



The City of Lee's Summit

Final Agenda

Public Works Committee

Tuesday, January 29, 2019

5:30 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

- A. Invocation
- B. Pledge of Allegiance
- C. Call to Order
- D. Roll Call
1. Approval of Agenda
2. Approval of Action Letter
 - A. [2019-2541](#) Approval of the November 27, 2018 Action Letter.
3. Public Comments
4. **Business**
 - A. [TMP-1111](#) An Ordinance approving change order #2 to the contract with Second Sight Systems, LLC. for the SCADA System Improvements Project, an increase of \$6,487.42 for a revised contract price of \$420,405.66.
Presenter: Jeff Thorne, Assistant Director of Engineering Services
 - B. [TMP-1114](#) An Ordinance authorizing execution of an agreement by and between the City of Lee's Summit, Missouri, and Garver, LLC in an amount not to exceed \$1,462,127.00 for Professional Engineering Services for the Colbern Road Improvements from M350 Highway to Douglas Street (RFQ No. 569-32272), and authorizing the City Manager to enter into an agreement for the same.
Presenter: Craig Kohler - Senior Staff Engineer
 - C. [2019-2531](#) Financial Overview of CIP Projects completed in CY 2018.
Presenter: Michael Anderson, Construction Manager
 - D. [2019-2536](#) License Tax Review Committee Annual Report for FY2018
Presenter: George Binger III, P.E., Deputy Director of Public Works/City Engineer

- E. [TMP-1116](#) An Ordinance amending Sections 28-175, 28-176, 28-177, 28-179 and 28-181 of the Code of Ordinances of the City of Lee's Summit governing the License Tax on Building Contractors by deleting outdated or expired content and clarify applicable use of the I.T.E. Trip Generation Manual for traffic generation calculations based on land use categories.

Presenter: George Binger III, P.E., Deputy Director of Public Works / City Engineer

- F. [2019-2548](#) FY19 Snow Season Update

Presenter: Shawn Graff

5. Roundtable

6. Adjournment

For your convenience, City Council agendas, as well as videos of City Council and Council Committee meetings, may be viewed on the City's Legislative Information Center website at "lsmo.legistar.com"

Packet Information

File #: 2019-2541, **Version:** 1

Approval of the November 27, 2018 Action Letter.

Issue/Report:

Approval of the November 27, 2018 Action Letter.

Key Issues:

Proposed Committee Motion:

I move for approval of the Action Letter dated November 27, 2018.

The City of Lee's Summit
Action Letter
Public Works Committee

Tuesday, November 27, 2018

5:30 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

- A. Invocation
- B. Pledge of Allegiance
- C. Call to Order

The November 27, 2018 Public Works Committee meeting was called to order by Chairman Faith, at 5:36 p.m. at City Hall, 220 SE Green St., in the City Council Chambers. Notice had been provided by posting the meeting notice with a tentative agenda, at least 24 hours in advance of the meeting, at both entrances to City Hall.

D. Roll Call

Present: 4 - Councilmember Rob Binney
Chairperson Craig Faith
Councilmember Diane Forte
Vice Chair Fred DeMoro

1. Approval of Agenda

A motion was made by Councilmember Binney, seconded by Councilmember Forte, to approve the agenda as posted. The motion carried by a unanimous 4-0 vote.

2. Approval of Action Letter

A. [2018-2428](#) Approval of the October 23, 2018 Action Letter

A motion was made by Councilmember Forte, seconded by Councilmember DeMoro, to approve the Public Works Committee Action Letter dated October 23, 2018. The motion carried by a unanimous 4-0 vote.

3. Public Comments

None

4. **Business**

A. [BILL NO. 18-201](#) An Ordinance authorizing the award of Bid No. 2019-024 to PVS Technologies for ferric chloride as a yearly contract, and authorizing the City Manager to enter into an agreement for the same in the amount of \$76,960.00 annually. (PWC 11/27/18)

Public Works Committee

Action Letter

November 27, 2018

A motion was made by Councilmember Binney, seconded by Councilmember Forte, that this Ordinance be recommended for approval to the City Council. The motion carried by a unanimous 4-0 vote.

- B. [BILL NO. 18-208](#) An Ordinance authorizing the award of Bid No. 2019-033 to Huttinger Construction Company for replacement of the Tudor Road Pumping Station roof, and authorizing the City Manager to enter into an agreement for the same in the amount of \$61,077. (PWC 11/27/18)

A motion was made by Councilmember Binney, seconded by Councilmember Forte, that this Ordinance be recommended for approval to the City Council. The motion carried by a unanimous 4-0 vote.

- C. [BILL NO. 18-202](#) An Ordinance authorizing the execution of Addendum No. 6 to an agreement by and between the City of Lee's Summit, Missouri and Olsson Associates Engineering, Inc. for the services related to site remediation and High Service Pump Station fuel tank design at the old water operations facility in the amount of \$60,320 and authorizing the City Manager to enter into the same. (PWC 11/27/18)

A motion was made by Councilmember Forte, seconded by Councilmember Binney, that this Ordinance be recommended for approval to the City Council. The motion carried by a unanimous 4-0 vote.

- D. [BILL NO. 18-203](#) An Ordinance authorizing the execution of Addendum No. 6 to an agreement by and between the City of Lee's Summit, Missouri and HDR Engineering, Inc. for the design of a new control system for the utilities Supervisory Control and Data Acquisition (SCADA) system in the amount of \$84,370 and authorizing the City Manager to enter into the same. (PWC 11/27/18)

A motion was made by Councilmember Binney, seconded by Councilmember DeMoro, that this Ordinance be recommended for approval to the City Council. The motion carried by a unanimous 4-0 vote.

- E. [BILL NO. 18-204](#) An Ordinance authorizing the execution of an engineering contract (RFQ 2019-002) by and between the City of Lee's Summit, Missouri and HDR Engineering, Inc. for the Lee's Summit Water Transmission, Large Diameter Sewers and Force Main Condition Assessment and Management Program in the amount of \$1,526,380 and authorizing the City Manager to enter into the same. (PWC 11/27/18)

A motion was made by Councilmember DeMoro, seconded by Councilmember Forte, that this Ordinance be recommended for approval to the City Council. The motion carried by a unanimous 4-0 vote.

- F. [BILL NO. 18-205](#) An Ordinance awarding Bid No. 57831683-C, for the cathodic protection pilot program to Wiedenmann, Inc., in the amount of \$203,997.00 and authorizing the City Manager to execute an agreement for the same. (PWC 11/27/18)

A motion was made by Councilmember Forte, seconded by Councilmember DeMoro, that this Ordinance be recommended for approval to the City Council. The motion carried by a unanimous 4-0 vote.

- G. [BILL NO. 18-206](#) An Ordinance approving Change Order #1 to the On-Call contract with Wiedenmann Inc. for the installation of a leachate cut-off trench at the Resource Recovery Park, an increase of \$26,337.51 for a revised contract price of \$90,018.51. (PWC 11/27/18)

A motion was made by Councilmember Binney, seconded by Councilmember Forte, that this Ordinance be recommended for approval to the City Council. The motion carried by a unanimous 4-0 vote.

- H. [BILL NO. 18-207](#) An Ordinance authorizing execution of Modification No. 4 to On-Call agreement for Environmental Professional Engineering Services yearly contract with Stearns, Conrad and Schmidt, Consulting Engineers, Inc. dba SCS Engineers (Original RFQ No. 2017-307, Renewal 2017-307/R1) for annual tasks associated with the Resource Recovery Park for a not to exceed cost of \$94,275.00, and authorizing the City Manager to enter into an agreement for the same. (PWC 11/27/18)

A motion was made by Councilmember DeMoro, seconded by Councilmember Forte, that this Ordinance be recommended for approval to the City Council. The motion carried by a unanimous 4-0 vote.

5. Items for Discussion

- A. [2018-2427](#) Continued Discussion - Transit

City Traffic Engineer Michael Park led the discussion. He stated that the Livable Streets Advisory Board was very enthusiastic about any transit expansion opportunities. When they reviewed proposals by KCATA and staff, they were in line with what they thought the community needed. They found the most value in the Three Trails transit center that crosses through Longview Community College which would provide a built in ridership and the most flexibility with route design.

Mr. Park stated he did not get the sense that KCATA would recommend reducing the commuter express route to downtown, but would support the reduction of one vehicle with a potential cost reduction of \$30-40K per year. He would not recommend reduction from four to two vehicles because you would lose efficiency in how the route is designed with one return trip to circulate back. With decreased demand change in services can be considered.

Councilmember Binney concurred with the idea of lowering the express bus to three to get ridership up on a regular basis. Mr. Park mentioned that KCATA would manage the direct fixed route and how many stops there would be within city limits between downtown and Longview. To get ridership up it might require a shorter headway between buses and adding another vehicle.

Chairman Faith asked that Mr. Park take back to the Livable Streets Committee appreciation for their input and work in this. Council will decide on services but

appreciate their opinion. He stated he believes a fixed route would be advantageous and a community our size should offer a fixed route service.

Mr. Park stated he would bring forward a renewal of express ridership from the park and ride lot to downtown Kansas City with three vehicles in service as opposed to four. He will discuss with ATA the design of what that operation looks like. Implementation would happen immediately. Mr. Park suggested that with no funding source in place for expansions they need to continue working towards fixed routes without preparing a contract.

Committee gave direction to prepare contracts to sustain the status quo. They requested going to three instead of four vehicles, prepare those options, and keep the fixed route planning in front of the committee so they can consider funding sources for that.

Mr. Park will present both programs between 4 versus 3 vehicles at the next meeting and decisions can be made at that time.

B. [2018-2411](#) FY19 Snow Plan Update

Bob Hartnett, Deputy Director of Public Works, presented the Snow Plan Update. Chairman Faith gave appreciation for the hard work of all the crews during the snow event. Mr. Hartnett gave a brief recap of the last three days with the blizzard conditions that occurred.

The average annual snow budget is between \$800-900K per year. Snow plan goal times for various events are anywhere from 24-48 hours for completion. The first focus is on the primary streets and keeping the major transportation network open. When the snow stops crews hit the primary streets for the last time, move on to the secondary streets, and then the residential.

There are 23 dedicated drivers from Public Works Operations with paid volunteers from other departments. Councilmember Forte asked how they ask or get the volunteers. Bob Hartnett mentioned the protocol for departments which is going down a call list in order to fill the needed positions. There is training for drivers during the Snow Rodeo in September, with class time instruction and running a course to get the feel for the equipment.

The snow fleet have AVL so staff can go in live and produce reports of what areas have been completed. It shows specifics such as speed of the truck, plow up, plow down, etc. The Snow Tracker program shows staff completion by the change of colors when a street has been plowed.

The routing philosophy was detailed. Re-routing is done each year for plowing

in the most economical and shortest time possible. The goal for plowing the roads are primary roads - 4 hours to complete, secondary- eight hours to complete, and residential- 20 hours to complete. After 12 hours the goal is for residents to be within 1/4 mile of a plowed and treated street.

Continued enhancements are made to the fleet with new equipment for brine delivery to pretreat more streets in less time as well as adding wing plows. The entire fleet will be converted over by 2021 and all trucks will have new plows.

The Committee wished to publicly thank everyone for all of the hard work and dedication from all those who worked the snow event.

6. Roundtable

Chairman Faith posed the question about rescheduling the December meeting. Ms. Dena Mezger will talk to staff in the next couple of days. Items needing discussion are the transit contracts, household hazardous waste going forward, and the transition of the landfill. Diane Forte mentioned the potential City Council meeting at 5 p.m. on December 18th. They agreed to assess that over the next week or so. The transit contracts could possibly go straight to City Council.

Chairman Faith expressed gratitude for public safety employees. With discussion during the meeting about snow plowing he mentioned about all those employees working very hard responding to issues in near white out conditions. He wished to thank all responders who dispatched to people in need.

7. Adjournment

The November 27, 2018 Public Works Committee meeting was adjourned by Chairman Faith at 7:35 p.m. at City Hall, 220 SE Green Street, City Council Chambers.

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Packet Information

File #: TMP-1111, **Version:** 1

An Ordinance approving change order #2 to the contract with Second Sight Systems, LLC. for the SCADA System Improvements Project, an increase of \$6,487.42 for a revised contract price of \$420,405.66.

Issue/Request:

An Ordinance approving change order #2 to the contract with Second Sight Systems, LLC. for the SCADA System Improvements Project, an increase of \$6,487.42 for a revised contract price of \$420,405.66.

Key Issues:

- The antenna at the Rice Road Valve location was changed from a standard aerial to a panel antenna as it is less intrusive and less likely to be damaged by passersby.
- The mast configuration at the South Terminal was changed as the final loadings for the equipment was determined.
- Final sight and signal lines between Bowlin Pump Station and Woods Chapel Tower required testing and revision of the antenna mounting mast.
- The antenna configuration at Leinweber was revised for better long term operation.
- The antenna configuration was revised for better reception at Kensington BO.
- There was a change to a Cellular solution at Station 6 due to poor radio signal strength at this site.
- An upgrade of the grounding system was required at the Rice Road valve vault as it was determined the existing system would not protect the proposed radios.

Proposed Committee Motion:

I move to recommend to City Council approval of an Ordinance approving change order #2 to the contract with Second Sight Systems, LLC. for the SCADA System Improvements Project, an increase of \$6,487.42 for a revised contract price of \$420,405.66.

Background:

The SCADA System was originally constructed using AT&T leased POTs (Plain Old Telephone) lines for its communications backbone to all the remote water and waste water sites. These lines have worked well for many years but over time the utility's systems have become more complex and the data files are now larger and more numerous than ever before which is causing the lines to reach their limit at several of the larger remote sites.

To compound this issue AT&T is moving towards retiring these lines and encouraging the utility to seek other alternatives by increasing the lease rates while decreasing support. Water Utilities has been reviewing alternatives for several years to find the correct technology to replace the leased copper lines. The utility has worked with public safety to review microwave transmission, has reviewed the possibility of fiber connections, has piloted a cellular

communication option and had a varieties of issues with consistency and potential costs with all of those options.

As this project is finishing up the City has retired the use of the leased copper lines and are up and running on the radio communications system. There have been some items found in the field during construction of this system which were different than the design assumptions and require modification by this change order to complete the installations. These changes have been minor and fall within our original budget for the project.

Impact/Analysis:

[Enter text here]

Timeline:

Start: ____

Finish: ____

Other Information/Unique Characteristics:

[Enter text here]

Jeff Thorne, Assistant Director of Engineering Services

Recommendation: Staff recommends approval of an Ordinance approving change order #2 to the contract with Second Sight Systems, L.L.C. for the SCADA System Improvements Project, an increase of \$6,487.42 for a revised contract price of \$420,405.66.

Committee Recommendation: [Enter Committee Recommendation text Here]

BILL NO. 19-

AN ORDINANCE APPROVING CHANGE ORDER #2 TO THE CONTRACT WITH SECOND SIGHT SYSTEMS, L.L.C. FOR THE SCADA SYSTEM IMPROVEMENTS PROJECT, AN INCREASE OF \$6,487.42 FOR A REVISED CONTRACT PRICE OF \$420,405.66.

WHEREAS, the City of Lee's Summit, Missouri ("City") has previously entered into a contract with Second Sight Systems, L.L.C. for the SCADA System Improvement project, being undertaken by the City's Water Utilities Department; and,

WHEREAS, a second change order to the contract with Second Sight Systems, L.L.C. is necessary; and,

WHEREAS, the antenna at the Rice Road Valve location was changed from a standard aerial to a panel antenna as it is less intrusive and less likely to be damaged by passersby; and,

WHEREAS, the mast configuration at the South Terminal was changed as the final loadings for the equipment was determined; and,

WHEREAS, final sight and signal lines between Bowlin Pump Station and Woods Chapel Tower required testing and revision of the antenna mounting mast; and,

WHEREAS, the antenna configuration at Leinweber was revised for better long term operation; and,

WHEREAS, the antenna configuration was revised for better reception at Kensington BO; and,

WHEREAS, a change to a Cellular solution at Station 6 was made due to poor radio signal strength at this site; and,

WHEREAS, an upgrade of the grounding system at the Rice Road valve vault was required as it was determined the existing system would not protect the proposed radios.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the Change Order No. 2 to the contract between the City of Lee's Summit, Missouri and Second Sight Systems, L.L.C. for the SCADA System Improvement project, bid no. 2017-042-1-3C, for an increase in price of \$6,487.42 for a revised contract price of \$420,405.66, a true and accurate copy attached hereto as Change Order No. 2 and incorporated by reference as if fully set forth herein, be and the same is hereby approved. The City Manager is hereby authorized to execute the same by and on behalf of the City of Lee's Summit, Missouri.

SECTION 2. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this ____ day of _____, 2019.

BILL NO. 19-

ATTEST:

Mayor *William A. Baird*

City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this _____ day of _____, 2019.

ATTEST:

Mayor *William A. Baird*

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

City Attorney *Brian W. Head*

Change Order
No. 2

Date of Issuance: December 6, 2018 Effective Date: December 6, 2018

Project:	Owner:	Owner's Contract No.:
<u>SCADA System Improvements 2017-18</u>	<u>City of Lee's Summit, MO</u>	<u>2017-042-1-3C SCADA</u>
Contract:	Date of Contract:	
<u>SCADA System Improvements 2017-18</u>	<u>NTP Dec. 18th, 2017</u>	
Contractor:	Engineer's Project No.	
<u>Second Sight Systems, LLC.</u>	<u>HDR # 10028695</u>	
<u>7280 Old State Rte. 21</u>	<u>Barnhart, MO 63012</u>	

The Contract Documents are modified as follows upon execution of this Change Order:

Description: Refer to Reasons for Change and Change Spreadsheet (Attached).

Attachments: (List documents supporting change):

Change Order / reference documents (attached)

CHANGE IN CONTRACT PRICE:

Original Contract Price:

\$ 396,855.14

Increase from previously approved Change Orders

No. 0 to No. 1 :

\$ 17,063.10

Contact Price prior to this Change Order:

\$ 413,918.24

Increase of this Change Order:

\$ 6,487.42

Contract Price incorporating this Change Order:

\$ 420,405.66

CHANGE IN CONTRACT TIMES:

Original Contract Times:

Working days Calendar Days

Notice to proceed date: December 18th, 2017

Suspension of days until: May 22nd 2017

Substantial completion (days or date): 185 days = Nov.23th, 2018

Ready for final payment (days or date): 215 days = Dec.23th, 2018

(Increase) (Decrease) from previously approved Change Orders

No. 0 to No. 0 :

Substantial completion (days): _____

Ready for final payment (days): _____

Contact Times prior to this Change Order:

Substantial completion (days or date): _____

Ready for final payment (days or date): _____

(Increase) (Decrease) of this Change Order:

Substantial completion (days or date): _____

Ready for final payment (days or date): _____

Contract Times with all approved Change Orders:

Substantial completion (days or date): _____

Ready for final payment (days or date): _____

RECOMMENDED:

By: [Signature]
Engineer (Authorized Signature)

ACCEPTED:

By: _____
Owner (Authorized Signature)

ACCEPTED:

By: [Signature]
Contractor (Authorized Signature)

Date: 01/16/2019

Date: _____

Date: 01/16/2019

Approved by Funding Agency (if applicable): _____

Date: _____

EJCDC No. C-941 (2002 Edition)

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by the Associated General Contractors of America and the Construction Specifications Institute.

*Change Proposal Request(s)***#12 Second Sight Systems has installed a new antenna configuration for Rice Valve.**

Total Increase for Changed Scope: \$1,142.50

*Site was changed from a standard aerial to a panel antenna as it is less intrusive.***#13 Second Sight Systems has designed and installed a new antenna mast for South Terminal**

Total Increase for Changed Scope: \$270.00

*Mast configuration was change as the final loadings for the equipment was determined.***#14 Second Sight Systems proposes installing a new antenna mast for Bowlin.**

Total Increase for changed scope: \$2,883.62

*Final sight and signal lines between Bowlin Pump Station and Woods Chapel Tower required testing and revision of the antenna mounting mast.***#15 Second Sight Systems has installed a new antenna configuration for Leinweber.**

Total Increase for Changed Scope: \$715.00

*Revised antenna configuration for better long term operation.***#16 Second Sight Systems has installed a new antenna configuration for Kensington BO.**

Total Increase for Changed Scope: \$990.00

*Revised antenna configuration for better reception at BO.***#17 Second Sight Systems proposes installing an Orbit 4G LTE DMVPN enabled remote at Station 6.**

Total Increase for Changed Scope: \$1,226.30

*Change to a Cellular solution due to poor radio signal strength at this site.***#18 Second Sight Systems recommends installation and acquisition of licensing for SolarWinds**

Network Performance Monitor SL100 software

*Total Project Price Projected Reduction: (\$-2,400.00)**Replacement of the free version with a more robust network management software for troubleshooting the radio system.***#19 Second Sight Systems recommends installing a new grounding system at Rice Road.**

Total Increase for Changed Scope \$1,660.00

Upgrade of the grounding system at the Rice Road valve vault as it was determined that the existing system would not protect the proposed radios.

Packet Information

File #: TMP-1114, **Version:** 1

An Ordinance authorizing execution of an agreement by and between the City of Lee's Summit, Missouri, and Garver, LLC in an amount not to exceed \$1,462,127.00 for Professional Engineering Services for the Colbern Road Improvements from M350 Highway to Douglas Street (RFQ No. 569-32272), and authorizing the City Manager to enter into an agreement for the same.

Issue/Request:

An Ordinance authorizing execution of an agreement by and between the City of Lee's Summit, Missouri, and Garver, LLC in an amount not to exceed \$1,462,127.00 for Professional Engineering Services for the Colbern Road Improvements from M350 Highway to Douglas Street (RFQ No. 569-32272), and authorizing the City Manager to enter into an agreement for the same.

Key Issues:

- The project is included in the City's FY2019 Capital Improvement Plan adopted by Council.
- The project will be funded from the voter-approved 2017 CIP Sales Tax Renewal, Water Tap Fee, and Federal STP Funds FY2021.
- City staff issued RFQ No. 569-32272 to conduct a Qualification Based Selection for professional engineering services, in accordance with state statutes, federal regulations, and local procurement policies.
- Garver, LLC was selected as the best qualified firm for the project and satisfactorily conducted negotiations for scope and fee with City staff.

Proposed City Council Motion:

I move to recommend approval to City Council an ordinance authorizing execution of an agreement by and between the City of Lee's Summit, Missouri, and Garver, LLC in an amount not to exceed \$1,462,127.00 for Professional Engineering Services for the Colbern Road Improvements from M350 Highway to Douglas Street (RFQ No. 569-32272), and authorizing the City Manager to enter into an agreement for the same.

Background:

The project will enhance safety, expand capacity, promote economic development in the area, and accommodate non-motorized transportation. The City's Comprehensive Plan and associated Thoroughfare Master Plan (TFMP) include and support the project. The project is recommended in the TFMP as a high priority considering the capacity and condition deficiencies of the existing roadway.

The City annexed property along the corridor, including Colbern Road, from Unity Village in December 2011 to support an economic development plan and new regional activity center. This project supports the long-range planning for this corridor envisioned in the annexation agreement.

The project includes multi-modal elements that support the City's Bicycle Transportation Plan and Greenway Master Plan. Multi-modal transportation is part of the Complete Streets performance goal adopted in the LS360 Strategic Plan and continues under the consultation and oversight of the Livable Streets Advisory Board.

The current road is a narrow, two lane, and an open ditch section with minimal shoulders. The pavement condition is declining and the bridge over the Union Pacific Railroad (UPRR), first constructed in the 1930s, requires widening or replacement. The roadway will be improved by constructing a four lane roadway with raised medians and middle turn lanes (as dictated by the City's Access Management Code), installing curb and gutter, enclosed storm drainage systems, street lighting, sidewalk on the north side, and shared-use path on the south side. The sidewalk and shared-use path will be extended beyond the project limits to connect with the existing sidewalk and shared-use path along Colbern Road. The project also includes the installation of a new 12" water main which will run along the new roadway and connect at each end to recently installed water mains. If appropriate, the project will include water quality BMPs, sustainable design elements, and landscaping.

There are numerous engineering challenges in the scope of services of this contract related to improving Colbern Road as described above. These challenges include traffic modeling and analysis to include future development along the corridor. Potential construction cost impacts associated with potential earthwork costs, retaining walls, temporary sheet piles during construction, etc. must be evaluated when balancing the horizontal and vertical realignment of the roadway to support the 45 mph speed limit. The existing single lane roundabout must be expanded to two lanes and incorporate traffic changes affecting Unity Village and the M-350 interchange. The bridge over the UPRR also spans Little Cedar Creek's mapped floodways and floodplain areas. The bridge expansion or replacement must accommodate vehicular traffic, bicycle/pedestrian traffic, and accommodate multiple utilities crossing the railway and creek. The corridor also contains potentially historic resources that must be evaluated, such as the Unity Village markers, stone fence pillars, and the UPRR bridge. The east end of the project will be subject to Federal Aviation Administration review and regulations in relation to the Lee's Summit Airport.

Stakeholder engagement will be a key component to designing the road to accommodate future growth envisioned in the area. As part of the stakeholder process, the scope of services includes the possible realignment of Blue Parkway to the north which will require coordination with Unity Village and MoDOT.

Public Works issued RFQ 569-32272. The RFQ was advertised on the City website and www.PublicPurchase.com <<http://www.PublicPurchase.com>>. Over 310 Engineering firms were notified by Public Purchase for access to the documents, 72 firms reviewed the RFQ, and 66 firms downloaded the RFQ documents. Eleven firms submitted statements of qualifications prior to the November 5, 2018 closing date. All submittals were evaluated by a City Staff evaluation team composed of five Public Works Engineering personnel.

Impact/Analysis:

Timeline:

Bid Date of January 2021

Other Information/Unique Characteristics:

Craig Kohler - Senior Staff Engineer

Recommendation: Staff recommends approval of an Ordinance authorizing execution of an agreement by and between the City of Lee's Summit, Missouri, and Garver, LLC in an amount not to exceed \$1,462,127.00 for Professional Engineering Services for the Colbern Road Improvements from M350 Highway to Douglas Street (RFQ No. 569-32272), and authorizing the City Manager to enter into an agreement for the same.

