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**City Council Meeting  
Council Chamber**

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**April 20, 2023  
7:00 P.M.**

**Zoom Link – Internet Audio/Video:**

<https://us02web.zoom.us/j/88671666029?pwd=TDVzQU9xaGVNYWNVQIFxVnRCTjc4QT09>

**Dial-in Number: 312 626 6799**

**Meeting ID: 886 7166 6029**

**Passcode: 550555**

## **AGENDA**

1. Pledge of Allegiance and Opening Prayer

2. Roll Call

3. Business from the Floor

4. Organization of the Council

Election of Mayor Pro-Tem  
Mayoral Committee Appointments

5. Consent Agenda

A. Regular Council Meeting Minutes from **April 6, 2023.**

B. Payroll Warrant **#T00419 in the Amount of \$342,374.47.**

C. General Warrant **#5832 in the Amount of \$507,159.06.**

6. Ordinances:

A. **Bill #2852** An Ordinance Accepting Lands Known as Stone Creek Subdivision for Public Use of Streets and Storm Sewers; Authorizing the Mayor of the City of Arnold, Missouri, to Execute a Formal Acceptance Thereof; and Providing for the Recording of Said Acceptance. A Copy of Said Formal Acceptances is Attached Hereto and Made a Part Here of By Reference.

7. Resolutions:

- A. **Resolution #23-11** A Resolution Appointing A Member to The Planning Commission.
- B. **Resolution #23-12** A Resolution Ratifying the Purchase of Five Granite Benches from PG Memorials.
- C. **Resolution #23-13** A Resolution Authorizing the Mayor to Enter into an Agreement with Peters-Eichler Mechanical.
- D. **Resolution #23-14** A Resolution Authorizing the Mayor to Execute Change Order Number 1 to the 2023 Concrete Project.

8. Motions:

- A. A Motion to Approve Liquor License Applications
- B. A Motion to Approve Fireworks at ICC Picnic
- C. A Motion to Approve PC-2023-12 ABV Barrel Shop Bar (Conditional Use Permit)

9. Reports from Mayor and Council

10. Administrative Reports

11. Adjournment

Upon request, reasonable accommodations will be provided. Contact Tammi Casey, City Clerk, Arnold City Hall, 2101 Jeffco Boulevard, Arnold, Missouri 63010. Phone: 636-296-2100.

Mayor Ron Counts called the meeting to order at 7:00 p.m.

The council meeting was also presented live via Zoom Video Conferencing.

The pledge of allegiance was recited. Councilman Tim Seidenstricker offered the prayer.

### **ROLL CALL**

Those present per roll call taken by City Clerk Tammi Casey: Mayor Counts, Seidenstricker, Hood, Mullins, Cooley, Plunk, McArthur, Fleischmann, Fulbright, Richison, Bookless, Lehmann, Sweeney, Crutchley, Wagner (excused), Kroupa and Major Wooldridge.

### **BUSINESS FROM THE FLOOR**

Vernon Born, 2084 Lonedell – Informed council that he also owns a home at 858 Lonedell, which is located behind Fox School. He stated the speeding issue on this road is extremely dangerous. Students that drive to the High School use this road to access the Fox Student Parking lot. He has spoken to the school, the police department and the Mayor about the issue. Mr. Richison and Major Wooldridge stated they will research solutions to the issue and will be in contact.

Erin Gogolin of Bohler Engineering – Attended the meeting via Zoom. She informed council that she is the engineer for Chick-Fil-A and is here to answer any questions council may have regarding the CUP the restaurant has applied for.

### **CONSENT AGENDA**

- A. REGULAR COUNCIL MEETING MINUTES FROM MARCH 2, 2023**
- B. PAYROLL WARRANT #T00417 IN THE AMOUNT OF \$326,148.47**
- C. GENERAL WARRANT #5830 IN THE AMOUNT OF \$235,065.00**
- D. GENERAL WARRANT #5831 IN THE AMOUNT OF \$611,383.70**

**Butch Cooley made a motion and so moved to approve the consent agenda.** Seconded by Gary Plunk. Roll call vote: Seidenstricker, yes; Hood, yes; Mullins, yes; Cooley, yes; Plunk, yes; McArthur, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Motion carried.**

### **ORDINANCES**

NONE

## RESOLUTIONS

### **RESOLUTION NO 23-08 – A RESOLUTION AUTHORIZING THE REPAIR WORK TO THE SALT CONVEYOR**

**Tim Seidenstricker made a motion and so moved to approve Resolution No 23-08.** Seconded by Jason Fulbright. Roll call vote: Seidenstricker, yes; Hood, yes; Mullins, yes; Cooley, yes; Plunk, yes; McArthur, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Resolution passed.**

### **RESOLUTION NO 23-09 – A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A ONE YEAR AGREEMENT WITH SHELTON LANDSCAPE & MAINTENANCE TO PROVIDE ON-CALL CODE ENFORCEMENT ABATEMENT SERVICES FOR THE CITY OF ARNOLD**

**Mark Hood made a motion and so moved to approve Resolution No 23-09.** Seconded by EJ Fleischmann. Roll call vote: Seidenstricker, yes; Hood, yes; Mullins, yes; Cooley, yes; Plunk, yes; McArthur, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Resolution passed.**

### **RESOLUTION NO 23-10 – A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A CONTRACT WITH SHANNON AND WILSON FOR PROFESSIONAL SERVICES RELATIVE TO RETAINING WALL PROJECT ON CHURCH ROAD**

**Gary Plunk made a motion and so moved to approve Resolution No 23-10.** Seconded by EJ Fleischmann. Roll call vote: Seidenstricker, yes; Hood, yes; Mullins, yes; Cooley, yes; Plunk, yes; McArthur, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Resolution passed.**

## MOTIONS

### **A. A MOTION TO APPROVE LIQUOR LICENSE APPLICATIONS**

Tammi Casey informed council that the Liquor Committee met earlier this evening. St David Catholic Church has applied for a Consumption on Premise Liquor License. The committee is forwarding a recommendation of approval by unanimous vote.

