occurs when underage drinking takes place at a property under the control of an adult.

The Clayton City Ordinance, Section 215.605, “Failure to Supervise Minors”, prohibits social hosting. The *All In Clayton Coalition* and the staff of the Clayton Police Department reviewed this ordinance and compared it to similar ordinances in other communities. The review revealed the current ordinance lacked a prohibition preventing an adult from leaving a property under their control when it is reasonably foreseeable that minors will consume alcohol on the property.

Captain Al Thuet and Corporal Jenny Schwartz were in attendance to answer questions.

Alderman Lintz introduced Bill No. 6893, to approve an amendment to Section 215.605, Failure to Supervise a Minor to be read for the first time by title only. Alderman Berkowitz seconded.

City Attorney O’Keefe reads Bill No. 6893, first reading, an Ordinance Amending Section 215.605 of the Clayton City Code Relating to the Offense of Failure to Supervise Minors with Regard to the Consumption or Possession of Alcoholic Beverages or Controlled Substances by title only.

The motion passed unanimously on a voice vote.

Motion made by Alderman Lintz that the Board give unanimous consent to consideration for adoption of Bill No. 6893 on the day of its introduction. Alderman Berkowitz seconded.

The motion passed unanimously on a voice vote.

Alderman Lintz introduced Bill No. 6893, to approve an amendment to Section 215.605, Failure to Supervise a Minor to be read for the second time by title only. Alderman Berkowitz seconded.

City Attorney O’Keefe reads Bill No. 6893, second reading, an Ordinance Amending Section 215.605 of the Clayton City Code Relating to the Offense of Failure to Supervise Minors with Regard to the Consumption or Possession of Alcoholic Beverages or Controlled Substances by title only.

The motion passed on a roll call vote: Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman Buse – Aye; Alderman McAndrew – Aye; Alderman Patel – Aye; Alderman Feder – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6752 of the City of Clayton.

A RESOLUTION TO CONSIDER APPROVING A PLAN FOR ALLOCATION OF FUNDING RECEIVED UNDER THE AMERICAN RESCUE PLAN ACT OF 2021

City Manager Gipson reported that The United States Congress adopted the American Rescue Plan Act (“ARPA”) in March 2021, which, in part, established the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) to provide financial support to state and local governments in responding to the economic and public health impacts of COVID-19.

Under the provisions of SLFRF, the City of Clayton has been allocated \$3,395,584.65 in funding to be received in installments. The first installment of \$1,689,651.48 was received in August of 2021, a supplemental payment of \$16,281.69 was received in March 2022, and the final installment of \$1,689,651.48 is expected to be received in August of 2022.

The U.S. Department of Treasury issued its Final Rule which goes into effect on April 1, 2022, which offers election of a standard minimum allowance of up to \$10 million for revenue loss, not to exceed a recipient’s SLFRF award amount. Under this provision, a city is allowed to use SLFRF funding for continued provision of government services, with certain exceptions noted in the Final Rule.

Staff recommends that the funds be used for general government services, including administrative services and solid waste services, including collection and disposal of solid waste, recycling, and yard waste disposal for fiscal years 2021 and 2022 to utilize the full amount of ARPA funding provided to the City.

Karen Dilber, Director of Finance, was present to answer questions.

Motion made by Alderman Lintz to approve Resolution No. 2022-10, approving a plan for allocation of funding received under the American Rescue Plan Act. Alderman Berkowitz seconded.

The motion passed unanimously on a voice vote.

A MOTION TO CONSIDER ADOPTION OF JUNETEENTH AS A CITY HOLIDAY

City Manager Gipson reported that on June 19, 1865, more than two years after the Emancipation Proclamation was signed by President Lincoln, enslaved Americans in Galveston, Texas, finally received word that they were free from bondage. This momentous occasion has been celebrated as Juneteenth — a combination of June and 19 — for over 150 years.

Juneteenth was recognized as a federal holiday last year. As such, staff is requesting the Board of Aldermen to consider whether it should be adopted as an official City holiday. The City currently observes ten (10) official holidays throughout the year.

Motion made by Alderman Lintz to adopt Juneteenth as a holiday. Alderman Berkowitz seconded.

The motion passed unanimously on a voice vote.

A MOTION TO APPOINT A MEMBER TO THE PLAN COMMISSION/ARB

City Manager Gipson reported that due to a recent vacancy on the City's Plan Commission/ARB the Board of Aldermen encouraged the Clayton residents to complete and submit an application of interest to serve.

The City received several applications of well-qualified individuals. After careful consideration and review of all applications recommendation is to approve Kami Waldman to be appointed.

Motion made by Alderman Lintz to appoint Kami Waldman to the Plan Commission/ARB to complete the unexpired term. Alderman Berkowitz seconded.

The motion passed unanimously on a voice vote.

OTHER

Alderman Lintz reported that the DeMun mural is on the Clayton Community Foundation's website.

Alderman Berkowitz reported that the Plan Commission/ARB met last week and there was a presentation on the Special Development District.

Alderman Patel provided an update on the following:

- Sustainability Committee – Gabrielle Macaluso, Communications Manager, provided a presentation on the communication' plan.
- Softball season
- DeMun mural

Alderman Feder provided an update on the following:

- Attended the community meeting at the World News site
- Ward 3 Coffee
- Community Equity Committee – Housing subcommittee
- Volunteering his legal services for CCF regarding the mural

Mayor Harris provided an update on the following:

- Municipal League of Metro St. Louis
- Expressed interest in staff to research information on protecting (preserving) the Williamsburg Shop buildings on Maryland Avenue.

Motion made by Alderman Feder that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO. Alderman Buse seconded.

The motion passed on a roll call vote: Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman Buse – Aye; Alderman McAndrew – Aye; Alderman Patel – Aye; Alderman Feder – Aye; and Mayor Harris – Aye.

The meeting adjourned at 7:45 p.m.

Mayor

ATTEST:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN

FROM: DAVID GIPSON, CITY MANAGER
ANNISA KUMEROW, PRINCIPAL PLANNER

DATE: APRIL 12, 2022

SUBJECT: PUBLIC HEARING & ORDINANCE - AMENDING SECTION 405.1370,
PLANNED UNIT DEVELOPMENT DISTRICT, REGARDING FIRST
FLOOR USES WITHIN MIXED-USE BUILDINGS, AND CLARIFY OTHER
PROVISIONS

This is a public hearing to solicit input regarding proposed amendments to Chapter 405 (Zoning Regulations) Article X (Planned Unit Development District) to consider adopting an amendment to regarding first-floor uses within mixed-use buildings and clarify other provisions within the ordinance.

The Board of Aldermen discussed the feasibility and impact of the requirement of first-floor retail uses for all mixed-use Planned Unit Developments (PUD) at the March 15, 2022, Board of Aldermen meeting. The PUD regulations currently state “the first floor of any mixed-use building shall be dedicated to commercial land uses.” The ordinance defines commercial land uses as “retail, restaurant, entertainment venues, etc.” Under the current regulation, any first floor uses other than retail, restaurant, or entertainment uses are prohibited.

Given the Board’s stated desire to align regulations with market realities and allow greater flexibility within mixed-use buildings, staff has drafted revisions to the PUD regulations that would require commercial uses to be included on the first floor, but not require the entire first floor be dedicated to commercial uses. This would allow office, residential, or other non-commercial land use categories to be considered as acceptable first floor uses in future projects. The revisions would give the Board of Aldermen clear discretion to determine a reasonable ratio of uses to be located within a mixed-use PUD.

