

RESOLUTION # 486

**A RESOLUTION OF THE CITY OF CHESTERFIELD, MISSOURI
AUTHORIZING THE SALE OF REAL PROPERTY TO THE
MONARCH-CHESTERFIELD LEVEE DISTRICT AND
AUTHORIZING THE CITY ADMINISTRATOR TO SIGN AND
EXECUTE THE NECESSARY DOCUMENTATION FOR CLOSING.**

WHEREAS, in 2004 the City of Chesterfield, Missouri (the “City”) acquired thirty-seven acres of land using Chesterfield Valley Tax Increment Financing (“TIF”) revenues for purposes of constructing an additional stormwater pump station at the west end of the Chesterfield Valley (the “Sale Property”); and,

WHEREAS, the City has always intended to transfer the Sale Property to the Monarch-Chesterfield Levee District (“MCLD”) for construction of a permanent pump station and MCLD previously excavated the Sale Property for use as a reservoir at no cost to the City; and,

WHEREAS, the Sale Property currently has no other suitable purpose other than use as a stormwater reservoir and acts as a critical component of the interior stormwater management system; and,

WHEREAS, on January 17, 2023, the City Council voted to authorize execution of an Intergovernmental Agreement and Property Sale (the “Agreement”) with MCLD authorizing a transfer of the Sale Property for \$2.4 million; and,

WHEREAS, the City Council believes that entering into the Agreement with MCLD and closing on the transfer of the Sale Property will enhance the public health, safety, and welfare of the City’s residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF CHESTERFIELD, MISSOURI, AS FOLLOWS:

1. The City Council hereby states that the City resolves to sell thirty-seven acres of land, identified in that Intergovernmental Agreement and Property Sale dated January 24, 2023, to the Monarch-Chesterfield Levee District, in accordance with the terms of said Intergovernmental Agreement and Property Sale, and that the closing documents in connection therewith be in such form as Michael Geisel, City Administrator, may deem advisable; and that the City Administrator of the City of Chesterfield shall be authorized to execute and deliver such documents necessary for closing.

2. This Resolution shall be in full force and effect from and after its passage and approval.

Passed and adopted this 20th day of June, 2023.


Bob Nation
Presiding Officer

Bob Nation
Mayor: Bob Nation

Attest:

Vickie McGownd
City Clerk – Vickie McGownd

INTERGOVERNMENTAL COOPERATION AGREEMENT

This **INTERGOVERNMENTAL COOPERATION AGREEMENT** (this "*Agreement*") is entered into as of January 24, 2022, among the **CITY OF CHESTERFIELD, MISSOURI** (the "*City*"), and the **MONARCH-CHESTERFIELD LEVEE DISTRICT** (the "*Levee District*").

RECITALS

1. The Levee District has jurisdiction over the construction, maintenance, oversight, and improvement of the Levee and drainage system which protects the Chesterfield Valley area.
2. The City and the Levee District entered into a Second Amended and Restated Intergovernmental Cooperation Agreement dated as of December 30, 2005 (the "2005 Intergovernmental Agreement"), which provides for certain improvements to the Levee and the grant of a recreation easement by the Levee District to the City.
3. The Levee District entered into a Project Cooperation Agreement (the "PCA") on February 1, 2008 with the United States Army Corps of Engineers to construct the Federal Project which included, but is not limited to, 11.5 miles of levee system along the Missouri River and Bonhomme Creek to an elevation of 3 feet above the 500-year flood event, providing necessary borrow material and attendant seepage control structures, including seepage berms, relief wells, and a sheet pile cutoff; construction of a concrete floodwall/earthen embankment; construction of four pump stations, gravity drains; construction of a railroad and highway closure structures, road realignments and raises.
4. The Levee District substantially exceeded the cost share under the PCA and has been reimbursed by the Federal Government (the "Federal Reimbursement")
5. The Levee District is currently planning on submitting a grant application for the Industrial Site Development Program administered by the Missouri Department of Economic Development (the "DED Grant") to construct a pump station in the West End of Chesterfield Valley (the "West End Pump Station") and related infrastructure improvements for which the City of Chesterfield will serve as a project partner through its provision of real estate, assistance with grant management and support of the industrial development of the site.
6. The City and the Levee District desire to enter into this agreement to provide for the purchase of the West End Detention Basin and Construction of the West End Pump Station by the Levee District.

AGREEMENT

In consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 1. Recitals. All the above and foregoing Recitals are incorporated into and made a part of this Agreement.

Section 2. Rules of interpretation. Words of the masculine gender shall be deemed and

construed to include correlative words of the feminine and neuter genders. Unless the context indicates otherwise, words importing the singular number shall include the plural and vice versa, and words importing persons shall include persons, associations and corporations, including public bodies, as well as natural persons. All references in this Agreement to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed.

Section 3. Representations by the City. The City hereby represents and warrants that it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations hereof, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of the City, enforceable in accordance with its terms. To the best of the City's knowledge and belief, no official or employee of the City has any significant or conflicting interest, financial or otherwise, in the transactions contemplated hereby, except for Michael O. Geisel who recused himself from the deliberation and approval of this Agreement.

Section 4. Representations by the Levee District. The Levee District hereby represents and warrants that it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations hereof, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary Levee District proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the Levee District, enforceable in accordance with its terms. To the best of the Levee District's knowledge and belief, no official or employee of the Levee District has any significant or conflicting interest, financial or otherwise, in the transactions contemplated hereby except for Michael O. Geisel who recused himself from the deliberation and approval of this Agreement.

Section 5. Purchase of West End Detention Basin. Subject to successful award and acceptance by the Levee District of the DED Grant, the Levee District shall purchase the parcel with St. Louis County locator numbers 17W140052 and 17W140041 (the "Property"), currently owned by the City and serving as a detention basin and totaling 37.48 acres with closing to occur on July 6, 2023 pursuant to the proposed Purchase Agreement attached as Exhibit A.

Section 6. Construction of the West End Pump Station. Subject to successful award and acceptance by the Levee District of the DED Grant, the Levee District shall construct a pump station on the Property as authorized and specified in the District's Plan of Reclamation attached as Exhibit B. Upon completion of the West End Pump Station, the Levee District shall maintain and operate the West End Pump Station. The Levee District shall use the Federal Reimbursement for the acquisition of the Property, its cost share for the construction of the West End Pump Station and any remaining amount for capital improvements any maintenance for the Levee District's flood and interior drainage protection system.

Section 7. Prior Agreements. To the extent applicable, performance of the Section 5 Purchase and Section 6 Pump Station Project shall restate and replace any outstanding obligations under the Prior Agreements.