**Butch Cooley made a motion and so moved to approve the liquor license application for St David Catholic Church.** Seconded by Tim Seidenstricker. Roll call vote: Seidenstricker, yes; Hood, yes; Mullins, yes; Cooley, yes; Plunk, yes; McArthur, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Motion carried.**

**B. A MOTION TO APPROVE PC-2023-08 S & J SNO-BALL (CONDITIONAL USE PERMIT)**

David Bookless informed council that S & J Sno-Ball is once again applying for a CUP for a Seasonal Treat Stand. Staff recommends extending the expiration of the CUP from two years to 4 years, as S & J has occupied this location since 2017. Planning and Zoning held a Public Hearing at its March 14, 2023 meeting and are forwarding a recommendation of approval by a vote of 9 to 0. Mr. Bookless informed council that if no action is taken tonight, the CUP stands approved. As no action was taken, the CUP stands approved.

**C. A MOTION TO APPROVE PC-2023-09 CHICK-FIL-A (AMENDED SITE PLAN CONDITIONAL USE PERMIT)**

David Bookless informed council that Chick-Fil-A discovered during COVID that the location has such heavy drive-thru traffic that a second drive-thru is necessary. They wish to amend the site plan to add a second drive-thru lane. They also wish to build a permanent canopy at the point the customer places their order. Planning & Zoning held a Public Hearing at their March 14, 2023 meeting and are forwarding a recommendation of approval by a vote of 7 to 0 with 1 recusal. Mr. Bookless informed council that if no action is taken tonight, the CUP stands approved. As no action was taken, the CUP stands approved.

**D. A MOTION TO APPROVE PC-2023-10 INSPIRATIONAL LIVING COUNSELING CLINIC (CONDITIONAL USE PERMIT)**

David Bookless informed council that all medical services are required to have a CUP. The applicant is applying for a CUP for a clinic to allow mental health counseling at 1331 Jeffco Blvd, Suite 3. Planning and Zoning held a Public Hearing at their March 14, 2023 meeting and are forwarding a recommendation of approval by a vote of 9 to 0. Mr. Bookless informed council that if no action is taken tonight, the CUP stands approved. As no action was taken, the CUP stands approved.

**E. A MOTION TO HOLD A CLOSED SESSION IMMEDIATELY FOLLOWING THE CITY COUNCIL MEETING FOR THE PURPOSE OF DISCUSSING REAL ESTATE PURSUANT TO RSMo 610.021 (2)**

**Butch Cooley made a motion and so moved to hold a Closed Session immediately following the council meeting.** Seconded by Rodney Mullins. Roll call vote: Seidenstricker, yes; Hood, yes; Mullins, yes; Cooley, yes; Plunk, yes; McArthur, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Motion carried.**

**REPORTS FROM MAYOR AND COUNCIL**

Mayor Counts – Thanked everyone who supported and voted in favor of Proposition Public Safety. The passing of this sales tax, which will fund the police department, will have a positive impact on the City long after we are gone. The last Winter Farmers Market will take place this Saturday and the first Summer Farmers Market will begin April 29<sup>th</sup> with over 50 vendors. Mayor Counts also stated he is in the process of making committee appointments and encouraged council members to contact him with any preferences they may have. Mayor Counts thanked councilman Tim Seidenstricker for his service to the City, stating there is no one with more honesty and integrity than him and it has been a pleasure working with him.

EJ Fleischmann, Ward 1 – Echoed the Mayor’s sentiments regarding Mr. Seidenstricker and congratulated Bill Moritz on his election win.

Gary Plunk, Ward 4 – Stated Mr. Seidenstricker ran an honorable campaign and it has been a pleasure working with him.

Rodney Mullins, Ward 3 – Stated it has been an honor working with Mr. Seidenstricker. Mr. Mullins provided council with the final rendering for the Veterans Memorial that will be located by the gazebo at the Rec Center. The Veterans Commission has worked very hard on this project and is excited to see work begin.

Tim Seidenstricker, Ward 2 – Thanked everyone for their kind words and said it has been an honor and privilege to serve the City since he was appointed in 2019.

Jason Fulbright, Ward 1 – Thanked the citizens of Ward 1 for voting for him as well as all residents who voted in favor of Proposition Public Safety. Mr. Fulbright congratulated Bill Moritz on his win and told Mr. Seidenstricker it has been a pleasure sitting next to him on the dais and working with him.

Brian McArthur, Ward 2 – Stated it has been an honor working with Mr. Seidenstricker, who is one of the most honest and dedicated people he knows.

**ADMINISTRATIVE REPORTS**

Bryan Richison – Thanked the residents who voted for Proposition Public Safety. Mr. Richison also stated it has been a pleasure working with Mr. Seidenstricker and congratulated Mr. Moritz.

Tammi Casey – Stated it has been an honor working with Mr. Seidenstricker on the Liquor Committee and congratulated Mr. Moritz.

Major Wooldridge – Thanked the residents for voting for Proposition Public Safety. The Major also thanked residents, staff and volunteers who worked tirelessly campaigning and educating the public regarding the Proposition.

5  
Regular Meeting  
April 6, 2023

Bill Lehmann – Stated it has been a pleasure working with Mr. Seidenstricker and congratulated Mr. Moritz.

Dave Crutchley – Informed council that the Adult Easter Egg Hunt was held indoors at the Rec Center last Saturday. The Arnold Jaycees donated a poster board comprised of \$300 worth of scratch off tickets to be raffled off and that, in combination with the 50/50 drawing, allowed the Jaycees to donate \$4,000 to the Veterans Commission.