In addition to the revisions mentioned above, staff has also taken this opportunity to clarify or restate other provisions within the PUD ordinance. These changes are not substantive and only intended to aide in the interpretation and enforcement of the requirements.

The Plan Commission considered this request at the April 4, 2022, Plan Commission Meeting and voted to recommend approval to the Board of Aldermen.

Recommendation: To hold a public hearing and approve the Ordinance.

BILL NO. 6894

ORDINANCE NO. ____

AN ORDINANCE AMENDING SECTION 405.1370 OF THE MUNICIPAL CODE OF THE CITY OF CLAYTON, MISSOURI, REGARDING GENERAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS

WHEREAS, on March 15, 2022, the Mayor and Board of Aldermen discussed the feasibility and impact of the requirement of first-floor retail uses for all mixed-use Planned Unit Developments (PUD); and

WHEREAS, given the Board's stated desire to align regulations with market realities and allow greater flexibility within mixed-use buildings, discussion ensued regarding the requirement of commercial uses on the first floor, but not requiring that the entire first floor be dedicated to commercial uses; and

WHEREAS, on April 4, 2022, the Plan Commission held a public hearing, after due notice as provided by law, to solicit input regarding an amendment to the City's Land Use regulations to require commercial uses on the first floor of mixed-use developments but not restrict the first floor solely to commercial uses; and

WHEREAS, following public comment and review, the Plan Commission voted unanimously to recommend that the Board of Aldermen enact the amendment hereinafter set forth; and

WHEREAS, on April 12, 2022, after due notice as provided by law, the Board of Aldermen held a public hearing for the purpose of receiving public comment on the question of the adoption of the provision hereinafter set forth; and

WHEREAS, the Board of Aldermen has determined that it is in the best interest of the City of Clayton to adopt the amendment hereinafter set forth and that the amendment best serves the public health, safety and welfare of the City and its residents; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

Section 1.

Section 405.1370 of Article X of Chapter 405 of the Code of Ordinances of the City of Clayton, Missouri, is hereby repealed and a new Section 405.1370 is hereby enacted in lieu therefor, to read as follows:

Chapter 405. Zoning Regulations

Article X. Planned Unit Development District

SECTION 405.1370: General Requirements

A. Distinct Zoning District. Planned Unit Development (PUD) is a distinct zoning district and requires a request for a change in the zoning district designation, as described by

the official zoning map. It is intended to provide a means for the redevelopment of an area in a unified land development that will improve the quality of the subject properties and have a beneficial effect on adjacent properties.

B. Types Of PUD Districts. There are two (2) types of PUD zoning districts:

1. Residential.
2. Mixed Use.

C. Residential. Rezoning to a residential planned unit development district is allowed only in areas where the existing zoning designation is Residential and when (a) one hundred percent (100%) of the gross square footage of the proposed buildings is to be used for residential purposes, and (b) the project is developed on a lot at least thirty thousand (30,000) square feet in size.

D. Mixed Use. Rezoning to a mixed use planned unit development district is allowed only (a) in areas where the existing zoning designation is non-residential and the proposed building(s) totals fifty thousand (50,000) gross square feet or more, or (b) in overlay districts requiring planned unit development designation.

A mixed-use PUD must contain a reasonable ratio of areas devoted to distinct land use categories as determined by the Board of Aldermen in the exercise of its legislative discretion. In determining the reasonableness of the areas devoted to distinct uses, the Board of Aldermen may take into account the general character of the area within which the project site is located; the overall size of the project; the configuration of the proposed building(s) and the site layout; the need for non-residential services or a category of use in the area; and other factors which the Board finds relevant to such an analysis in a given case.

The first floor of any mixed-use building shall include commercial land uses with public entrances to these uses from an adjoining street; non-residential uses are also allowed on other floors of a mixed-use building.

E. Minimum Standards To Apply For Planned Unit Development Rezoning. At a minimum, the proposed development shall meet the standards for LEED Silver certification or an equivalent standard as determined by the Board of Aldermen. The project does not have to achieve actual LEED certification; however, the developer must submit the LEED checklist and documentation to the City as part of the application process, approved by a LEED Accredited Professional (LEED-AP), that shows that the project will comply with LEED Silver requirements.

F. Uses Allowed. All permitted uses in the underlying district(s) shall be allowed unless otherwise specified in the PUD ordinance. Allowable uses shall be identified in the PUD document through a cross reference to applicable underlying zoning district(s).

G. Additional Uses. The Board of Aldermen may authorize additional uses in the zoning district in which the planned unit development is located as provided below.

1. **Conditional Uses.** Any conditional use allowed in the underlying district(s) may be included within a planned unit development, upon making each of the required findings for conditional use permits in Section 405.840, as follows:

(a) Residential Uses. Dwelling units that require a conditional use permit in the underlying zoning district shall not be required to submit a separate conditional use permit and approval shall be considered as a part of the findings and review of the planned unit development.

(b) Non-Residential Uses. Non-residential uses that require a conditional use permit in the underlying zoning district may be allowed subject to submission of a separate conditional use permit application and findings supporting approval for each use as a part of the planned unit development review. Uses approved through this process shall then be deemed permitted by right in the PUD; provided, however, that entertainment uses described in the Entertainment District Overlay which are approved in a PUD ordinance shall not become permitted uses but shall remain conditional and allowed to commence and continue only with the a valid conditional use permit.

H. Site Layout. A PUD must achieve a better site design and public benefits. A PUD may not be simply used as a method to avoid zoning regulations or subdivision regulations such as required setbacks, maximum Floor Area Ratio (FAR) or building height.

I. Authority To Modify Regulations. Notwithstanding anything in this Section to the contrary, the Board of Aldermen shall continue have the authority in approving the PUD to adopt modifications to development standards from any provisions of the Clayton Zoning Regulations, Overlay and Urban Design Zoning Districts and Subdivision Regulations, pursuant to Section 405.1420, below.

J. Ownership. The tract of land to be developed as a PUD must be and remain under single ownership or control. The property included in the PUD shall be planned and developed as a single unit/phase.

K. Plat Required. The planned unit development project shall consist of and shall be conterminous with a single lot described in a recorded subdivision plat.

Section 2.

It is hereby declared to be the intention of the Clayton Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

Section 3.

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the Board of Aldermen on this 12th day of April 2022.

Mayor

Attest:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN

FROM: DAVID GIPSON, CITY MANAGER
ANNISA KUMEROW, PRINCIPAL PLANNER

DATE: APRIL 12, 2022

SUBJECT: PUBLIC HEARING & ORDINANCE - AMENDING SECTION 405.1190 OF ARTICLE IX, SPECIAL DEVELOPMENT DISTRICT, BY ADDING AN ADDITIONAL PUBLIC BENEFIT FOR CONSIDERATION BY THE PLAN COMMISSION AND BOARD OF ALDERMEN

This is a public hearing to solicit input regarding a proposed amendment to Chapter 405 (Zoning Regulations) Article IX (Special Development District) related to the inclusion of an additional public benefit.

Both the Planned Unit Development District (PUD) and Special Development District (SDD) regulations have requirements for the provision of public benefits in exchange for flexibility from traditional zoning restrictions. The current PUD regulations pertaining to public benefits consist of a point system with clearly defined public benefits and values for each enhancement, whereas the SDD regulations do not consist of a point system but instead list general acceptable public benefits.

When the PUD regulations were revised in 2019 to allow for the current point-based system, it included a point category for the enhancement of off-site City-owned parks or public facilities, and the installation of streetscape meeting city standards. The SDD public benefit section does not make any specific reference to these types of enhancements or facilities. The Board of Aldermen discussed this discrepancy in January of 2022 and proposed legislation to add the following language to the list of SDD public benefits (Section 405.1190):

Enhancements to off-site City owned parks or other Public Facilities such as the replacement of recreation related facilities or the installation of streetscape meeting city standards where none currently exists.