Section 8. Remedies on Default. Except as otherwise provided in this Agreement, in the event of any default in or breach of any material term or condition of this Agreement by any party or any permitted successor or assign, the defaulting or breaching party shall, upon written notice from any

of the other parties, proceed to immediately cure or remedy such default or breach, and shall, in any event within 30 days after receipt of such notice, commence to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach is not cured or remedied within a reasonable time, the aggrieved party or parties may institute such proceedings as may be necessary or desirable in its or their opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

Section 9. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Levee District and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Levee District shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions hereof, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

Section 10. Notices. Any notice, demand, or other communication required by this Agreement to be given to either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by (a) United States first class mail, postage prepaid; (b) facsimile; (c) hand delivery; or (d) a nationally recognized overnight delivery service to the following addresses:

To the City: City of Chesterfield, Missouri
690 Chesterfield Parkway West
Chesterfield, MO 63017
Attention:

To the Levee District: Monarch-Chesterfield Levee District
c/o Husch Blackwell, LLC
190 Carondelet Plaza -Suite 600
Clayton, MO 63105-3441
Attention: David Human

The City and the Levee District may from time to time designate, by notice given hereunder to the other parties, another address to which subsequent notices or other communications shall be sent.

Section 11. Severability. If any provision hereof is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12. Governing Law. This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by the laws of the State of Missouri for all purposes and intents.

Section 13. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument. Section headings are used herein for convenience of reference only and shall not affect the meaning of any provision of this Agreement.

Section 14 Representatives Not Personally Liable. No elected or appointed official, agent,

employee or representative of the City or the Levee District shall be personally liable to any party or any third party in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

Section 15 Force Majeure. Neither the City nor the Levee District nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended, in the event of any delay caused by force majeure, including, without limitation, damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; issuance of any permits and/or legal authorization by a governmental entity necessary for the Levee District to proceed with construction of the Project or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other causes beyond the parties' reasonable control, including but not limited to, any litigation, court order or judgment resulting from any litigation affecting the validity of this Agreement *provided that* such event of force majeure shall not be deemed to exist as to any matter initiated or unreasonably sustained by any party hereto, and further *provided that* the party claiming an event of force majeure notifies the other party in writing within ten (10) days of the commencement of such claimed event of force majeure.

IN WITNESS WHEREOF, the City and Levee District have caused this Agreement to be executed in its name and has caused its seal to be affixed thereto, and attested as to the date first above written.

The City of Chesterfield, Missouri

By: Bob Nation
Mayor Bob Nation

**MONARCH-CHESTERFIELD LEVEE DISTRICT,
a Missouri Levee and Drainage District**

By: W. S. Kirchoff
Michael O. Geisel, President of the Board of Supervisors
William S. Kirchoff - Secretary / Treasurer

Exhibit A
Purchase Agreement

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this "Agreement"), dated as of January 24, 2023, is made and entered into by and between Buyer and Seller (as defined below).

1. BASIC INFORMATION. All capitalized terms used in this Agreement shall have the meanings specified in the Basic Information, unless otherwise defined herein.

"Business Day" means any day that is not a Saturday, Sunday or other legal holiday.

"Buyer" means the Monarch Chesterfield Levee District, a Missouri Levee District formed under RSMo. 245, or any assignee of its rights hereunder, whose address is: 190 Carondelet, Plaza Suite 600, Clayton Mo 63105-3441 and notices to the Buyer shall be sent to Attn. David Human.

"Closing" means the event at which the purchase and sale transaction contemplated herein is consummated.

"Closing Date" means the date which is July 6, 2023; provided, however, if such day is a Saturday, Sunday or other legal holiday, then the Closing Date shall be the next Business Day.

"Commitment" means the title insurance commitment to be obtained by Buyer relative to the Property to be issued by the Title Company.

"Earnest Money" means the five thousand dollars and no cents (\$5,000) paid under Section 4.

"Effective Date" means the first date on which this Agreement has been fully executed and delivered by Buyer and Seller.

"Hazardous Substances" means all substances, wastes, pollutants, contaminants and materials regulated, or defined or designated as hazardous, extremely or imminently hazardous, dangerous, or toxic, under applicable Federal, state, commonwealth and local laws, rules, regulations and ordinances, including, without limitation the following: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 42 U.S.C. et seq., the Atomic Energy Act, 42 U.S.C. §§ 2011 et seq. and the Hazardous Materials Transportation Act, 42 U.S.C. §§ 1801 et seq.; petroleum and petroleum products including crude oil and any fractions thereof; asbestos or asbestos containing material; and natural gas, synthetic gas, and any mixtures thereof.

"Inspection Period" means the ninety (90) day period commencing on the day after the date on which Buyer receives Seller's originally signed acceptance of this Agreement.

"Lease" means any lease, tenancy agreement, occupancy agreement, license, parking agreement, rooftop lease agreement, or other agreement granting to any third person the right to use, occupy, farm or otherwise enter onto the Property or any portion thereof.

"Permitted Exceptions" means only those special exceptions to Seller's title to the Property listed in Schedule B of the Commitment which Seller has not agreed under either (i) the other provisions of this Agreement or (ii) any agreement of Seller signed after the date of this Agreement, to cause to be removed as exceptions from the Commitment or any policy of title insurance to be issued pursuant thereto;

provided, however, that no lien, mortgage, Lease, judgment lien, tax lien, vendor's lien, mechanic's lien or other lien, whether voluntary or involuntary, shall constitute a Permitted Exception.

"Property" means the approximately 37.48 acres of land located in St. Louis County, Missouri with locator numbers 17W140052 and 17W140041 and otherwise as described in Section 2 below.

"Purchase Price" means two million four hundred thousand and no cents Dollars (\$2,400,000).

"Seller" means the City of Chesterfield, a Missouri third class city whose address is 690 Chesterfield Parkway West, Chesterfield MO 63017 and notices to the Seller shall be forwarded to that address.

"Title Commitment" means a commitment from the Title Company setting forth the basis upon which the Title Company is willing to insure title to the Property, together with legible copies of all documents identified therein as exceptions to title (excluding mortgages, deeds of trust and similar matters which shall be released at Closing)

"Title Company" means St. Louis Title L.L.C or any reputable title insurance company designated by Buyer.

"Title Policy" means the ALTA owner's policy of title insurance to be issued to Buyer at the Closing in the amount of the Purchase Price pursuant to the Commitment.

2. PURCHASE AND SALE. In consideration of the Earnest Money, the mutual covenants and agreements herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer agrees to purchase and acquire from Seller, and Seller agrees to sell and convey to Buyer or its designee, the following (collectively, the "Property"), on the terms and subject to the conditions in this Agreement:

2.1 The tract or tracts of real property described on Exhibit A attached to this Agreement, together with (i) all and singular the rights and appurtenances pertaining to such real property, including any easements; (ii) all right, title and interest of Seller in and to adjacent streets, alleys and rights-of-way; and (iii) any and all water, water rights, oil, gas or minerals lying within or which are appurtenant to such real property and any rights with respect thereto (collectively the "Land").