Committee Recommendation: [Enter Committee Recommendation text Here]

BILL NO.

ORDINANCE NO.

AN ORDINANCE AUTHORIZING EXECUTION OF AN AGREEMENT BY AND BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI, AND GARVER, LLC IN AN AMOUNT NOT TO EXCEED \$1,462,127.00 FOR PROFESSIONAL ENGINEERING SERVICES FOR THE COLBERN ROAD IMPROVEMENTS FROM M350 HIGHWAY TO DOUGLAS STREET (RFQ NO. 569-32272), AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE SAME.

WHEREAS, the Colbern Road Improvements from M350 Highway to Douglas Street (hereinafter "Project") were authorized in the Capital Improvement Plan (CIP) adopted by Council; and,

WHEREAS, the Project has been awarded federal STP funds and local matching funds; and,

WHEREAS, the City intends to have professional engineering services for the design of this Project; and,

WHEREAS, Garver, LLC (hereinafter "Engineer") was selected as the best qualified firm through an open Qualification Based Selection process; and,

WHEREAS, the Engineer has submitted a proposal for the Project and an estimate of engineering costs to perform the Project; and,

WHEREAS, the City Manager is authorized and empowered by the City to execute contracts providing for professional engineering services; and,

WHEREAS, the City desires to enter into an agreement with the Engineer to perform the Project; and,

WHEREAS, the Engineer represents that the firm is equipped, competent, and able to undertake such an assignment.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the agreement, for professional engineering services by and between the City of Lee's Summit, Missouri and Garver, LLC, generally for the purpose of professional engineering services for Colbern Road Improvements from M350 Highway to Douglas Street, a true and accurate copy being attached hereto and incorporated herein by reference, is hereby approved and the City Manager is hereby authorized to execute the same on behalf of the City of Lee's Summit, Missouri.

SECTION 2. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this ____ day of _____, 2019.

Mayor William A. Baird

ATTEST:

City Clerk Trisha Fowler Arcuri

APPROVED by the Mayor of said city this _____ day of _____, 2019.

Mayor William A. Baird

ATTEST:

City Clerk Trisha Fowler Arcuri

APPROVED AS TO FORM:

Nancy K. Yendes, Chief Council of Infrastructure and Planning
Office of City Attorney

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
FOR COLBERN ROAD IMPROVEMENTS FROM M350 TO DOUGLAS STREET
(RFQ NO. 569-32272)**

THIS AGREEMENT made and entered into this ____ day of _____, 20____, by and between the City of Lee's Summit, Missouri (hereinafter "City"), and Garver, LLC (hereinafter "Engineer").

WITNESSETH:

WHEREAS, City intends to have engineering services for the Colbern Improvements (hereinafter "Project"); and

WHEREAS, Engineer has submitted a proposal for the Project and an estimate of engineering costs to perform the Project; and

WHEREAS, the City Manager is authorized and empowered by City to execute contracts providing for professional engineering services; and

WHEREAS, City desires to enter into an agreement with Engineer to perform the Project; and

WHEREAS, Engineer represents that the firm is equipped, competent, and able to undertake such an assignment.

NOW THEREFORE, in consideration of the mutual covenants and considerations herein contained, **IT IS HEREBY AGREED** by the parties hereto as follows:

**ARTICLE I
SCOPE OF BASIC SERVICES TO BE PROVIDED BY ENGINEER**

Engineer shall provide the following professional engineering services to City ("Basic Services"):

1.1 General

Generally, the scope of services includes surveying, roadway and bridge design, traffic studies, water line and gravity sewer design, preparation of property acquisition documents, geotechnical investigations, traffic data collection, and utility coordination for improvements to Colbern Road from Missouri (MO) Route 350 to 2000 feet east of Douglas Street. Improvements will consist primarily of constructing a new four and five lane city street with curb & gutters, sidewalks, lighting, shared-use paths, enclosed stormwater systems, stormwater BMP's, MSE retaining walls, signage, pavement markings, and a new water main and relocated gravity sewer, and landscaping/streetscaping features. Also included will be a new bridge over the UPRR and Little Cedar Creek, reconfiguring the

Colbern Road and Blue Parkway roundabout, and relocating Blue Parkway north of Colbern Road to tie into the reconfigured Colbern Road and Blue Parkway roundabout.

1.2 Surveys

1.2.1 Design Surveys

Contract with Powell CWM, Inc. (Powell) to provide field survey data for designing the project, and this survey will be tied to the City's control network.

Powell will conduct field surveys, utilizing radial topography methods, at intervals and for distances along the project site as appropriate for modeling the existing ground (maximum of 50 foot intervals), including locations of pertinent features or improvements. Powell will locate buildings and other structures, streets, bridges (column and abutment locations included), existing enclosed drainage features, existing cross road culverts, existing street lights, existing traffic signals, pull boxes, controllers, sidewalks, trails, street signs, trees over eight inches in diameter, visible utilities as well as those underground utilities marked by their owners and/or representatives, and any other pertinent topographic features that may be present at and/or along the project site. Powell will establish control points for use during construction.

Powell will provide four (4) additional pick-up survey days and associated post processing for additional pick-up surveying.

1.2.2 Hydraulic Surveys

Powell will conduct field surveys to assist in the development of the hydraulic modeling. Eleven cross sections will be taken at the following locations: high point at centerline of roadway, at the upstream toe of roadway embankment, at the downstream toe of roadway embankment, four at upstream valley section, and four at downstream valley section (spaced 200 feet apart along the stream centerline). The sections will be wide enough to include the top of bank, top of water surface, flow line of the creek, limits of the 100 year floodplain, and any other pertinent features important to the hydraulic modeling.

1.2.2 Property Surveys

Powell will locate existing monumentation representing right of way and/or easements based on record data which will be provided by an abstractor under a sub consultant agreement with Powell.

1.3 Traffic Data Collection

Engineer will subcontract with The Traffic Group to perform data collection at the following locations:

- NW Colbern/Bannister Road and NW Pryor Road
- Mo Route 350 SB on ramp and off ramp
- Mo Route 350 NB on ramp and off ramp.
- NW Colbern Road and NW Blue Parkway
- NW Colbern Road and NW Blue Parkway/Unity Way
- NW Colbern Road and N Main Street
- NW Main Street and NW Victoria Drive
- NW Colbern Road and NE Douglas Street
- NE Douglas Street and WB I-470 on ramp and off ramp
- NE Douglas Street and EB I-470 on ramp and off ramp
- NE Douglas Street and NE Mulberry Street
- NE Douglas Street and NE Victoria Drive

The traffic data collection will include 24-hour video turning movement counts at the above intersections with truck classifications and pedestrian crossings included. The collection will occur shortly after Notice to Proceed and will be conducted when conditions are above freezing, while school is in session, and avoiding holiday influences.

1.4 Geotechnical Services

Engineer will subcontract with Geotechnology, Inc. to provide geotechnical investigations and recommendations for the new bridge and MSE retaining walls.

Geotechnology will provide a boring plan which will include the following:

- Retaining Walls – Up to thirteen (13) borings to 10 to 15-ft in depth with one being 20 feet deep. Up to ten (10) rock probes in the cut sections 5 to 10-ft deep. Probes will not include soil sampling. Borings and rock probes will be alternated between the north and south sides of Colbern Road resulting in an approximate interval of 200 feet.
- Bridge Substructure – Six borings, two borings at each bent. For the purpose of evaluating drilled shafts each boring will be extended 25-ft into rock.

1.5 Subsurface Utility Engineer (SUE) Level A

Engineer will subcontract with Geotechnology, Inc. to perform subsurface excavation for up to four (4) locations to develop accurate location and depth information for underground utilities.

1.6 Administration and Project Management

The Engineer shall perform the following Administration and Project Management Tasks:

1. Set up and attend the project kick-off meeting.
2. Personnel planning, project scheduling, and budget control.
3. Plan and hold internal project team meetings.
4. Plan and hold City project weekly coordination and bimonthly progress meetings.
5. Prepare agendas and meeting minutes for bimonthly progress meetings, and submit monthly progress report documents, along with the monthly invoices. The Monthly Progress Report shall document the following:
 - a. Past Month's Activities/Accomplishments
 - b. Pending Issues and Decisions
 - c. Problem Areas and Recommended Corrective Actions
 - d. Budget Summary Status (showing % complete vs. % expended per task)
 - e. Schedule Summary Status (chart showing baseline schedule vs. actual schedule)
 - f. Next month's Planned Activities/Goals
 - g. Summary of Coordination Efforts (including correspondence summaries)
6. Develop subconsultant contracts, review, and process subconsultant invoices.

All of the above items shall include/address sub-consultant tasks.

1.7 Stakeholder Coordination

The Engineer shall perform the following Stakeholder Coordination Tasks:

- Attend stakeholder face to face meetings:
 - Ten (10) meetings with Unity Village (Unity Village, Unity Villas, Newmark Grubb Zimmer)

- Four (4) meetings with Howard and Dorothy Stayton
- Eight (8) meetings with the Lee's Summit Municipal Airport/FAA
- Four (4) meetings with MoDOT LPA Staff
- Three (3) meetings with the Union Pacific Rail Road (UPRR)

The Engineer will develop agendas and meeting minutes for all meetings. Agendas will be submitted to City for review two (2) weeks prior to any meeting and meeting minutes will be completed and submitted to City within (2) weeks after said meeting.

In addition to the Stakeholder Coordination the Engineer will make two (2) presentations to the City Council for the purposes of informing the public and to solicit feedback. The Engineer will develop a presentation utilizing powerpoint or presentation boards as directed by the City. Engineer will submit the presentation or draft exhibits to the City two (2) weeks prior to presentation for approval and comment.

1.8 Quality Assurance and Quality Control

The Engineer shall perform the following Quality Assurance and Quality Control Tasks:

- Develop project Quality Control Plan (QCP) document.
- Perform independent Quality Assurance Reviews to verify that QCP is being followed and continuously updated as required.
- Perform independent Quality Control reviews on the design and plans.
- Perform Conceptual, Preliminary, Right of Way, and Final Design Reviews.
- Perform Conceptual, Preliminary, Right of Way, and Final Plan Reviews.
- Perform Engineers Estimate of Probable Cost Reviews.
- Review deliverables from subconsultants such as, but not limited to:
 - Geotechnical Reports
 - Survey Design Files
 - Traffic Data Collection Summaries
 - Right of Way and Easement Acquisition Documents

1.9 Utility Coordination

Furnish plans to all known utility owners potentially affected by the project at the approved conceptual, preliminary, and final design stage of plan development.

Conduct the following coordination meetings among all known affected utility owners to enable them to coordinate efforts for any necessary utility relocations.

- Kickoff Meeting (30 days after conceptual design submittal to utility companies)
- Preliminary Design Meeting (30 days after preliminary submittal to utility companies)
- Final Design Meeting (30 days after final plans submittal to utility companies)

Engineer will include the surveyed locations of the observable and marked utilities in the construction plans. Engineer will also include proposed and/or relocated utility information in the construction plans as provided by the utility companies.

Attend coordination meetings with the City as required, and prepare agendas and meeting minutes for these meetings.

1.10 Environmental Services (NEPA)

Engineer will coordinate the completion and approval of a Categorical Exclusion 2 (CE2) with the Missouri Department of Transportation (MoDOT). The following tasks shall be performed as required by MoDOT.

1.10.1 Request for Environmental Review (RER)

Engineer will obtain information pertinent to complete online submittal of the RER from the City. Engineer will submit the RER to MoDOT for review and address comments requests for additional information.

1.10.2 Data Collection and Constraints

Engineer will develop an initial constraints map and collect data from governmental and other sources to document potential environmental constraints. Desktop constraints will be verified thorough a detailed site visit to review the presence of readily visible and environmentally sensitive features such as wetlands, endangered and threatened species habitats, streams, ponds, rivers, farmlands, historic properties, residences, any hazardous material sites, and businesses. Photos of the site will be taken of environmentally sensitive features.

1.10.3 Agency Coordination

Engineer will coordinate with the State Historic Preservation Officer (SHPO) and MoDOT regarding Section 106, establish an Area of Potential Effect (APE), and cultural, historical and archaeological clearance for the project. If a cultural resources survey and/or architectural survey is required, this will be considered extra work to be approved in writing by the Client. For the purposes of this contract, fees for historic and archaeological surveys are included.

Engineer will complete a *de minimis* Section 4(f) determination and submit to MoDOT for review and approval. Section 4(f) *de minimis* coordination is anticipated as there is a house on the National Register of Historic Places (NRHP) that may be affected by the project.

Engineer will obtain an IPaC list from the US Fish and Wildlife Service (USFWS) to document federally listed threatened and endangered species in the area. Garver will also obtain the Missouri Department of Conservation (MDC) Inventory of state listed species. Potential impacts to listed species will be evaluated. Spatial, seasonal, or temporal restrictions or design modifications will be evaluated. Informal Section 7 consultation with the USFWS is anticipated in this scope.

Engineer will coordinate with the US Army Corps of Engineers (USACE) and Missouri Department of Natural Resources (MDNR) regarding potential impacts to jurisdictional waters of the US and water quality.

Engineer will coordinate with the City and the Mid-America Regional Council (MARC) in determining the level of air quality analysis required.

1.10.4 Special Environmental Studies

Habitat Assessment

Engineer will complete a habitat assessment for the project that will include documentation of the potential project effects on state and federally listed species. The habitat assessment will include detailed evaluation for the preferred habitats of the listed species and provide an effects determination for each species.

Wetland Delineation

Engineer will complete a wetland delineation that will include field evaluation and mapping of jurisdictional waters. A report of the findings will be completed and presented to the USACE for use in Section 404 permitting. Engineer will coordinate avoidance, minimization and mitigation with the designer and the City. We will assess the potential effect of construction activities of the proposed project on jurisdictional waters and wetlands, consult with the US Army Corp of Engineers (USACE), the US Fish and Wildlife Service, and MDNR to propose mitigation measures if required.

Noise Analysis

Engineer will conduct a detailed noise analysis of the proposed improvements from State Route 350 to NE Douglas Street. The noise study will take into account existing and future traffic volumes. Potential traffic noise impacts will be evaluated and if needed one barrier analysis will be completed. The noise study will be conducted in accordance with

MoDOT Noise Policy. Engineer will submit the noise analysis to MoDOT for review and approval.

1. Enter the pavement centerlines, edges, and profiles (along with side slope information) into the TNM model from plan, profiles, and cross-sections. Topographic mapping for insertion of terrain lines would also be used where possible.
2. Based on traffic counts and projections provided by MoDOT and/or the Garver, determine the appropriate design traffic volumes to be used in the analyses. Typically, LOS "D" traffic volumes are used for traffic noise modeling because this is the condition where the combination of traffic volumes and speeds produce the highest noise levels. At LOS "E" or "F," the traffic volumes would be higher, but the lower speeds at these levels of service create less noise.
3. Enter all required parameters into the TNM computer model to simulate the existing conditions.
4. Measure in the field the existing traffic noise levels during periods when LOS "D" traffic volumes exist. Use the measured noise levels to validate the TNM model by showing a difference of 3 dBA or less between the two. If necessary, make appropriate adjustments to the base TNM computer model to reflect the existing conditions as well as possible.
5. Use the calibrated TNM computer model to compute and plot the existing and future 66 dBA sound contours.
6. In areas where eligible receptors exist and the noise levels are or would be expected to be higher than the 66 dBA levels, determine the locations (i.e., usually at the right-of-way limits or just off the edge of shoulder) and heights (up to a maximum of 20 feet) of required walls.
7. Compute the expected reductions in dBA levels for each wall. The reduction must be at least 7 dBA for 67% of first-row receptors and 5dBA for 67% of first-row impacted receptors to justify the construction of a wall. One barrier analysis are included in this scope of work.
8. Compute the expected wall square footage, and compare these estimated areas to the allowed square footage per benefitted receptor. Square footage greater than 1300 Sq. Ft. per benefitted eligible receptor cannot generally be justified according to MoDOT criteria.

9. Prepare summary tables to list the costs and benefits of the potential walls, and identify which walls are eligible for funding, according to MoDOT criteria.
10. Prepare and submit a report which summarizes the findings and noise contours.
11. Revise the study report per comments received from the property owners, City and MoDOT, and submit the final report to MoDOT for review/approval.

Water Quality

Engineer will coordinate with the City, Unity Village, and MDNR on protecting the Unity Village drinking water supply. We will assess the potential for any water quality impacts, including potential contamination of groundwater aquifers or surface waters and document measures to be incorporated to minimize adverse water quality effects. Disturbance of land equal to or greater than one acre will require a National Pollutant Discharge Elimination System (NPDES) permit at the time of construction.

Hazardous Materials

Engineer will conduct a review of MDC's hazardous materials sites and complete a site review documenting potentially hazardous materials sites that could affect construction of the project within the standard ASTM guideline parameters.

1.11 Conceptual Design (10% Submittal)

1.11.1 Traffic Engineering, Modeling, and Trip Generation

The engineer will generate future year traffic volumes, analyze existing and proposed conditions, and assess multiple access management options. The following tasks will be completed to support the development of a preferred option to carry into development of final construction plans.

- The engineer will perform field observations of existing delay within the study area to validate base models
- The engineer will develop traffic volumes for multiple scenarios to be used for analysis from the raw data collected in **Item 1.3**

- Engineer will develop 2019 design traffic volumes for the existing configuration
- Engineer will study background growth trends in area and project base 2030 (interim) and 2040 (ultimate) forecasts
- Engineer will perform Trip Generation for known developments within the study area
 - Conduct Stakeholder Meeting to determine the location/size of the proposed developments within Unity Village and other locations
 - Review Lee's Summit Thoroughfare Plan and prior studies
 - Develop assumptions methodology for stakeholder review
 - Perform trip generation for all study area developments assuming a base driveway configuration
 - Add trip generation to the 2030 (interim) and 2040 (ultimate) base volumes to produce 2030/2040 design volumes
- The Engineer will use the 2030/2040 design volumes and re-route traffic for up to 3 access management scenarios that assume median openings with some driveways having restricted movements. Options to relocate Main Street will be included.
- The engineer will perform capacity analysis for the existing and proposed configurations. The analysis includes:
 - Multi-Modal Level of Service Analysis for three proposed cross-sections of Colbern Road using Complete Streets LOS software
 - Shared-path Level of Service/Suitability analysis
 - Intersection Level of Service analysis using Synchro/SimTraffic software for the following scenarios
 - 2019 Existing Configuration (AM/PM)
 - 2030 Existing Configuration (AM/PM)
 - 2040 Existing Configuration (AM/PM)
 - 2030 Build Configuration (AM/PM) – up to 3 scenarios
 - 2040 Build Configuration (AM/PM) – up to 3 scenarios
 - Supplemental Roundabout Analysis using Sidra (2030/2040 AM/PM)
 - The engineer will summarize all preliminary findings in a meeting with City staff before finalizing any recommendation
- The engineer will produce a selected alternative which includes access management features, bicycle accommodations, traffic signal modifications, future signal locations, roundabout configuration updates, and turn lane needs/storage lengths

- The engineer will produce sections for draft report. After comments from City, the engineer will update all report elements for the final report. The report will include sections documenting the operational performance and safety impacts (via crash modification factors from the HSM) of various alternatives and support of selected alternative.

1.11.2 The conceptual roadway design phase will include development alternative typical sections. The following four typical sections will be developed and evaluated:

- Narrow median west of bridge
- Wide median west of bridge
- Narrow median east of bridge
- Wide median east of bridge

For the new bridge the following typical sections will be developed and evaluated:

- Widen existing bridge
- New Bridge
- Two bridges (one eastbound and one westbound)

For the evaluation the Garver Team will develop pro's and con's based on the following criteria.

- Traffic Operation and Safety Impacts (reported in 1.11.1)
- Utility Impacts
- R/W Impacts
- Long term maintenance
- UPRR Constraints/Procedures
- Cost

Results will be summarized and documented in tabular format.

Conceptual Bridge Plans will be submitted to the UPRR for review.

1.12 Preliminary Design (50% Submittal)

1.12.1 The preliminary design phase submittal will include:

- Title Sheet,
- General Notes and Legend,

- Survey Control and Layout Sheet
- Typical sections,
- Roadway plan & profile sheets showing:
 - Existing topographical data,
 - New horizontal and vertical alignments,
 - Curb and gutter,
 - Enclosed drainage improvements,
 - Sidewalks and trails/paths,
 - Proposed water line, gravity sewer, and sewer force main (if needed),
 - MSE walls (if needed),
 - Existing utilities,
 - Proposed right of way and easements,
- Roundabout Plans
 - Roundabout calculations (speed profiles per FHWA Roundabout Design Guide and City of Lee's Summit Design and Construction Manual Section 5200)
- Drainage area map sheet,
- Driveway Profiles
- Concept MOT and staging plans,
- Pavement marking plans,
- Preliminary lighting layout,
- Cross road culvert sections,
- Cross sections,
- Preliminary quantities,
- Opinion of probable construction cost.

Any City and MoDOT provided review comments will be reviewed and addressed and revised documents will be submitted as per the project schedule. Review comment responses will be documented and a copy will be submitted with the revised plans.

This preliminary design submittal will be for the purpose of setting the horizontal alignment and vertical profile, coordinating the proposed improvements and right of way/easements with the City, and developing an order of magnitude cost estimate for the project. Any City requested changes to the horizontal or vertical alignment after approved preliminary plans may require a scope amendment and a supplemental agreement. Final design will begin upon City notification of preliminary design approval.

Utilize City Design Standards and supplement with MoDOT Design Standards as needed. Design criteria as specified in the City Design Authorization Memo will be utilized as applicable with exceptions being documented and approved by the City prior to implementation.

1.12.2 Water Main Extension and Gravity Sewer Design

- Water and sewer plan & profile sheets drawn at 1"=20', showing:
 - Existing topographical data,
 - Horizontal and vertical alignments of water and sewer relocations where necessary due to conflict or depth, to include the following:
 - water line along Colbern Road from northbound on-ramp of Blue Parkway east approximately 2,000 feet,
 - water line from roughly road station 43+00 to road station 49+00,
 - gravity sewer relocation near the Colbern Road bridge
 - Horizontal and vertical alignments of water line extension from roughly road station 31+00 to road station 84+00,
 - Crossings with proposed or existing drainage structures and utilities,
 - Proposed permanent utility easements,
- Preliminary quantities and opinion of probable construction cost.

1.12.3 Hydraulics and Hydrology

Garver will provide Hydrology and Hydraulics services for a proposed bridge over Colbern Road at Little Cedar Creek.

- The project limits for the analysis will extend approximately 1,000 feet upstream and downstream of the centerline of Colbern Road over the creek.
- Garver will develop discharges for the portion of the creek to be studied. Flows will be developed using the HEC-HMS software to determine the existing watershed and fully urbanized watershed condition discharges for the 10-, 25-, 50, 100-, and 500-year storms. If possible, Garver will also attempt to obtain the Flood Insurance Rate Study hydrologic models for Cedar Creek that were used in the published FEMA study. Garver will compare each of the models and work with the City to choose the most appropriate creek discharges to use to design the proposed bridge.
- Garver will develop a hydraulic model of the existing portion of the tributary to be analyzed using the HEC-RAS software. A hydraulic model will be developed with both existing and fully-urbanized watershed discharges. The models to be created for hydraulic analysis will be an existing bridge and a proposed bridge. Up to two proposed bridges will be analyzed. Garver will attempt to obtain the FEMA hydraulic models used in the FEMA study of the creek. These models will be used to compare results between the proposed bridge and current FEMA conditions.

- Garver will work with the project surveyors to obtain surveyed cross sections of the creek in the study area. The cross section survey effort is described in the survey section of this scope of services.
- Since the current floodplain of the creek is shown as a Zone AE floodplain, a Floodway analysis will be prepared for this scope of services.
- Garver will prepare a drainage report including the following:
 - description of the existing floodplain hydraulic condition;
 - Plots of relevant cross sections and floodplain limits,
 - Tables showing existing and proposed condition hydraulic results such as water surface elevations, average velocities and velocity distribution and other hydraulic parameters;
 - Plots of the floodplain and Floodway boundary;

Submit drainage report to City for review.

1.12.4 Preliminary Bridge Design

The preliminary design phase submittal will include:

- Sounding Request,
- TS&L Drawings,
- Bridge Memorandum,
- Design Layout,
- Preliminary quantities,
- Engineer's opinion of probable construction cost.

For preliminary bridge design, the Engineer will develop a bridge memo and Type, Size, and Location (TS&L) documents for the approved bridge configuration. Preliminary Plan documents will be provided to City for review. Submittal documents will be provided to UPRR for review.

Superstructure and Substructure Design for the two span bridge (135'-135') will be performed in accordance with MoDOT EPG design criteria.

1.12.5 Preliminary Landscape Design

For preliminary corridor landscape design, the Engineer will develop preliminary landscape plans, to include the following:

- Develop plant palette for corridor plant materials
- Preliminary turf restoration plan for all areas disturbed by construction activities
- Concept planting plan with low groundcovers and/or shrubs in strategic locations agreed upon with the City. New trees will be

located in areas outside of rights-of way where existing stands are disturbed by construction activities. No trees will be located within rights-of-way, per City.

- Development of preliminary location and design details for relocation of existing Unity Village limestone columns, limestone walls, and freestanding, precast signage, as necessary.

1.12.6 Preliminary Lighting Layout

Engineer will perform a lighting photometric study to evaluate 1 style of light fixture placed in the raised median, if applicable, or roadside depending on selected typical section for the entire project extents. Lights on the bridge will be anticipate to be mounted outboard.

Lighting design will be performed using the Visual lighting software. Lighting design will conform with the City of Lee's Summit Design Criteria Section 5800 - Street Lighting, City of Lee's Summit Standard Specifications Section 2800 - Street Lighting, APWA KCMO Section 2800 – Street Lights, MoDOT Engineering Policy Guide Category 901 – Lighting, and Illuminating Engineering Society recommendations.

The electrical engineer will conduct a site visit during the preliminary phase, as well as attend 1 other on-site meeting during this phase.

The Engineer will deliver one lighting layout exhibits and an associated opinion of probable construction cost for each under this phase. Additionally, the Engineer will provide a high-level opinion of probable construction cost during the conceptual phase.