The Plan Commission considered this request at the March 21, 2022, Plan Commission Meeting and voted to recommend approval to the Board of Aldermen.

Recommendation: To hold a public hearing and approve the Ordinance.

BILL NO. 6895

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 405.1190 OF THE MUNICIPAL CODE OF THE CITY OF CLAYTON, MISSOURI, RELATING TO PUBLIC BENEFITS IN SPECIAL DEVELOPMENT DISTRICTS

WHEREAS, on January 21, 2022, the Mayor and Board of Aldermen discussed the inclusion of an additional public benefit pertaining to enhancements to off-site City owned parks or other Public Facilities for evaluation in considering applications for Special Development Districts; and

WHEREAS, on March 21, 2022, the Plan Commission held a public hearing, after due notice as provided by law, to solicit input regarding an amendment to the City's Land Use regulations to include the aforementioned public benefit; and

WHEREAS, following public comment and review, the Plan Commission voted unanimously to recommend that the Board of Aldermen enact the amendment hereinafter set forth; and

WHEREAS, on April 12, 2022, after due notice as provided by law, the Board of Aldermen held a public hearing for the purpose of receiving public comment on the question of the adoption of the provision hereinafter set forth; and

WHEREAS, the Board of Aldermen has determined that it is in the best interest of the City of Clayton to adopt the amendment hereinafter set forth and that the amendment best serves the public health, safety and welfare of the City and its residents; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

Section 1.

Section 405.1190 of Article IX of Chapter 405 of the Code of Ordinances of the City of Clayton, Missouri, is hereby repealed and a new Section 405.1190 is hereby enacted in lieu thereof, to read as follows:

Chapter 405. Zoning Regulations

Article IX. Special Development District

SECTION 405.1190: PUBLIC BENEFIT

A. In exchange for waivers of certain requirements of this Chapter, public benefit shall be provided as determined by the Plan Commission and Board of Aldermen. The public benefits to the City that are intended to be derived from the approval of special developments may include, but are not limited to:

1. Use of large tracts of land in a manner which provides a cohesive phased development and minimizes construction impact;
2. Extraordinary landscaping and greenspace provisions;

3. Garage entryways by virtue of their location, materials and design that blend with the architecture of the surrounding neighborhood;
4. Architectural distinction and significance that would make the development noteworthy;
5. Extensive use of high-quality building materials that would add significant value to the property and benefit adjacent properties;
6. Provision of new public infrastructure including, but not limited to, streets, curbs, sidewalks, sanitary sewers, storm water sewers, lighting, and public parking;
7. Provisions for reduced sale or rental for a percentage of the residential units to encourage the goal of affordable housing, if residential is proposed;
8. Leadership in Energy and Environmental Design (LEED) certification from the U.S. Green Building Council at a minimum "Certified" level including applicable regional priorities or an equivalent nationally recognized third-party verification organization as determined by the Plan Commission:
9. Enhancements to off-site City owned parks or other Public Facilities such as the replacement of recreation related facilities or the installation of streetscape meeting city standards where none currently exists.

Section 2.

It is hereby declared to be the intention of the Clayton Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

Section 3.

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the Board of Aldermen on this 12th day of April 2022.

Mayor

Attest:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN

FROM: DAVID GIPSON, CITY MANAGER
GARY CARTER, DIRECTOR OF ECONOMIC DEVELOPMENT

DATE: APRIL 12, 2022

SUBJECT: ORDINANCE –APPOINTING CERTAIN SUCCESSOR TO THE BOARD OF DIRECTORS OF THE 7730 BONHOMME COMMUNITY IMPROVEMENT DISTRICT (CID)

OVERVIEW:

On March 24, 2020 the City of Clayton created the 7730 Bonhomme Community Improvement District (CID) for the property located at 7730 Bonhomme Avenue, now operating as a Le Meridian Hotel. The CID imposes an additional 1% sales tax on the hotel (including hotel room, restaurant and gift shop sales). The CID uses the revenues from the sales tax to reimburse the Developer for certain eligible redevelopment costs.

The CID is governed by a five-member board of directors appointed by the mayor with the consent of the Board of Aldermen. Only registered voters residing within the CID and the authorized representatives of property owners within the CID may be appointed to the Board of Directors. In this case, the Developer is the sole property owner within the CID. The current Board of Directors of the CID is as follows:

Evan Welsh	4 year term (<i>term expiring March 2024</i>)
Terry Anderson	4 year term (<i>term expiring March 2024</i>)
Jennifer Metz	2 year term
Taylor Umscheid	2 year term
Andrew Hargis	2 year term

The CID is requesting that Jennifer Metz, Taylor Umscheid, and Andrew Hargis be reappointed for four year terms to expire March 14, 2026.

Recommendation: To approve the attached ordinance.

BILL NO. 6896

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CLAYTON, MISSOURI, APPROVING THE REAPPOINTMENT OF CERTAIN BOARD OF DIRECTORS FOR THE 7730 BONHOMME COMMUNITY IMPROVEMENT DISTRICT

WHEREAS, on March 24, 2020 the City of Clayton established the 7730 Bonhomme Community Improvement District (the “**District**”) pursuant to Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the “**Act**”); and

WHEREAS, upon creation of the District a five (5) member board of directors was appointed with varying terms; and

WHEREAS, the District has requested the reappointment of certain Directors and the Mayor has nominated the persons identified below for reappointment;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

SECTION 1. Reappointment of Directors. The Board of Directors of the District shall be as follows:

Evan Welsh	4 year term (<i>term expiring March 2024</i>)
Terry Anderson	4 year term (<i>term expiring March 2024</i>)
Jennifer Metz	4 year term (<i>term expiring March 2026</i>)*
Taylor Umscheid	4 year term (<i>term expiring March 2026</i>)*
Andrew Hargis	4 year term (<i>term expiring March 2026</i>)*

SECTION 2. Effective Date. This ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the Board of Aldermen this 12th day of April 2022.

Mayor

Attest:

City Clerk

HUSCH BLACKWELL

Katesha Long
Attorney

Rec'd 3/29/2022 jf.

190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Direct: 314.345.6347
Fax: 314.480.1505
katesha.long@huschblackwell.com

March 24, 2022

CERTIFIED MAIL

City of Clayton
City Clerk
City Hall, Room 234
10 N. Bemiston Avenue
Clayton, MO 63105

Re: 7730 Bonhomme Community Improvement District- Board of Directors

To Whom it May Concern:

7730 Bonhomme Community Improvement District (the "CID") is a community improvement district of the State of Missouri formed pursuant to Sections 67.1401 to 67.1571 RSMo. (the "CID Act") and Ordinance No. 6647 of the City of Clayton (the "City").

The CID is governed by a Board of Directors (the "Board") appointed by the Mayor of the City, with the consent of the Board of Aldermen. Certain Directors on the Board have terms that are expiring. Per the Petition to Establish the CID (the "Petition"), upon expiration of the terms of the initial Directors, successive Directors shall be appointed from a slate approved by the Directors and by the Mayor of the City with the consent of the Board of Aldermen in accordance with the CID Act and said successor Directors shall serve four (4) year terms on the Board.