2.2 All improvements, structures and fixtures now constructed and completed with respect to and situated on the Land, (collectively, the "Improvements").

2.3 All Leases covering all or any portion of the Land and/or the Improvements, all claims or causes of action with respect to the foregoing, and all contract rights approved by Buyer and all other intangible rights which are appurtenant to the Land and/or the Improvements, (collectively, the "Intangible Property").

2.4 The Land and Improvements shall be referred to herein collectively as the "Property."

3. PURCHASE PRICE. Buyer agrees to pay and Seller agrees to accept payment of the Purchase Price on the Closing Date, plus or minus prorations, by wire transfer of good funds delivered first to the Title Company, in escrow, and then by the Title Company to Seller. The Purchase Price shall be adjusted at Closing by prorations made in accordance with this Agreement.

4. **EARNEST MONEY.** Within five (5) Business Days following the acceptance of this Agreement by Seller, Buyer shall deposit the Earnest Money at the Title Company. The Title Company shall hold the Earnest Money for the mutual benefit of the parties hereto in an interest bearing account at a bank whose accounts are federally insured. At Closing, the Title Company shall pay the Earnest Money to Seller and such payment shall be credited against the Purchase Price payable by Buyer hereunder on the Closing Statement (as defined below).

5. **SELLER'S DELIVERIES.** Within five (5) days after the Effective Date (or such longer periods as may expressly be provided below), Seller shall deliver or cause to be delivered to Buyer, correct and complete copies of the following (to the extent in Seller's possession), with respect to the Property (collectively, the "Seller's Deliveries"):

5.1 Copies of all service contracts, management agreements, equipment leases and other forms of operating agreements affecting the Property (collectively, the "Contracts"), together with Seller's identification of such contracts or leases which will survive Closing and which are not terminable at Closing or upon thirty (30) days notice.

5.2 Copies of all real estate tax bills for the two (2) years immediately preceding the date hereof and copies of any notice of change in assessed value or tax rate for the Property.

5.3 Copies of all Leases together with all amendments thereof, all side letters relating thereto and all notices received from any tenants of the Property.

5.4 Copies of all certificates of occupancy and other governmental licenses and permits issued in respect to or required for the present use and occupancy of the Property.

5.5 Copies of any and all environmental reports in Seller's possession relating to the Property or any portion thereof and the environmental conditions at or affecting the Property (including, without limitation, any wetlands studies or reports); together with Seller's authorization to allow the firm preparing the same to provide copies of all documents prepared by or received by such engineer relating to the Property to Buyer and Buyer's attorneys, lenders and other consultants.

5.6 Copies of any and all topographical studies of the Property in Seller's possession relating to the Property or any portion thereof; together with Seller's authorization to allow the firm preparing the same to provide copies of all documents prepared by or received by such engineer relating to the Property to Buyer and Buyer's attorneys, lenders and other consultants.

5.7 Copies of any and all studies of the soil and other subsurface conditions of the Property in Seller's possession relating to the Property or any portion thereof; together with Seller's authorization to allow the firm preparing the same to provide copies of all documents prepared by or received by such engineer relating to the Property to Buyer and Buyer's attorneys, lenders and other consultants.

5.8 Copies of any and all development agreements, development approvals, service contracts, management agreements and other operating agreements affecting the Property.

5.9 Copies of all site plans or other plans and specifications for any contemplated improvements on the Property including copies of all budgets, contracts, bids and other information in Seller's possession relating to any proposed improvements for the Property, together with any and all other soil tests, engineering studies, environmental audits or reports, traffic studies, communications with

governmental authorities relating to access requirements for the Property, reports of insurance carriers, agreements, plats, plans, drawings, specifications, title insurance policies, documents creating title exceptions and other like documents, instruments and items relating to the Property, or any portion thereof.

5.10 Copies of any notifications received by Seller asserting that the Property, or any portion thereof, does not comply with any law, rule, regulation, order, code, permit or other legal requirement.

6. AFFIRMATIVE COVENANTS OF SELLER. Seller agrees as follows:

6.1 Maintenance. From and after the date hereof, Seller shall operate, maintain and manage the Property in the same manner as operated and managed heretofore; provided, however, that Seller shall not, without the prior written consent of Buyer, enter into any transaction in respect to or affecting the Property, suffer the creation of any new title exception affecting the Property, enter into any Lease, mortgage, easement, property management agreement, construction contract or other contract affecting all or any portion of the Property or the development thereof, grade or otherwise improve the Property, or commit or suffer any waste to the Property.

6.2 No New Title Exceptions. Seller shall not create or suffer the creation of any exception to title which is not a Permitted Exception (and will not amend, modify or terminate any Permitted Exception), and if any such exceptions arise, then Seller shall cause the same to be released as encumbrances against the Property prior to Closing. Seller shall cause any and all mortgages, deeds of trust and Leases to be terminated and released at or prior to the Closing in a manner acceptable to the Title Company for the purpose of insuring Buyer that the title to be conveyed on the Closing Date will be free and clear of any such mortgages, deeds of trust or Leases. If Seller breaches any of the agreements in this paragraph, Buyer shall have the right to cause the same to be paid and satisfied in full at Seller's expense.

6.3 Inspection Right. Seller shall permit, and hereby grants to, representatives, agents, employees, surveyors, contractors, appraisers and engineers designated by Buyer access to and entry upon the Property and the improvements thereon to inspect, measure and test the Property and the soil and other subsurface conditions thereof. Buyer shall, at its expense, repair any damage to the Property caused by Buyer's inspection or testing thereof. Seller agrees to promptly respond to any requests for information relating to the Property and the use thereof which may be made by Buyer or its consultants. Without limiting the generality of the foregoing, Seller shall furnish Buyer and its environmental consultant with such information concerning the storage, use or disposal of pesticides, herbicides or other Hazardous Substances at or near the Property Buyer or such consultant may request, the history of the Property or such other matters as may be requested.

6.4 Termination of Contracts. All contracts, Leases or other agreements which affect the ownership or operation of the Property and which are not Permitted Exceptions shall be terminated by Seller at or prior to the Closing Date at Seller's expense, except for those Contracts which Buyer has elected to assume, in writing, during the Inspection Period.

7. REPRESENTATIONS AND WARRANTIES OF SELLER. To induce Buyer to execute, deliver and perform this Agreement, Seller hereby represents and warrants to Buyer on and as of the date hereof and on and as of the Closing Date as follows:

7.1 Seller has good and marketable title to the Property free and clear of liens, security interests, encumbrances, leases, occupancy agreements, options, rights of first refusal and

restrictions of every kind and description, except for the Permitted Exceptions and liens pursuant to indebtedness for borrowed money which Seller will cause to be discharged at or prior to Closing.