Bob Sweeney – Thanked Mr. Seidenstricker for his dedicated service to the City and congratulated Mr. Moritz. Mr. Sweeney stated that Proposition Public Safety is a game changing event for the City the effects of which will far outlive us. It is something that will have immense positive impacts.

David Bookless – Stated it has been a pleasure working with Mr. Seidenstricker and congratulated Mr. Moritz.


Mayor Counts announced a 5-minute recess before going into Closed Session.

.....  
Closed Session ended at 8:11 p.m.

A motion to adjourn the meeting was made by Mark Hood. Seconded by Butch Cooley.

Voice vote: All Yeas.

Meeting adjourned at 8:11 p.m.

  
\_\_\_\_\_  
City Clerk Tammi Casey, CMC/MRCC-S

**CITY OF ARNOLD, MISSOURI**

**ROLL CALL**

**MEETING:** COUNCIL MEETING

**DATE:** 4/6/2023

**PAGE:** 1

**BILL NO - RESOLUTION - MOTION**

		ROLL CALL	CONSENT AGENDA	RESOLUTION NO 23-08	RESOLUTION NO 23-09	RESOLUTION NO 23-10	MOTION TO APPROVE ST DAVID CHURCH LIQUOR LICENSE	
<b>COUNCIL MEMBERS:</b>								
<b>MAYOR</b>	RON COUNTS	PRESENT						
<b>COUNCIL:</b>	TIM SEIDENSTRICKER	PRESENT	YES	YES	YES	YES	YES	
<b>COUNCIL:</b>	MARK HOOD	PRESENT	YES	YES	YES	YES	YES	
<b>COUNCIL:</b>	RODNEY MULLINS	PRESENT	YES	YES	YES	YES	YES	
<b>COUNCIL:</b>	BUTCH COOLEY	PRESENT	YES	YES	YES	YES	YES	
<b>COUNCIL:</b>	GARY PLUNK	PRESENT	YES	YES	YES	YES	YES	
<b>COUNCIL:</b>	BRIAN MCARTHUR	PRESENT	YES	YES	YES	YES	YES	
<b>COUNCIL:</b>	EJ FLEISCHMANN	PRESENT	YES	YES	YES	YES	YES	
<b>COUNCIL:</b>	JASON FULBRIGHT	PRESENT	YES	YES	YES	YES	YES	
<b>CITY ADMINISTRATOR</b>	BRYAN RICHISON	PRESENT	<b>PARKS DIR:</b>		DAVE CRUTCHLEY		PRESENT	
<b>CITY CLERK</b>	TAMMI CASEY	PRESENT	<b>PUBLIC WORKS:</b>		JUDY WAGNER		EXCUSED	
<b>COM DEV</b>	DAVID BOOKLESS	PRESENT	<b>TREASURER:</b>		DAN KROUPA		PRESENT	
<b>FINANCE DIRECTOR</b>	BILL LEHMANN	PRESENT	<b>POLICE DEPT.</b>		MAJOR WOOLDRIDGE		PRESENT	
<b>CITY ATTORNEY</b>	BOB SWEENEY	PRESENT						



CITY OF ARNOLD, MISSOURI

ROLL CALL

MEETING: COUNCIL MEETING

DATE: 4/6/2023

PAGE: 2

BILL NO - RESOLUTION - MOTION

COUNCIL MEMBERS:

MAYOR RON COUNTS

COUNCIL: TIM SEIDENSTRICKER

COUNCIL: MARK HOOD

COUNCIL: RODNEY MULLINS

COUNCIL: BUTCH COOLEY

COUNCIL: GARY PLUNK

COUNCIL: BRIAN MCARTHUR

COUNCIL: EJ FLEISCHMANN

COUNCIL: JASON FULBRIGHT

CITY ADMINISTRATOR BRYAN RICHISON

CITY CLERK TAMMI CASEY

COM DEV DAVID BOOKLESS

FINANCE DIRECTOR BILL LEHMANN

CITY ATTORNEY BOB SWEENEY

MOTION TO APPROVE CLOSED SESSION					
YES					
YES					
YES					
YES					
YES					
YES					
YES					

PARKS DIR: DAVE CRUTCHLEY

PUBLIC WORKS: JUDY WAGNER

TREASURER: DAN KROUPA

POLICE DEPT. MAJOR WOOLDRIDGE

**Mayor  
Ron Counts  
636-633-0074**

[mayorroncounts@arnoldmo.org](mailto:mayorroncounts@arnoldmo.org)

**WARD 1**

**EJ Fleishman**

636-375-2644

[eifleischmann@arnoldmo.org](mailto:eifleischmann@arnoldmo.org)

***Committee Appointments:***

Farmers Market  
Aging and Disability  
Beautification  
Finance

**Jason Fulbright**

636-464-6748

[jfulbright@arnoldmo.org](mailto:jfulbright@arnoldmo.org)

***Committee Appointments:***

Historic Preservation  
Tourism  
Finance

**WARD 3**

**Mark Hood**

314-922-1924

[mhood@arnoldmo.org](mailto:mhood@arnoldmo.org)

***Committee Appointments:***

Aging & Disability  
Tourism  
Finance

**Rodney Mullins**

636-215-5815

[rmullins@arnoldmo.org](mailto:rmullins@arnoldmo.org)

***Committee Appointments:***

Veterans  
Liquor  
Finance

**WARD 2**

**Brian McArthur**

636-789-1704

[bmcarthur@arnoldmo.org](mailto:bmcarthur@arnoldmo.org)

***Committee Appointments:***

Planning and Zoning  
Finance

**Bill Moritz**

636-286-7636

[billmoritz57@gmail.com](mailto:billmoritz57@gmail.com)

***Committee Appointments:***

Liquor  
Aging and Disability  
Finance

**WARD 4**

**Butch Cooley**

314-623-1352

[bcooley@arnoldmo.org](mailto:bcooley@arnoldmo.org)