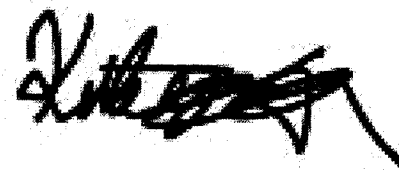
At the Board meeting on March 14, 2022, the Board resolved to nominate the following slate of potential successor Directors of the CID (the "Resolution"). Pursuant to the provisions of the CID Act and the Petition, we now submit the following slate for the Mayor's consideration, approval, and submission of the same to the Board of Aldermen, and we request the Mayor's assistance in obtaining a Board of Aldermen resolution appointing the proposed successor Directors.

- (i) Jennifer Metz to be appointed as a director to the Board of the CID with term expiring four (4) years from the date of nomination. Jennifer Metz is a legally authorized representative of Silverwest-I Clayton LLC, an owner of real property within the CID.
- (ii) Taylor Umscheid to be appointed as a director to the Board of the CID with term expiring four (4) years from the date of nomination. Taylor Umscheid is a legally authorized representative of Silverwest-I Clayton LLC, an owner of real property within the CID.

- (iii) Andrew Hargis to be appointed as a director to the Board of the CID with term expiring four (4) years from the date of nomination. Andrew Hargis is a legally authorized representative of Silverwest-I Clayton LLC, an owner of real property within the CID.

Thank you in advance for your time, consideration, and cooperation. If you need further information, please do not hesitate to contact me. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Katesha Long", with a long, sweeping flourish extending to the right.

Katesha Long



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN
FROM: DAVID GIPSON, CITY MANAGER
MATT MALICK, P.E., DIRECTOR OF PUBLIC WORKS
DATE: APRIL 12, 2022
SUBJECT: ORDINANCE - A CONTRACT WITH CORRECTIVE ASPHALT MATERIALS, LLC FOR THE FY2022 ASPHALT REJUVENATION PROJECT

The Public Works Department is requesting approval of a construction contract for the FY2022 Asphalt Rejuvenation Project with Corrective Asphalt Materials, LLC. This project includes the application of maltene-based asphalt rejuvenator on the roads in the Hillcrest, Wydown Forest, and Moorlands neighborhoods, as well as Maryland Ave and Brentwood Blvd. Work is expected to take place over 2-3 weeks in the late spring or early summer of 2022.

Bids were opened on March 31, 2022, and the city received one bid. Corrective Asphalt Materials, LLC submitted the lowest, responsive, responsible base bid in the amount of \$179,927.00. While only one bid was received staff did check with some surrounding municipalities as well as compared against our unit costs from 2017. Other municipalities have also received single bidders for similar work, and this bid was found to be comparable to those cities (5% higher than one city, 10% lower than another).

Public Works also solicited Alternate Bid "A", which includes the privately maintained portions of Aberdeen and Arundel in the Hillcrest neighborhood. As the purpose of this add alternate is to establish unit costs for a separate contract with the Hillcrest Neighborhood Association, Public Works will be rejecting this add alternate bid.

The total recommended award amount is for the Base Bid is \$179,927.00. This is approximately \$3,000 above the projected cost; however, the Capital Improvement Fund has adequate funds for this activity in FY2022.

STAFF RECOMMENDATION: To approve the ordinance authorizing a contract with Corrective Asphalt Materials, LLC in the amount of \$179,927.00 for the FY2022 Asphalt Rejuvenator Project.

BILL NO. 6897

ORDINANCE NO.

AN ORDINANCE APPROVING A CONTRACT WITH CORRECTIVE ASPHALT MATERIALS, LLC FOR THE FY2022 ASPHALT REJUVENATION PROJECT

WHEREAS, the City desires to proactively maintain and apply asphalt rejuvenator to streets in the Hillcrest, Wydown Forest, and Moorland neighborhoods, as well as Maryland Ave and Brentwood Blvd; and

WHEREAS, upon request and advertisement for bids, Corrective Asphalt Materials, LLC was found to be the lowest, responsive, responsible bidder for the FY2022 Asphalt Rejuvenator Project;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI AS FOLLOWS:

Section 1. The Board of Aldermen approves on behalf of the City a contract with Corrective Asphalt Materials, LLC for construction services in substantial conformity with the terms shown on Exhibit A attached hereto and incorporated herein by this reference as if set out here in full together with such document changes as shall be approved by the officers of the City executing same which are consistent with the provisions and intent of this legislation and necessary, desirable, convenient or proper in order to carry out the matters herein authorized. The Mayor, City Manager, and other appropriate City officials are hereby authorized to execute the Agreement and such additional documents and take any and all actions necessary, desirable, convenient, or prudent in order to carry out the intent of this legislation.

Section 2. This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed this 12th day of April 2022.

Mayor

ATTEST:

City Clerk

Bid Tab

FY22 Asphalt Rejuvenator

2022.PW.41.210



Bid Date: 3/31/2022

Bid Time: 2:00 PM

BASE BID* (FY2022)

				Corrective Asphalt Materials		0	
Item No.	Description	Unit	Quantity	Unit Price	Extended Price	Unit Price	Extended Price
1	Asphalt Rejuvenator	SY	174,427	\$1.00	\$174,427.00		\$0.00
2	Traffic Control	LS	1	\$3,000.00	\$3,000.00		\$0.00
3	Mobilization	LS	1	\$2,500.00	\$2,500.00		\$0.00
Total Base Bid					\$179,927.00		\$0.00

ADD ALTERNATE BID "A"

				Corrective Asphalt Materials		0	
Item No.	Description	Unit	Quantity	Unit Price	Extended Price	Unit Price	Extended Price
A1	Asphalt Rejuvenator - Hillcrest Private (Aberdeen & Arundel)	SY	3,800	\$1.00	\$3,800.00		\$0.00
Total Alternate Bid "A"					\$3,800.00		\$0.00

Total Bid \$183,727.00 \$0.00



	Revisory/Issue
	Date
	No.
	Sheet No.

	Project Name
	Project No.
	Project Description
	Project Location
	Project Status
	Project Manager
	Project Date
	Project Budget
	Project Risk
	Project Impact
	Project Stakeholders
	Project Milestones
	Project Deliverables
	Project Risks
	Project Opportunities
	Project Challenges
	Project Success Metrics
	Project Communication Plan
	Project Governance
	Project Roles and Responsibilities
	Project Resource Allocation
	Project Budget Breakdown
	Project Financial Summary
	Project Performance Report
	Project Final Review
	Project Archiving
	Project Lessons Learned
	Project Post-Mortem



Sheet Name	Brentwood
Project #	2022.PW.A1
Date	11/2/18
Drawn by	TMO
Sheet	E1



11000 Three Rivers Dr. Mapled Ave. GIS: February 20, 2022 - 1:04PM. At 10:45AM. B:\GIS\Maping\Projects\GIS\Clayton_01\Map\31248.dwg