7.2 Seller is a third class city duly organized and is validly existing and in good standing under the laws of the State of Missouri. The execution and delivery of this Agreement, and the performance by Seller of all of its covenants and obligations hereunder, have been approved by all requisite action on the part of Seller and this Agreement constitutes the legal, valid and binding obligation of Seller and is enforceable in accordance with the terms hereof.

7.3 There are no claims, causes of action or litigation or administrative proceedings pending or, to Seller's knowledge, threatened in respect to the ownership or operation of the Property, including, without limitation, disputes of tenants, employees, government authorities, environmental groups, prior owners, utilities, contractors, adjoining landowners or suppliers of goods and services.

7.4 To Seller's knowledge, (i) the Property does not contain and is not affected by any Hazardous Substances, underground storage tanks, hydrocarbon contamination, radioactive materials, electromagnetic fields or other pollutants or contaminants and has not been used as a landfill or other waste disposal site; (ii) no part of the Property lies within any area designated as a special flood hazard area as determined by FEMA; (iii) no part of the Property lies within any formal burial ground site or other area of archaeological or anthropological significance; (iv) no part of the Property is inhabited by, or is in the migratory path of, any endangered species of plant or animal life which could prohibit, delay or render more costly the development of the Property, (v) no part of the Property has been mined or drilled to explore for or extract any minerals, oil, gas or other natural resources, and (vi) no mining activities have occurred on or under any portion of the Property.

7.5 The Seller's Deliveries will be true, correct and complete in all material respects and the same will not omit any material information required to make the submission thereof fair and complete and, except for such documents, there are no leases (other than the Leases), options, management or other contracts or agreements of any kind relating to or affecting the Property or any part thereof which will survive Closing or be binding upon Buyer.

7.6 No commitments have been made to any governmental or non-governmental organizations, groups or individuals relative to the Property or any portion thereof which would impose an obligation on Buyer or its successors to contribute or dedicate land or money or to construct any improvements on or off the Property.

7.7 Seller has no knowledge of any planned or commenced public improvement which may result in special assessments or otherwise materially affect the Property or any portion thereof, any possible condemnation of the Property or any portion thereof or the widening of any street abutting the Property, or any possible change in zoning classification of the Property.

7.8 Seller has not received any notice: (i) from any federal, state, county or municipal governmental authority alleging any fire, health, safety, building, pollution, environmental, zoning or other violation of law in respect to the Property or any part thereof which has not been entirely corrected; (ii) from any insurance company of any defects or inadequacies in the Property or any part thereof which would adversely affect the insurability of the Property or cause the imposition of extraordinary premiums therefor; or (iii) proposing or announcing a material change in the tax assessment of the Property or any part thereof from the assessment last made and reflected in the tax bills and financial statements furnished to Buyer pursuant to this Agreement.

7.9 To the best of Seller's knowledge, the Property has been constructed, used, maintained and occupied in compliance with all applicable laws, including, without limitation, health, safety, building, environmental, fire and zoning laws, regulations and codes and other state and municipal requirements.

7.10 Neither Seller nor, to the best knowledge of Seller, any of the tenants under the Leases are in breach of any provision under the Leases and no event has occurred or condition exists which, with the giving of notice, the passage of time, or both, would constitute such a breach or default under the Leases.

Seller shall notify Buyer if any of Seller's representations under this Agreement are or become untrue immediately upon Seller's discovery thereof. Buyer's obligation to close under this Agreement is expressly conditioned upon all of the foregoing representations and warranties being true and correct as of the Closing Date.

8. INSPECTION PERIOD. Buyer shall have the right, for any or no reason, to terminate this Agreement upon the delivery of notice thereof to Seller given on or before the date five (5) Business Days after the expiration of the Inspection Period. If Buyer terminates this Agreement as aforesaid, then the Earnest Money shall be immediately refunded to Buyer, and upon any such termination neither party shall have any further obligation hereunder.

9. CLOSING CONDITIONS. The obligation of Buyer to close the transaction contemplated herein is conditioned upon the satisfaction of each and every one of the following conditions (collectively, the "Conditions"):

9.1 Buyer's satisfaction with and approval of, in Buyer's sole and absolute discretion, the Seller's Deliveries.

9.2 Buyer's satisfaction with and approval of, in Buyer's sole and absolute discretion, Buyer's inspections of the Property, which inspections shall include, without limitation, (i) a current survey of the Land prepared by a surveyor licensed in the state in which the Property is located in accordance with ALTA-ASCM land survey standards; (ii) the Title Commitment and all documents constituting exceptions to Seller's title; (iii) a report of a qualified professional engineer relative to all portions of the Property (including, without limitation, the roof, the foundation and other structural portions of the Improvements, mechanical systems, electrical facilities, fire protection, security and plumbing); (iv) a report of a qualified environmental engineer relative to the environmental conditions at or affecting the Property; and (v) a letter from the city or county in which the Property is located confirming the zoning classification of the Land together with copies of any applicable land use regulations and/or restrictions.

9.3 Seller's due and timely performance of Seller's obligations under this Agreement.

9.4 Each of Seller's representations and warranties under this Agreement being true and correct in all material respects.

9.5 The issuance to Buyer of the Title Policy subject only to the Permitted Exceptions, upon payment of the premium therefor.

If Buyer is not satisfied, in Buyer's sole and absolute discretion, with the Conditions, then Buyer shall have the right to either (i) terminate this Agreement upon the delivery of notice thereof to Seller given at

any time prior to or on the Closing Date, or (ii) extend the Closing Date for such period of time as Buyer reasonably determines is necessary for each and every one of the Conditions to be satisfied; provided, however, that the Closing Date shall not be extended for more than sixty (60) days after the originally scheduled Closing Date. If Buyer terminates this Agreement pursuant to its rights hereunder as aforesaid, then the Earnest Money shall be immediately refunded to Buyer; and upon any such termination neither party shall have any further obligation hereunder.

10. CLOSING AND POSSESSION.

10.1 The transaction contemplated hereby shall close on the Closing Date at the offices of the Title Company, provided that Buyer may designate a date for Closing prior thereto upon the delivery of written notice thereof given to Seller not less than ten (10) days prior to the desired date of Closing. A party to this Agreement will not be required to be present in person at such Closing if such party has delivered all of the items it is required to deliver at the Closing to the Title Company on or before the Closing; provided, that if such items have been delivered to the Title Company with escrow instructions, such instructions must be consistent with the provisions of this Agreement. If any such instructions conflict with the provisions of this Agreement, the provisions of this Agreement shall govern. The attorneys of each party are hereby authorized to execute and deliver escrow instructions on behalf of their respective clients with the same binding effect as if executed by their respective clients.