1.12.7 Preliminary Airport/FAA Submittals

The Engineer will coordinate the request for land release with the Federal Aviation Administration (FAA) for the parcel of land on the south-east quadrant of the intersection of Colbern Road and Douglas Street which is owned by the Lee's Summit Airport and was acquired through an FAA grant. Included in the request will be a metes and-bounds survey of the acquisition area and a fair market value appraisal to be completed by the City of Lee's Summit appraiser.

The Engineer will submit studies and exhibits for all equipment to be used during construction of the project through the FAA's Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) website. In addition, Garver will submit OE/AAA studies for permanent vertical infrastructure that will be constructed with this project as required by the FAA.

1.12.8 Preliminary Sustainability Assessment (Envision Checklist/Scorecard)

Engineer will perform a preliminary sustainability assessment using the ENVISION Checklist/Scorecard. Completed Checklist/Scorecard will be presented to City staff for discussion and the final copy will be submitted to City for record.

1.13 Right of Way Plans (60% Submittal)

1.13.1 The MoDOT and City approved preliminary plans will be updated for the Right of Way Plan submittal to MoDOT. Items needed to be updated or added:

- Update Title Sheet
- Add a summary of takings and remainders sheet
- Addition of takings/remainders to parcels on the plan sheets

1.14 Final Design (PS&E Submittal)

1.14.1 Conduct final design to prepare construction plans and specifications for one construction contract. The following items will be included:

- Finalize title sheet,
- Finalize typical section sheets,
- Update approved R/W plan and profile sheets into final construction roadway plan and profile sheets,
- Finalize MSE retaining wall plans and details (if needed),
- Develop concrete jointing details,
- Finalize storm sewer design and plan and profile sheets,
- Develop drop inlet special details (if needed),
- Develop erosion control plans and details,
- Finalize waterline plans and details,
- Finalize gravity sewer plans and details
- Finalize force main plans and details (if needed),
- Finalize MOT and staging plans,
- Finalize culvert sections,
- Finalize pavement marking plans,
- Develop signing plans,
- Finalize lighting plans and details,
- Develop traffic signal modification plans and details
- Finalize cross sections,
- Develop Colbern Road Bid Manual,
- Develop Colbern Road Construction Project Manual,
- Finalize Engineers opinion of probable construction cost.

Engineer will develop the Bid Manual and Construction Project Manual as per the MoDOT LPA Manual Section 136.9.4 Bid Documents. For the sections to be completed by the LPA the Engineer will use the City's standard construction bid documents, modified for this project, and other EJCDC language as applicable.

Any City and MoDOT provided review comments will be reviewed and addressed and revised documents will be submitted as per the project schedule. Review comment responses will be documented and a copy will be submitted with the revised plans.

Prepare, submit, and coordinate approval of a Stormwater Pollution Prevention Plan (SWPPP).

1.14.2 Water Main and Gravity Sewer Final Design and Plans

Conduct final design to prepare construction plans and specifications for one construction contract. The following items will be included as part of the PS&E submittal:

- Finalize water and sewer plan & profile sheets (95%)
- Compile applicable City details and develop additional water and sewer details as necessary,
- Coordinate water line support with Engineers bridge engineers,
- Develop water and gravity sewer specifications as necessary to supplement the City's Standard Specifications in the Construction Project Manual,
- Finalize the water and gravity sewer opinion of probable construction cost,
- Submit to Missouri DNR for permitting.

1.14.3 Final Bridge Design/Plans

Prepare complete detailed plans for the construction of one bridge over Little Cedar Creek and UPRR. Upon Lee's Summit and MoDOT approval of the bridge layout, prepare detailed final construction plans for the structure.

Colbern Rd. over Little Cedar Creek and UPRR is anticipated to be a conventional type structure with two structural prestressed concrete spans. The proposed bridge will be skewed to align with UPRR and creek alignment on the existing tangent horizontal alignment with normal cross slopes. The proposed bridge will carry four eleven-foot lanes, two four-foot shoulders, twelve-foot trail on the south and 6-foot sidewalk on the north. Barriers are used between traffic and sidewalk/trail. Median or median barrier will not be required on the bridge. MSE wall will be utilized at the west end of the bridge, and it is anticipated that tall faced

abutments will be used adjacent to the UPRR at the east end of the bridge. A global stability analysis will be performed for all retaining walls.

The consultant will incorporate Aesthetics into the final construction plans for the structure. It is anticipated that the Aesthetics will include form liners and pedestrian rail will be a black fence similar to Pryor Rd. Barrier will contain two three-inch or four-inch diameter conduits for future utilities. A waterline is anticipated on the bridge, located below the deck. Roadway lighting is anticipated on the bridge.

Colbern Rd. at the bridge will be closed during construction. Staged construction will not be required to construct the proposed bridge.

Final design plans will be in accordance with AASHTO LRFD Bridge Design Specifications, Latest Edition with current Interim Revisions, the MoDOT Engineering Policy Guide (EPG), MoDOT standard drawings and specifications, and current Lee's Summit policies/procedures provided to the consultant (if applicable).

Geometry calculations and project cost estimate for bridge will be prepared. Final plans will be provided to Lee's Summit and MoDOT for review. 100% Submittal documents will be provided to the UPRR for review. Standard specifications and details per MoDOT standard format will be provided to Lee's Summit and MoDOT. LRFR load rating summary and AASHTOWARE BrR (formerly VIRTIS) model will be provided to Lee's Summit and MoDOT.

Anticipated sheets include:

- General Plan & Elevation,
- General Notes and Quantities,
- End Bent Details,
- Intermediate Bent Details,
- Prestressed Beam Details,
- Drainage Details, as required,
- Slab Details and Typical Section,
- Expansion Joint Details, as required,
- Barrier Details (Cast-In-Place and Slip-Form option),
- Bridge Approach Slab
- Reinforcement Summary
- Boring Logs,
- As-Built Foundation Data,
- MSE Retaining Wall Plan and Profile,
- MSE Retaining Wall Details.

1.14.4 Final Landscaping Design and Details

Prepare final design and specifications for corridor landscape plan, including:

- Finalize corridor landscape plan, including limits of turf restoration and location of plant materials,
- Finalize planting details and notes,
- Finalize detailing of Unity Village limestone column & wall and stone sign relocations.

1.14.5 Final Lighting Design, Plans, and Details

Engineer will produce final lighting design, construction plans, details, and specification coordination for the design developed in the preliminary phase.

Engineer will coordinate with the local utility as needed for powering of the new roadway lighting.

Lighting design will conform with the City of Lee's Summit Design Criteria Section 5800 - Street Lighting, City of Lee's Summit Standard Specifications Section 2800 - Street Lighting, APWA KCMO Section 2800 – Street Lights, MoDOT Engineering Policy Guide Category 901 – Lighting, and Illuminating Engineering Society recommendations. Electrical design will comply with these standards as well as the National Electric Code, current edition.

The Engineer will deliver a revised opinion of probable construction cost under this phase.

1.14.6 Develop Traffic Signal Modification Plans and Details

Engineer will produce signal modifications design, preliminary and final construction plans, details and specifications for the existing signal at the intersection of Northwest Colbern Road with Northeast Douglas Street.

Engineer will produce preliminary and final construction plans for the removal of the existing signal at the intersection of Northwest Colbern Road with Northwest Blue Parkway, detailing signal equipment and equipment foundation to be removed.

Engineer will coordinate with the local utility as needed for powering of the modified signal.

Engineer will coordinate with City Traffic Engineer for proposed signal pole locations, existing signal timings and interconnect.

Engineer will analyze up to three (3) temporary traffic control scenarios at the intersection of Northwest Colbern Road with Northeast Douglas Street for both morning and evening peak hours. The preferred temporary traffic control scenario will be evaluated with the City Traffic Engineer.

Engineer will produce temporary traffic signal plans at the intersection of Northwest Colbern Road with Northeast Douglas Street. The design may include temporary span wire signals. The engineer will also develop temporary signal timing plans for the preferred alternative to be used during construction.

Signal modification design will conform with the City of Lee's Summit Design Criteria Section 5900 - Traffic Signals, City of Lee's Summit Standard Specifications Section 2900 – Traffic Signals, MoDOT Engineering Policy Guide Category 902 – Lighting, and Manual on Uniform Traffic Control Devices (MUTCD). All signal modification design will comply with these standards as well as with the latest requirements of the National Electrical Code (NEC), National Electrical Safety Code (NESC), standards of the American Society of Testing Materials (ASTM), American Standards Associations (ASA), and National Electrical Manufacturers Association (NEMA).

The traffic engineer will attend one (1) on-site meeting during this project.

The Engineer will deliver an opinion of probable construction cost for preliminary and final plans.

1.14.7 Final Airport/FAA Reviews

Engineer will update the Land Release based on final design and coordinate with the FAA for final approval.

Engineer will update obstruction evaluation studies and exhibits based on the final design for all equipment to be used during construction of the project through the FAA's Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) website. In addition, Garver will update OE/AAA studies for permanent vertical infrastructure based on final design as required by the FAA.

1.14.8 Final Sustainability Assessment (Revised Envision Checklist/Scorecard)

Engineer will review the preliminary ENVISION Checklist/Scorecard and update the ENVISION Checklist/Scorecard with any changes made during the final design phase. The updated Checklist/Scorecard will be

presented to City staff for discussion and the final copy will be submitted to City for record.

1.15 Property Acquisition Documents

Provide mapping as required for preparing Right-of-Way/Easement acquisition documents for the City's use in acquiring the property. Documentation will include individual tract maps with a description of temporary and permanent acquisition for each property. The City will provide a standard easement acquisition document or "go-by" example for use by Engineer. The fee for providing property acquisition documentation is based on permanent right of way and temporary construction easements for no more than 20 parcels. Property acquisition document preparation will begin after receiving the City's comments from the Preliminary Design review.

2.0 Bidding/Construction Phase Services

During the bidding and construction phase of the project, Engineer will:

1. Respond to Contractor and City questions as requested by the City during the bid phase of the project.
2. Attend prebid meetings with the City/Contractors as requested by City.
3. Provide as-built drawings as per field mandated changes as approved by the City. Drawings will be provided in both PDF and MicroStation to AutoCAD converted format. Drawings and design files will be delivered on DVD's. Two (2) copies will of the DVD will be submitted.

3.0 Project Deliverables and Permits

The following will be submitted to the City, or others as indicated, by Engineer:

1. One copy of the Geotechnical Report.
2. Three half size (11" x 17") copies and one full size (22" x 34") copy of the Preliminary Design with opinion of probable construction cost.
3. Three half size (11" x 17") copies and one full size (22" x 34") copy of the Right of Way Plans.
4. Three half size (11" x 17") copies and one full size (22" x 34") copy of the Final Design with opinion of probable construction cost.
5. One signed and sealed full size (22" x 34") copy of the revised Final Design, for reproduction, with opinion of probable construction cost.
6. One digital copy of the plans, submitted in items two through five above, in PDF format.

7. One Digital (8.5" x 11") letter size copy of the project bid manual
8. Four hard (8.5" x 11") Letter size copies of the project construction manual and on digital copy in PDF format.
9. One digital copy, in PDF format, of the revised Final Plans to each potentially affected utility company.
10. CADD file submitted to each of the following: the City, utilities and contractor.
11. Two copies of the right-of-way and/or easement acquisition documents.
12. One copy of the traffic study and concept analysis documentation.
13. One copy of the lighting calculations.
14. One copy of the roundabout calculations.
15. One copy of the storm water calculations/drainage report.
16. One copy of the Stormwater Pollution Prevention Plan (SWPPP).
17. One copy of the FAA Request for Land Release
18. One copy of the FAA Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) Studies
19. One copy of the No Rise Certification
20. UPRR Right of Entry Agreement
21. UPRR C & M Agreement
22. Section 404 Nationwide Permit 14
23. Section 401 Water Quality certification (blanket authorization from MDNR in connection with general conditions of Section 404 permit – If met).
24. One copy of the Threatened and Endangered Species Clearance Letter
25. One copy of the Wetland Delineation Report
26. One copy of each Agency Clearance Letter other than listed above
27. One copy of the approved Noise Study
28. One copy of the Cultural Historic Report (if required)
29. One copy of the Archeological Resources Report (if required)
30. One copy of the Bridge Asbestos Report
31. One copy of the Bridge Lead Based Paint Report
32. One copy of the Deminimis Section 4F document (if required)
33. One copy of the Categorical Exclusion 2 (CE2) Clearance Document
34. One copy of the MDNR Construction Permit

4.0 Schedule

Engineer shall begin work under this Agreement upon Notice to Proceed and shall complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Deliverable Date</u>
Surveys – Design and Property	80 calendar days after NTP
Draft Concept Design and Traffic Study	80 calendar days after NTP
Final Concept Design and Traffic Study	105 calendar days after NTP
Preliminary Design	November 28, 2019
Right of Way Plans	March 5, 2020

Property Acquisition Documents	30 calendar days after City approved Right of Way Plans
Final Design Submittal (90%)	September 17, 2020
Final Design (100%) Submittal	November 12, 2020

These deliverable dates are based on three (3) week City review periods. If review takes longer than three weeks Engineer will update the project schedule/deliverable dates to reflect the change in schedule. Once the NTP date is known, the deliverable dates for preliminary and final design submittals will be identified.

**ARTICLE II
OPTIONAL SERVICES TO BE PROVIDED BY ENGINEER**

Engineer shall provide, if needed by the City, and only upon receipt of written authorization by the Director of Public works, the optional services (“Optional Services”) as outlined as follows:

1.1 General

The following is a list of optional services that can be provided by the Engineer for the Colbern Road from M350 to Douglas Street project.

1.2 Additional Subsurface Utility Engineer (SUE) QLA

Engineer will subcontract with Geotechnology, Inc. to perform subsurface excavation for up to four (4) additional locations to develop accurate location and depth information for underground utilities.

1.3 CLOMR/LOMR

1.3.1 CLOMR

Upon completion of the above tasks, a submittal for a Conditional Letter of Map Revision (CLOMR) will be prepared and submitted to the City for review. The submittal will include a brief report with exhibits, maps, hydraulic models, and draft notification letter (City will prepare and send the notification letters to adjacent property owners) and FEMA MT-2 forms. The CLOMR will include the proposed floodplain modifications determined in the hydraulic modeling task above.

The CLOMR will be submitted to the City. Upon concurrence by the City, the CLOMR will be forwarded to FEMA for final review. Garver

will coordinate with the City, FEMA and the FEMA review consultant to resolve review comments from these entities.

1.3.2 LOMR

Upon completion of the construction of the Colbern Road project and bridge improvements, Garver will prepare a Letter of Map Revision (LOMR) for submittal to the City for review. The submittal will include a brief report with exhibits, maps, hydraulic models, and draft notification letter (City will prepare and send the notification letters to adjacent property owners) and FEMA MT-2 forms. The LOMR will include the proposed floodplain modifications determined from actual project as-built surveys and in the hydraulic modeling task above.

The LOMR will be submitted to the City. Upon concurrence by the City, the LOMR will be forwarded to FEMA for final review. Garver will coordinate with the City, FEMA and the FEMA review consultant to resolve review comments from these entities.

The payment of required FEMA review fees for both the CLOMR and the LOMR will be the responsibility of the City and are not included in Garver's scope of services.

Surveying services to obtain as-built project information are not included in this task.

1.4 Relocate/Modify 12" Forcemain

Preliminary design phase (50%) submittal will include:

- Sanitary Sewer force main profile sheets drawn at 1"=20', showing:
 - Existing topographical data,
 - Horizontal and vertical alignments of sewer force main relocations where necessary due to conflict or depth, east from approximately road station 37+00
 - Proposed permanent utility easements,
- Preliminary quantities and opinion of probable construction cost.

Sanitary Sewer Force Main Final Design

Conduct final design to prepare construction plans and specifications for one construction contract. The following items will be included as part of the PS&E submittal:

- Finalize sewer force main plan & profile sheets (95%)
- Compile applicable City details and develop additional force main details as necessary,

- Develop sewer force main specifications as necessary to supplement the City's Standard Specifications in the Construction Project Manual,
- Finalize the sewer force main opinion of probable construction cost,
- Submit to Missouri DNR for permitting.

ARTICLE III SCOPE OF SERVICES TO BE PROVIDED BY CITY

City shall use its best efforts to provide the information to Engineer as described as follows:

- Tenant names
- Available water and sewer locations, size and materials
- Copies of available reports and as-built plans
- Available drainage studies
- Available plats of adjacent properties
- EJCDC Contract Documents, Division One-Special Contract Provisions
- Assist Consultant as needed in gaining right of entry to private property for geotechnical exploration.
- City will coordinate with the construction contractor for the UPRR Construction Submittal.
- City will coordinate the Land Disturbance Permit.
- The City will coordinate with Operation Green Light and provide updated traffic signal timing information (including vehicle and pedestrian crossing intervals) due to the signal modifications anticipated at the NW Colbern Road at NE Douglas Street intersection.

ARTICLE IV PAYMENTS TO THE ENGINEER

For the services performed by Engineer pursuant to this Agreement, and as full compensation therefore, and for all expenditures made and all expenses incurred by Engineer in connection with this Agreement, except as otherwise expressly provided herein, subject to and in conformance with all provisions of this Agreement, City will pay Engineer a maximum fee for Basic Services and Optional Services in the sum of One Million Four Hundred Sixty Two Thousand One Hundred Twenty Seven Dollars (\$1,462,127.00), according to the following provisions:

- A. The cost of all Basic Services covered under Article I shall be billed hourly at the rates set forth in Exhibit A attached hereto and incorporated herein by reference. Expenses incurred to provide the Basic Services shall be billed as set forth in Exhibit A. The total fees (hourly fees and expenses) for the Basic Services shall not exceed the total sum of One Million Three Hundred Eighty Three Thousand Seven Hundred Twenty Seven Dollars (\$1,383,727.00).

- B. The cost of all Optional Services covered under Article II shall be billed hourly at the rates set forth in Exhibit A attached hereto and incorporated herein by reference. Expenses incurred to provide the Optional Services shall be billed as set forth in Exhibit A. The total fees (hourly fees and expenses) for the Optional Services shall not exceed the total sum of Seventy Eight Thousand Four Hundred Dollars (\$78,400.00).
- C. If so requested by Engineer, City will make payment monthly for Basic Services and Optional Services that have been satisfactorily completed. The City shall make payment to Engineer within a period not to exceed thirty (30) days from the date an invoice is received by City. All invoices shall contain the following information:
1. Project Name/Task Name/RFP Number/Description of Agreement.
 2. Invoice Number and Date.
 3. Purchase Order Number issued by City.
 4. Itemized statement for the previous month of Labor (including Personnel Description, Title or classification for each person on the Project, Hours Worked, Hourly Rate, and Amount), Itemized Reimbursable Expenses, and Invoice Total.
 5. Description of monthly progress detailing the amount of the services completed to date and projected completion time.
 6. Project Billing Summary containing the Contract or Agreed Maximum Fee Amount, Cumulative Amount Previously Billed, Billing Amount this Invoice, Contract or Agreed Amount Remaining, and Percent of Maximum Fee Billed to Date.

All moneys not paid when due as provided herein shall bear interest at a per annum rate equal to one percent (1%) plus the average *Consumer Price Index for All Urban Consumers (CPI-U)-U.S. City Average* for the time period in which payment is past due; provided, however, that in no event will the amount of interest to be paid by the City exceed 9% per annum.

ARTICLE V COMPLETION TIME

The Basic Services shall be completed in accordance with the following schedule:

- A. The basic services will be ready for construction bidding by December 31, 2020.

The Director of Public Works may, with the mutual consent of the parties, amend the deadlines contained in this Article by written authorization upon a showing of cause for amendment by Engineer.

The Optional Services shall be completed in accordance with the deadlines set by the Director of Public Works and accepted by Engineer at the time said Optional Services are authorized by the Director of Public Works.

ARTICLE VI INSURANCE

- A. **CERTIFICATE OF INSURANCE:** The Engineer shall secure and maintain, throughout the duration of this contract, insurance of such types and in at least the amounts that are required herein. Engineer shall provide certificate(s) of insurance confirming the required protection on an ACORD 25 (or equivalent form). The City shall be notified by receipt of written notice from the insurer at least thirty (30) days prior to material modification or cancellation of any policy listed on the certificate(s). The City reserves the right to require formal copies of any Additional Insured endorsement, as well as the right to require completed copies of all insuring policies applicable to the project. The cost of such insurance shall be included in the Engineer's contract price.

- B. **NOTICE OF CLAIM:** The Engineer shall upon receipt of notice of any claim in connection with this contract promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability. The Engineer shall also promptly notify the City of any reduction in limits of protection afforded under any policy listed in the certificate(s) of insurance in excess of \$10,000.00, whether or not such impairment came about as a result of this contract. If the City shall subsequently determine that the Engineer's aggregate limits of protection shall have been impaired or reduced to such extent that they are inadequate for the balance of the project, the Engineer shall, upon notice from the City, promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

- C. **INDUSTRY RATING:** The City will only accept coverage from an insurance carrier who offers proof that it is licensed to do business in the State of Missouri; carries a Best's policyholder rating of "A" or better; carries at least a Class VII financial rating or is a company mutually agreed upon by the City and the Engineer.

- D. **SUB-CONSULTANT'S INSURANCE:** If any part of the contract is to be sublet, the Engineer shall either:
 - 1. Cover all sub-consultants in the Engineer's liability insurance policy or,
 - 2. Require each sub-consultant not so covered to secure insurance in the minimum amounts required of the Engineer and submit such certificates to the City as outlined herein.

- E. **SELF-INSURED RETENTIONS / DEDUCTIBLES:** Any Engineer that maintains a Self-Insured Retention or Deductible (in excess of \$50,000) must be declared on the

Certificates provided to the City. Such amounts shall be the sole responsibility of the Engineer. The City reserves the right to approve such self-insured retentions/deductibles and may require guarantees from the Engineer for such assumed limits.

F. PROFESSIONAL LIABILITY: Professional Liability, or Errors and Omissions Insurance protection must be carried by Engineer in the minimum amount of \$1,000,000.

G. COMMERCIAL GENERAL LIABILITY POLICY

Limits:

Each occurrence:	\$2,000,000
Personal & Advertising Injury:	\$2,000,000
Products/Completed Operations Aggregate:	\$2,000,000
General Aggregate:	\$2,000,000

Policy must include the following conditions:

- Bodily Injury and Property Damage
- Insured Contract's Contractual Liability
- Explosion, Collapse & Underground (if risk is present)
- Additional Insured: City of Lee's Summit, Missouri

H. AUTOMOBILE LIABILITY: Policy shall protect the Engineer against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle and must include protection for either:

1. Any Auto
2. or all Owned Autos; Hired Autos; and Non-Owned Autos

Limits:

Each Accident, Combined Single Limits, Bodily Injury and Property Damage:	\$2,000,000
City of Lee's Summit, Missouri does NOT need to be named as additional insured on Automobile Liability	

I. WORKERS' COMPENSATION: This insurance shall protect the Engineer against all claims under applicable state Workers' Compensation laws. The Engineer shall also be protected against claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of a Workers' Compensation law and contain a waiver of subrogation against the City. The policy limits shall not be less than the following:

Workers' Compensation:	Statutory
Employer's Liability:	
Bodily Injury by Accident:	\$100,000 Each Accident
Bodily Injury by Disease:	\$500,000 Policy Limit
Bodily Injury by Disease:	\$100,000 Each Employee

J. GENERAL INSURANCE PROVISIONS

1. The insurance limits outlined above represent the minimum coverage limit and do not infer or place a limit of liability on the Engineer nor has the City assessed the risk that may be applicable to the Engineer.
2. The Engineer's liability program will be primary and any insurance maintained by the City (including self-insurance) will not contribute with the coverage maintained by the Engineer.
3. Coverage limits outlined above may be met by a combination of primary and excess liability insurance programs.
4. Any coverage provided on a Claims Made policy form must contain a 3-year tail option (extended reporting period) or the program must be maintained for 3-years subsequent to completion of the Contract.
5. Any failure on the part of the Engineer with any policy reporting provision shall not affect the coverage provided to the City.
6. When "City" is utilized, this includes its officers, employees and volunteers in respect to their duties for the City.

**ARTICLE VII
MISCELLANEOUS PROVISIONS**

The following miscellaneous provisions are agreed to by both parties to this Agreement:

- A. **COVENANT AGAINST CONTINGENT FEES:** Engineer warrants that Engineer has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this Agreement, and that Engineer has not paid or agreed to pay any company or person, other than bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
- B. **OWNERSHIP OF ENGINEERING DOCUMENTS:** Payment by City to Engineer as aforesaid in Article IV shall vest in City title to all drawings, sketches, studies, analyses, reports, models, and other paper, documents, computer files, and material produced by Engineer exclusively for the services performed pursuant to this Agreement up to the time of such payments, and the right to use the same without other or further compensation, provided that any use for another purpose shall be without liability to the Engineer. Any reuse without written verification or adaptation by Engineer for the specific purpose intended will be at City's risk and without liability or exposure to Engineer, and City shall indemnify and hold harmless, to the extent allowed by the Constitution and Laws of the State of Missouri, Engineer from all claims, damages, losses, expenses, including attorneys' fees arising out of or resulting therefrom.

- C. MODIFICATIONS TO AGREEMENT: In the event of any changes in the scope of services contained in this Agreement, prior to commencing the services City and Engineer shall enter into a modification of this Agreement describing the changes in the services to be provided by Engineer and City, providing for compensation for any additional services to be performed by Engineer, and providing completion times for said services.
- D. EMERGENCY CHANGES IN SERVICES: The Director of Public Works, with the consent of the City Manager, is authorized to execute on behalf of the City modification agreements as provided for in subsection C. above where there is an emergency and the overall compensation authorized in Article IV above, and any supplements or modifications thereto, is not increased. For purposes of this subsection, an "emergency" shall mean those unforeseen circumstances that present an immediate threat to public health, welfare, or safety; or when immediate response is necessary to prevent further damage to public property, machinery, or equipment; or when delay would result in significant financial impacts to the City as determined by the Director of Public Works and the City Manager.

In the event an emergency change in services is authorized by the Director of Public Works and the City Manager pursuant to this provision, the modification agreement shall be submitted to the City Council for ratification at its next available meeting.