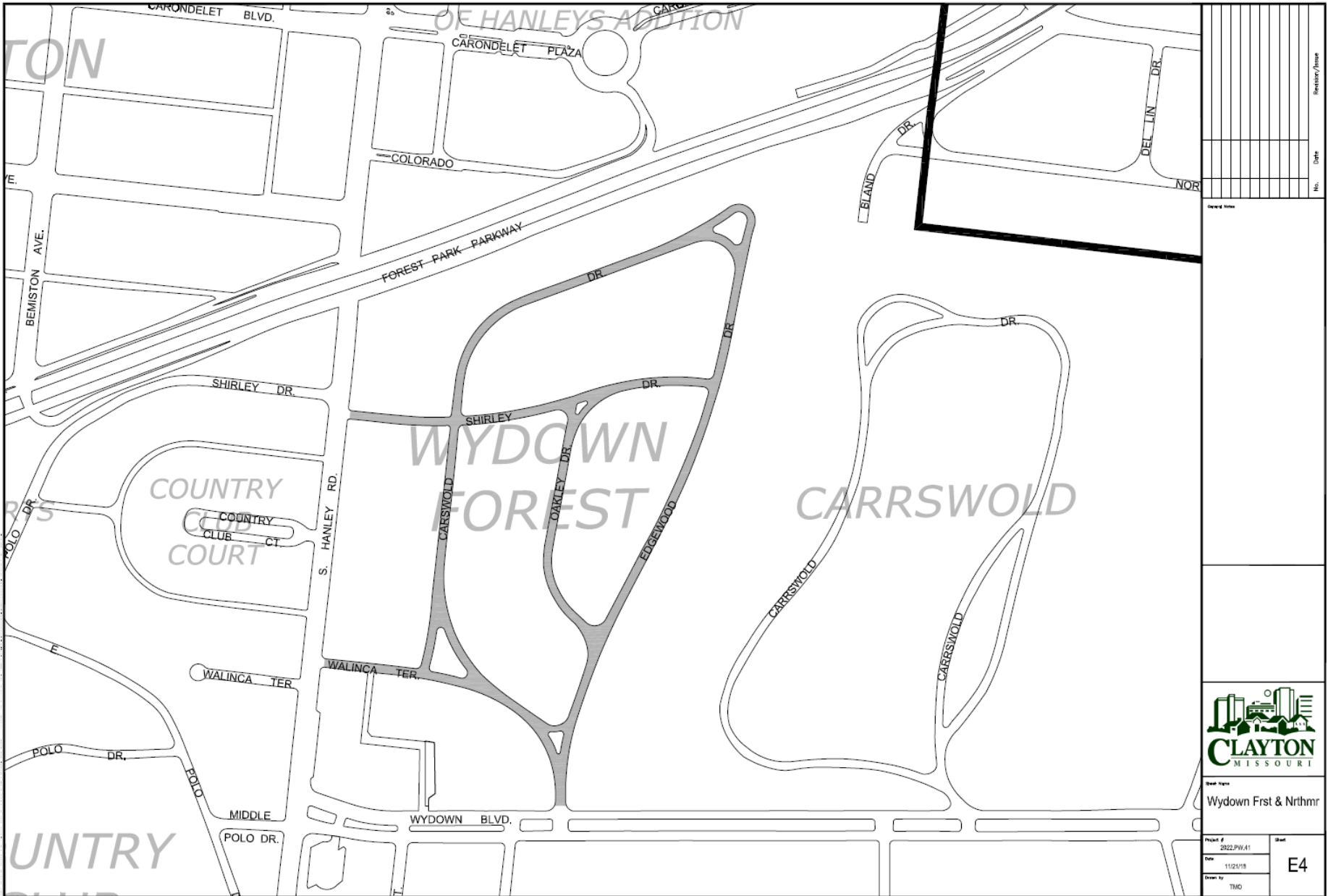
No.	Date	Revisions/Issues

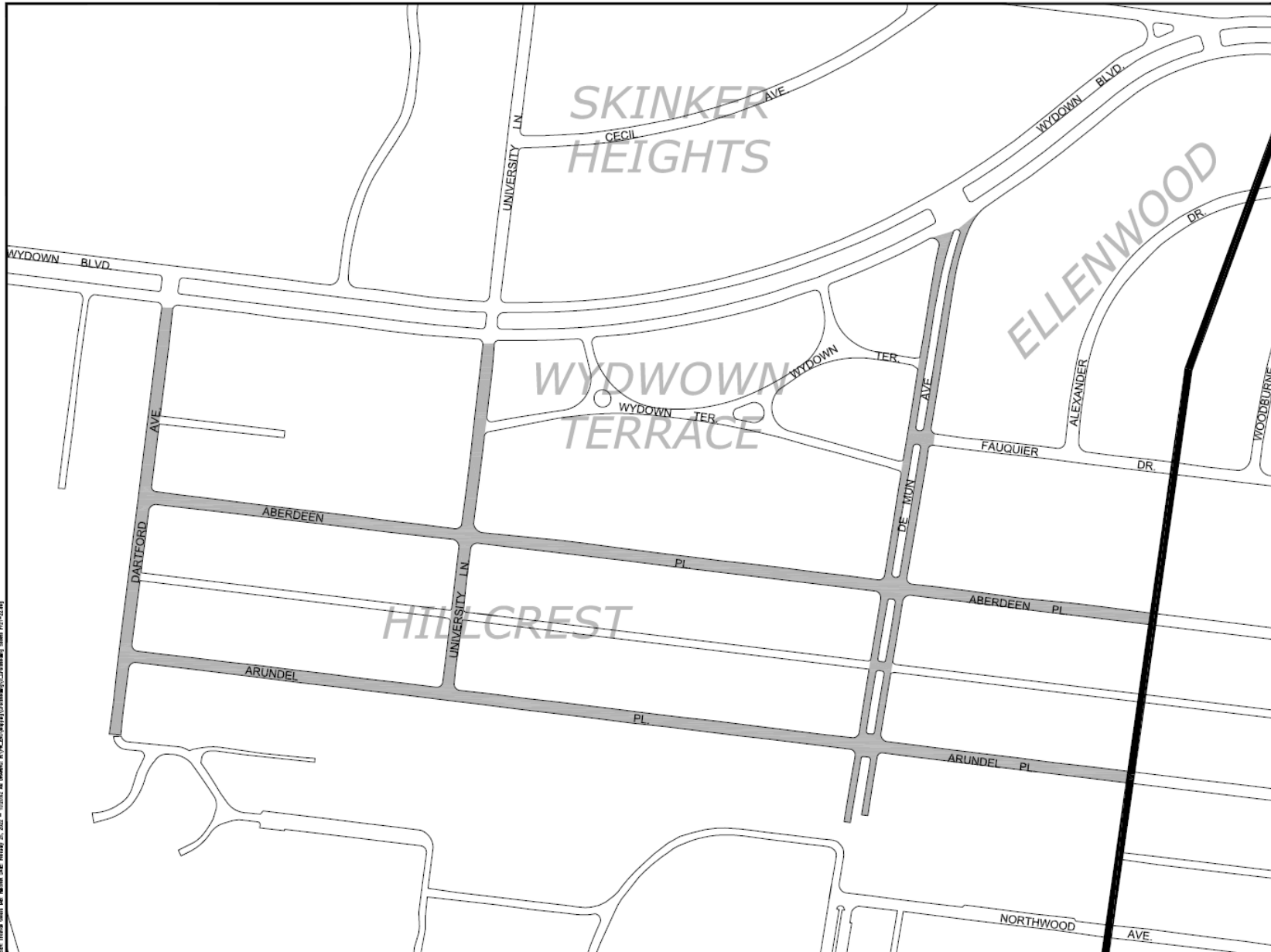
Sheet Name

Maryland Ave.