10.2 At Closing, Seller shall execute (where necessary) and deliver to Buyer the following:

(i) a special warranty deed conveying to Buyer or its designee title to the Land subject only to the Permitted Exceptions;

(ii) a bill of sale transferring to Buyer or its designee title to the Personal Property, if any;

(iii) a counterpart of an assignment of leases (the "Assignment of Leases") assigning to Buyer Seller's rights under the Leases, if any;

(iv) original executed counterparts of the Leases and all guaranties and warranties and any Contracts which Buyer is assuming;

(v) a certification that Seller is not a foreign person (as defined in Section 1445 of the Internal Revenue Code of 1986, as amended);

(vi) such other certifications and confirmations as may be reasonably required by the Title Company to insure over any liens or encumbrances affecting the Property, and the standard exceptions contained in an ALTA owner's policy of title insurance (except the survey exception);

(vii) sole possession of the Property and all keys thereto, except as to that portion leased pursuant to the Leases, if any; and

(viii) the Closing Statement.

10.3 At Closing, Buyer shall execute (where necessary) and deliver to Seller the following:

- (i) the Purchase Price, subject to the credits and adjustments shown on the Closing Statement;
- (ii) a counterpart of the Assignment of Leases; and
- (iii) the Closing Statement.

11. PRORATIONS.

11.1 Buyer shall receive a credit against the Purchase Price for the amount of current real estate taxes levied against the Property, if any, which are unpaid as of the Closing Date and which are allocable to the period prior to and including the Closing Date (based on the actual number of days elapsed in a year over the total number of days in such year), the amount of such credit to be determined on the basis of the current tax bills for the Property or, if the same are not available on the day of the Closing, the most recent ascertainable assessed value and tax rate, with the parties agreeing to re-prorate said taxes upon the receipt of the actual tax bills for the Property. Seller shall be responsible for paying the real estate taxes for all periods prior to the tax year in which the Closing occurs out of Seller's own funds and Seller shall provide evidence of the payment thereof at or prior to the Closing Date. If the Property was part of one or more tax parcels which included land not within the boundary lines of the Property during any period over which taxes are to be prorated as provided herein, then the parties agree to prorate the real estate taxes (relating to the unimproved land component of such taxes only) over the entire tax parcel or parcels on a per square foot basis.

11.2 Other items customarily adjusted upon the sale of a property similar to the Property shall be adjusted by the parties. Seller and Buyer shall diligently attempt to determine the exact amounts of prorations and adjustments prior to or at Closing; provided, however, the parties acknowledge that exact amounts may not be available at Closing and agree to re-prorate such items following Closing based upon final bills or statements.

11.3 Buyer and Seller agree that the Title Company shall be the "reporting person" relative to the transaction contemplated herein for purposes of Section 6045(e) of the Internal Revenue Code of 1986, as amended.

12. EXPENSES.

12.1 Buyer shall pay for (i) all costs of Buyer's inspection of the Property; (ii) one half (1/2) of the Closing or escrow fees of the Title Company; and (iii) the fees and expenses of Buyer's counsel.

12.2 Seller shall pay for (i) the fees and expenses of Seller's counsel; (ii) one half (1/2) of the Closing or escrow fees of the Title Company; (iii) the premium for the Title Policy to be issued to Buyer, with coverage in the amount of the Purchase Price; (iv) any and all transfer taxes, deed stamps or other taxes due in connection with the sale or conveyance of the Property contemplated herein; (v) the costs of recording and/or filing any releases relating to any liens against Seller's interest in the Property; and (vi) all commissions or fees payable to the Brokers.

13. BROKERAGE. The parties hereby represent and warrant to one another that they have not dealt with any broker or finder in respect to the transaction contemplated hereby except for the Brokers. The parties hereby agree that any commissions or fees payable to the Brokers shall be the responsibility of Seller. Each party hereby agrees to indemnify, defend and hold the other harmless from and against any and all claims, causes of action, losses, damages, liabilities, judgments, settlements and

expenses (including, without limitation, attorneys' fees) that the other may sustain or incur by reason of its breach of the foregoing representation and warranty.

14. DESTRUCTION OR DAMAGE. Seller shall bear all risk of loss or damage to the Property prior to Closing and shall insure the Property against loss by vandalism, fire or other casualty in an amount not less than the full replacement value thereof. If, prior to Closing, the improvements on the Property are destroyed or damaged by vandalism, fire or other casualty, Seller shall promptly notify Buyer thereof and Buyer shall have the option, exercisable by delivery of written notice to Seller within fifteen (15) days after Buyer receives notice of such damage or destruction from Seller, to terminate this Agreement. If Buyer does not elect to terminate this Agreement as provided above, Seller shall, at Closing, assign or pay to Buyer all insurance proceeds collected or claimed with respect to such loss or damage and the amount of any deductible or co-insurance applicable to such insurance. In connection with any such assignment, Seller shall cause Seller's insurance carrier to acknowledge such assignment and agree to pay to Buyer any proceeds of such insurance. Notwithstanding anything to the contrary in the foregoing, if the Property is damaged by vandalism, fire or other casualty and the cost of repairing such damage exceeds Fifty Thousand Dollars (\$50,000.00), then Buyer may, at its option, defer Closing until such damage is repaired, replaced or restored and Seller shall, at Seller's cost, diligently and in good faith proceed to complete such repair, replacement and/or restoration.

15. CONDEMNATION. If, prior to Closing, all or any portion of the Property is taken by exercise of the power of eminent domain or any proceedings are instituted to effect such a taking, Seller shall promptly notify Buyer thereof and Buyer shall have the option, exercisable by the delivery of notice to Seller within fifteen (15) days after Buyer receives notice of such taking, to terminate this Agreement. If Buyer does not elect to terminate this Agreement as provided above, Seller shall, at Closing, assign or pay to Buyer all condemnation awards collected or claimed relative to such taking.

16. DEFAULT.

16.1 If Buyer defaults in the performance of its obligations hereunder and Seller is not then in default in the performance of its obligations hereunder, then the Earnest Money shall be forfeited to Seller as Seller's sole and liquidated damages for Buyer's default, it being agreed that the receipt thereof shall be Seller's sole and exclusive remedy for any such default (any right of Seller to specific performance or other equitable remedy being expressly waived), and Buyer shall have no further obligation or liability to Seller hereunder by reason thereof.

16.2 If Seller defaults in the performance of its obligations hereunder, then Buyer shall have the right, at Buyer's option, to (i) terminate this Agreement by the delivery of notice thereof to Seller, in which event Buyer shall be entitled to receive a refund of the Earnest Money and recover from Seller all of Buyer's losses, damages and expenses suffered by Buyer as a result thereof, or (ii) exercise any other right or remedy available under applicable law as a result of such default including, without limitation, the right to specifically enforce Seller's obligations under this Agreement. In the event of any material misrepresentation or breach of warranty by Seller which is discovered by Buyer prior to Closing, Buyer shall have the right, at Buyer's sole option, to (i) consummate the purchase of the Property notwithstanding such misrepresentation or breach without waiving any other rights or remedies as a result thereof, or (ii) terminate this Agreement by the delivery of notice thereof to Seller, in which event Buyer shall be entitled to receive a refund of the Earnest Money and to recover from Seller all of Buyer's losses, damages and expenses suffered by Buyer as a result thereof.