- E. TERMINATION: In the event of termination by City, if there are any services here under in progress but not completed as of the date of termination, then said Agreement may be extended upon written approval of the City until said services are completed and accepted.
1. Termination for Convenience: The services called for by this Agreement or any supplements thereto may be terminated upon request and for the convenience of City upon thirty (30) days advance written notice. City shall pay Engineer for all services rendered up to the date of termination.
 2. Termination for Cause: This Agreement may also be terminated for cause by City or Engineer. Termination for cause shall be preceded by a fourteen-(14) day correction period effective upon delivery of written notice. City shall pay Engineer for all services rendered up to the date of termination. In the event of termination for cause by City, compensation for services rendered by Engineer up to the date of termination shall be offset by City's reasonable cost to mitigate or correct the effects of such termination.
 3. Termination Due to Unavailability of Funds in Succeeding Fiscal Years: When funds are not appropriated or otherwise made available to support continuation of the Project in a subsequent fiscal year, this Agreement shall be terminated and Engineer shall be reimbursed for the services rendered up to the date of termination plus the reasonable value of any nonrecurring costs incurred by Engineer but not amortized in the price of the services delivered under this Agreement.

- F. COMPLIANCE WITH LAWS: Engineer shall comply with all Federal, State, and local laws, ordinances, and regulations applicable to the services. Engineer shall secure all licenses, permits, etc. from public and private sources necessary for the fulfillment of its obligations under this Agreement.
- G. SUBLETTING ASSIGNMENT OR TRANSFER: Engineer shall not sublet, assign, or transfer any interest in the services covered by this Agreement, except as provided for herein and except with the prior written consent of City. The use of subcontractors shall in no way relieve Engineer of his/her primary responsibility for the services. No approval will be necessary for non-professional services such as reproductions, printing, materials, and other services normally performed or provided by others.
- H. CONFERENCES, VISITS TO SITE, INSPECTION OF SERVICES: Upon reasonable advance notice and during normal business hours at Engineer's place of business, representatives of City shall have the privilege of inspecting and reviewing the services being performed by Engineer and consulting with him/her at such time. Conferences are to be held at the request of City or Engineer.
- I. ENGINEER'S ENDORSEMENT: Engineer shall endorse all plans, specifications, estimates, and engineering data furnished by him/her.
- J. INSPECTION OF DOCUMENTS: Engineer shall maintain all records pertaining to its services hereunder for inspection, upon reasonable advance notice and during normal business hours at Engineer's place of business, by a City representative during the contract period and for three (3) years from the date of final payment for each individual project performed pursuant to this Agreement.
- K. INDEMNIFICATION AND HOLD HARMLESS: Engineer shall indemnify and hold harmless City and its officers, employees, elected officials, and attorneys, each in their official and individual capacities, from and against judgments, damages, losses, expenses, including reasonable attorneys' fees, to the extent caused by the negligent acts, errors, omissions, or willful misconduct of Engineer, or its employees, or subcontractors, in the performance of Engineer's duties under this Agreement, or any supplements or amendments thereto.
- L. LIMITATION OF LIABILITY: In no event will City be liable to Engineer for indirect or consequential damages, and in no event will City's liability under this Agreement exceed the amount to be paid to Engineer pursuant to Article IV of this Agreement.
- M. PROFESSIONAL RESPONSIBILITY: Engineer will exercise reasonable skill, care, and diligence in the performance of its services in accordance with customarily accepted professional engineering practices. If Engineer fails to meet the foregoing standard, Engineer will perform at its own cost, and without reimbursement from City, the professional engineering services necessary to correct errors and omissions that are caused by Engineer's failure to comply with above standard, and that are reported to Engineer within one year from the completion of Engineer's services for each individual project performed pursuant to this Agreement.

- N. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and any prior agreements, understandings, or other matters, whether oral or written, are of no further force or effect. This Agreement may be amended, changed, or supplemented only by written agreement executed by both of the parties hereto.
- O. CONFLICT: In the event of any conflict, ambiguity, or inconsistency between this Agreement and any other document that may be annexed hereto, the terms of this Agreement shall govern.
- P. GOVERNING LAW: This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.
- Q. OPINION OF PROBABLE CONSTRUCTION COST AND SCHEDULE: Since Engineer has no control over the cost of labor, materials, or equipment, or over contractor's(s') methods of determining prices, or over competitive bidding or market conditions, the estimate of construction cost and schedule provided for herein is to be made on the basis of Engineer's experience and qualifications and represents Engineer's best judgment as a professional engineer familiar with the construction industry, but Engineer cannot and does not guarantee that the bids or the Project construction cost or schedule will not vary from the opinion of probable construction cost and schedule prepared by Engineer.
- R. TAX EXEMPT: City and its agencies are exempt from State and local sales taxes. Sites of all transactions derived from this Agreement shall be deemed to have been accomplished within the State of Missouri.
- S. SAFETY: In the performance of its services, Engineer shall comply with the applicable provisions of the Federal Occupational Safety and Health Act, as well as any pertinent Federal, State and/or local safety or environmental codes.
- T. ANTI-DISCRIMINATION CLAUSE: Engineer and its agents, employees, or subcontractors shall not in any way, directly or indirectly, discriminate against any person because of age, race, color, handicap, sex, national origin, or religious creed.
- U. DELAY IN PERFORMANCE: Neither City nor Engineer shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions, floods, earthquakes, fire, epidemics, war, riots, and other civil disturbances, strikes, lockouts, work slowdowns, and other labor disturbances, sabotage, judicial restraint, and delay in or inability to procure permits, licenses, or authorizations from any local, State, or Federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Engineer under this Agreement. Engineer and City shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances. Should such circumstances occur, the nonperforming party shall within a reasonable time of

being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of the Agreement.

V. NO THIRD-PARTY RIGHTS: The services provided for in this Agreement are for the sole use and benefit of City and Engineer. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Engineer.

W. NOTICE: Whenever any notice is required by this Agreement to be made, given or transmitted to any party, it shall be enclosed in an envelope with sufficient postage attached to ensure delivery and deposited in the United States Mail, first class, with notices to City addressed to:

City Engineer
City of Lee's Summit
220 SE Green Street
Lee's Summit, MO 64063

Director of Public Works
City of Lee's Summit
200 SE Green Street
Lee's Summit, MO 64063

and notices to Engineer shall be addressed to:

Garver
Attn: Charles Touzinsky III
7301 West 129th Street, Suite 300
Overland Park, KS 66213

or such place as either party shall designate by written notice to the other. Said notices may also be personally hand delivered by each party to the other, at the respective addresses listed above. If hand delivered, the date of actual completion of delivery shall be considered the date of receipt. If mailed, the notice shall be considered received the third day after the date of postage.

**ARTICLE VIII
ALL OTHER TERMS REMAIN IN EFFECT**

Reserved.

THIS AGREEMENT shall be binding on the parties thereto only after it has been duly executed and approved by City and Engineer.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the ___ day of _____, 20__.

CITY OF LEE'S SUMMIT

Stephen A. Arbo, City Manager

ATTEST:

City Clerk, Trisha Fowler Arcuri

APPROVED AS TO FORM:

Nancy K. Yendes, Chief Council of Infrastructure and Planning
Office of City Attorney

ENGINEER:

Garver, LLC
BY: Scott Schuis
TITLE: Vice President

ATTEST:

Chris [Signature]

Project Title: Colbern Road – M350 Hwy to Douglas St

Type: Bridges, Streets & Signals

Activity #56932272

Project Description

This project will widen Colbern Road as a four lane facility with turn lanes, sidewalk, shared-use path, curb, and street lighting from M350 Highway to Douglas Street. Project improvements include bridge work for bicycle/pedestrian accommodations over the UPRR. The shared-use path will be extended to the existing path along Colbern Road east and west of the project limits.

Project Purpose

This project supports improved safety, operations, economic investment within the nearby area, and livability. The project is identified in the Thoroughfare Master Plan. The path is also included in the Greenway Master Plan and Bicycle Transportation Plan. Nearby roadways have been improved, including Lee's Summit Road and Blue Parkway, both of which intersect the project. Interchanges on the east and west end of the project have also been improved. Much of Colbern Road and the surrounding property was annexed by the City from Unity Village within the last decade and improvements to Colbern Road are necessary to accommodate existing traffic demand and any future property development.

Estimated Schedule

Design and Right of Way Acquisition	2019-2021
Construction	2021-2023

Funding Sources

CIP Sales Tax Renewal (2017)	\$10,000,000
Water Tap Fee	\$1,000
Total Lifetime Budget	\$11,000,000

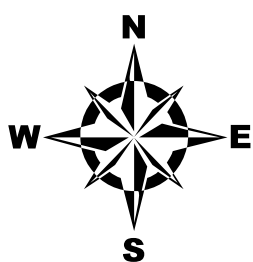
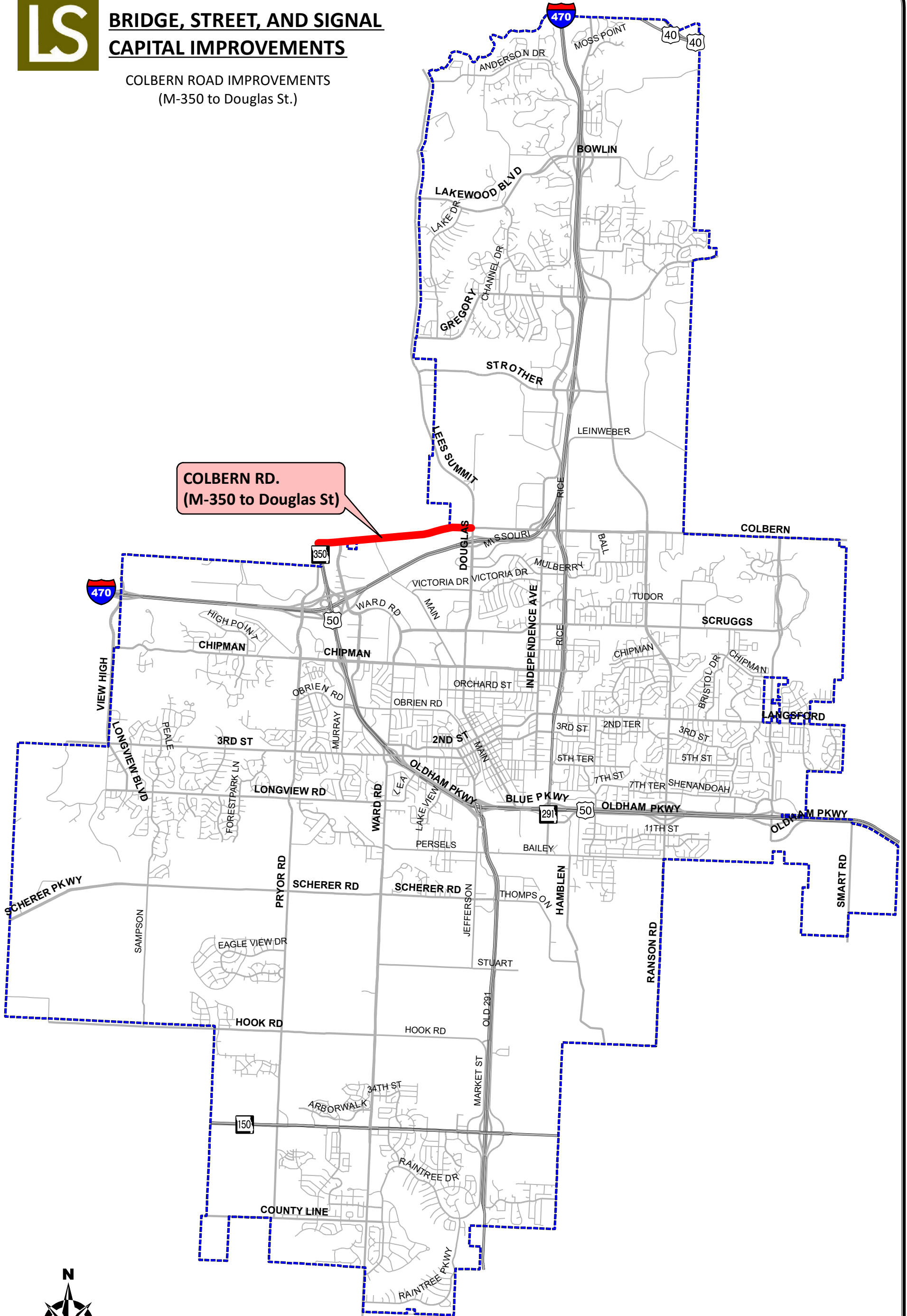
Estimated Annual Operating and Maintenance

\$35,000



BRIDGE, STREET, AND SIGNAL CAPITAL IMPROVEMENTS

COLBERN ROAD IMPROVEMENTS
(M-350 to Douglas St.)



Packet Information

File #: 2019-2531, **Version:** 2

Financial Overview of CIP Projects completed in CY 2018.

Issue/Request:

This presentation will summarize the financial status of all CIP projects closed during calendar year 2018. A brief look at ongoing and upcoming projects will also be provided.

Key Issues:

Staff has prepared a brief PowerPoint presentation to summarize project financial data.

Background:

Both the CIP project development team and construction team work very diligently to reach our goal of keeping project cost within 5% of the original contract amount. This presentation will summarize how we did for all CIP projects completed in calendar year 2018.

Impact/Analysis:

Keeping projects within budget ensures money collected for capital projects is being managed wisely.

Michael Anderson, Construction Manager



CY2018 CIP Project Report

Mike Anderson
Construction Manager
January 29, 2019

Projects with Final Change Orders

- **Street Projects**
 - Mulberry Traffic Calming
- **Pavement Maintenance Projects**
 - FY19 Surface Seal
 - FY19 Overlay
- **Water Utility Projects**
 - Highway 50 Watermain Relocation
 - FY16 Watermain Replacement
- **Airport Projects**
 - Taxiway Alpha
 - NW T-Hangers

Financial Summary of Completed Projects

	Original Cost	Final Cost	Change	% Change	Number of CO's	Change of Scope
Hwy 50 Watermain	\$623,225.18	\$687,441.40	\$64,216.22	10.30%	4 (1)	\$0.00
FY19 Overlay	\$2,735,916.58	\$2,459,560.34	-\$276,356.24	-10.10%	5	\$0.00
FY19 Surface Seal	\$1,035,886.42	\$1,072,411.56	\$36,525.14	3.53%	1	\$0.00
FY16 Watermain	\$1,578,840.00	\$1,598,122.48	\$19,282.48	1.22%	7	\$0.00
Taxiway Alpha	\$6,042,123.06	\$6,036,558.12	-\$5,564.94	-0.09%	6	\$0.00
NW T-Hangars	\$2,152,856.05	\$2,560,854.37	\$407,998.32	18.95%	4 (1)	\$395,084.44
Mulberry Traffic Calming	\$28,322.65	\$28,700.40	\$377.75	1.33%	2	\$0.00
Totals - with Change of Scope	\$14,197,169.94	\$14,443,648.67	\$246,478.73	1.74%	29	\$395,084.44
Totals - w/o Change of Scope	\$14,197,169.94	\$14,048,564.23	-\$148,605.71	-1.05%	28	\$0.00

Projects Currently Underway

1 of 2

- **Street Projects**

- Gateway Drive
- Woods Chapel / Channel Dr Signal
- Commerce Dr
- Ward Road – Tudor to Blue Parkway
- Ward Road – County Line to 163rd
- Langsford Road Culvert Rehab

- **Pavement Maintenance Projects**

- FY19 Crack Seal
- FY19 Curb Replacement

Projects Currently Underway

2 of 2

- **Water Utility Projects**

- FY17/18 Watermain Replacement
- Winterset Woods Sanitary Sewer Interceptor
- SCADA Upgrade
- Anode Pilot Project

- **Facilities**

- Fire Station #3

Financial Summary of Ongoing Projects

	Original Cost	Current Cost	Change	% Change	Number of CO's	Change of Scope
Gateway Dr	\$604,357.68	\$604,959.68	\$602.00	0.10%	2	\$0.00
WCR Signal	\$238,862.89	\$238,862.89	\$0.00	0.00%		\$0.00
Commerce Dr	\$820,378.70	\$820,378.70	\$0.00	0.00%		\$0.00
FY19 Curb Replacement	\$1,529,802.48	\$1,544,352.48	\$14,550.00	0.95%	1	\$0.00
FY19 Crack Seal	\$131,950.00	\$131,950.00	\$0.00	0.00%		\$0.00
FY17/18 Water Rehab	\$2,313,313.00	\$2,371,953.80	\$58,640.80	2.53%	3	\$0.00
Ward Rd - Tudor to Blue	\$1,556,276.75	\$1,556,276.75	\$0.00	0.00%		\$0.00
Ward Rd - CL to 163	\$3,979,743.10	\$3,979,743.10	\$0.00	0.00%		\$0.00
Langsford Road Culvert	\$269,372.05	\$269,372.05	\$0.00	0.00%		\$0.00
Winterset Woods Sanitary	\$1,174,488.00	\$1,174,488.00	\$0.00	0.00%		\$0.00
Fire Station #3	\$5,517,612.49	\$5,517,612.49	\$0.00	0.00%		\$0.00
Anode Pilot Program	\$203,997.00	\$203,997.00	\$0.00	0.00%		\$0.00
SCADA	\$396,855.14	\$420,405.66	\$23,550.52	5.93%	2	\$0.00
Totals	\$18,737,009.28	\$18,834,352.60	\$97,343.32	0.52%	6	\$0.00

Projects to Start in CY2019

1 of 2

- **Street Projects**

- Hook Road Shoulders
- Independence / Town Center RAB
- Third Street, Pryor to Murray ?

- **Stormwater Projects**

- Pine Tree Village
- Streambank Stabilization Projects

Projects to Start in CY2019

2 of 2

- **Pavement Maintenance Projects**

- FY20 Crack Seal
- FY20 Surface Seal
- FY20 Curb Replacement
- FY20 Overlay

- **Water Utility Projects Projects**

- New Watermain – Harris to Haines
- FY19 Watermain Rehabilitation
- Cedar Creek Interceptor III
- Sanitary Sewer Rehabilitation

Questions?

Packet Information

File #: 2019-2536, **Version:** 1

License Tax Review Committee Annual Report for FY2018

Issue/Request:

[Enter text here]

Key Issues:

- City Ordinance 4592, Sections 28-175 through 28-123 in Code of Ordinances, Requires annual License Tax Report
- FY18 year end fund balance was \$4.630 million
- SE Browning Street project programmed for \$1.43 million in FY19 Capital Improvement Plan
- Development activity is starting to trend downward

Background:

The attached presentation provides a summary, as required by ordinance, of the License Tax Review Committee's meeting of November 29, 2018. More detailed background information is included License Tax Review Report to Council.

The License Tax Committee made recommendations to update the City's License Tax Ordinance, add NW Main Street improvements to the FY2020 Capital Improvement Plan, and make no changes to the current fees. The changes to the ordinance would address two issues. Several sections adopted in 1997 and 2010 are now outdated or expired. For clarity, those sections should be deleted. City staff has received development applications that will generate traffic, but the current ordinance does not clearly describe how City staff calculates the traffic to be generated by those developments with unusual characteristics. The Institute of Transportation Engineers (ITE) Trip Generation Manual has undergone significant changes that will allow more accurate calculations of traffic generated by new development. The new ITE manual accounts for many more types of land uses based on more recent data collection this includes changes due online commerce. Modifying the definition will cite the specific technical reference to be used in those cases.

Impact/Analysis:

The ordinance changes will improve clarity of the ordinance and address several issues that have confused applicants in the past. Impacts of fees and project programming will be discussed in the presentation.

George Binger III, P.E., Deputy Director of Public Works/City Engineer

LS

License Tax Update for FY 2018

January 29, 2019

Agenda

- o License Tax Background
- o Summary of Report to License Tax Review Committee
- o Committee Comments
- o Committee Recommendations
- o Request for Council Guidance

License Committee Members

Composition of 5-member License Tax Review Committee as Established by Ordinance

- o Chair: Public Works Committee Chairman – Craig Faith
- o Two Citizens of Lee's Summit appointed by Mayor – Cynda Rader and Karl Blumenhorst
- o One local developer appointed by Mayor: Glen Jones
- o One City Staff Member: Dena Mezger, Dir. of Public Works

License Tax Background

- o City Ordinance 4592
 - o Sections 28-175 through 28-123 in Code of Ordinances
 - o Adopted March 17, 1998
 - o Amended 2007, 2015, 2016 and 2018
- o Tax paid by development activity
 - o Building permit, and/or
 - o Creates additional traffic / vehicle trips
- o Tax used for “streets and related improvements”

License Tax Background

- o License Tax Administrator: Director of Finance, or designee
- o Implementation Team:
 - o City Traffic Engineer, Codes/Plans Examiner
- o Annual Review Required by Ordinance
 - o Finance: Report revenues
 - o Planning: Report building permit activities
 - o Public Works: Report status of road construction projects
 - o Recommendations regarding rates
- o License Tax Committee “shall review Staff’s Annual Report and forward comments to the Council”

Excise Tax Project Status

Status of Projects Underway

SE Browning Street	<ul style="list-style-type: none"> • Funded in FY19 CIP; Consultant Selection Underway • Design and right of way acquisition in 2019 • Construct in 2020
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Projects Completed from Initial 1997 Program

Blackwell Pkwy (Langsford to Colbern)	Pryor Rd (Longview to Chipman)
Chipman Rd (US 50 to M-291)	Scruggs Rd (M-291 to Blackwell)
Independence Ave (Tudor to Colbern)	Todd George Pkwy (McKee to Tudor)
Langsford Rd (Todd Geo. to Blackwell)	Ward Rd (M-150 to Scherer)
Longview Pkwy (Longview to 3rd)	5 th Street (Grand to M-291)
Longview Rd (Sampson to Ward)	Woods Chapel Rd (1-470 to East City Limits)

Current Tax Rates

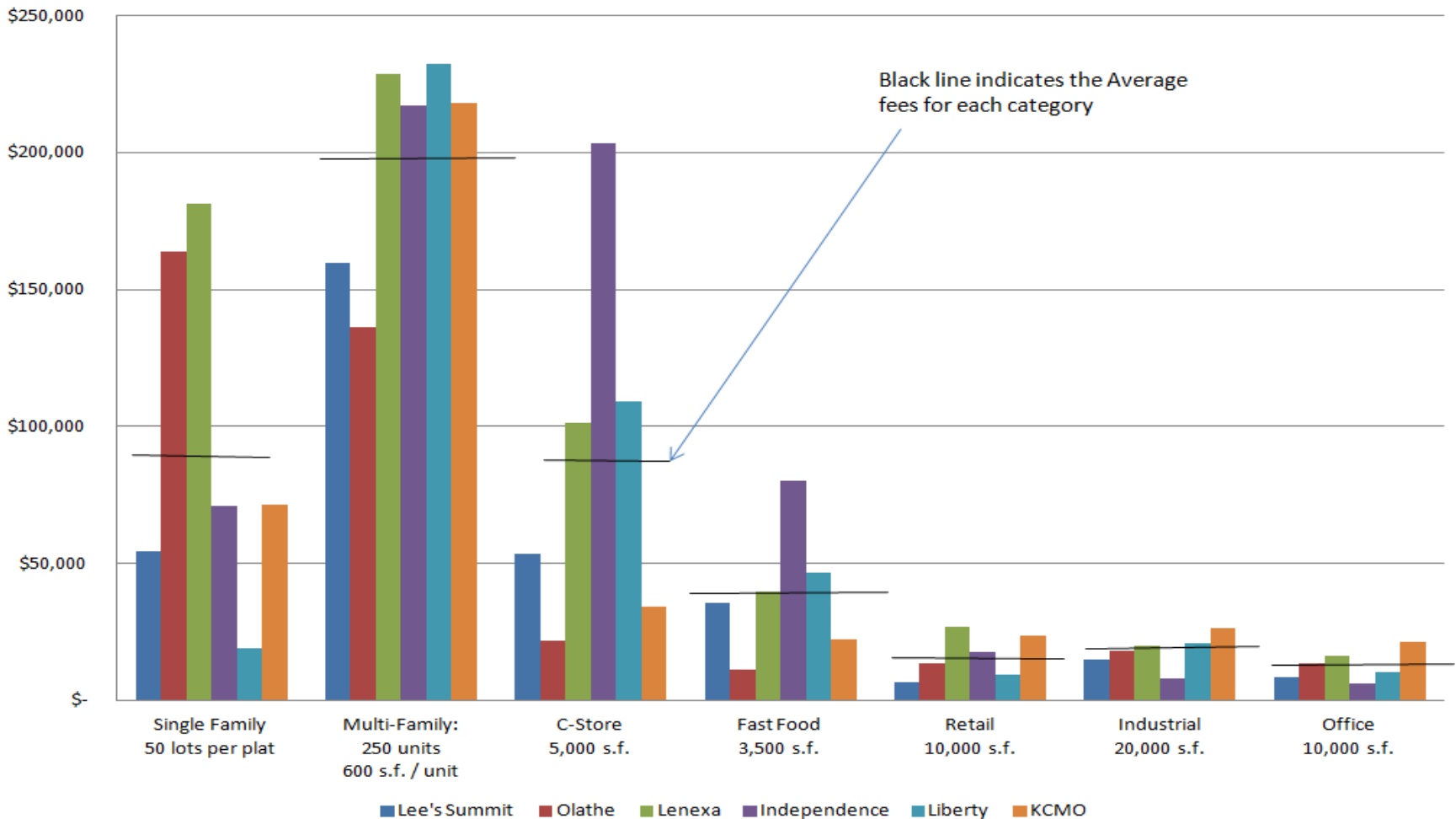
Land Use Category	License Tax Rate
Residential	\$1,088 per residential unit
Manufacturing / Industrial	\$1,000 per new trip
Commercial	\$ 750 per new trip

Notes regarding Rates:

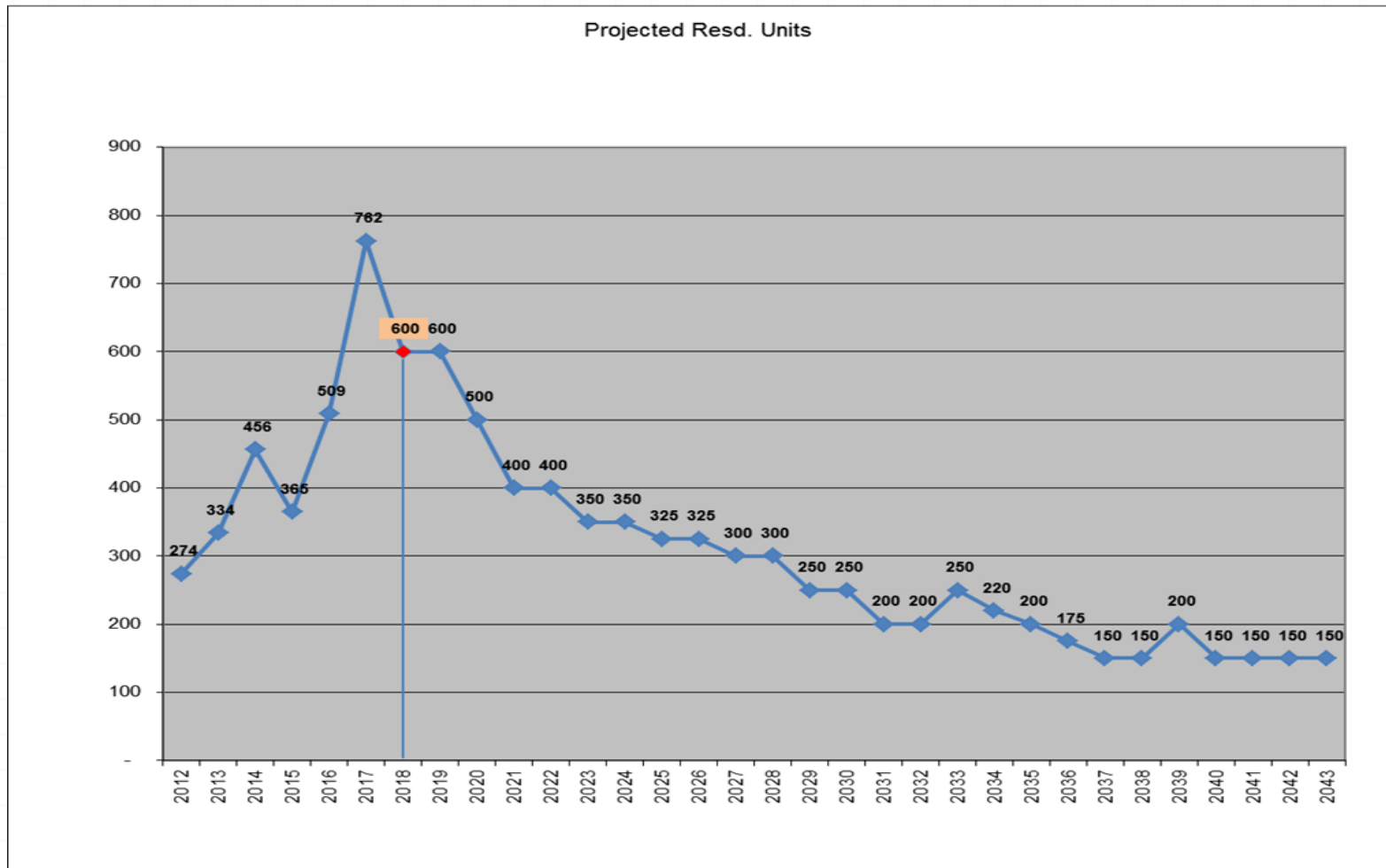
- o Maximum rate \$2,116 approved by voters in 1997
- o Relatively low compared to KC Metro area

Current Rates Comparison

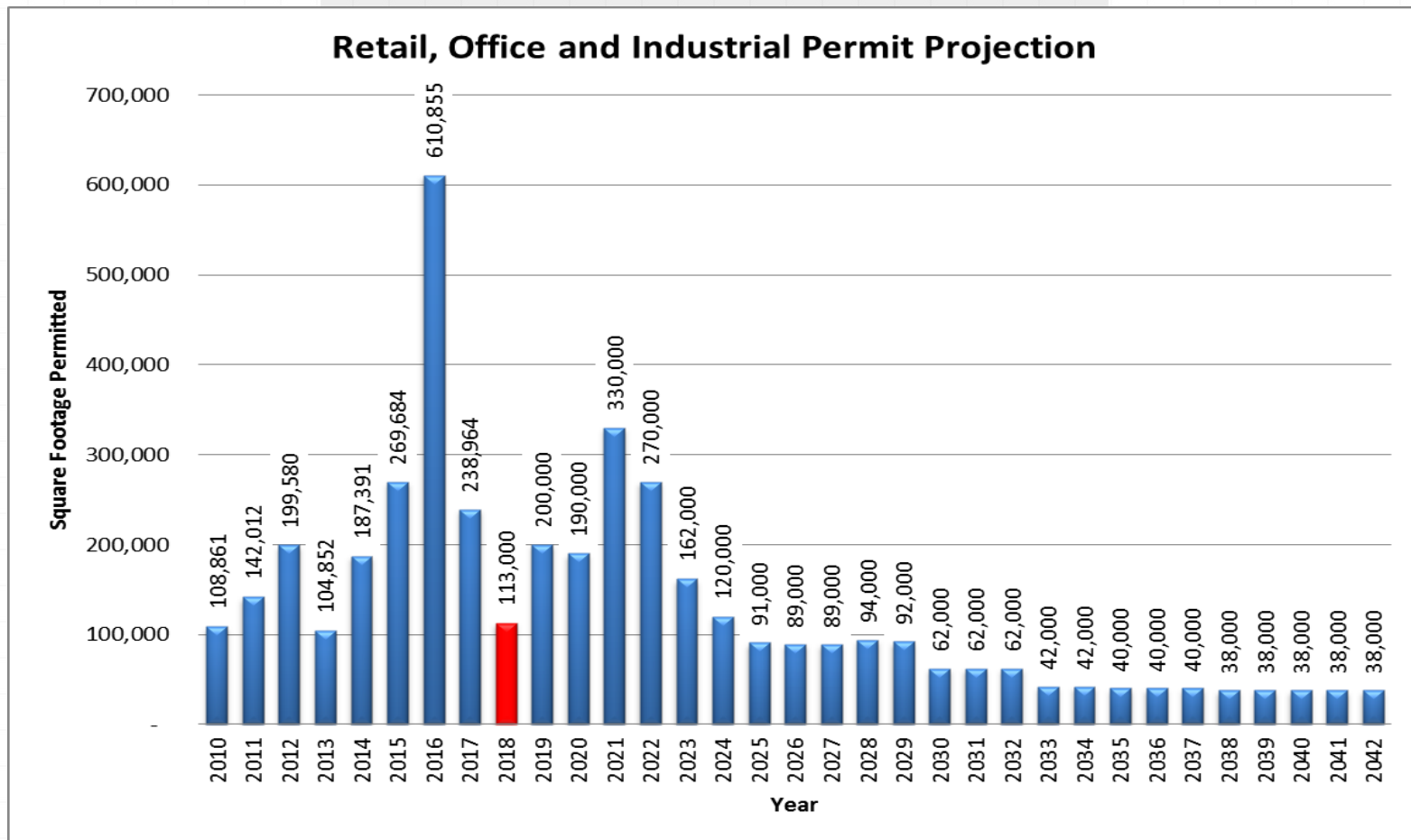
Comparison of Typical License Tax Revenues for a Project in the KC Metro Area
Categorized by Type of Land Use



Residential Building Permits



Retail, Office & Industrial Building Permits



Fund Balances

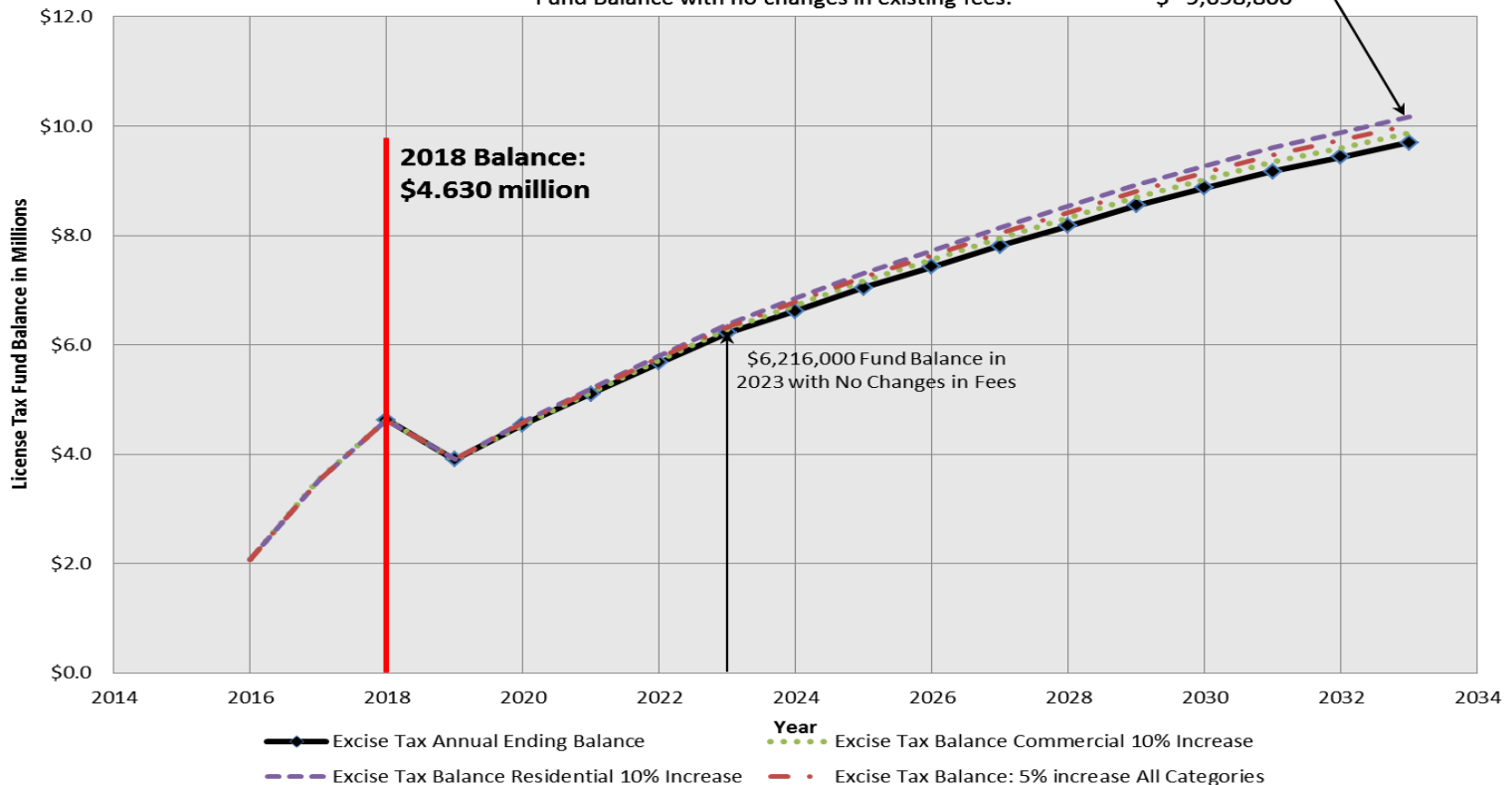
Year	Annual Revenue	Fund Balance
FY 2018	\$1,106,761	\$4.630 million
FY 2019	\$ 700,633	\$3.900 million*
FY 2020	\$ 639,125	\$4.539 million
FY 2021	\$ 593,112	\$5.103 million
FY 2022	\$ 568,335	\$5.671 million

*Note: FY19, and following, Fund Balances include a reduction for \$1.4M allocated to the SE Browning Street Project

License Tax Fund Balance Projections

Comparison of Total License Tax Fund Balance Scenarios Tax Balance

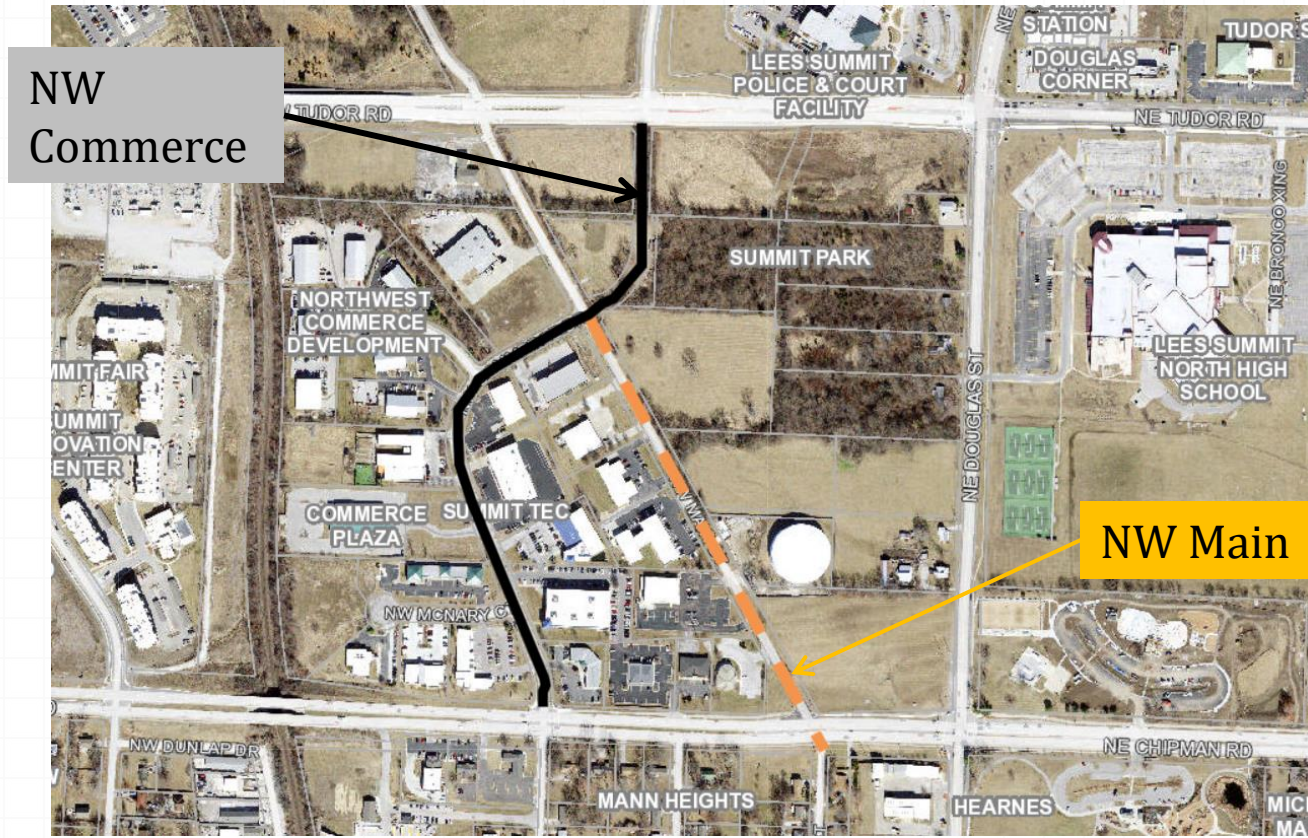
Fund Balance with 10% Residential Fee Increase in FY2020: \$10,162,200
 Fund Balance with 5% Across the Board Increase in FY2020: \$10,015,300
 Fund Balance with 10% Commercial Fee Increase in FY2020: \$ 9,871,700
 Fund Balance with no changes in existing fees: \$ 9,698,800



Ordinance Clarifications

- o “... requests a building permit for which a plat application was approved ... on or before December 31, 1997...”
- o “From April 1, 2010 through April 1, 2011, any building contractor that requests ...”
- o Section 28-179, Calculation of license tax, does not provide clear language to use the updated ITE Trip Generation Manual to calculate fees for many differing types of land uses

Recommended Project: NW Main Street



Approx. 1,525 feet; Commercial Collector; \$1.10 million

License Tax Review Committee Recommendations

1. Projects eligible for license tax funding should be limited to projects indentified in the City's Thoroughfare Master Plan.
2. Manage fund on cash-flow basis; no debt-financing
3. Committee moved and voted no changes to current rates
4. Committee moved and voted to add the construction of NW Main Street improvements extension to the FY19 CIP
5. Committee voted unanimously to update ordinance to clarify fee calculations and remove outdated sections

Request for Guidance

- o Comments on FY 2019 Recommendations
- o Re-affirm project selection criteria
- o Program projects to build (NW Main)
- o Proceed with administrative updates to ordinance
- o No change in rates



LEE'S SUMMIT MISSOURI

License Tax Review Committee Annual Report for FY2018

January 22, 2019

EXECUTIVE SUMMARY

City staff presented the FY2018 update to the License Tax Review Committee on November 29, 2018. This report presents the discussion and recommendations from the Committee. The discussion and data is based on information before the announcement by PRI to sell large parcels of land in Lee's Summit.

Current Status

- The License Tax is a fee for new development or re-development activity that increases traffic
- The City must spend funds received on transportation projects
- The License Tax Fund current balance is \$4.630 million
- Maximum rate approved by voters in 1997 was \$2,116 per residential unit
- Current rates are: \$1,088 per Residential unit;
\$1,000 per trip for Manufacturing/Industrial; \$750 per trip for Commercial
- Several sections of the ordinance adopted in 1997 and 2010 are outdated and confusing
- The ordinance does not clearly define how to calculate fees for some land uses

Projections

- The analysis and presentation occurred before the PRI announcement to release large tracts of land for sale
- Building permit activity reached a peak in 2016-18
- Future years will see declining License Tax revenues due to declining development activity
- \$9.699 million is the projected fund balance in 15 years

Committee Guidance

- Projects funded by the License Tax should be limited to projects identified in the City's Thoroughfare Master Plan (TFMP)
- Projects should exclude site specific projects such as adding a turn lane or signal required by one developer or landowner to complete a project
- Projects that remove impediments to future commercial or industrial development are the preferred use of this fund
- The License Tax funds should continue to manage cash flow so that projects are funded on a pay as you go basis

Actions

- Committee voted unanimously to program into the FY20 CIP NW Main Street to connect from NW Chipman to NW Commerce
- Committee voted unanimously to revise the ordinance to remove outdated sections and to clarify the calculation of fees for all types of development

Background

The license tax, or sometimes called excise tax, was adopted by voters in November 1997 and then adopted by Ordinance No. 4592 on March 17, 1998. The provisions of the license tax ordinance are found in Sections 28-175 through 28-183 of the City’s Code of Ordinances. The tax is administered by City staff subject to the oversight of the License Tax Committee. The ordinances established the Finance Director as the License Tax Administrator and designated the City Traffic Engineer and a Plans Examiner as part of the implementation team.

The license tax uses a formula based on the additional traffic created by development to calculate the fee for each project. The license tax helps to fund the expansion of the City’s street system needed to support traffic generated by new development. Funding is not intended to benefit site specific improvements, but the overall street network in all areas of the community. The tax is paid when building permits are issued for residential construction or when the certificate of occupancy is issued for commercial and industrial development.

The tax has been used to fund road projects identified in the Thoroughfare Master Plan (TFMP). The master plan has been updated on a regular basis to adjust for changing development patterns, traffic conditions, and updated projections. The original projects proposed in 1997 were identified in the 1995 TFMP, and those projects were completed by 2011. The TFMP was updated in 2005 and 2017. TFMP updates, increasing License Tax fund balances, and increased traffic demands caused by new developments created a need to evaluate new projects to be funded from the License Tax program. New projects recommended by the License Tax Committee can be added as part of annual Capital Improvement Planning process so that projects can be vetted through the public hearing process at Planning Commission and funded through the City Council budgetary process. This was the process used to add SE Browning Street to the FY 2019 Capital Improvement Plan. A detailed list of the projects funded using the License Tax is presented in Appendix A.

The current tax rates are shown in Table 1. The current rates are below the \$2,116.00 rate that was authorized by voters when the tax was adopted in 1997, so rate adjustments below that amount do not require voter approval. The current rates include across the board increases in 2007 and 2015 of 3% and 5%, respectively, a 10% rate increase on non-residential development in 2016, and a 5% rate increase on non-residential development in 2018.

Table 1: License Tax Rates for 2018-19 (FY19)

Land Use Category	License Tax
Residential	\$1,088 per new trip
Manufacturing / Industrial	\$1,000 per new trip
Commercial	\$ 750 per new trip

Current Status and Projections for Future Revenues

The City issued 762 permits for residential dwelling units in 2017, which was significantly more than the 509 permits issued in 2016. 2017 is projected to be the peak activity based on land currently available for development. This peak is included multi-family units currently under construction.

2018 and 2019 projections estimate 500 to 600 residential permits. Starting in 2020-21, the residential construction activity is expected to gradually decline over the next 10 years. Activity is expected to be equal or greater than 400 residential units per year for the next 3 to 5 years.

Growth may flatten sometime after 2022 because new construction is expected to use most of the existing inventory of platted land or easily developable land. Work beyond those years will become more difficult to develop due to the increased infrastructure costs associated with more challenging land areas. Figure 1 shows the building permit projections for residential units.

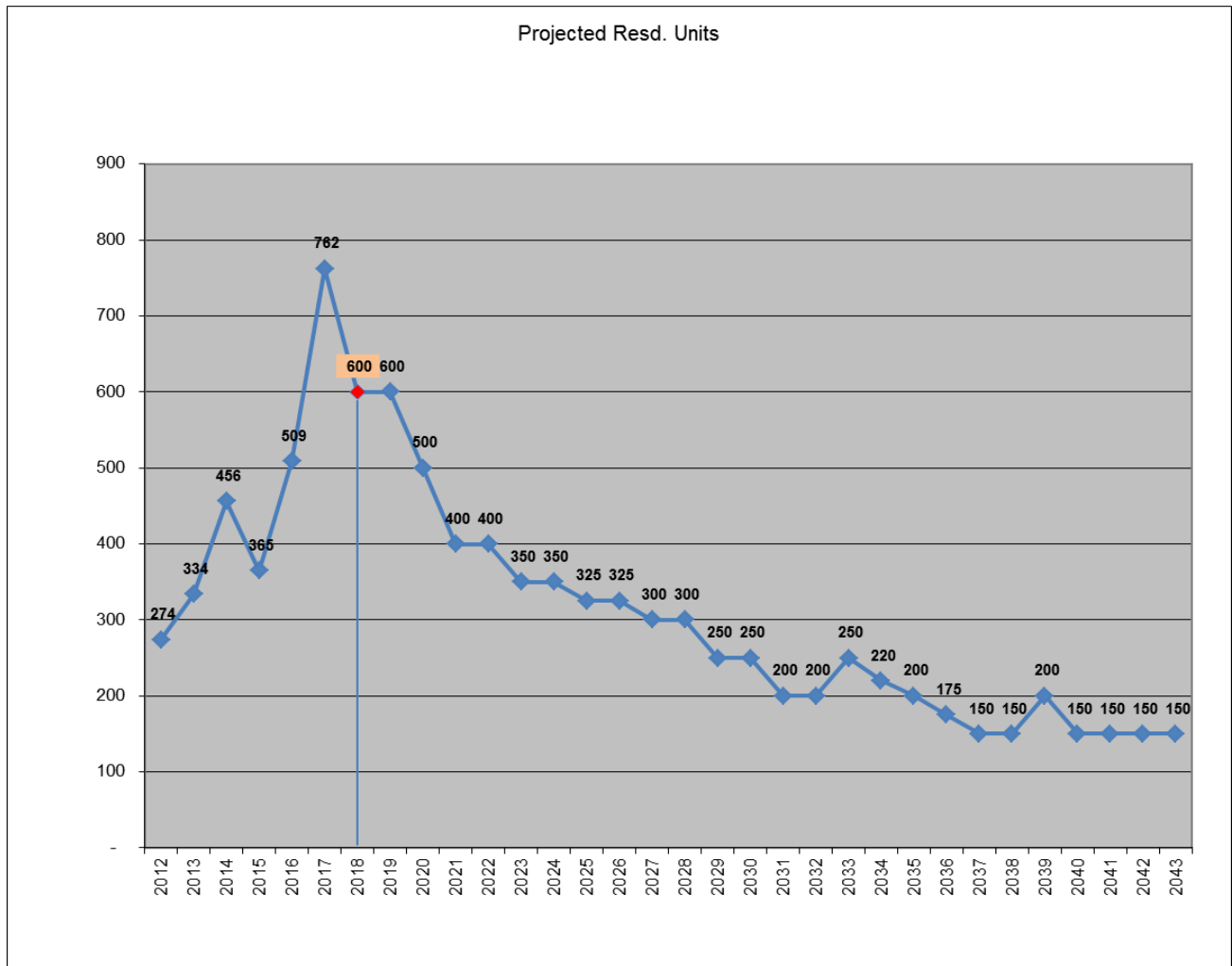


Figure 1: Projected Number of Residential Building Permits.

Commercial and industrial permitting is reported based on the square footage of buildings added to the City's existing inventory. 113,000 square feet were permitted in 2017, which is significantly less than the 610,855 square feet permitted in 2016. Office and Industrial permit volumes in 2017 were each about 80% of the square footage permitted in the previous year.

Commercial and industrial is forecast to be lower this year, move up for two to four years, and then decline gradually starting in 2023. Commercial square footage construction is expected to be less than 150,000 square feet per year starting in 2023. The peaks and downward trends are shown in Figure 2.