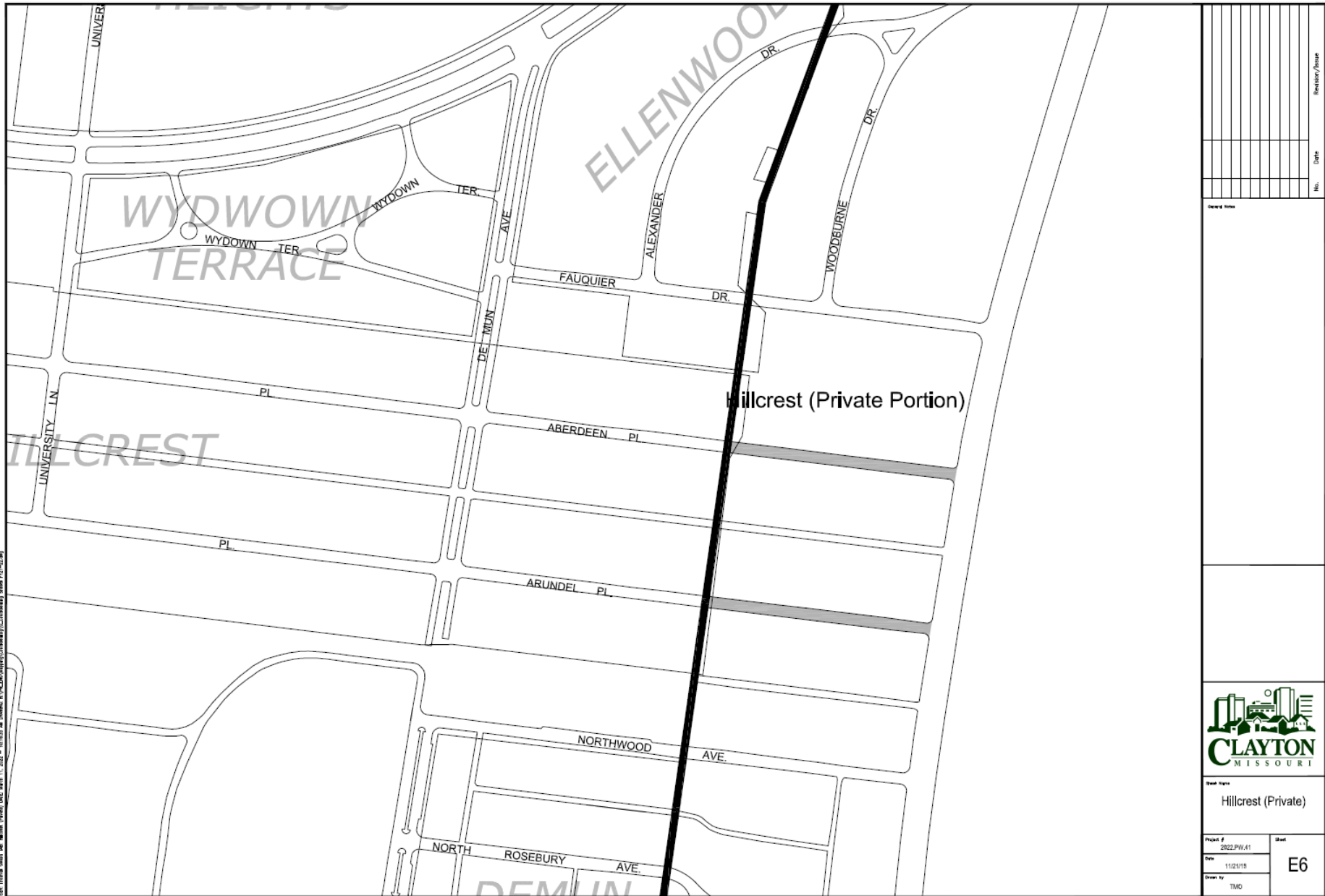
Sheet Name	Project #	Sheet
Maryland Ave.	2022.PW.41	E2
	Date: 11/21/18	
	Drawn by: TMO	





		Secretary/Owner	
		No.	Date
<p>Clayton Missouri</p>			
<p>Hillcrest</p>			
Project #	2822.PW.A1	Sheet	E5
Date	11/23/18		
Drawn by	TMO		

12345 Hillcrest Street, St. Louis, MO 63105
 12345 Hillcrest Street, St. Louis, MO 63105
 12345 Hillcrest Street, St. Louis, MO 63105
 12345 Hillcrest Street, St. Louis, MO 63105
 12345 Hillcrest Street, St. Louis, MO 63105



©2022 Clayton County, Missouri. All rights reserved. This is a preliminary site plan and should not be used for construction purposes without the approval of the planning commission.

No.	Date	Revisions/Issues

Overall Area



Site Name	
Hillcrest (Private)	
Project #	Sheet
2022.PV.01	E6
Date	
11/21/18	
Drawn by	
TMO	

INSTRUCTIONS FOR EXECUTING CONTRACT

The Contractor, in executing the Contract, shall follow the following requirements:

The Contractor and the Owner shall sign the Contract Documents in not less than triplicate.

If the Contractor is a corporation, the following certificate shall be executed:

I, _____ certify that I am the _____ secretary of the corporation named as Contractor herein above, that _____ who signed the foregoing Contract on behalf of the Contractor was then of said corporation; that said Contract was duly signed for and in behalf of said corporation by Authority of its governing body, and is within the scope of its corporate powers.

If the Contract is signed by the secretary of the corporation, the above certificate shall be executed by some other officer of the corporation under the corporate seal. In lieu of the foregoing certificate there may be attached to the Contract copies of as much of the records of the corporation as will show the official character and authority of the officers signing, duly certified by the secretary or assistant secretary under the corporate seal to be true copies.

If the Contractor is a partnership, each partner shall sign the Contract. If the Contract is not signed by each partner, there shall be attached to the Contract a duly authenticated power of attorney evidencing the signer's (signers") authority to sign such a Contract for and in behalf of the partnership.

If the Contractor is an individual, the trade name (if the Contractor is operating under a trade name) shall be indicated in the Contract and the Contract shall be signed by such individual. If signed by one other than the Contractor there shall be attached to the Contract a duly authenticated power of attorney evidencing the signer's authority to execute such Contract for and in behalf of the Contractor.

The full name and business address of the Contractor shall be inserted and the Contract shall be signed with his official signature. The name of the signing party or parties shall be typewritten or printed under all signatures to the Contract.

The Contract shall be deemed as having been awarded when formal notice of award shall have been duly served upon the intended awardee (i.e., the bidder with whom the Owner contemplates entering into a Contract) by some officer or agent of the Owner duly authorized to give such notice.

CITY-CONTRACTOR AGREEMENT

This Agreement is made and entered into the ____ day of April, 2022, by and between the City of Clayton, Missouri (hereinafter the "City") and **Corrective Asphalt Materials, LLC** a Corporation with offices at **300 Daniel Boone Trail, South Roxana, Illinois 62087**, (hereinafter the "Contractor"). The project shall be identified as **FY2022 Asphalt Rejuvenation Project**, Project No.: **2022.PW.41.210**

WITNESSETH:

The Contractor and the City for the consideration set forth herein agree as follows:

ARTICLE I - The Contract Documents

The Contract Documents consist of the Invitation for Bids and Bid Specifications previously issued by the City for the Work and Contractor’s submission in response thereto, the General Conditions of City-Contractor Agreement, Non-Collusion Affidavit, Performance and Payment Bond, Specifications, Drawings, the Construction Schedule, all Addenda and all Modifications issued after execution of this Contract, which together with this Agreement form the Contract, and are all as fully made a part of the Contract as if attached to this Agreement or repeated herein. All definitions set forth in the General Conditions of City-Contractor Agreement are applicable to this Agreement.

This Contract cannot be modified except by duly authorized and executed written amendment.

ARTICLE II - Scope of Work

The Contractor, acting as an independent contractor, shall do everything required by the Contract Documents. Contractor represents and warrants that contractor has special skills which qualify contractor to perform the Work in accordance with the Contract and that contractor is free to perform all such Work and is not a party to any other agreement, written or oral, the performance of which would prevent or interfere with the performance, in whole or in part, of the Work.