16.3 In the event either party elects to assert its rights with respect to the refund or forfeiture of the Earnest Money as provided in this Agreement during the period of time when the Title Company is holding the Earnest Money, the parties shall follow the procedure set forth in this Section.

The party claiming the right to receive the Earnest Money shall deliver an affidavit to the Title Company stating that it is entitled to the receipt of the Earnest Money and stating the reasons therefor. Upon the receipt of such affidavit, the Title Company shall deliver to the other party a copy of such affidavit together with a notice stating that if no objection to the disposition of the Earnest Money as set forth in the affidavit is received from the other party within ten (10) days after the date such notice is sent by the Title Company, the Title Company will deliver the Earnest Money in accordance with the terms of such affidavit. If such other party fails to object to the disposition of the Earnest Money by the Title Company within the ten (10) day period as provided above, then the Title Company is hereby authorized and directed by the parties to this Agreement to deliver the Earnest Money in accordance with the terms of such affidavit. If such other party delivers to the Title Company an objection to the disposition of the Earnest Money as contemplated in such affidavit within such ten (10) day period, then the Title Company may interplead the Earnest Money into a court of competent jurisdiction for a resolution of any disputes involving the Earnest Money.

16.4 If any litigation is commenced to enforce the rights of either party under this Agreement, then the non-prevailing party shall reimburse the prevailing party for all expenses incurred in connection with any such litigation or other proceeding, including, without limitation, attorneys fees and court costs. Such obligation shall survive the Closing or any termination of this Agreement.

17. SURVIVAL. All representations, warranties, covenants, agreements and obligations of the parties hereto shall, notwithstanding any investigation made by any party hereto, survive Closing and the same shall inure to the benefit of and be binding upon the respective heirs, personal representatives, successors and assigns of the parties hereto.

18. NOTICES. Any notice or other document to be given hereunder shall be in writing and shall be delivered personally or sent by United States registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the respective addresses set forth in Section 1 of this Agreement, and the same shall be effective upon receipt if delivered personally, one (1) Business Day after deposit with FedEx or other reputable overnight courier or two (2) Business Days after deposit in the mails if mailed. In addition, notices may be sent by Facsimile to the facsimile number indicated for each party in Section 1 of this Agreement, and the same shall be deemed delivered upon the transmission thereof to the correct number if the same is also sent by overnight courier as aforesaid. A party may change its address for receipt of notices by service of a notice of such change in accordance herewith.

19. CONFIDENTIALITY. Each party agrees that the terms of this Agreement shall be held in confidence and shall not be disclosed to the public or any third party without the prior written consent of the other party hereto, except to the extent provided herein. Notwithstanding anything herein to the contrary, Buyer may disclose the terms of this Agreement to its lenders, attorneys and consultants; the Title Company; and governmental agencies to the extent such disclosure is necessary to carry out the terms of this Agreement.

20. MISCELLANEOUS. This Agreement contains the entire agreement and understanding of the parties in respect to the subject matter hereof, and the same may not be amended, modified or discharged nor may any of its terms be waived except by an instrument in writing signed by the party to be bound thereby. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Time is of the essence in this Agreement. Seller may not assign its rights or delegate its obligations hereunder without the prior written consent of Buyer. Buyer may assign its rights and delegate its obligations hereunder, without Seller's consent. This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located. The transmission by facsimile of signed

counterpart of this Agreement to a party at its facsimile number indicated above shall have the same binding effect as the hand delivery of an originally signed counterpart hereof.

[Signatures appear on next page.]

SIGNATURE PAGE FOR
PURCHASE AND SALE AGREEMENT

IN WITNESS WHEREOF this Agreement is executed as of the date set forth above.

“Buyer”

Monarch Chesterfield Levee District

By: W.S. Kirchoff

Printed Name: William S. Kirchoff

Title: Secretary/Treasurer

“Seller”

By: Bob Nation

Printed Name: Bob Nation

Title: Mayor

EXHIBIT A

[Insert legal description of land.]

Exhibit B
Plan of Reclamation

MONARCH-CHESTERFIELD LEVEE DISTRICT

ST. LOUIS COUNTY, MISSOURI

FIRST AMENDMENT

TO THE

THIRTEENTH SUPPLEMENTAL PLAN FOR RECLAMATION

May 2022

During the Flood of 1993, the Monarch-Chesterfield Levee District was flooded with eight to twelve (8 – 12) feet of water as a result of the breach of a portion of the Monarch-Chesterfield levee. The levee breach caused the flooding of approximately four thousand seven hundred (4,700) acres of land along the Missouri River. The flood water submerged Interstate 64 within the District and caused extensive damage to commercial buildings, the St. Louis County Jail, the Spirit of St. Louis Airport, as well as residential and agricultural property.

In the fall of 1993, the United States Corps of Engineers began reconstruction of the levee to the same condition as the levee existed prior to the flood. The reconstruction was substantially completed by January 1, 1994 and the final work was completed in March 1994. The Federal Emergency Management Agency (FEMA), in a letter to the City of Chesterfield, Missouri (the "City") dated August 25, 1993, requested the City, in concert with St. Louis County, Missouri, to provide recertification of the levee for the 100-year flooding conditions in order to retain the National Flood Insurance Program shown on the current FLOODWAY and FIRM maps.

The City retained Sverdrup Civil, Inc. (the "District's Engineer") to provide engineering services for the recertification of the Monarch-Chesterfield levee in accordance with the FEMA request. The District's Engineer identified certain repairs and improvements, which were required to meet the minimum standards established by FEMA. These repairs and improvements were completed between October 1994 and May 1996 and the District's Engineer made its final application to FEMA for recertification of the levee.

MONARCH-CHESTERFIELD LEVEE DISTRICT

ST. LOUIS COUNTY, MISSOURI

FIRST AMENDMENT

TO THE

THIRTEENTH SUPPLEMENTAL PLAN FOR RECLAMATION

May 2022

In August 1996, the District, in conjunction with the City, initiated a construction project to install three stormwater pump stations and attendant facilities at strategic points within the District.

In March 1997, the District initiated a construction project known as Phase II-B Improvements by increasing the stability of the levee system from Centaur Road (approximately Station 0 + 76) to Interstate 64/Highway 40 (approximately Station 156 + 50). These improvements were expected to be completed by December 1998 and consisted of adding five feet to the height of the levee and adding seepage berms or increasing the width and the depth of the existing seepage berms.