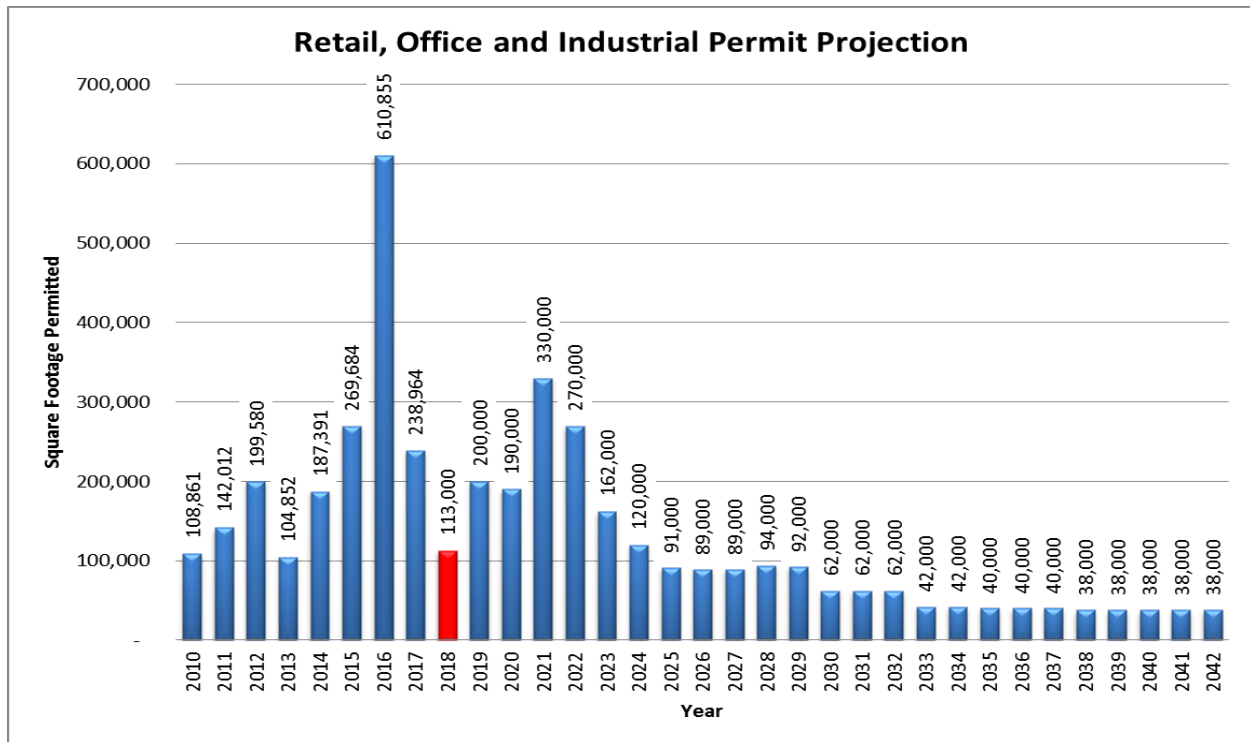


Figure 2: Projected Square Footage of Retail, Office and Industrial and Building Permits.

The total number of permits forecast is expected to be achieved because permit estimates are based on land area. The actual timing of the permit activity is more difficult to forecast. For example, a project development expected to start in 2018 may be delayed a few months, which would push the permit, and thus the revenues, into 2019. The City still receives the revenues, but the timing will change. City staff has conservatively projected permits. The unpredictable timing and changes in projects may change the building footprint or use of a site, and thus change the license tax fee. Only known projects were considered for the next 2 to 4 years. Additional projects are likely to occur, but no such hypothetical projects were counted in the forecast.

The license tax generated \$1,106,761 of revenue for FY 2018 to yield a year-end balance of \$4.630 million. Based on currently active development projects, FY 2019 license tax revenues are forecast to be about \$700,633 by the end of this fiscal year for June 30, 2019. \$1.430 million of license tax funding is currently programmed in the Capital Improvement Plan (CIP) to construct SE Browning Street. The current balance, plus expected revenues, less the programmed money would create a projected available fund balance of about \$3.900 million available for spending in FY2020. Detailed revenue tables can be found in Appendix C. Based on current tax rates, revenues are expected to create a fund balance exceeding \$6.216 million in 2023.

Administrative Issues

The current ordinance includes language that is either outdated or confusing to applicants. City staff recommends modifying the ordinance to delete the outdated or expired sections of the ordinance. For example, several paragraphs outline tax exemptions for work initiated before December 31, 1997 would be deleted.

Analysis

The current fund balance is sufficient to fund projects currently identified in the Thoroughfare Master Plan (TFMP). Examples of projects that could be funded now are a traffic signal with turn lane improvements at SE Hamblen and Bailey Roads; SW Longview Boulevard from Longview Road to Scherer Road; NE Chipman Road between Todd George Parkway and Bristol Drive; NW Pryor Road from I-470 north to Colbern Road; SW Pryor Road from County Line Road to M-150; SW Hook Road City Limits to Ward Road. Allocation of funds could support a single arterial road project, multiple smaller projects, or augment other funding sources to supplement very large projects.

The excise tax rate changes since 1997 have been relatively low, so the real value of funds collected has been declining due to inflation. However, the combined License Tax, sales taxes dedicated to transportation, bond issues, and special assessment districts have been sufficient to improve the City's road networks in accordance with adopted goals and policies.

Table 2 shows the historical license tax rates compared to values adjusted for inflation. Consumer inflation is based on annual adjustments to the Consumer Price Index (CPI) published by the Department of Labor. Construction inflation is based on annual adjustment to the 1993 Construction Cost Index (CCI) published by RS Means.

Table 2: Comparison of Actual License Tax Rates to Original 1998 Rate Adjusted for Consumer Price Inflation and Construction Cost Inflation

Year	Actual Residential License Tax Rate	Residential Rates Adjusted for CPI	Residential Rates Adjusted for CCI	Max. Rate Allowed by 1997 Election
2018	\$1,088.00	\$1,453.00	\$1,877.00	\$2,116.00

The current License Tax for residential rates lags 33% below the CPI and 73% below the CCI. The existing ordinance allows for increasing the License Tax rate to \$2,116.00, which would exceed the rates adjusted for inflation. So rate adjustments less than the voter-approved threshold can be approved by City Council without requiring a citywide public vote. Appendix C presents license tax rates adjusted for CPI data and CCI data in comparison with the actual license tax rates.

Based on recent comments by the Committee, they desired to raise rates as one-time events in 2015 and 2018 in efforts to capture revenue associated with new non-residential development without adversely affecting development activity. As seen in Figures 1 and 2, development activity increased significantly, which would indicate the license tax rate increases did not have a negative impact on the overall development activity. Reduced rates in 2011 did not increase local development activity during the recession years. Based on those observations, City Staff's assessment is that (a) regional and national economies have a greater effect on development activity than the license tax rates, and (b) small changes in those rates have not altered development activity.

After funding SE Browning Street, the remaining accrued balances in FY19 will be sufficient to support additional transportation projects for which the combined costs are less than \$4.0 million. Funds would allow programming up to \$6.2 million into the CIP over the next five years.

Based on the current fund balance, and the projected multi-million dollar fund balance building over the next 5 to 10 years, consideration should be given to programming money so that a plan is in place to spend the money. The City should avoid building too large of an unallocated balance to avoid potential issues related to the Hancock Amendment which prohibits collecting excessive fees. Planning ahead would also reduce the risk of hastily choosing work that may be hard to fit the Committee’s general guidance for project selection. The project lists are also subject to annual reviews so projects programmed beyond the current fiscal year can easily be deferred, removed, replaced, change the scope, or other actions to adjust to future changes in the City.

An example list of projects potentially eligible for funding is shown below. City Staff would ask the Committee to consider discussion of road projects for inclusion in the City’s 5-year Capital Improvement Plan, similar to the process that authorized funding for SE Browning Street.

Potential Future Projects for Consideration			
Project	TFMP*	Multiple Developments?	Budget Estimate
Main Street: Chipman Road to Commerce Drive	Yes	8 Commercial plus undeveloped	\$1.1 M
SE Hamblen and Bailey Road Signal and Intersection	Yes	17 commercial 6 residential	\$850,000
SW Longview Boulevard from Longview Road to Scherer Road	Yes	11 residential plus undeveloped	\$2.8 M
NE Chipman Road between Todd George Parkway and Bristol Drive	Yes	7 residential plus undeveloped	\$3.1 M
NW Pryor Road from I-470 north to City Limits (interim road standard)	Yes	undeveloped	\$1.2 M
SW Pryor Road from County Line Road to M-150 (interim road standard)	Yes	3 residential plus undeveloped	\$3.0 M
SW Hook Road from City Limits to Ward Road (Can be phased; possible CIP Sales Tax candidate)	Yes	4 residential plus undeveloped	\$10.3 M

*TFMP = 2017 Thoroughfare Master Plan

Committee Comments, Questions and Discussion

The Committee asked several questions regarding prioritizing projects. City Staff presented the list of projects as illustrations of the types of projects that could be considered. Committee members generally discussed the concept of using transportation projects to set the stage for future development that could also generate additional revenue. The concept was future improvements by Developers would generate license tax fees that could partially offset the cost of construction. One of the main goals of a project should be to remove impediments to development. The priority of license tax funding should help open up land for commercial or industrial development. Multi-family housing could be second-tier priority for funding.

The Committee identified two types of projects that should not be funded from the license tax fees. New road construction should not be used to promote future single family housing developments, and then funds should not be used to retrofit existing sites to alleviate current traffic issues.

The Committee moved to fund a new project for design and construction based on the priorities discussed and available fund balance. That project is improving NW Main Street between Chipman and Commerce. That section of NW Main will be the only section of unimproved streets in an area zoned for planned industrial, commercial and office. This would help this area because significant infrastructure improvements along Douglas Street would be required. This project would intersect with the NW Commerce Drive extension from Main to Tudor that is currently under construction. The Commerce Drive project is installing the roadway and sewer main along Commerce to remove some of the impediments to development in this area. It should also be noted that these projects provide access to land currently owned by the City.

In regards to rates, the Committee and City Staff discussed the current fee structures. Significant changes in the retail market have changed how often people travel to certain locations. For example, online banking has significantly reduced the number of trips to a drive-through bank. Online shopping has reduced trips to the retail stores but increased delivery truck traffic. Stores such as QuikTrip, HyVee, etc. have changed from a C-store/grocery store to an all-encompassing one-stop shop. These changes in purchasing habits and retail cause the ITE to significantly change how the Trip Generation Manual calculates traffic. In most cases, the trips generated per type of land use have gone down, but ITE greatly expanded the types of land uses that can be used to calculate the number of vehicle trips and added alternate ways other than building area to calculate vehicular traffic for the site. For example, the C-store was split into many different types of C-stores, or movie theaters were subdivided into numbers of screens or amenities offered at the theater; can estimate bank traffic using the number of drive through lanes or building area; office traffic could use building area or number of employees; etc.

City Staff and the Committee discussed the language in the ordinance. Several sections have specific dates, such as "... if submitted before March 31, 1999..." then the fees are calculated differently. Also, the method of calculating fees does not necessarily encompass all of the new land uses provided in the trip generation manual. For example, uses such as an open air market will generate a large amount of traffic, but have no building or a very small accessory building for storage or concessions that does not match the primary use of the site. These cases are rare exceptions, but adding language in the ordinance that references the ITE Trip Generation Manual would clarify how to calculate traffic for any and all types of land use that generate traffic.

The Committee did not express a desire to make changes in the current fees. One of the Committee statements was that fees should not be change for the sake of changing; there should be some goal or rationale behind adjusting fees. However, the topic of fees should continue to be discussed annually.

Summary of Committee Recommendations from FY 2018 Report

The Committee re-affirmed the following guidance for the License Tax Program:

- A. Projects eligible for license tax funding should be limited to projects identified in the City's Thoroughfare Master Plan (TFMP)
- B. License tax funding should be managed on a cash-flow basis, and not used for debt financing
- C. Projects should exclude site specific projects required by one developer or landowner to complete a project
- D. Projects funded from the license tax funds should be prioritized to support new roads that remove impediments to development for non-residential developments

Last year the Committee recommended the following and City Council Approved the following:

- Add SE Browning Street extension to connect Oldham Parkway to Hamblen Road
- Increased non-residential rates by 5%

This year the Committee recommended the following and City Council Approved the following:

- Add NW Main Street improvements between Chipman Road and Commerce Drive
- Make no changes to current fees
- Update the ordinance to remove outdated items and clarify how rates are calculated

Committee and City Staff Actions

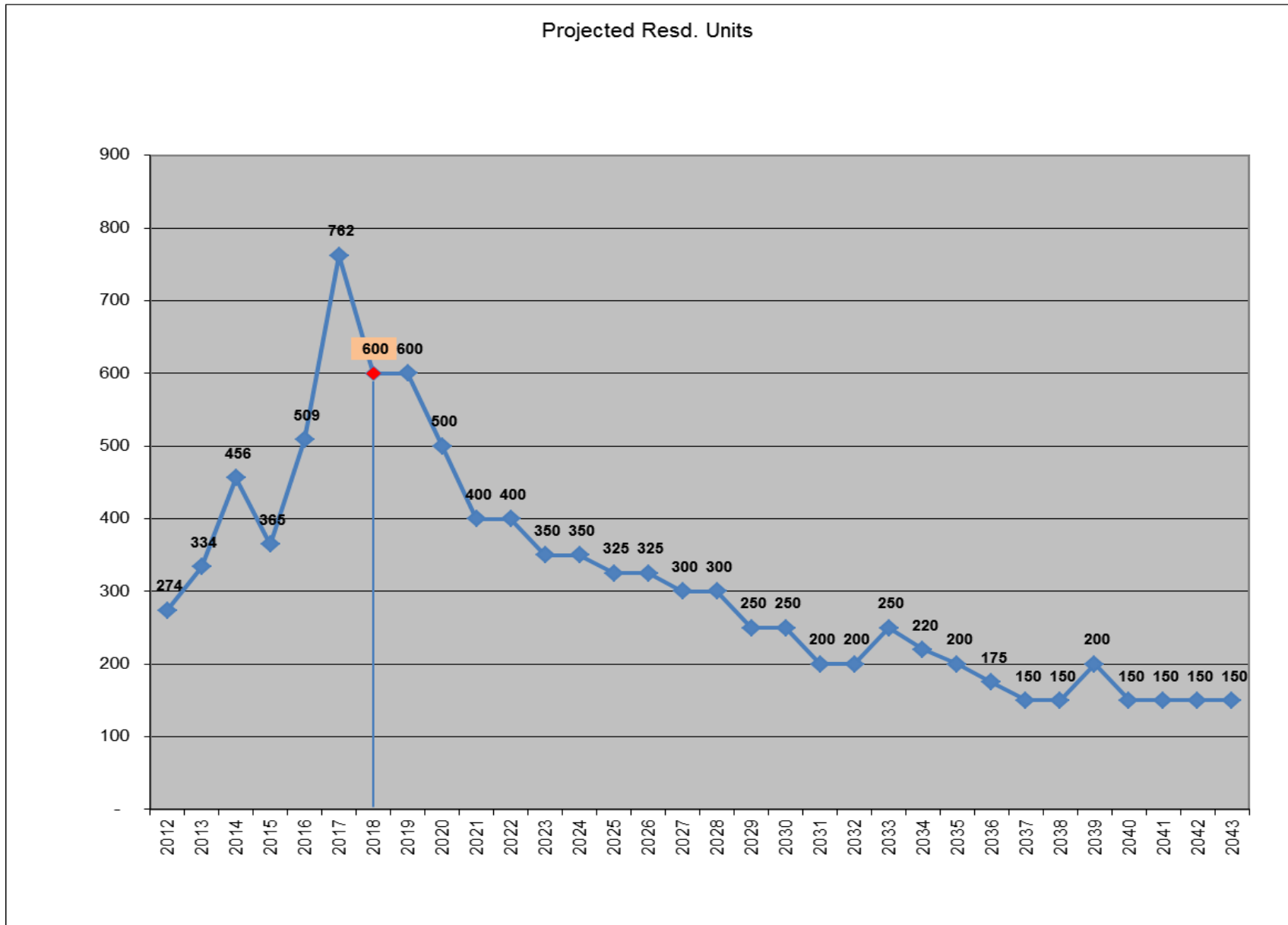
For reference, the November 29, 2019 action letter from the Committee is enclosed as Appendix D. The License Tax Review Committee voted unanimously to program NW Main Street into the FY2020 CIP, directed staff make administrative changes and clarifications to the ordinance. Based on that action, City staff will (a) programmed SE Browning into the FY2019 Capital Improvement Plan for review and adoption by Council; and (b) drafted a revised license tax ordinance for Council consideration that incorporates the recommended administrative changes.

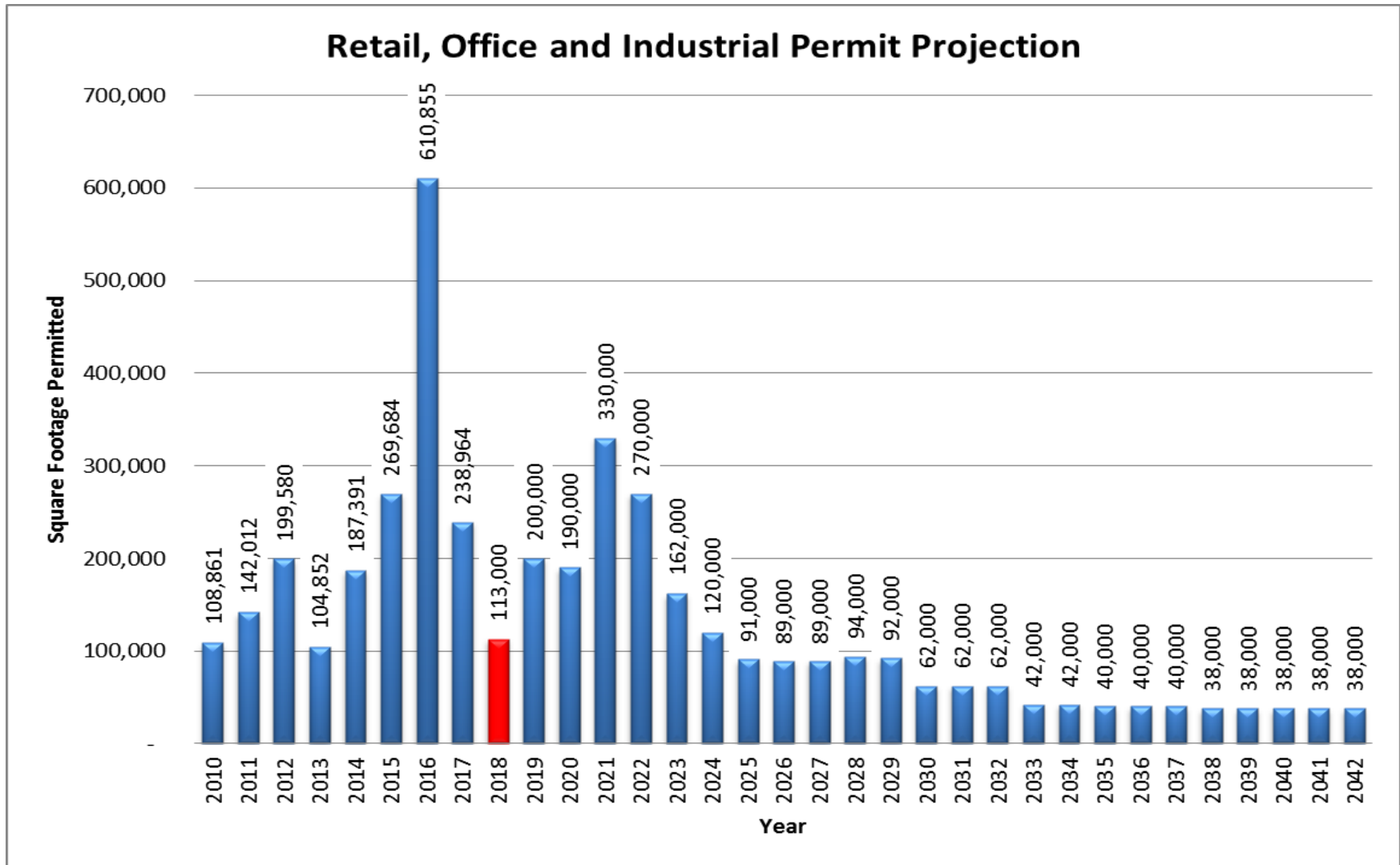
APPENDIX A to FY2018 LICENSE TAX REPORT: Transportation Project Completed as Part of the License Tax Program Adopted in 1998

Transportation Projects Completed with Use of License Tax Funds	
Blackwell Pkwy (Langsford to Colbern)	Pryor Rd (Longview to Chipman)
Chipman Rd (US 50 to M-291)	Scruggs Rd (M-291 to Blackwell)
Independence Ave (Tudor to Colbern)	Todd George Pkwy (McKee to Tudor)
Langsford Rd (Todd Geo. To Blackwell)	Ward Rd (M-150 to Scherer)
Longview Pkwy (Longview to 3 rd)	5 th Street (Grand to M-291)
Longview Rd (Sampson to Ward)	Woods Chapel Rd (1-470 to East City Limits)
SE Browning Street (Oldham to Hamblen) <ul style="list-style-type: none"> • Added to CIP in FY 2019 • Design in 2019 • In process to select design consultant • Due required interaction with Union Pacific Railroad, construction likely in 2020-21 	

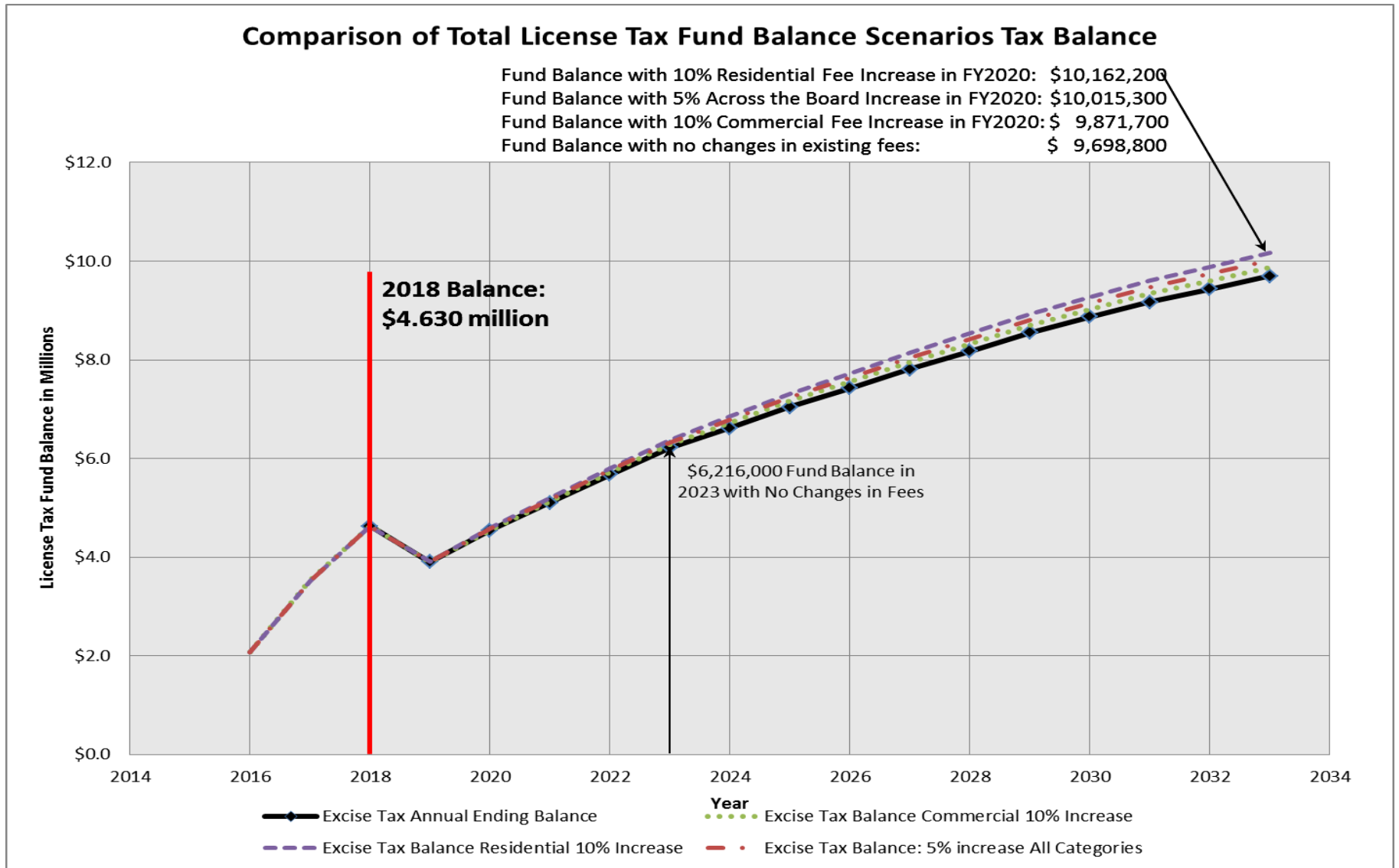
Note: The License Tax Committee recommended the Chipman Road Phase III project (from M-291 to Birchwood) be removed from the program so License Tax funds can be used for other projects in the Thoroughfare Master Plan. Chipman Road project will remain in the master plan, but funded from other sources in the future if the project is deemed necessary in context of the Thoroughfare Master Plan.