ARTICLE III - Time of Completion

All time limits stated in the Contract Documents are of the essence. The Work to be performed under this Contract shall commence within ten (10) days of the date of the written Notice to Proceed from the City to the Contractor and shall be completed within **One Hundred Twenty (120)** consecutive calendar days from and including the date of said written Notice to Proceed.

ARTICLE IV - The Contract Sum and Payments

Based upon Applications for Payment and an Invoice duly delivered by the Contractor to the City by the final day of the month for work performed, in accordance with the Contract, the City shall pay the Contractor for the performance of the Work, the sum of **One Hundred Seventy-nine Thousand, Nine Hundred Twenty-Seven Dollars (\$179,927.00)** (the "Contract Sum") as follows:

- (a) On or about the twentieth day of each following month, ninety-five percent (95%) of the portion of the Contract Sum properly allocable to labor, materials and equipment incorporated into the Work, and ninety-five percent (95%) of the portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site to be incorporated into the Work, through the period ending up to the final of the preceding month, less the aggregate of all previous progress payments;
- (b) Within thirty (30) days of substantial completion of the Work, a sum sufficient to increase the total payments to ninety-five percent (95%) of the Contract Sum; and
- (c) Final payment within thirty (30) days after the Work is certified by the City as fully completed and accepted by the City including any required documentation.
- (d) The foregoing schedule shall not apply if contrary to federal funding requirements or unless funds from a state grant are not timely received.
- (e) Estimates of work performed and materials delivered shall be finally determined by the City.

- (f) The foregoing retainage amounts are agreed to be required to ensure performance of the Contract.
- (g) Payment shall be deemed made when mailed or personally delivered, whichever is earlier.

ARTICLE V - Performance of the Work

- (a) Within fourteen (14) calendar days after being awarded the Contract, the Contractor shall prepare and submit for the City's approval (1) a **Construction Schedule** for the Work in a bar chart format which Construction Schedule shall indicate the dates for starting and completing the various stages of construction on a street by street basis and (2) a **Traffic Control Plan** indicating the location of all proposed signage, detours, road closures throughout the project which adequately address the traffic control plan of the proposed work. All traffic control shall be according to the standards of the Manual on Uniform Traffic Control Devices (Millenium Edition) developed by the Federal Highway Administration. No work will commence until the Contractor's Schedule and Traffic Control Plan is submitted and approved by the City. The Contractor shall be required by the Director of Public Works to substantially finish portions of the Work prior to continuation of further work remaining on the project, including backfilling, paving, sodding or cleanup.
- (b) Completion of the Work in accordance with the time limits set forth in the Construction Schedule is an essential condition of this Contract. If the Contractor fails to complete the Work in accordance with the Construction Schedule, unless the delay is excusable under the provisions of Article VI hereof, the Contractor shall pay the City as liquidated damages and not as a penalty, the sum of **\$500.00** for each calendar day the Contractor fails to comply with the Construction Schedule. The total amount so payable to the City as liquidated damages may be deducted from any sums due or to become due to Contractor from City.
- (c) After Commencement of the Work, and until final completion of the Work, the Contractor shall report to the City as such intervals as the City may reasonably direct, the actual progress of the work compared to the Construction Schedule. If the Contractor falls behind the Construction Schedule for

any reason, he shall promptly take, and cause his Subcontractors to take, such action as is necessary to remedy the delay, and shall submit promptly to the City for approval a supplementary schedule or progress chart demonstrating the manner in which the delay will be remedied; provided, however, that if the delay is excusable under Article VI hereof, the Contractor will not be required to take, or cause his Subcontractors to take, any action which would increase the overall cost of the Work (whether through overtime premium pay or otherwise), unless the City shall have agreed in writing to reimburse the Contractor for such increase in cost. Any increase in cost incurred in remedying a delay which is not excusable under Article VI hereof shall be borne by the Contractor.

ARTICLE VI - Delays Beyond Contractor's Control

(a) If the Contractor fails to complete the Work in accordance with the Construction Schedule solely as a result of the act or neglect of the City, or by strikes, lockouts, fire or other similar causes beyond the Contractor's control, the Contractor shall not be required to pay liquidated damages to the City pursuant to paragraph (b) of Article V hereof, provided the Contractor uses his best efforts to remedy the delay in the manner specified in paragraph (c) of Article V hereof. If, as a result of any such cause beyond the Contractor's control, the delay in completion of the Work in accordance with the Construction Schedule is so great that it cannot be remedied in the aforesaid manner, or if the backlog of Work is so great that it cannot be remedied without incurring additional cost which the City does not authorize, then the time of completion and the Construction Schedule shall be extended pursuant to a Change Order for the minimum period of delay occasioned by such cause. The period of delay and extension shall be determined by the City.

(b) Notwithstanding the foregoing paragraph (a), no extension of time or other relief shall be granted for any delay the cause of which occurs more than seven (7) days before claim therefor is made in writing by the Contractor to the City, and no extension of time shall be granted if the Contractor could have avoided the need for such extension by the exercise of reasonable care and foresight. In the case of a continuing cause of delay, only one claim is necessary.

- (c) Weather shall not constitute a cause for granting an extension of time.
- (d) In the event a delay is caused by the City, the Contractor's sole remedy shall consist of his rights under this Article VI.

ARTICLE VII - Changes in the Work

- (a) The City may make changes within the general scope of the Contract by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such changes in the Work shall be executed under the General Conditions of the Contract. No extra work or change shall be made except pursuant to a Change Order from the City in accordance with the General Conditions. Any claim for an increase in the Contract Sum resulting from any such change in the Work shall be made by the Contractor in accordance with the General Conditions.
- (b) If the requested change would result in a delay in the Construction Schedule, the provisions of paragraph (c) of Article V and of Article VI hereof shall apply. If the requested change would result in a decrease in the time required to perform the Work, the completion date and the Construction Schedule shall be adjusted by agreement between the parties to reflect such decrease.
- (c) Any adjustment in the Contract Sum for duly authorized extra work or change in the Work shall be determined based on the unit prices previously specified, to the extent such unit prices are applicable. To the extent such unit prices are not applicable, the adjustment in the Contract Sum shall, at the option of the City, be determined by an acceptable lump sum properly itemized and supported by sufficient substantiating data to permit evaluation, or by an acceptable cost plus percentage or fixed fee.

ARTICLE VIII - Termination

- (a) If the Contractor is adjudged insolvent or bankrupt, or if the Contractor makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's

insolvency, or if the Contractor fails, except in cases for which extension of time is provided, to make progress in accordance with the Construction Schedule, or if the Contractor fails to make prompt payment to Subcontractors for material or labor, or persistently disregards laws, ordinances or the instructions of the City, or otherwise breaches any provision of the Contract, the City may, without prejudice to any other right or remedy, by giving written notice to the Contractor, terminate the Contract, take possession of the Work and of all materials and equipment thereon and finish the Work by whatever method the City may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Sum shall exceed the expenses of finishing the Work, including additional architectural, managerial and administrative expenses, such excess shall be paid to the Contractor. If such expenses shall exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the City promptly upon demand.

In the event of termination pursuant to this paragraph, the Contractor, upon the request of the City, shall promptly

(i) assign to the City in the manner and to the extent directed by the City all right, title and interest of the Contractor under any subcontracts, purchase orders and construction equipment leases to which the Contractor is a party and which relate to the Work or to construction equipment required therefor, and

(ii) make available to the City to the extent directed by the City all construction equipment owned by the Contractor and employed in connection with the Work.