***Committee Appointments:***

Liquor  
Parks  
Finance

**Gary Plunk**

314-960-3427

[gplunk@arnoldmo.org](mailto:gplunk@arnoldmo.org)

***Committee Appointments:***

Parks  
Veterans  
Police Pension  
Finance



**CITY COUNCIL  
AGENDA ITEM STAFF REPORT**

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<b>MEETING DATE:</b>	April 12, 2023
<b>TITLE:</b>	Stone Creek Acceptance
<b>DEPARTMENT:</b>	Community Development
<b>PROJECT MANAGER:</b>	Christie Hull Bettale, Community Development Engineer
<b>REQUESTED ACTION:</b>	Approve Ordinance
<b>ATTACHMENTS:</b>	(1) Ordinance (2) Letter of Request with Map

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**EXECUTIVE SUMMARY:**

The subdivision is now complete. Rick Wagner of Seven Trails LLC is requesting the approval of the subdivision with acceptance and maintenance of the streets and storm sewers within the City right of way. Community Development and Public Works provided inspections and punch lists to the developer. All deficiencies and outstanding item are addressed. The developer provided infrastructure as built drawings to City for future use.

Approval of the request will release the developer of obligations to the subdivision. Any remaining escrows guaranteeing subdivision improvements will be dispersed to the developer.

**RECOMMENDATION:**

Staff recommends acceptance of the completed subdivision.

AN ORDINANCE ACCEPTING LANDS KNOWN AS STONE CREEK SUDIVISION FOR PUBLIC USE OF STREETS AND STORM SEWERS; AUTHORIZING THE MAYOR OF THE CITY OF ARNOLD, MISSOURI, TO EXECUTE A FORMAL ACCEPTANCE THEREOF; AND PROVIDING FOR THE RECORDING OF SAID ACCEPTANCE. A COPY OF SAID FORMAL ACCEPTANCE IS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

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

Section 1. The City of Arnold, Missouri, hereby accepts and hereby authorizes its Mayor to execute a formal written acceptance of certain portion of Stone Creek Subdivision for use as open and public streets and storm sewers within the street Right of Way known Seven Trails Drive and Bramtonn Place, said acceptance conditioned upon fulfillment of all conditions contained in the formal written acceptance attached hereto.

Section 2. A copy of the aforementioned formal written acceptance is attached hereto, is hereby incorporated herein and made a part hereof by reference as if more fully set out.

Section 3. The formal written acceptance shall be duly recorded in the land records of the County of Jefferson, State of Missouri, by a duly appointed officer of the City of Arnold, Missouri.

Section 4: This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and City Council.

(SIGNATURES ON FOLLOWING PAGE)

READ TWO TIMES, PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023.

\_\_\_\_\_  
Presiding Officer of the City Council

\_\_\_\_\_  
Mayor Ron Counts

**ATTEST:**

\_\_\_\_\_  
City Clerk Tammi Casey

1st reading: \_\_\_\_\_

2nd reading: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney Robert Sweeney

April 12, 2023

**ACCEPTANCE AND DEDICATION**

This is to certify that the interest in real property conveyed by all parties having an interest in Stone Creek Subdivision to the City of Arnold, Missouri, was duly accepted by Bill Number \_\_\_\_\_, Ordinance Number \_\_\_\_\_ of the City of Arnold, Missouri, adopted \_\_\_\_\_, 2023, and Council of the City of Arnold has consented to the recordation of such petition by its duly authorized officer.

CITY OF ARNOLD, MISSOURI

By: \_\_\_\_\_  
Ron Counts, Mayor  
2101 Jeffco Boulevard  
Arnold, Missouri 63010

Attest: \_\_\_\_\_  
Tammi Casey, City Clerk

STATE OF MISSOURI     )  
  )  
COUNTY OF JEFFERSON )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, personally appeared before me Ron Counts, who, being duly sworn, did say that he is the Mayor of the City of Arnold, Missouri, a Municipal Corporation, and that the seal affixed to the foregoing instrument is the official seal of said City, and said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City of Arnold, County of Jefferson, State of Missouri, the day and year first above written.

\_\_\_\_\_  
Notary Public

My term expires: \_\_\_\_\_

July 1, 2019

Christie R Hull Bettale, EIT  
Community Development Engineer  
City of Arnold  
2101 Jeffco Blvd.  
Arnold, MO 63010

Re: Stone Creek Subdivision  
Final Closeout

Dear Christie,


Stone Creek Subdivision has one remaining lot that does not have a house built on it. The owner has a permit through the city and has the foundation already in place.

Please accept this note as my official request to close out Stone Creek Subdivision and have the City take over the infrastructure.

I understand that the City will produce a punch list of any items the City deems unacceptable. Upon completion of the punch list, I ask for a full release of any and all escrow funds.

Please let me know if you have any issues or questions.

Respectfully,



Richard V. Wagner, Jr.

# STONE CREEK

RECORD PLAT  
 A TRACT OF LAND BEING IN PARCELS 7, 10, AND 11 OF "HICKORY SQUARE OUTLOT PARCELS"  
 BEING IN LOTS 18 AND 19 OF U. S. SURVEY 2591, TOWNSHIP 43 NORTH, RANGE 6 EAST,  
 CITY OF ARNOLD, JEFFERSON COUNTY, MISSOURI  
**ZONED: R-4**