APPENDIX B to FY2018 LICENSE TAX REPORT: Building Permit Activity and Projections Through 2043

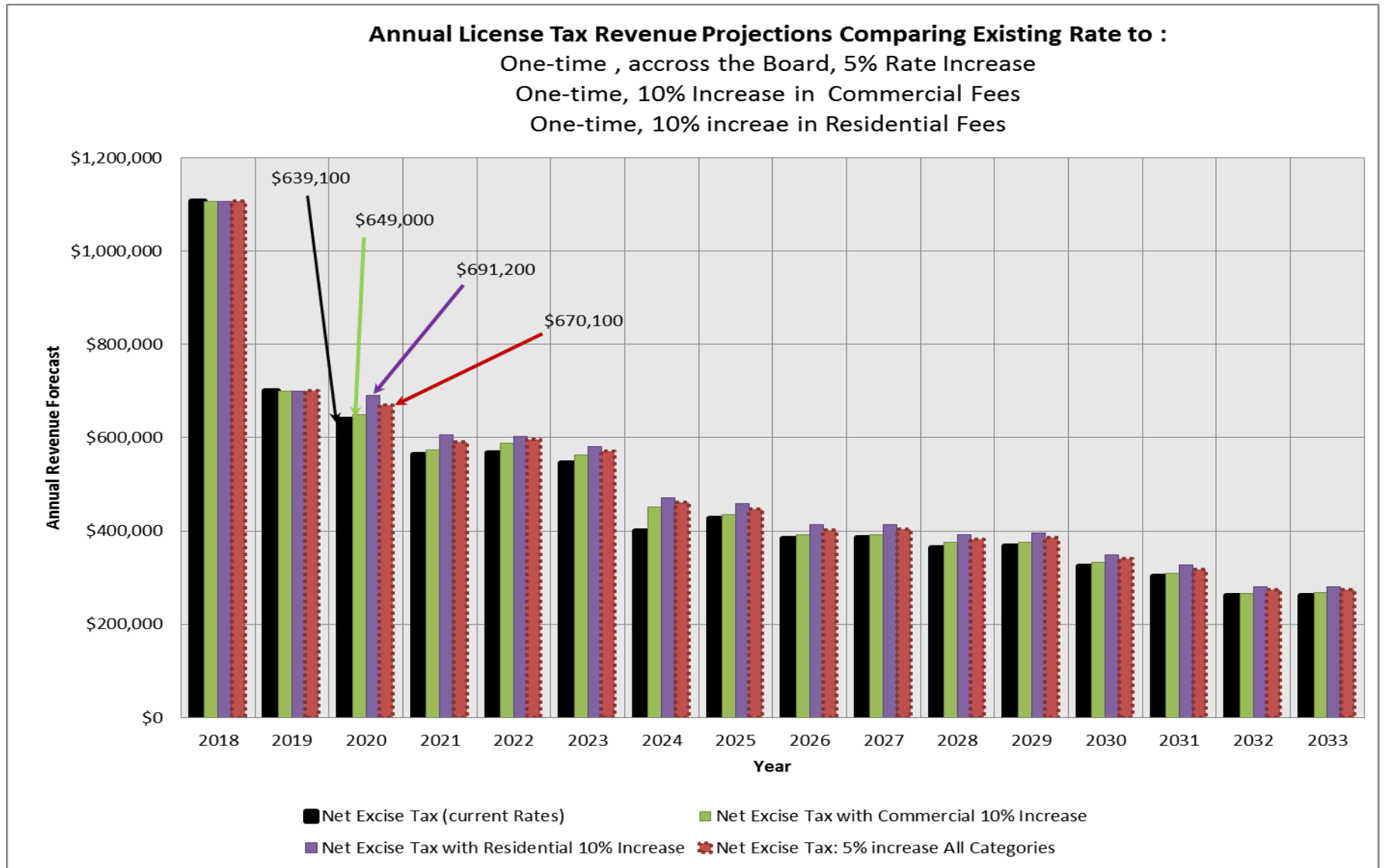


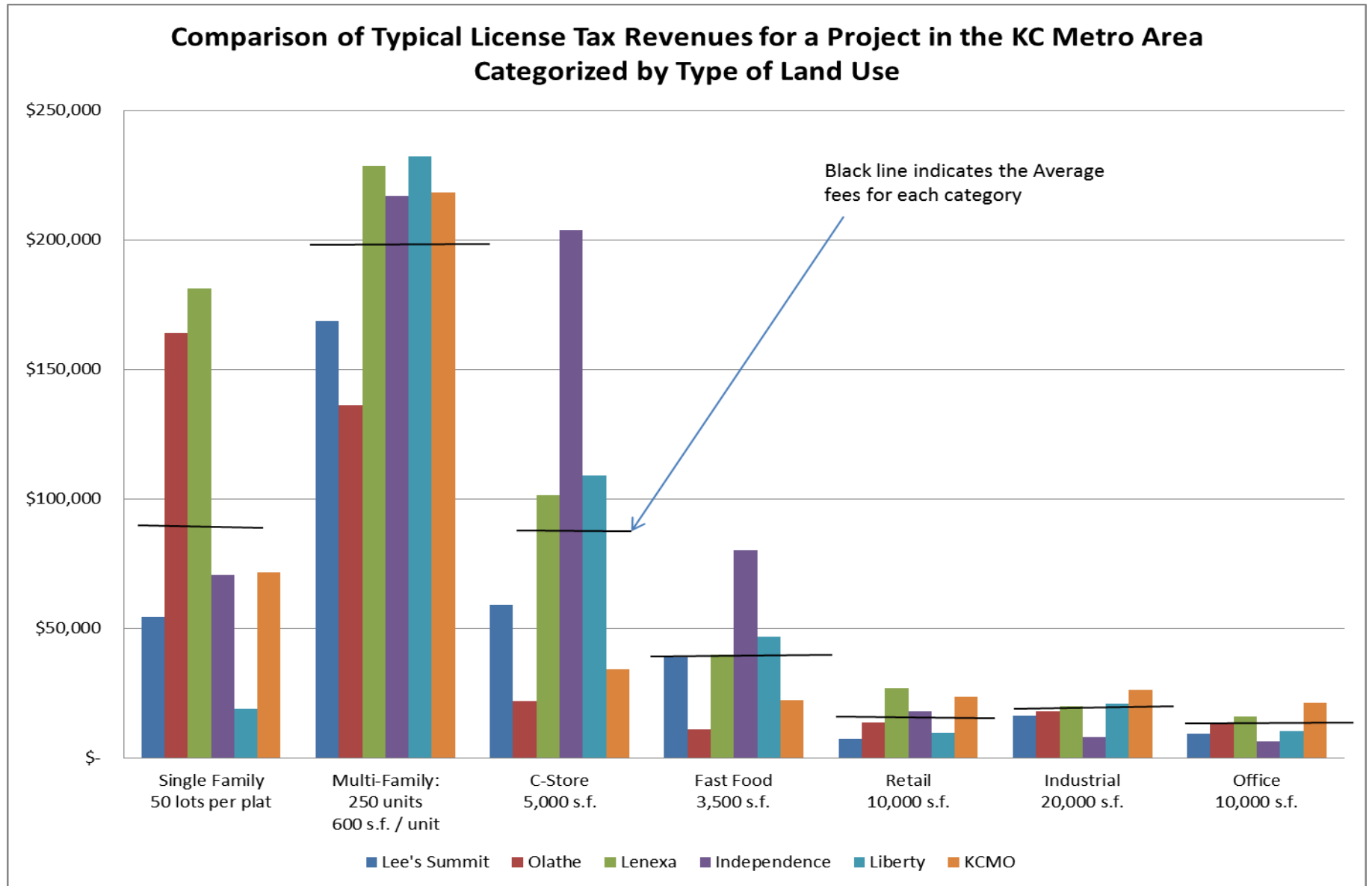


APPENDIX C to FY2017 LICENSE TAX REPORT: Projected Fund Balance, Annual Revenues, and Fees Compartmented to Other Agencies



APPENDIX C to FY2017 LICENSE TAX REPORT: Projected Fund Balance, Annual Revenues, and Fees Compartmented to Other Agencies





**LICENSE TAX REVIEW COMMITTEE
ACTION LETTER
CITY OF LEE'S SUMMIT**

Monday, November 29, 2018
4:30 p.m.

Present at the Meeting –

*George Binger
Mike Weisenborn
Michael Park
Lisa Azimi
Heping Zhan
Cynda Rader
Chairman Faith

*Dena Mezger
Darlene Pickett
Ryan Elam
Victoria Nelson
Karl Blumenhorst
Glen Jones*

All members were present.

1. CALL TO ORDER:

Committee members called the meeting to order at 4:37 p.m. Chairman Faith arrived late, so by consensus, committee members called meeting to order.

2. PUBLIC COMMENTS: *None*

3. BUSINESS:

A PowerPoint by Mr. Binger, Deputy Director of Public Works/City Engineer, was presented showing the license tax background and current status. This is the original city ordinance that was first adopted in March 1998, it has been amended four times for adjustments in rates. Mr. Binger explained the tax and the purpose behind it. The license tax administrator is the Director of Finance or a representative. The report of building permits showed construction activity reached a peak in 2017. From last year to this year, permits decreased.

The Annual Report of Revenue, permits and projects, current fund balance, and projected future fund balances were presented in the PowerPoint, as well as the City's current calendar year rates. Mr. Binger discussed the current tax rates which are relatively low compared to the KC Metro area. He next presented a graph of retail, office, and industrial permit projection for 2018 of 113,000 sq. ft. Heping Zhan, Assistant Director of Planning and Special Projects, explained projections and the tracking of building permits.

Completed projects were shown in the PowerPoint, as well as Staff Recommendations for 2018. The purpose is to show a use for funds in order to comply with Hancock Amendment. The Browning Street Project was reviewed, being the most recent project recommended by the committee and included in the CIP. Examples of potential future projects for consideration were discussed. The next project recommended is NW Main Street from Chipman Rd. to Tudor Rd. Some clarification was made regarding possible development to generate revenue from that area.

In the discussion of possible projects Glen Jones questioned which projects would have the highest

return in the shortest amount of time. It was determined that the Main St project opens up the most ground to potentially include commercial activity. A second preference for projects would be something that opens up multi-family development. Michael Park discussed Pryor Rd North of 470 was the next greatest safety project on the example list.

Mr. Binger provided a City map with locations of all the example projects and gave a summary of them. There was discussion on locations, the PRI property adjacent to and in between areas, and those that will most likely give higher return on investment through potential development. Preference was given to commercial and multi-family, as opposed to single family development. It was agreed upon to review from one year to the next and program the projects out a few years.

Glen Jones asked how the rate chart and trip generation has changed. Michael Park then mentioned trip generation manuals and how different businesses, such as banks, are experiencing less traffic. More people are working from home and travel is decreasing. There are new uses in trip generation manuals and they are dividing out more specific uses such as multi-family into high rise, low rise, etc.

Mr. Binger recommended showing a plan for the money and to amend the CIP to move projects forward. Guidance from the Committee was requested to consider projects in a five year plan. Two of the projects were specifically reviewed to utilize the funds. The projects mentioned were the Main Street project, being multi-family and commercial, and the traffic signal project on SE Hamblen at Bailey, which will help south development and address existing needs.

The Committee expressed concerns about the signal because it would not necessarily create new revenues by initiating development. The project was filling a need caused by previous development. City staff mentioned that other sources of revenue could be used for the signal project.

The current ordinance includes language that is outdated or confusing. Staff recommends modifying the ordinance to delete outdated or expired sections and address current trip generation options for basis of measure.

Chairman Faith made a motion to channel efforts to program Main Street Improvements Project into the FY2020 Capital Improvement plan for design and construction funded by the license tax. The motion was seconded by Karl Blumenhorst and it with a 4-0 vote.

Mr. Karl Blumenhorst made a motion to leave the license tax rates as status quo. Glen Jones seconded and the motion carried with a vote of 4-0.

Mr. Glen Jones made a motion to direct staff to change the ordinance language to delete outdated or expired sections to keep it current and calculate the trip generation based on the greater of available and applicable unit of measure in the trip generation manual. Ms. Cynda Rader seconded and the motion carried with a 4-0 vote.

4. **ROUNDTABLE:** No items discussed.
5. **NEXT MEETING:**
6. **ADJOURN:** Chairman Faith adjourned the meeting at 6:00 p.m.

Packet Information

File #: TMP-1116, **Version:** 1

An Ordinance amending Sections 28-175, 28-176, 28-177, 28-179 and 28-181 of the Code of Ordinances of the City of Lee's Summit governing the License Tax on Building Contractors by deleting outdated or expired content and clarify applicable use of the I.T.E. Trip Generation Manual for traffic generation calculations based on land use categories.

Issue/Request:

An Ordinance amending Sections 28-175, 28-176, 28-177, 28-179 and 28-181 of the Code of Ordinances of the City of Lee's Summit governing the License Tax on Building Contractors by deleting outdated or expired content and clarify applicable use of the I.T.E. Trip Generation Manual for traffic generation calculations based on land use categories.

Key Issues:

- o The License Tax was approved by voters in 1997.
- o The License Tax Review committee recommend, by unanimous vote, to update and clarify the ordinance.
- o The License Tax Review committee recommended no changes to the fees at this time.

Proposed Committee Motion:

I move to recommend to City Council an Ordinance amending Sections 28-175, 28-176, 28-177, 28-179 and 28-181 of the Code of Ordinances of the City of Lee's Summit governing the License Tax on Building Contractors by deleting outdated or expired content and clarify applicable use of the I.T.E. Trip Generation Manual for traffic generation calculations based on land use categories.

Background:

City staff presented the FY2018 update to the License Tax Review Committee on November 29, 2018. This report presents the discussion and recommendations from the Committee. The discussion and data is based on information before the announcement by PRI to sell large parcels of land in Lee's Summit.

Current Status

- The License Tax is a fee for new development or re-development activity that increases traffic
- The City must spend funds received on transportation projects
- The License Tax Fund current balance is \$4.630 million
- Maximum rate approved by voters in 1997 was \$2,116 per residential unit
- Current rates are: \$1,088 per Residential unit;
\$1,000 per trip for Manufacturing/Industrial; \$750 per trip for Commercial
- Several sections of the ordinance adopted in 1997 and 2010 are outdated and confusing
- The ordinance does not clearly define how to calculate fees for some land uses

Projections

- The analysis and presentation occurred before the PRI announcement to release large tracts of land for sale
- Building permit activity reached a peak in 2016-18
- Future years will see declining License Tax revenues due to declining development activity
- \$9.699 million is the projected fund balance in 15 years

Committee Guidance

- Projects funded by the License Tax should be limited to projects identified in the City's Thoroughfare Master Plan (TFMP)
- Projects should exclude site specific projects such as adding a turn lane or signal required by one developer or landowner to complete a project
- Projects that remove impediments to future commercial or industrial development are the preferred use of this fund
- The License Tax funds should continue to manage cash flow so that projects are funded on a pay as you go basis

Actions

- Committee voted unanimously to program into the FY20 CIP NW Main Street to connect from NW Chipman to NW Commerce
- Committee voted unanimously to revise the ordinance to remove outdated sections and to clarify the calculation of fees for all types of development

Impact/Analysis:

There will be no change in fees. The changes in the ordinance are in response to frequent questions and should make the process less confusing.

Other Information/Unique Characteristics:

George Binger III, P.E., Deputy Director of Public Works / City Engineer

Recommendation: City staff recommends approval.

Committee Recommendation: [Enter Committee Recommendation text Here]

BILL NO. _____

AN ORDINANCE AMENDING SECTIONS 28-175, 28-176, 28-177, 28-179 AND 28-181 OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT GOVERNING THE LICENSE TAX ON BUILDING CONTRACTORS BY DELETING OUTDATED OR EXPIRED CONTENT AND CLARIFY APPLICABLE USE OF THE I.T.E. TRIP GENERATION MANUAL FOR TRAFFIC GENERATION CALCULATIONS BASED ON LAND USE CATEGORIES.

WHEREAS, Section 28-179 of the City's Code contains the methodology of the calculation of the license tax imposed by the City of Lee's Summit, Missouri ("City") upon building contractors; and,

WHEREAS, the License Tax Review Committee met November 29, 2018 and prepared recommendations regarding the license tax imposed on building contractors (the "License Tax"); and,

WHEREAS, The License Tax Review Committee recommended the following: (1) delete outdated or expired sections to keep the Code current, and (2) calculate the trip generation based on the greater of available and applicable unit of measure in the trip generation manual; and,

WHEREAS, the City wishes to amend sections 28-175, 28-176, 28-177 and 28-181 as recommended by the unanimous vote of the License Tax Committee; and,

WHEREAS, the City Council supports the License Tax Review Committee's recommendations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the City Council of the City of Lee's Summit hereby declares its support of the recommendations of the License Tax Review Committee set forth herein.

SECTION 2. That Section 28-178, entitled "Purpose and Intent" of the Code of Ordinances of the City of Lee's Summit shall be amended as shown on Exhibit A so that said section shall read as follows:

Sec. 28-175. - Purpose and intent.

A. It is the intent of this division to impose an excise tax to be paid by development that generates new traffic in the City in the form of a license tax on building contractors for the purpose of raising revenue, the proceeds of which shall be used for streets and related improvements throughout the City, including but not limited to the design, construction, reconstruction, repair and maintenance of streets, roads and bridges and related improvements in the City and the acquisition of all

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necessary rights-of-way therefor, which tax is to be imposed on the basis of the additional vehicle trips generated by any development activity requiring a building permit and resulting in additional vehicle trips as calculated during the afternoon time period (p.m. peak hour) when traffic volume on the adjacent streets is highest.

- B. It is the intent of this division to establish an administrative review and appeal procedure to ensure that the license tax is assessed and collected in accordance with this division and all applicable laws.
- C. It is not the intent of the City to impose a fee or other exaction pursuant to the general police powers of the City or to regulate construction, growth, or development within the City.
- D. It is the intent that the license tax imposed upon building contractors through this division is a surcharge that is in addition to the annual business license tax paid by building contractors pursuant to Chapter 28, Article II, Division 1 of the Code of Ordinances. It is the intent that the license tax to be paid by a building contractor shall be the annual business license tax imposed pursuant to Chapter 28, Article II, Division 1 of the Code of Ordinances, plus the license tax imposed pursuant to this division.

SECTION 3. That Section 28-176, entitled "Definitions" of the Code of Ordinances of the City of Lee's Summit shall be amended as shown on Exhibit A so that said section shall read as follows:

Sec. 28-176. - Definitions.

As used in this division:

Area of building means the total floor area of a building measured by square feet.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building contractor means a person that builds a building.

Building permit means the permit required for new construction and additions pursuant to Sections 7-27 and 7-28 of the Lee's Summit City Code of Ordinances, as amended.

City Manager means the City Manager or his designee.

Developer means a person who engages in development.

Development means any man-made change or change of use to improved or unimproved land, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

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Dwelling unit means one (1) or more rooms constituting all or part of a building and that are arranged, designed, or used exclusively as a single housekeeping unit for one (1) family, and that may include cooking, living, sanitation, and sleeping facilities.

License tax means the tax imposed upon a building contractor pursuant to this division.

License Tax Administrator means the Director of Finance or his designee.

Non-residential means created or used for any purpose other than residential uses or purposes.

Person means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

P.M. peak hour means the hour between 4:00 p.m. and 6:00 p.m. during the weekdays, Monday through and including Friday, at which the average traffic volume is highest.

Public body means agencies of the Federal or State government, or political subdivisions of the State.

Residential means primarily created or used for a dwelling for one or more persons.

School district means a public school district of the State of Missouri.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner for either residential or non-residential purposes.

Vehicle trip means a single or one-direction vehicle movement with either the origin or the destination (exiting or entering) at the subject building. For trip generation purposes, the total trip ends for a building over a given period of time are the total of all trips entering plus all the trips exiting a site during a designated time period.

SECTION 4. That Section 28-177, entitled "Applicability" of the Code of Ordinances of the City of Lee's Summit shall be amended as shown on Exhibit A so that said section shall read as follows:

Sec. 28-177. - Applicability.

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- A. This division shall be applicable to development requiring a building permit and resulting in additional vehicle trips. Additional vehicle trips shall be calculated during the afternoon time period (p.m. peak hour) when traffic volume on adjacent streets is highest. As used in this section, additional vehicle trips shall mean vehicle trips that add to the total traffic volume on the street network as a result of the new development.
- B. Credits. Any credit granted under this division shall reduce the total license tax owed by a building contractor.
1. Upon submission of a proper application therefore, the following persons shall be granted a full credit in the amount of the license tax imposed pursuant to this division by the License Tax Administrator:
 - a. Development requiring a building permit and resulting in additional vehicle trips constructed by, or by a building contractor on behalf of, a public body for its governmental use;
 - b. Development requiring a building permit and resulting in additional vehicle trips constructed by, or by a building contractor on behalf of, a school district of the State;
 - c. Rebuilding of an involuntarily damaged or destroyed building, provided that such rebuilding does not result in additional vehicle trips;
 - e. Development requiring a building permit and resulting in additional vehicle trips that is constructed by, or by a building contractor on behalf of, a person that is not subject to any Federal, State or local taxes, including Federal, State and local sales, income, personal property, real property, use, earnings, excise or license taxes. The burden of proof shall be on the building contractor claiming this credit to demonstrate to the License Tax Administrator, by clear and convincing evidence, that the development being constructed by, or by a building contractor on behalf of, a person claiming such credit is exempt from all Federal, State and local taxes as described in this subsection;
 2. Upon submission of a proper application therefore, the following persons shall be granted a partial credit from the license tax imposed pursuant to this division by the License Tax Administrator:
 - a. A building contractor that requests a building permit that is required for a change of existing uses within an existing building, except that a change of use from a residential use to a non-residential use shall be granted a credit only for the number of trips that were generated by the building during the p.m. peak time period prior to the change in use;
 - b. A building contractor that requests a building permit that results in the redevelopment of property, provided that a complete application for a building permit to construct a building to replace the existing building is filed

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within six (6) months following demolition of the existing building, or within a longer period of time as approved by the License Tax Administrator or the City Manager. As used in this Subsection, redevelopment means the demolition of one (1) or more buildings and the subsequent construction of one (1) or more new buildings on the property. The credit shall be granted only for the number of trips that were generated by the previous building during the p.m. peak time period.

3. In the event that the building is transferred to a person that would not be eligible for a credit hereunder, within a period of one (1) year from the date of the issuance of the building permit, the transferee shall be required to pay the tax imposed by this division.

SECTION 5. That Section 28-179, entitled "Calculation of the License Tax" of the Code of Ordinances of the City of Lee's Summit shall be amended as shown on Exhibit A so that said section shall read as follows:

Sec. 28-179. - Calculation of the license tax.

A. The City shall calculate the license tax as follows:

1. The Council shall by ordinance establish the license tax imposed upon a building contractor that shall be calculated by multiplying the trip generation rate by the license tax rate.
2. Trip generation rate. The trip generation rate is a measurement of the number of trips to and from a building for which a building permit application is submitted.
 - a. The License Tax Administrator shall determine the trip generation rate for residential property by multiplying the number of dwelling units by the trip generation rate specified for the specific type of land use category.
 - b. The License Tax Administrator shall determine the trip generation rate for non-residential property by dividing the total floor area of the building, measured in square feet, by one thousand (1,000), and then multiplying that number by the trip generation rate specified for the specific type of land use category. In the absence of building area unit of measure for the proposed use of the development, or the structure on site does not match the proposed primary use of the site, the most applicable measure of trip generation from the *ITE Trip Generation Manual* shall be used.
3. License tax rate. The license tax rate is a measurement of the rate of tax to be paid by building contractors according to land use classifications.

B. Tax rates by land use category.

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Land Use Category	Tax Rate
Residential	\$1,088.00 per new trip
Manufacturing/industrial	\$ 1,000.00 per new trip
Commercial	\$ 750.00 per new trip

SECTION 6. That Section 28-181, entitled "Appeals" of the Code of Ordinances of the City of Lee's Summit shall be amended as shown on Exhibit A so that said section shall read as follows:

Sec. 28-181. - Appeals.

A. *Appeal to the City Manager.*

1. A building contractor or developer (hereinafter "appellant") may appeal the assessment of a license tax to the City Manager by filing a notice of appeal with the City Manager within thirty (30) days following the assessment of the license tax by the License Tax Administrator. If an appellant fails to appeal the assessment of the license tax within thirty (30) days as set forth in this subsection, the assessment of the license tax shall be final and no appeal shall be heard. If the appellant pays the license tax without protest, the appellant waives the right to appeal the assessment of the license tax.
2. If the license tax is due and payable under the terms of Section 28-178, and an appellant desires to process a building permit application or any certificate of occupancy during the appeal process, the building contractor is required to pay the license tax under protest. If the license tax is paid under protest by the building contractor, an appeal from a final decision of the License Tax Administrator shall not delay processing of the building permit and shall not delay any other permit, license or approval issued by the City.
3. An appellant may appeal to the City Manager the following decisions:
 - a. The land use classification of the development;
 - b. The number of trips generated by the proposed development;
 - c. Any credit determination pursuant to Section 28-177.B.
4. Within ten (10) days of receipt of the notice of appeal, or by such date as shall be agreed upon in writing between the appellant and the City, the appellant shall submit to the City Manager copies of all studies, calculations and other documentation appropriate to the determination of the license tax. If a specified basis for the appeal is to challenge the License Tax Administrator's

determination of the number of trips generated by the proposed development, the appellant may be required to submit to the City Manager a traffic study prepared by a certified traffic engineer or traffic engineering firm, paid for by the appellant, which sets forth the appellant's proposed trip generation calculations for the development. If the basis for the appeal is a credit determination pursuant to Section 28-177.B., the appellant must submit to the City Manager proof that it is eligible for a credit and the extent of the credit.

5. The Notice of Appeal filed with the City Manager shall specify the grounds for the review. The City Manager shall consider the appeal. The appellant maintains the burden of proof to demonstrate by clear and convincing evidence that:
 - a. The land use classification of the development is incorrect;
 - b. The number of trips generated by the development, as calculated by the License Tax Administrator, does not reflect the actual number of trips created by the development; or
 - c. The credit determination under Section 28-177.B. is incorrect.
6. Within thirty (30) days after filing of the notice of appeal, the City Manager shall render a final decision in writing to the appellant regarding assessment, calculation and collection of the license tax.