(b) Performance of the Work hereunder may be terminated by the City by giving three (3) days prior written notice to the Contractor. In the event of termination, under this paragraph (b) the Contract Sum shall be reduced by the percentage of work not completed on the date of termination.

ARTICLE IX - Contractor's Insurance

Contractor's insurance shall be endorsed to cover the contractual liability of the Contractor under the General Conditions referring to Property Insurance.

ARTICLE X - Indemnities

(a) **Liability**: Contractor indemnifies, defends, and holds the City harmless for all third party claims or suits for libel, slander, property damage, and bodily injury, including death, because of the Contractor's negligence, general liability or product liability that arise out of the Project or anyone directly or indirectly employed by the Contractor or anyone for whose acts the City may be liable, regardless of whether caused in whole or in part by the City's negligence. These obligations include all judgments or awards recovered from the claims or suits, including court costs and attorney fees.

(b) **Professional Liability**: Contractor indemnifies and holds the City harmless for all third-party claims or suits for damages, including consequential or economic damages, to the extent caused by the negligent acts, errors or omissions of the Contractor, its subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in performing professional services under this Agreement. These obligations include all judgments or awards recovered from the claims or suits, including court costs and attorney fees.

(c) **Other Indemnities**: Contractor indemnifies, defends, and holds the City harmless for all third-party claims or suits for fines, penalties, liquidated damages or any other damages of whatsoever nature to the extent caused by the negligence or wrongdoing of the Contractor, its subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. These obligations include all judgments or awards recovered from the claims or suits, including courts costs and attorney fees.

(d) Contractor agrees that its indemnity obligations set forth in this Article will not be affected in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for

the City, the Contractor, or any of the subcontractors under workers’ compensation acts, employer’s liability insurance, or other employee benefit acts.

ARTICLE XI - Insurance

(a) Except to the extent set forth in Section (b) of this Article, the Contractor will purchase and maintain the following insurance to cover its operations under this Agreement without limiting the liability of the Contractor under this Agreement. This insurance will be provided by insurance companies acceptable to the City and licensed to do business in each jurisdiction where the Work is performed.

1. Workers’ Compensation Insurance in full compliance with workers’ compensation laws of the State of Missouri together with Employer’s Liability Coverage with minimum limits of liability in the amount of \$3,000,000.00 for each accident and each disease.

2. Commercial Automobile Liability Insurance under Form CA 00 01, covering all owned hired, and non-owned vehicles, with minimum combined single limits of liability of \$3,000,000 for each accident.

3. Commercial General Liability Insurance, and, if necessary, excess liability insurance on a “true following-form” basis, all of which is written on an occurrence basis, with the following minimum limits of liability:

General Aggregate	\$3,000,000.00
Products/completed operations aggregate	\$3,000,000.00
Personal and advertising injury	\$3,000,000.00
Each occurrence	\$3,000,000.00
Fire damage legal liability	\$3,000,000.00
Medical expenses	\$ 10,000.00

(b) The Commercial General Liability and the Commercial Automobile Liability Insurance coverages and their respective limits set forth in Section (a) of this Article are being explicitly required and obtained to insure the indemnity obligations set forth in Section (a) of Article X to meet the requirements of § 434.100.2(8) R.S.Mo. The parties further acknowledge that the cost of these insurance coverages is included in the Contract Price and that the limits and coverages afforded by them is the Contractor's total aggregate liability under the indemnity obligations set forth in Section (a) of Article X.

(c) Contractor's Commercial Automobile Liability, Commercial General Liability, and Professional Liability policies – and any excess policies necessary to meet the required limits – will include contractual liability coverage. The City of Clayton, its officers, boards, board members, commissions, commissioners, agents, and employees will be named as an additional insured on the Contractor's Commercial General Liability policy by using ISO Additional Insured Endorsement (Form B), CG 20 10 11 85. The Commercial General Liability, Commercial Automobile Liability and required excess policies will include a severability or cross-liability clause and such insurance will be endorsed to make such insurance primary with respect to any applicable insurance maintained by the City.

(d) Contractor waives any rights of subrogation under its Professional Liability Insurance policy for the City's benefit and is doing so before commencing any of the Work.

(e) Contractor will furnish an insurance certificate to Owner evidencing that it has met the insurance requirements of this Article, including attaching the requisite additional insured, primary and alternate employer endorsements. These documents must be provided before beginning the Work and upon each renewal of the coverage during the performance of the Work. The certificate will provide that thirty-days written notice will be given to City before any policy is canceled. Contractor will give written notice to City as soon as it receives written notice of cancellation from any of its insurance carriers. The certificate of insurance must clearly designate the name of the Project.

(f) Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials and employees; or the Contractor shall procure a

bond guaranteeing payment of losses and related investigations, claim administrative and defense expenses.

ARTICLE XII - The Work

The Contractor shall furnish all labor, materials and equipment necessary to repair the streets within the project limits. The Scope of Work includes application of asphalt pavement rejuvenator on various streets within the City and provides for traffic control and other incidental items as shown in the Specifications.

ARTICLE XIII - Notices

Any notice hereunder shall be personally delivered or mailed, postage prepaid, by certified mail, return receipt requested addressed to:

City of Clayton
10 N. Bemiston Avenue
Clayton, Missouri 63105
Attention: Public Works Department

or to Contractor at:

CONTRACT SIGNATURE PAGE

* In making out this form the proper name and title should be used. For example, if the Contractor is a corporation and this form is to be executed by its president, the words President should be used under Title. Attestation should be done by the Secretary of the Corporation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

CITY OF CLAYTON

By: _____
City Manager

(SEAL)

Attest:

City Clerk

DATE: _____

By: _____
Contractor

Title

(SEAL)

Attest:

DATE: _____

FORM OF CONTRACT PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter
(Corporation, Partnership, or Individual)

called Principal, and _____
(Name of Surety)

(Address of Surety)

herein after called Surety, are held and firmly bound unto

CITY OF CLAYTON, ST. LOUIS COUNTY, MISSOURI
(Name of OWNER)

10 N. BEMISTON AVE.
(Address of OWNER)

Hereinafter called OWNER, in the penal sum of _____ Dollars(\$_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the _____ day of _____ 20_____, a copy of which is hereto attached and made a part hereof for the construction of:

FY2022 Asphalt Rejuvenation Project

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the Surety and during the one (1) year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void: otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed hereunder or the specifications accompanying the same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this the _____ day of _____ 2022.

ATTEST:

(Principal) Secretary

(SEAL)

Principal

By: _____

Witness as to Principal

(Address)

(Address)

ATTEST:

Surety

(Surety) Secretary

(SEAL)

Witness as to Surety

(Address)

By: _____
Attorney-in-Fact

(Address)

NOTE: Date of bond must not be prior to date of contract. If CONTRACTOR is partnership, all partners should execute bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

FORM OF CONTRACT PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

CITY OF CLAYTON, ST. LOUIS COUNTY, MISSOURI
(Name of OWNER)

hereinafter called OWNER, in penal sum of _____ Dollars, (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the _____ day of _____ 20_____, a copy of which is hereto attached and made a part hereof for the construction of:

FY2022 Asphalt Rejuvenation Project

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this the _____ day of _____ 2022.

ATTEST:

(Principal) Secretary

Principal

(SEAL)

By: _____

Witness as to Principal

(Address)

(Address)

Surety

ATTEST:

(Surety) Secretary

(SEAL)

By: _____
Attorney-in-Fact

Witness as to Surety

(Address)

(Address)

NOTE: Date of bond must not be prior to date of contract. If CONTRACTOR is partnership, all partners should execute bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.