JEFFCO BOULEVARD



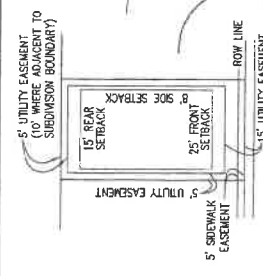
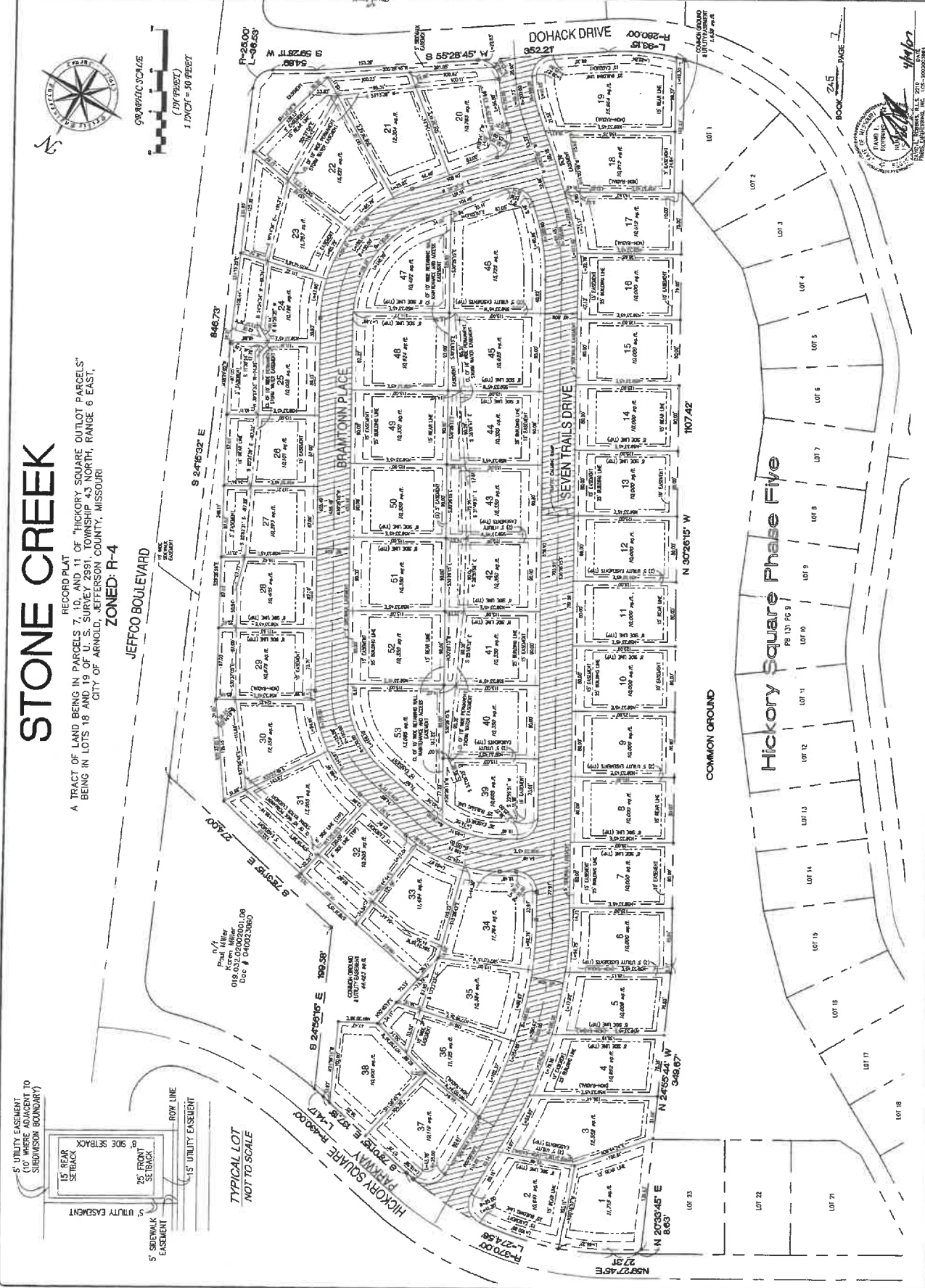
GRAPHIC SCALE  
 (BY FEET)  
 1 INCH = 50 FEET

WAGNER DEVELOPMENT  
 8835 JULIA DEPT DR.  
 ST LOUIS, MISSOURI 63123  
 (314) 843-1859

STONE CREEK  
 RECORD PLAT  
 JEFFERSON COUNTY, MISSOURI

**FRBIS**  
 ENGINEERING

DATE: 08/15/11  
 DRAWN BY: J. MILLER  
 CHECKED BY: J. MILLER  
 PROJECT NO.: 11-00000000  
 SHEET NO.: 1  
 OF 2 SHEETS



TYPICAL LOT  
 NOT TO SCALE

Hickory Square Phase Five

COMMON GROUND



BOOK: 245  
 PAGE: 7



RESOLUTION NO: 23-11

A RESOLUTION APPOINTING A MEMBER TO THE  
PLANNING COMMISSION

---

BE IT RESOLVED by the Council of the City of Arnold, Missouri, that Tim Seidenstricker is hereby appointed to the Planning Commission to fulfil the remaining 4-year term that will expire on December 31, 2025 or until a successor has been appointed and qualified.

\_\_\_\_\_  
Presiding Officer of the City Council

\_\_\_\_\_  
Mayor Ron Counts

ATTEST:

\_\_\_\_\_  
City Clerk Tammi Casey

Date: \_\_\_\_\_

RESOLUTION NO. 23-12

A RESOLUTION RATIFYING THE PURCHASE OF FIVE GRANITE  
BENCHES FROM PG MEMORIALS.

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WHEREAS, the Arnold Veterans Commission is developing a veteran's memorial, which will include five granite benches; and

WHEREAS, the purchase of the benches was time sensitive; and

WHEREAS, at a previous meeting the City Council had discussed the project and given their informal approval; and

WHEREAS, due to the time sensitive nature of the purchase, the City Administrator authorized it and is now seeking ratification from the City Council;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Arnold, Missouri, that the attached proposal for the purchases of five granite benches from PG Memorials is hereby approved and the City Administrator's prior approval is hereby ratified.