In February 1998, the District adopted the Fifth Supplemental Plan of Reclamation, known as the Phase III-A Improvements. These improvements include realignment of the levee system from Station 320 + 00 to 382 + 00 and addition of five feet to the height of the levee and this area to increase its stability and integrity in this area.

In April 1998, the District adopted a Seventh Supplemental Plan of Reclamation, known as the Phase 1B Improvements. These improvements include increasing the stability of the levee from approximately Stations 500 + 00 to 600 + 00.

In April 1998, the District adopted an Eighth Supplemental Plan of Reclamation, known as the Long Road Drainage Ditch Improvement Project. These improvements include construction of storm water and surface water drainage improvements.

In July 1999, the District adopted a Ninth Supplemental Plan of Reclamation, known as the Phase III-B Improvements. These improvements include increasing the stability of the levee from approximately Stations 176 + 18 to 320 + 00 and Stations 381

+ 18 to 466 + 40. Further, the Phase III-B improvements include a 3455' construction/realignment of the levee immediately downstream of the Daniel Boone Bridge to provide further protection for the Interstate 64/Highway 40 right-of-way.

In August 1999, the District adopted a Tenth Supplemental Plan for Reclamation, known as the Phase 1C Levee Improvements. This project consisted of the construction of improvements to raise the height of the levee system approximately three feet from Stations 500+00 to 600+00.

In July 2001, the District adopted an Eleventh Supplemental Plan for Reclamation, known as the Phase 1C Drainage Channel – Detention Pond. This project consisted of improvements of the levee along Bonhomme Creek by excavating and fabric and rock-lining a drainage channel and storm-water detention pond.

In September 2005, the District adopted the First Amendment to Fifth Supplemental Plan for Reclamation, known as the Phase II Levee Improvement Project. This project enhanced the Phase II-B Improvements of the Fifth Supplemental Plan by widening and deepening seepage berms from Centaur Road (approximately Station 0 + 76) to Interstate 64/Highway 40 (approximately Station 156 + 50) and the realignment of Eatherton Road.

In September 2005, the District adopted a Twelfth Supplemental Plan for Reclamation, known as the Phase II – West Infrastructure Project. This project consisted of the construction of sanitary sewer and potable water infrastructure, including water and sewer lines, pump stations, and other necessary improvements, in the area to coordinate and provide comprehensive sewer and water services the West End of Chesterfield Valley.

In May 2009, the District adopted a Thirteenth Supplemental Plan for Reclamation, referred to as the "Federal Project". The scope of the Federal Project is described in the PCA between the Department of the Army, represented by the U.S. Army Engineer, St. Louis District and the Monarch-Chesterfield Levee District and includes improvements to the levee system that the District has already completed pursuant to prior Supplemental Plans as well as improvements remaining to be constructed by the Government under the PCA.

With this Amendment, the Board of Supervisors has elected to not include the West End Pump Station in the Federal Project and, instead, allow for the construction of this pump station outside of the Federal Project. A portion of the construction cost of this West End Pump Station may be paid for with a contribution from a federal and/or state funding source. The preliminary total project cost estimates are as follows:

Construction	\$11,500,000
Lands, Easements, Rights-of-way & Professional Fees	\$4,780,000
Contingency/Market Volatility	<u>\$2,300,000</u>
Total Estimated Project Cost	\$18,580,000

I.

DESCRIPTION OF THE PROJECT

This First Amendment to the Thirteenth Supplemental Plan for Reclamation proposes to construct the West End Pump Station outside of the Federal Project.

II.

SCOPE OF WORK CONTEMPLATED

The specific items of work required are as follows:

- A. Construction of a 300-cfs stormwater pump station and outfall structure at the West End Basin.
- B. Planning, engineering, design, supervision and administration, land, easement, right-of-way, relocation and disposal acquisition, and other activities associated with item A.

CERTIFICATION
OF
FIRST AMENDMENT
TO THE

THIRTEENTH SUPPLEMENTAL PLAN FOR RECLAMATION

The undersigned hereby certifies that the attached First Amendment to the Thirteenth Supplemental Plan for Reclamation of the Monarch-Chesterfield Levee District was duly adopted by the Board of Supervisors on the 20th day of May, 2022, and is a true and correct copy of the original thereof.

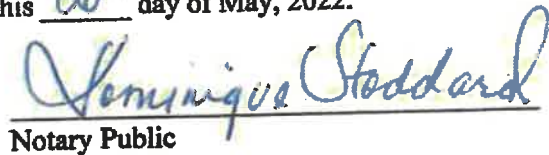


William S. Kirchoff, Secretary

STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS)

SS.

Subscribed and sworn to before me this 20th day of May, 2022.


Notary Public

My Commission Expires: 7/21/2023

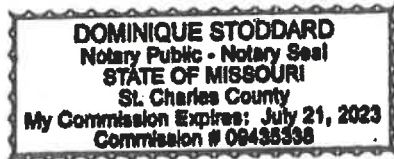
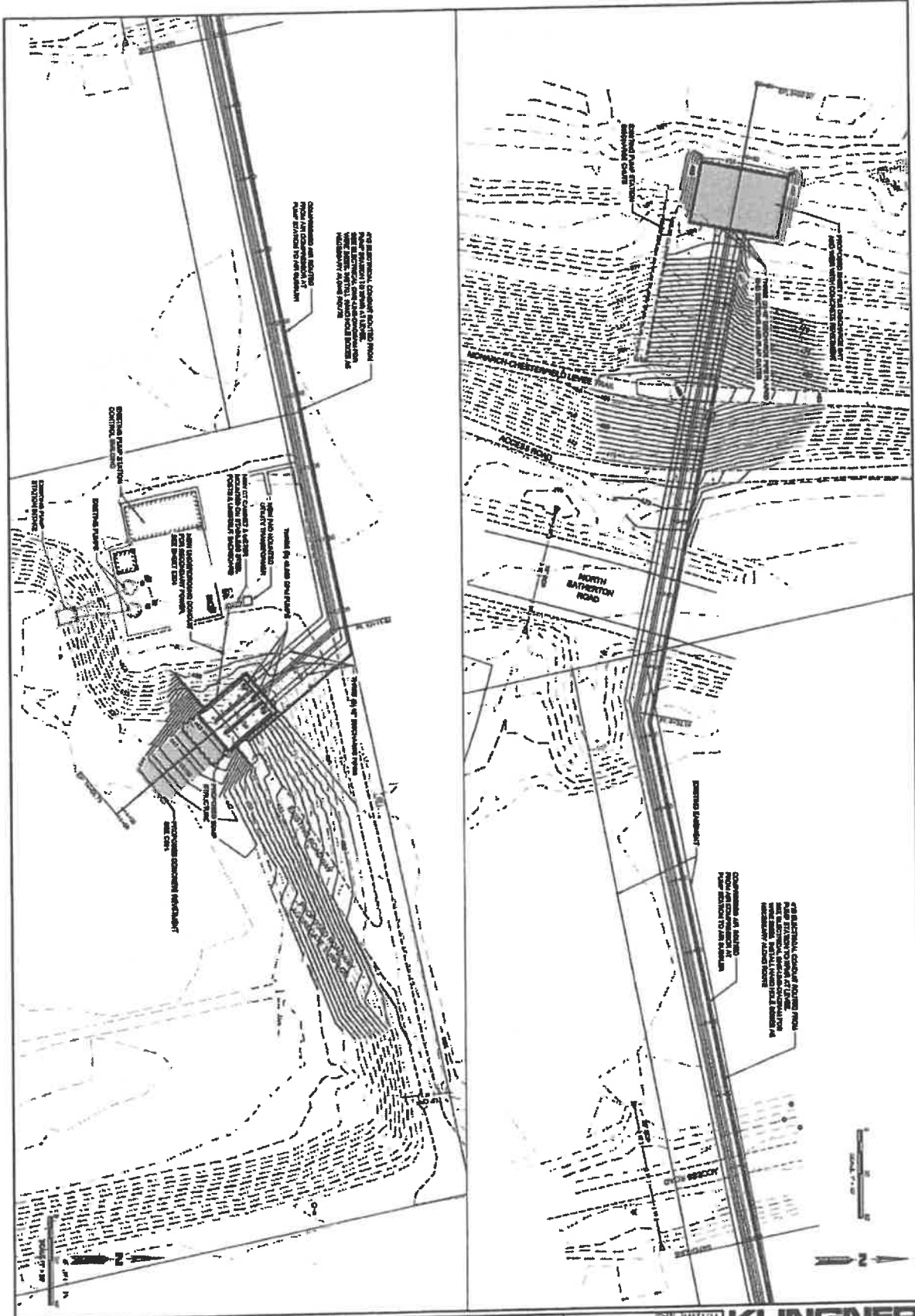