B. *Appeal to the Council.*

1. An appeal under this subsection may be heard only if the appellant has received a final decision from the City Manager pursuant to Section 28-181.A.6.
2. If the license tax is due and payable under the terms of Section 78 and an appellant desires to process a building permit application or any certificate of occupancy after appeal is taken from the final decision of the City Manager, the building contractor is required to pay the license tax under protest. If the license tax is paid under protest by the building contractor, an appeal from a final decision of the City Manager shall not delay processing of the building permit and shall not delay any other permit, license or approval issued by the City.
3. An appellant may appeal the final decision of the City Manager by filing a Notice of Appeal with the City Clerk within fifteen (15) days following issuance of the final written decision of the City Manager as specified in Section 28-181.A.6. If an appellant fails to appeal the final decision of the City Manager within fifteen (15) days as set forth in this subsection, the assessment of the license tax shall be final and no appeal shall be heard.
4. An appellant may appeal the following decisions of the City Manager to the Council:
 - a. The land use classification of the development;
 - b. The number of trips generated by the proposed development; or

- c. Any credit determination pursuant to Section 28-177.B.
- 5. Within thirty (30) days of receipt of the Notice of Appeal, or by such date as shall be agreed upon in writing between the appellant and the City, the appellant shall submit to the Public Works Committee copies of all studies, calculations and other documentation appropriate to the determination of the license tax. If a specified basis for the appeal is to challenge the City Manager's determination of the number of trips generated by the proposed development, the appellant may be required to submit to the Public Works Committee a traffic study prepared by a certified traffic engineer or traffic engineering firm, paid for by the appellant, which sets forth the appellant's proposed trip generation calculations for the development. If the basis for the appeal is a credit determination pursuant to Section 28-177.B., the appellant must submit to the Public Works Committee proof that it is eligible for a credit and the extent of the credit.
- 6. The Notice of Appeal shall specify the grounds for the appeal, and no argument shall be heard by the Public Works committee that is not set forth in the Notice of Appeal. The Notice of Appeal shall be forwarded to the Public Works Committee along with a recommendation from City staff and the Public Works Committee shall conduct a hearing and submit written recommendations to the Council for consideration by the Council on the appeal, but such recommendations shall be advisory and not be binding upon the Council. The appellant shall receive notice of the hearing by certified mail at least fifteen (15) days prior to the hearing. The burden of proof shall be on the appellant to demonstrate by clear and convincing evidence that:
 - a. The land use classification of the development is incorrect;
 - b. The number of trips generated by the development, as calculated by the License Tax Administrator, does not reflect the actual number of trips created by the development; or
 - c. The credit determination under Section 28-177.B. is incorrect.
- 7. Within thirty (30) days after the Council's final decision, the party that submitted the Notice of Appeal shall receive written notice of the decision.
- C. *Calculation of days.* The number of days specified in Section 28-181 shall include weekend days and holidays. The last day of the period shall be included in the computation, unless it is a Saturday, Sunday or a legal holiday, and if it is, the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. A half-holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the Congress of the United States, Missouri legislature or the Council.

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SECTION 7. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this ____ day of _____, 2019.

ATTEST:

Mayor *William A. Baird*

City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this ____ day of _____, 2019.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

Chief of Planning and Infrastructure *Nancy K. Yendes*

EXHIBIT A

DIVISION 6. - BUILDING CONTRACTORS

Sec. 28-175. - Purpose and intent.

- A. It is the intent of this division to impose an excise tax to be paid by development that generates new traffic in the City in the form of a license tax on building contractors for the purpose of raising revenue, the proceeds of which shall be used for streets and related improvements throughout the City, including but not limited to the design, construction, reconstruction, repair and maintenance of streets, roads and bridges and related improvements in the City and the acquisition of all necessary rights-of-way therefor, which tax is to be imposed on the basis of the additional vehicle trips generated by any development activity requiring a building permit and resulting in additional vehicle trips as calculated during the afternoon time period (p.m. peak hour) when traffic volume on the adjacent streets is highest.
- B. It is the intent of this division to establish an administrative review and appeal procedure to ensure that the license tax is assessed and collected in accordance with this division and all applicable laws.
- ~~C. It is the intent of this division to authorize the creation of administrative guidelines to further carry out the purposes and intent of this division.~~
- ~~D.~~ It is not the intent of the City to impose a fee or other exaction pursuant to the general police powers of the City or to regulate construction, growth, or development within the City.
- ~~E.~~ It is the intent that the license tax imposed upon building contractors through this division is a surcharge that is in addition to the annual business license tax paid by building contractors pursuant to Chapter 28, Article II, Division 1 of the Code of Ordinances. It is the intent that the license tax to be paid by a building contractor shall be the annual business license tax imposed pursuant to Chapter 28, Article II, Division 1 of the Code of Ordinances, plus the license tax imposed pursuant to this division.

(Ord. No. 4592, § 2, 3-17-1998)

Sec. 28-176. - Definitions.

As used in this division:

Area of building means the total floor area of a building measured by square feet.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building contractor means a person that builds a building.

Building permit means the permit required for new construction and additions pursuant to Sections 7-27 and 7-28 of the Lee's Summit City Code of Ordinances, as amended.

City Manager means the City Manager or his designee.

Developer means a person who engages in development.

Development means any man-made change or change of use to improved or unimproved land, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

Dwelling unit means one (1) or more rooms constituting all or part of a building and that are arranged, designed, or used exclusively as a single housekeeping unit for one (1) family, and that may include cooking, living, sanitation, and sleeping facilities.

License tax means the tax imposed upon a building contractor pursuant to this division.

License Tax Administrator means the Director of Finance or his designee.

Non-residential means created or used for any purpose other than residential uses or purposes.

Person means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

P.M. peak hour means the hour between 4:00 p.m. and 6:00 p.m. during the weekdays, Monday through and including Friday, at which the average traffic volume is highest.

Public body means agencies of the Federal or State government, or political subdivisions of the State.

Residential means primarily created or used for a dwelling for one or more persons.

School district means a public school district of the State of Missouri.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner for either residential or non-residential purposes.

Vehicle trip means a single or one-direction vehicle movement with either the origin or the destination (exiting or entering) at the subject building. For trip generation purposes, the total trip ends for a building over a given period of time are the total of all trips entering plus all the trips exiting a site during a designated time period.

(Ord. No. 4592, § 4, 3-17-1998)

Sec. 28-177. - Applicability.

- A. This division shall be applicable to development requiring a building permit and resulting in additional vehicle trips. Additional vehicle trips shall be calculated during the afternoon time period (p.m. peak hour) when traffic volume on adjacent streets is highest. As used in this section, additional vehicle trips shall mean vehicle trips that add to the total traffic volume on the street network as a result of the new development.
- B. Credits. Any credit granted under this division shall reduce the total license tax owed by a building contractor.
 1. Upon submission of a proper application therefore, the following persons shall be granted a full credit in the amount of the license tax imposed pursuant to this division by the License Tax Administrator:
 - a. Development requiring a building permit and resulting in additional vehicle trips constructed by, or by a building contractor on behalf of, a public body for its governmental use;
 - b. Development requiring a building permit and resulting in additional vehicle trips constructed by, or by a building contractor on behalf of, a school district of the State;
 - c. Rebuilding of an involuntarily damaged or destroyed building, provided that such rebuilding does not result in additional vehicle trips;
 - ~~d. Development requiring a building permit and resulting in additional vehicle trips constructed by, or by a building contractor on behalf of, a person that has entered into a development agreement with the City, executed and dated prior to the enactment of Ordinance No. 4592, wherein the development agreement contains:
 - 1) A specific clause that provides that the person shall not be required to pay any excise tax, impact fee, or a special assessment imposed by the City after the date of such agreement; and
 - 2) A commitment by the person entering into the development agreement with the City to construct or reconstruct, or provide a financial contribution for, street improvements in the City, and which financial contributions and/or street improvements enhance the City's street network.~~

e. Development requiring a building permit and resulting in additional vehicle trips that is constructed by, or by a building contractor on behalf of, a person that is not subject to any Federal, State or local taxes, including Federal, State and local sales, income, personal property, real property, use, earnings, excise or license taxes. The burden of proof shall be on the building contractor claiming this credit to demonstrate to the License Tax Administrator, by clear and convincing evidence, that the development being constructed by, or by a building contractor on behalf of, a person claiming such credit is exempt from all Federal, State and local taxes as described in this subsection;

~~f. A building contractor that requests a building permit for which a plat application was approved by the appropriate approving authority on or before December 31, 1997, and for which a complete building permit application, as determined by the Building Official, is submitted on or before March 31, 1999. As used in this subsection, plat application shall mean final plat, preliminary plat, and minor plat. All credits granted pursuant to this subsection shall not affect the amount of funds required under the City's escrow/letter of credit policy for improvements as provided in Article I, Section XXII of Ordinance No. 3719, as amended (Design and Construction Manual);~~

~~g. A building contractor that requests a building permit that is required for utilization of currently underutilized facilities within an existing building. As used in this subsection, underutilized means not fully occupied or being used to full capacity.~~

2. Upon submission of a proper application therefore, the following persons shall be granted a partial credit from the license tax imposed pursuant to this division by the License Tax Administrator:

a. A building contractor that requests a building permit that is required for a change of existing uses within an existing building, except that a change of use from a residential use to a non-residential use shall be granted a credit only for the number of trips that were generated by the building during the p.m. peak time period prior to the change in use;

b. A building contractor that requests a building permit that results in the redevelopment of property, provided that a complete application for a building permit to construct a building to replace the existing building is filed within six (6) months following demolition of the existing building, or within a longer period of time as approved by the License Tax Administrator or the City Manager. As used in this Subsection, redevelopment means the demolition of one (1) or more buildings and the subsequent construction of one (1) or more new buildings on the property. The credit shall be granted only for the number of trips that were generated by the previous building during the p.m. peak time period.

~~c. From April 1, 2010 through April 1, 2011, any building contractor that requests a building permit for construction of residential property shall be given a twenty five (25) percent credit on the license tax imposed by this division for such permit.~~

3. In the event that the building is transferred to a person that would not be eligible for a credit hereunder, within a period of one (1) year from the date of the issuance of the building permit, the transferee shall be required to pay the tax imposed by this division.

(Ord. No. 4592, § 5, 3-17-1998; Ord. No. 6911, § 1, 3-18-2010)

Sec. 28-178. - Assessment and collection of the license tax.

A. Upon submission of a building permit application, the License Tax Administrator shall:

1. Determine the applicability of this division to the development for which the building permit is submitted;

2. If this division is not applicable, the License Tax Administrator shall notify the applicant in writing of its inapplicability, and the City shall process the building permit application in accordance with all applicable City ordinances and regulations;

3. If this division is applicable, the License Tax Administrator shall calculate and assess the license tax in accordance with this division. The applicable license tax shall be calculated pursuant to Section 28-179. Assessment shall be completed within fifteen (15) days of submission of a building permit application, unless the applicant is notified otherwise in writing by the License Tax Administrator.
- B. The imposition of the license tax pursuant to this division does not alter, negate, supersede or otherwise affect any of the requirements of the City, including the City zoning ordinance and subdivision regulations (Unified Development Ordinance), and County, State and Federal legislation or regulations that may be applicable to a development that may impose street network improvements.
 - C. The funds collected pursuant to this division shall be deposited in the account, established by Ordinance No. 4574, of the general fund of the City and used for the purposes specified in Section 28-175.A.
 - D. The license tax shall be due and payable as follows:
 1. *Residential development.* The license tax shall be due and payable prior to the issuance of a building permit for residential development.
 2. *Non-residential development.*
 - a. *Shell buildings.* For non-residential development structures that are shell buildings constructed for the purpose of speculative development (hereinafter, "shell buildings"), the license tax may be due and payable at the time of issuance of any certificate of occupancy for a tenant finish building permit, upon written request of the applicant to the Building Official. The applicant shall make the written request to the Building Official to exercise the provisions of this section at the time of application for a building permit for the shell building.
 - b. *Other than shell buildings.* For non-residential development structures other than shell buildings, the license tax shall be due and payable prior to the issuance of any certificate of occupancy, unless the building contractor arranges for payment over a period of years, in accordance with this division.
 - c. *Payment over a period of years.* For non-residential development structures other than shell buildings, the building contractor may arrange for payment of the license tax over a period of five (5) years, in accordance with the following:
 - 1) Application shall be made in writing to the Building Official prior to the time the license tax is due and payable.
 - 2) Upon submittal of the application, twenty (20) percent of the license tax shall be paid and financial assurance shall be posted, sufficient to assure the payment of the remaining license tax.
 - 3) The anniversary date shall be one year from the date that a complete application was submitted. If the anniversary date falls on a Saturday, Sunday or legal holiday, as defined in Section 28-181.C., the anniversary date shall be considered the first business day after the anniversary date.
 - 4) A payment equal to twenty (20) percent of the license tax, plus interest, shall be due and payable by 12:00 p.m. CST, on each of the first four (4) anniversary dates until the full license tax, plus interest, is paid.
 - 5) Financial assurance shall be posted, sufficient to assure the payment of the remaining license tax by 12:00 p.m. CST, on each of the first three (3) anniversary dates until the full license tax, plus interest is paid.
 - 6) If payment and posting of financial assurance is not made in accordance with the terms of this division, the full amount of the excise tax shall be immediately due and payable.

- 7) Financial assurance shall be in the form of an irrevocable letter of credit, from a bank with sufficient financial capability as determined by the Director of Finance.
 - 8) Interest shall be calculated annually on the outstanding balance of the license tax. The interest rate shall be the rate earned on the City's pooled cash in accordance with the City's investment policy, for the prior fiscal year.
 - 9) There shall be no prepayment penalty.
- E. It shall be unlawful to occupy a building unless the license tax for that building has been paid, or unless payment over a period of years has been arranged.

(Ord. No. 4592, § 6, 3-17-1998; Ord. No. 5036, § 1, 9-21-2000; Ord. No. 6963, § 1, 8-12-2010)

Sec. 28-179. - Calculation of the license tax.

A. The City shall calculate the license tax as follows:

- 1. The Council shall by ordinance establish the license tax imposed upon a building contractor that shall be calculated by multiplying the trip generation rate by the license tax rate.
- 2. Trip generation rate. The trip generation rate is a measurement of the number of trips to and from a building for which a building permit application is submitted.
 - a. The License Tax Administrator shall determine the trip generation rate for residential property by multiplying the number of dwelling units by the trip generation rate specified for the specific type of land use category.
 - b. The License Tax Administrator shall determine the trip generation rate for non-residential property by dividing the total floor area of the building, measured in square feet, by one thousand (1,000), and then multiplying that number by the trip generation rate specified for the specific type of land use category. In the absence of building area unit of measure for the proposed use of the development, or the structure on site does not match the proposed primary use of the site, the most applicable measure of trip generation from the ITE Trip Generation Manual shall be used.
- 3. License tax rate. The license tax rate is a measurement of the rate of tax to be paid by building contractors according to land use classifications.

B. Tax rates by land use category.

Land Use Category	Tax Rate
Residential	\$1,088.00 per new trip
Manufacturing/industrial	\$ 1,000.00 per new trip
Commercial	\$ 750.00 per new trip

(Ord. No. 4592, § 7, 3-17-1998; Ord. No. 6438, § 1, 6-21-2007; Ord. No. 7657, § 1, 6-18-2015; Ord. No. 7899, § 2, 6-23-2016; Ord. No. 8398, § 2, 6-7-2018)

Sec. 28-180. - Administration of division.

- A. The License Tax Administrator shall perform all duties imposed by this division unless otherwise provided.
- B. The City Manager shall have the authority to create administrative guidelines that are necessary to effectuate and carry out the intent and purposes of this division. No administrative guidelines shall take effect until adopted by resolution by the Council.

(Ord. No. 4592, § 8, 3-17-1998)

Sec. 28-181. - Appeals.

A. *Appeal to the City Manager.*

1. A building contractor or developer (hereinafter "appellant") may appeal the assessment of a license tax to the City Manager by filing a notice of appeal with the City Manager within thirty (30) days following the assessment of the license tax by the License Tax Administrator. If an appellant fails to appeal the assessment of the license tax within thirty (30) days as set forth in this subsection, the assessment of the license tax shall be final and no appeal shall be heard. If the appellant pays the license tax without protest, the appellant waives the right to appeal the assessment of the license tax.
2. If the license tax is due and payable under the terms of Section 28-178, and an appellant desires to process a building permit application or any certificate of occupancy during the appeal process, the building contractor is required to pay the license tax under protest. If the license tax is paid under protest by the building contractor, an appeal from a final decision of the License Tax Administrator shall not delay processing of the building permit and shall not delay any other permit, license or approval issued by the City.
3. An appellant may appeal to the City Manager the following decisions:
 - a. The land use classification of the development;
 - b. The number of trips generated by the proposed development;
 - c. Any credit determination pursuant to Section 28-177.B.
4. Within ten (10) days of receipt of the notice of appeal, or by such date as shall be agreed upon in writing between the appellant and the City, the appellant shall submit to the City Manager copies of all studies, calculations and other documentation appropriate to the determination of the license tax. If a specified basis for the appeal is to challenge the License Tax Administrator's determination of the number of trips generated by the proposed development, the appellant may be required to submit to the City Manager a traffic study prepared by a certified traffic engineer or traffic engineering firm, paid for by the appellant, which sets forth the appellant's proposed trip generation calculations for the development. If the basis for the appeal is a credit determination pursuant to Section 28-177.B., the appellant must submit to the City Manager proof that it is eligible for a credit and the extent of the credit.
5. The Notice of Appeal filed with the City Manager shall specify the grounds for the review. The City Manager shall consider the appeal. The appellant maintains the burden of proof to demonstrate by clear and convincing evidence that:
 - a. The land use classification of the development is incorrect;
 - b. The number of trips generated by the development, as calculated by the License Tax Administrator, does not reflect the actual number of trips created by the development; or
 - c. The credit determination under Section 28-177.B. is incorrect.
6. Within thirty (30) days after filing of the notice of appeal, the City Manager shall render a final decision in writing to the appellant regarding assessment, calculation and collection of the license tax.

B. *Appeal to the Council.*

1. An appeal under this subsection may be heard only if the appellant has received a final decision from the City Manager pursuant to Section 28-181.A.6.
2. If the license tax is due and payable under the terms of Section 78 and an appellant desires to process a building permit application or any certificate of occupancy after appeal is taken from the final decision of the City Manager, the building contractor is required to pay the license tax under protest. If the license tax is paid under protest by the building contractor, an appeal from a final decision of the City Manager shall not delay processing of the building permit and shall not delay any other permit, license or approval issued by the City.
3. An appellant may appeal the final decision of the City Manager by filing a Notice of Appeal with the City Clerk within fifteen (15) days following issuance of the final written decision of the City Manager as specified in Section 28-181.A.6. If an appellant fails to appeal the final decision of the City Manager within fifteen (15) days as set forth in this subsection, the assessment of the license tax shall be final and no appeal shall be heard.
4. An appellant may appeal the following decisions of the City Manager to the Council:
 - a. The land use classification of the development;
 - b. The number of trips generated by the proposed development; or
 - c. Any credit determination pursuant to Section 28-177.B.
5. Within thirty (30) days of receipt of the Notice of Appeal, or by such date as shall be agreed upon in writing between the appellant and the City, the appellant shall submit to the Public Works Committee copies of all studies, calculations and other documentation appropriate to the determination of the license tax. If a specified basis for the appeal is to challenge the City Manager's determination of the number of trips generated by the proposed development, the appellant may be required to submit to the Public Works Committee a traffic study prepared by a certified traffic engineer or traffic engineering firm, paid for by the appellant, which sets forth the appellant's proposed trip generation calculations for the development. If the basis for the appeal is a credit determination pursuant to Section 28-177.B., the appellant must submit to the Public Works Committee proof that it is eligible for a credit and the extent of the credit.
6. The Notice of Appeal shall specify the grounds for the appeal, and no argument shall be heard by the Public Works committee that is not set forth in the Notice of Appeal. The Notice of Appeal shall be forwarded to the Public Works Committee along with a recommendation from City staff and the Public Works Committee shall conduct a hearing and submit written recommendations to the Council for consideration by the Council on the appeal, but such recommendations shall be advisory and not be binding upon the Council. The appellant shall receive notice of the hearing by certified mail at least fifteen (15) days prior to the hearing. The burden of proof shall be on the appellant to demonstrate by clear and convincing evidence that:
 - a. The land use classification of the development is incorrect;
 - b. The number of trips generated by the development, as calculated by the License Tax Administrator, does not reflect the actual number of trips created by the development; or
 - c. The credit determination under Section 28-177.B. is incorrect.
7. Within thirty (30) days after the Council's final decision, the party that submitted the Notice of Appeal shall receive written notice of the decision.

- C. *Calculation of days.* The number of days specified in Section 28-181 shall include weekend days and holidays. The last day of the period shall be included in the computation, unless it is a Saturday, Sunday or a legal holiday, and if it is, the period runs until the end of the next day which is not a Saturday, Sunday or a legal

holiday. A half-holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the Congress of the United States, Missouri legislature or the Council.

(Ord. No. 4592, § 9, 3-17-1998; Ord. No. 5036, § 2, 9-21-2000)

Sec. 28-182. - Annual review.

- A. Beginning in the calendar year 1999 and annually thereafter, the City Manager, with the assistance of the Codes Administration, Finance and Public Works Departments, shall prepare a report on the subject of the license tax, which report shall include:
 - 1. Recommendations on amendments, if appropriate, to this division. Any increase in the license tax rates shall become effective on July 1 of the calendar year in which the rates are increased;
 - 2. Proposed changes to the license tax calculation methodology, including the trip generation estimates and the land use categories, if appropriate;
 - 3. Analysis of costs and revenues resulting from the license tax imposed pursuant to this division;
 - 4. The status of the implementation and administration of this division;
 - 5. A summary of the appeals taken from the imposition of the license tax imposed pursuant to this division.
- B. The City Manager, in preparing the annual report, shall, at a minimum, obtain and review the following information:
 - 1. A statement from the Finance Department summarizing the revenue collected through the license tax and disbursed during the preceding year;
 - 2. A statement from the Codes Administration Department summarizing the applications for building permits subject to the license tax approved during the preceding year; and
 - 3. A statement from the Public Works Department regarding all street projects funded with license tax proceeds and initiated, advanced or completed during the preceding year.
- C. License Tax Review Committee.
 - 1. The report shall be presented to the License Tax Review Committee. The Mayor shall appoint, upon the advice and consent of a majority of the Council, the members of the License Tax Review Committee for two-year terms. The License Tax Review Committee shall be composed of five (5) members, including the Chair of the Public Works Committee, two (2) citizens of the City, a local developer, and one City staff appointment. The Chair of the License Tax Review Committee shall be the Chair of the Public Works Committee.
 - 2. The License Tax Review Committee's primary purpose shall be to review and comment on the annual report prepared by the City Manager. The Committee's comments shall be forwarded to the Council.
- D. Based on the annual report, the comments of the License Tax Review Committee, and other factors as the Council deems relevant and appropriate, the Council may amend this division.
- E. The annual review shall be completed by the date of the third regularly scheduled meeting of the Council in the month of March of each year.

(Ord. No. 4592, § 10, 3-17-1998)

Sec. 28-183. - Rules of construction.

The provisions of this division shall be liberally construed to effectively carry out its purposes.

(Ord. No. 4592, § 11, 3-17-1998)

Secs. 28-184—28-204. - Reserved.

Packet Information

File #: 2019-2548, **Version:** 1

FY19 Snow Season Update

Key Issues:

Snow Plan

Review Two Big Storms

Common Complaints

How Calls are Handled

Communication

Tips

Questions

Shawn Graff

Yours Truly

FY19 Snow Program Update

Public Works Committee

January 29, 2019

Outline

- Snow Plan
- Review Two Big Storms
- Common Complaints
- How Calls are Handled
- Communication
- Tips
- Questions

Snow Plan

- The City's Snow Plan outlines steps for the completion of storm response within **24 - 48 hours after precipitation has ended** provided that required levels of equipment/ people are available.
- Level 1 (pre-treat)
- Level 2 (<1" of snow) 24 hrs.
- Level 3a (>1" – 6") 32.5 hrs.
- Level 3b(>6" – 10") 40 hrs.
- Level 4 (>10") 48 hrs.
- Level 5 (sustained winds >30 mph) 48 hrs.

Thanksgiving Snow Storm

- Storm was described by as a blizzard (3 or more hours of sustained winds or frequent gusts of 35 MPH or greater and visibility ,1/4 mile)
- Storm started as rain/sleet/freezing rain then changed over to all snow overnight.
- Rain prevented pre-treatment of streets, rain and temps cooled pavements quickly.
- Ice/Snow stuck to roadways

Thanksgiving Snow Storm

- Low temperatures ranged from mid 20's to low teens.
- Low temperatures limit salt's effectiveness and made it difficult to get to bare pavement.
- Lee's Summit received ~5 inches of snow
- Level 5 storm, goal time 48 hours to complete
- Public Works completed plowing and treating in 41 hours.

January 12th Snow Storm

- Storm started with light rain and sleet
- Pretreating
- Wet and heavy snow total of ~8”
- Snow stopped early Saturday morning, but additional snow of ~3”-4” fell during the day.
- Heavy snow caused downed trees and power lines

January 12th Snow Storm

- Pavement temperature remained right at freezing allowing most of the snow to clear off pavements during plowing
- Storm was Level 3b – 40 hrs. after snow ends.
- Public Works Completed plowing and treating in 43.5 hours
- The process was slowed due to:
 - Downed trees/limbs and power lines
 - $\frac{3}{4}$ tons trucks not effective in heavy/wet snow

Common Complaints

- Here is what we were hearing
 - The city never plows my street
 - The driver did not do a good job/bare pavement
 - The plow covered my driveway/sidewalk/hydrant
 - The city is wasting money pre-treating
 - More expensive neighborhoods get plowed first
 - My street has more houses – make it a secondary route
 - Insert a city here _____ does a better job

Calls to Snow Desk

- Callers with medical emergencies are directed to call 911
- If fire or police have issues reaching an address because of snow, ice, trees or debris the dispatcher will contact the Snow Desk for assistance. Public Works will immediately send a snow plow/crew

Calls to Snow Desk

When someone calls before the snow ends

- The caller will receive a voice message
- The caller is told if there is a medical emergency to call 911
- The caller receives a message that crews are plowing and treating primary and secondary roadways while the snow is falling.
- Public Works is unable to give callers an estimate when their street will be plowed but are told an estimate when city wide plowing and treating should be completed

Calls to Snow Desk

When someone calls after snow ends

- The caller will receive a voice message
- The caller is told if there is a medical emergency to call 911
- The message indicates if your street has been missed after the goal time has elapsed or your yard or mailbox is damaged to leave a message.

Calls to Snow Desk

Someone calls after snow operations are complete

- The Snow Desk operator takes down the information and dispatches a supervisor to investigate.
- If the street has been missed a truck will be dispatched
- If there is damage to yard/mailbox a work order will be created to make the repairs as soon as possible.
- Voicemail will be checked for yard or mailbox damage

Communication

- LsSnow.net – latest updates
- Facebook
- Twitter
- Nextdoor

Helpful Tips

- Remove cars from the street
- Keep trashcans and basketball goal out of the street
- Do not build snow forts in the piles of snow in the street
- Do not shovel snow from your driveway into the street
- Shovel snow to the left side of your driveway to lessen the amount of snow left at your driveway entrance during plowing

Questions