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Mayor Ron Counts

ATTEST:

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City Clerk Tammi Casey

Date: \_\_\_\_\_



# **PG MEMORIALS**

**PICTURE THIS ON GRANITE**

**City of Arnold Missouri**

**Proposal Prepared For: Dave Crutchley**

Proposal Date: 02-09-2023

## WHO WE ARE

PG Memorials the North American leader in High-Definition laser etching. What differentiates us from a typical stone supplier is that our focus is specifically targeted at the design, stone, and laser etching process. Our 22 years in business and combined 200 years of expertise lies in our ability to provide the critical components of your project on a medium that is both unique and unparalleled in quality. We understand that a project such as this reflects your community, and our responsibility is to exceed expectations.

Our extensive experience in the design, creation, production, and installation of memorials ensures your complete satisfaction. You will receive the assistance of our full team of professionals throughout the process. We are American owned and Canadian operated with shipping facilities in the US and Canada.

## SCOPE OF WORK

The scope of work identified for **City of Arnold Missouri - KS** is as follows:

- Produce custom cut and finished granite Tablet and panels, with the following specifications.
- Establish a time frame for collecting graphic information, providing proofs, producing, and shipping that works to client's specifications.

## MATERIALS

The proposal for the **City of Arnold Missouri** includes the following granite + bronze components:

Five (5) 48" x 4" x 16" PG Certified® black granite benches, polished finish. Includes PGHD™ laser etched graphics per client's direction.

*See attached dimensional rendering.*

## INSTALLATION

**Installation: N/A**

**Can be provided upon request.**

## OUR PROPOSAL – CITY OF ARNOLD MISSOURI – KS

### Graphics

Our proposal includes access and support from our graphics department to create and finalize the text and image layouts that are to be displayed on front faces of black granite panel.

Client shall provide guidelines regarding desired images and text. This information will be formatted for layout and a complete rendering will be supplied for client's approval prior to the start of production.

### Delivery

Delivery is inclusive of all granite components delivered via ground freight to site location based on client's requirement.

Final delivery date will be determined upon client's approval and signature of proposal.

When shipment is received by you, it is to be inspected and opened prior to the shipper leaving your premises. Failure to inspect shipment will be the responsibility of the client, and PG will not be held responsible for any or all damaged goods.

### Timeline

- Establish unveiling date
- Material will be ordered once signed proposal and deposit are received by PG
- Allow 20-22 weeks for material ordering, custom cutting and receiving.
- Please allow 6-8 weeks for sizing, etching, sealing, and crating
- Please allow 7 days for shipping

### Guarantee

\*Quality and workmanship of all granite components are guaranteed.

Picture this on Granite cannot guarantee or be held responsible for the structural integrity of the foundation or any resulting damage to our product or its installation due to shrinkage or settling of the foundation.

\*Natural quartz inclusions exist in most black granites. Typically, these inclusions are white in nature. The inclusions are natural and normal and do not affect the integrity of the granite.

## PG MEMORIALS PAYMENT TERMS AND CONDITIONS

The quoted price for all components and services included in the enclosed proposal is:

**USD \$20,205.00**

Forklift or crane for unloading and concrete foundations are the responsibility of the customer.

Standard terms of sale:

**50% deposit in the amount \$10,102.5 upon signing of formal proposal.**

**Balance of 50% to be paid 15 days prior to shipping.**

Our preferred payment method is via secure bank wire transfer. Contract must be paid in full prior to shipping.

If the shipment is delayed beyond the scheduled ship date by the customers, the payment is due as scheduled. The customer is also responsible for any storage or handling fees as a result on the delayed shipment.

Due to increased energy costs, all shipments are subject to a final review of their estimated S&H quote, and a final adjusted shipment amount, if required, will be added to the prior to shipment invoice.

Customers will be advised upon the booking of transport for the insured delivery to site for installation

**Pricing of proposal is valid until 05/10/2023**

Name

Bryan Richison

Title

City Administrator

Signature

*Bryan Richison*

Date

4/10/2023

US TAX ID# /IRS # or 501C Status # (if applicable)

\_\_\_\_\_



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P.O. Box 521

Derby Line, VT, 05830

**Canadian Clients**

82, Ch. Des Ursulines

Stanstead, QC J0B 3E0

**RESOLUTION NO: 23-13**

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN  
AGREEMENT WITH PETERS-EICHLER MECHANICAL

---

BE IT RESOLVED by the Council of the City of Arnold, Missouri, that the Mayor be, and is hereby authorized to enter into an agreement with PETERS-EICHLER MECHANICAL to replace two pool pak units for the Indoor Pool at the Arnold Recreation Center in the amount of \$743,454.00

A copy of said agreement is attached hereto and made a part hereof reference.

\_\_\_\_\_  
Presiding Officer of the City Council

\_\_\_\_\_  
Mayor Ron Counts

ATTEST:

\_\_\_\_\_  
City Clerk Tammi Casey

Date: \_\_\_\_\_

Exhibit A  
Contract Agreement

THIS AGREEMENT, made and concluded this twentieth day of April 2023 by and between PETERS-EICHLER MECHANICAL hereinafter called the "Contractor", and the City of Arnold, Missouri, hereinafter called the "City".

WITNESSETH, THAT, whereas the Council of the City of Arnold by motion adopted at a meeting held on April 20, 2023 and by virtue of authority vested in said Council, has awarded to the Contractor the work of performing certain construction.

NOW, THEREFORE, the Contractor and the City, for the consideration hereinafter named, agree as follows:

Article 1. SCOPE OF WORK:

The Contractor shall provide all work incidentals to the furnishing of all material, equipment, and labor to undertake the **POOL PAK REPLACEMENT PROJECT** in accordance with the project specifications, and the terms of this contract for the City of Arnold, Missouri.

The Owner shall have representatives at the site as he may decide during the construction to observe the work in progress.