EXHIBIT A

West End Pump Station Design Plan Sheets



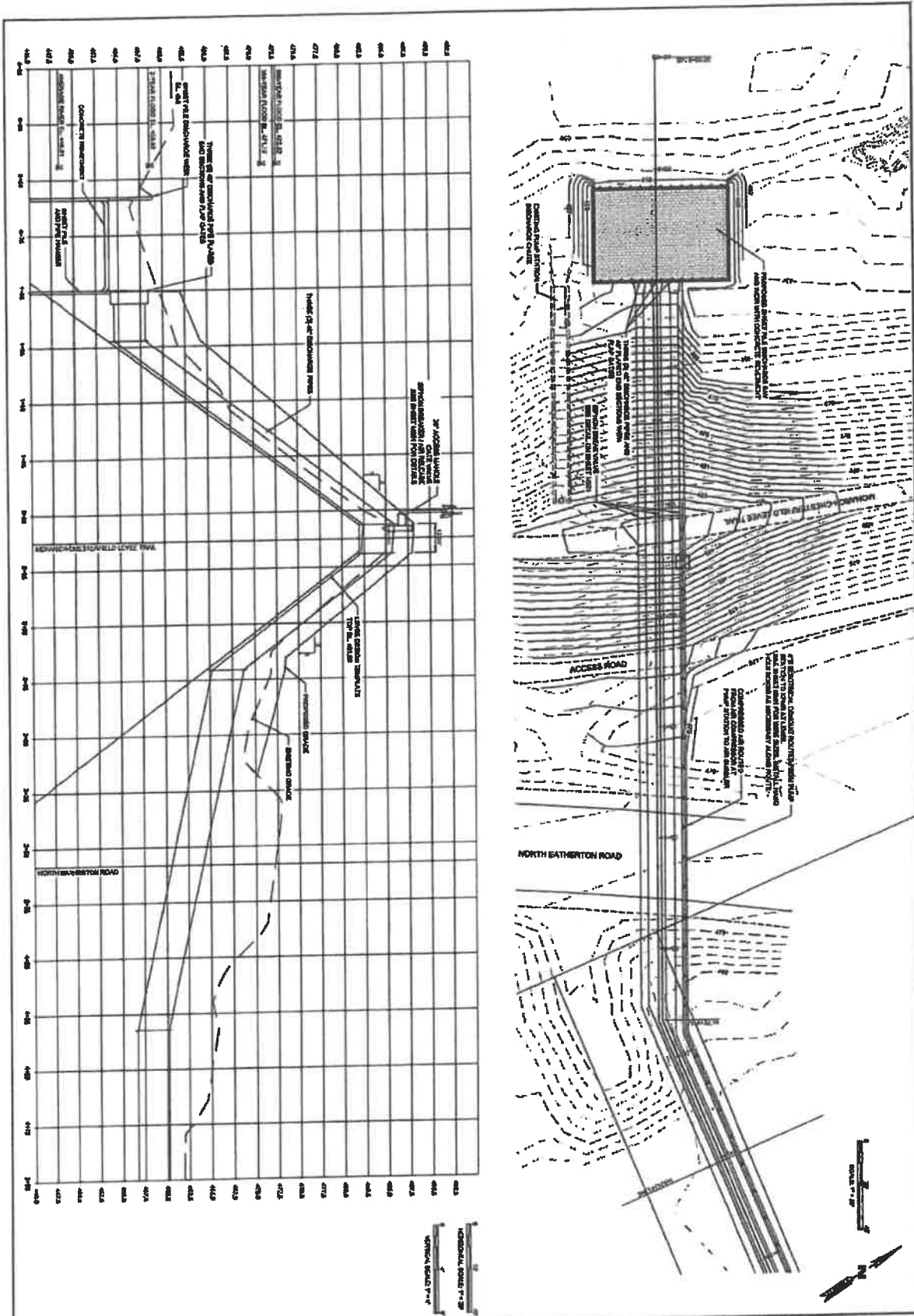
C101	DATE	DESCRIPTION
SITE PLAN	SCALE	

WEST END PUMP STATION
MONARCH-CHESTERFIELD LEVEE DISTRICT

**PRELIMINARY
 NOT FOR
 CONSTRUCTION**

**KLINGNER
 & ASSOCIATES, P.C.**
 Engineers • Architects • Surveyors

Outsley, Illinois www.klingner.com
 618.538.2200 618.538.2200
 112.000.0000 618.538.2200



C301 PLAN & PROFILE WEST END PUMP STATION MONARCH-CHESTERFIELD LEVEE DISTRICT	WEST END PUMP STATION MONARCH-CHESTERFIELD LEVEE DISTRICT	PRELIMINARY NOT FOR CONSTRUCTION	KLINGNER & ASSOCIATES, P.C. Engineers • Architects • Surveyors Quincy, Illinois 505 North 24th St Quincy, IL 62450
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