Article 2. TIME OF COMPLETION:

This contract shall be binding for **2 years** which shall begin TBD.

DEDUCTIONS FOR NOT COMPLETING ON TIME

It is mutually understood and agreed that time is the essence of this Agreement and in the event said work is not completed on or before the date named above for its completion, the Contractor shall pay damages to the owner of five hundred dollars (\$500.00) per calendar day. Those damages shall be used to pay the expenses of the inspectors and the services of the Parks and Recreation Director for the extra time required for the completion of the work. Extra time shall in all cases be construed as the time required for completion after the date herein named. Extensions of time granted by the Owner for completion of the Contract on account of fire, strikes, or acts of Providence shall not be construed as extra time. The amount of such expense and services shall be determined by the Parks and Recreation Director, shall be reported to him in writing to the Owner, and shall be withheld from any money due the Contractor and paid to the proper parties.

Where any deductions from or forfeitures of payment in connection with the work on this Contract are duly and properly declared or imposed against the Contractor in accordance with the terms of this contract, state laws, or ordinances of the City, the total amount thereof may be withheld from any money whatsoever due or to become due the Contractor under the Contract, and when deducted shall be deemed and taken as payment in such amount.



Article 3. CONTRACT PRICE:

The City shall pay the Contractor for the performance of the work, a sum not to exceed the total cost as shown on **POOL PAK REPLACEMENT PROJECT** bid, the amount of \$ 743,454.00 attached hereto as shown on the Contractors bid form.

Work covered under these criteria shall consist of all material, labor, equipment and services necessary for the **POOL PAK REPLACEMENT PROJECT**.

Quantities may be added or deleted at any time during the contact. This contract is based on a quantity at a unit cost. The unit cost provided in this agreement proposal shall be guaranteed for the duration of contract.

Article 4. PAYMENTS TO CONTRACTOR:

- a. At least twenty (20) days before the City Council meeting at which the progress payment shall be presented for approval (but not more often than once a month), the Contractor will submit to the City a partial payment estimate filled out and signed by the Contractor covering the work performed during the period covered by the partial payment estimate and supported by such data as the City may reasonably require. The City will, within ten (10) days following the first regular Council meeting at which the pay request can be put on the Council meeting agenda, pay the Contractor a progress payment on the basis of the approved partial payment estimate. Regular Council meetings are held on first and third Thursdays of each month and the agenda for the Council meeting is set seven (7) days prior to each meeting. The City shall retain five percent (5%) of the amount of each payment until final completion and acceptance of all work covered by the Contract Documents. Authorized extra work shall be included in these monthly progress payments.
- b. No payment shall be made for materials delivered or stored on the site.
- c. When the work provided for under this Contract has been fully completed in accordance with the terms thereof, the City shall make a final inspection and the Contractor shall remedy any defects arising out of said inspection. After final acceptance of the work by the City, final payment shall be made based on the price stated in Article 3.

From the final payment shall be retained all monies expended by the City according to the terms of this Contract, and thereunder chargeable to the Contractor, all monies payable to the City, as liquidated damages, and all deductions provided by Contract, State Laws, or Ordinances of the City of Arnold.

- d. The Contractor will indemnify and save the City or the City's agents harmless from all claims growing out of the lawful demands of subcontractors, laborers, workers, mechanics, furnisher of material, and furnisher of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the work. The Contractor shall, at the City's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so, the City may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be made, in accordance with the terms of the Contract Documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the City to either the Contractor, his Surety, or any third party.

In paying any unpaid bills of the Contractor, any payment so made by the City shall be considered as a payment made under the Contract Documents by the City to the Contractor and the City shall not be liable to the Contractor for any such payments made in good faith.

Article 5. GUARANTEE:

The Contractor and his Surety hereby expressly guarantee the aforesaid work as to workmanship and quality of materials used in connection therewith, for a minimum of two years, commencing on the date of acceptance of the work or improvements, and binds himself, his successors or assigns, to make all replacements which may become necessary within that time due to nonconformity with the Specifications. Whenever notified by the City that said replacements are required, the Contractor shall, at once, make the same as directed, and at his own expense. If the Contractor does not proceed with such replacements within five (5) days of receipt of written notice, then the City shall have the power to cause the same to be made and to charge the cost thereof to the Contractor. Nothing in this Section is intended as a maintenance guarantee.

Article 6. INSURANCE:

The Contractor will be required to furnish Public Liability and Property Damage Insurance in amounts as specified in the General Conditions and coverage to name the City of Arnold, Missouri, in addition to the Contractor, so that the City of Arnold is not only protected from all claims but also protected in that legal service will be rendered to defend all suits against the Contractor and the City. The Contractor shall be required to furnish the City with satisfactory proof of carriage of the insurance and endorsement(s) required.

Article 7. STATUTORY AND REGULATORY COMPLIANCE:

It is the responsibility of the Contractor to ensure compliance with all federal, state and local requirements, including, but not limited to, the following Revised Statutes of the State of Missouri:

285.530 RSMo. Work Authorization  
292.675 RSMo. OSHA Training.  
RSMo. 34.353 et seq. American Products.  
290-210 RSMo. Prevailing Wage

The above list is not intended to be exhaustive; and the compliance requirement of this provision is continuing and must be satisfied during the entirety of this Agreement.

It is the sole responsibility of the Contractor to ensure that this provision is satisfied; and the City assumes no responsibility or liability for the failure to comply. Any penalty incurred as a result of noncompliance or failure to comply will be borne solely by the Contractor.

Article 8. THE CONTRACT DOCUMENTS:

The Advertisement, Information for Bidders, the Specifications, including Addenda Nos. \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, the Bid, and Bond, together with this Agreement, form the Contract.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in four (4) original counterparts as of the day and year first above written.

SIGNATURES ON NEXT PAGE

CONTRACT SIGNATURES

CITY OF ARNOLD  
2101 Jeffco Blvd.  
Arnold, Missouri 63010

Contractor: \_\_\_\_\_  
Contractor Address:

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Ron Counts, Mayor

By: \_\_\_\_\_  
Signature

ATTEST:

Title \_\_\_\_\_

By: \_\_\_\_\_  
Tammi Casey, City Clerk

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

(SEAL)

\_\_\_\_\_  
Telephone No.

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

during the life of the contract such public liability, property damage, and compensation insurance as shall protect him, the City, and any subcontractor, from claims and damages for personal injury, including accidental death, and property damages which may arise from operations of this contract.

The Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work specified. Permits and licenses necessary for the execution of the work shall be paid for by the Contractor. The Contractor shall observe the provisions of the state and/or federal acts against discrimination and shall not discriminate against any person in the performance of work under this contract because of race, religion, color, sex, physical handicap, national origin, or ancestry. In all solicitations of advertisements for employees, the Contractor shall include the phrase "Equal Opportunity Employer" or a similar phrase to be approved by the state Commission of Civil Rights. All State and federal prevailing wage laws be followed.

The Contractor will be held responsible for determining if weather conditions on any given day will permit successful completion of work started on that day.

The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by his operations. On completion of the work, he shall remove all waste materials and rubbish from and about the project, as well as all tools, equipment and surplus materials.

#### **BASE BID**

In the following proposals, amount shall be shown in both written form and figures. In case of discrepancy between written amount and figures, written amount will govern.

#### **DESIGN ASSIST PROJECT GUARANTEED MAXIMUM PRICE**

##### **Base Bid – Pool Unit Replacement**

New work scope to include:

- Coordinate with owner's representative to route new system components to provide replacement heating and cooling in natorium.
- Existing curb to be re-used with adaptor curb
- Pool Unit to meet scheduled performance.
- Owners roof warranty shall be maintained.
- Contractor shall work with owner for all aesthetically routing and hiding refrigerant pipe, condensate, outside air, and electrical conduit
- Contractor shall provide all hole cutting and debris removal only from 10am until 3pm. All hole cutting shall be approved by Owner prior to cutting.
- All concealed piping shall have continuous insulation and be protected from damage prior to concealment to prevent potential future water damage.
- All systems shall be started up, fully tested, and commissioned in both heating and cooling prior to final acceptance.
- Systems shall be provided, communicate, and be controlled by the front end BMS system prior to the final acceptance by Owner.

- ~~Dedicated outdoor air system shall include attic mounted units, air cooled condensing units, oiler hot water reheat, and electronic control system.~~
- ~~DOAS ducted system shall incorporate use of existing duct work when available and shall be modified to provide neutral air to each occupied space per drawings.~~
- ~~DOAS shall incorporate DX cooling with a hot gas reheat coil.~~
- ~~DOAS shall utilize a hot water coil for winter heating.~~
- ~~Exhaust system shall be modified to meet the new codes.~~
- ~~Outside air and exhaust air systems shall be air balanced to new CFM indicated.~~
- ~~A small energy management system to control it all.~~
- ~~System shall be started, tested, programmed, and commissioned.~~
- Include one-year warranty and workmanship

**City of Arnold Recreation Center Pool Pak**

The undersigned Prime Contractor with appropriate major subcontractors proposes and agrees to commence work with an adequate force and equipment on the dates listed in this document after being notified in writing by the Owner's "Notice to Proceed" and to complete all work included under this contract in accordance with a Progress Schedule as approved by the owner

To be "Substantially Complete" within \_\_\_\_\_ TBD \_\_\_\_\_ Calendar days.

To be "100% Complete" by \_\_\_\_\_ TBD \_\_\_\_\_

If a change in the scope of work is proposed after "Notice to Proceed" has been given, the percentage charged for overhead and profit on the proposed work will be 15 %

Electrician hourly rate \$125.00

Pipefitter hourly rate \$115.00

Sheet metal hourly rate \$115.00

Labor hourly rate N/A

Bidder understands that the Owner will not be liable for any amount in excess of the Sum quoted, except as expressly stated in written Change Orders duly executed and delivered by the Owner.

The Bidder declares that he has examined the documents, visited the site, and that he has carefully prepared his Proposal upon the basis thereof and that he has carefully examined and checked this Proposal and the materials, equipment and labor required thereunder, the cost thereof, and his figures therefor and hereby states that the amount or amounts set forth in this Proposal is, or are, correct and that no mistake or error has occurred in this Proposal or in the Bidder's computations upon which this Proposal is based, and the Bidder agrees that he will make no claim for reformation, modification, revision, or correction of this Proposal after the scheduled closing time for the receipt of Proposals.

The Bidder understands they are the prime contractor and is responsible for but not limited to the following:

- Project Schedule (coordinated with Owner & Occupancy)
- Project Coordination
- Project Clean Up
- Layout Area (Owner will allow layout and storage on site – Contractor to provide secured container)
- Tool Storage and Coordination
- Restroom Facilities (Owner will designate a toilet for use)
- Hole cut and seal by contractor – final aesthetics by owner
- Roofing & structure modifications to maintain existing warranty
- Owner Training
- Warranty

The Bidder hereby certifies: That this Proposal is genuine and is not made in the interest of or on behalf of any undisclosed person, firm or corporation, and is not submitted in the conformity with any agreement or rules of any group, association or corporation.

That he has not directly or indirectly induced or solicited any other bidder to put in a false or sham proposal.

That he has not sought by collusion or otherwise to obtain for himself advantage over any other Bidder or over the Owner.

**BIDDING INSTRUCTIONS:**

BID DUE DATE: April 11, 2023

(See Scope Letter Attached)

TIME: 9:55am

DIRECT BIDS TO: Tammi Casey (636) 296-2100 option 4 or emailing tcasey@arnoldmo.org, 2101 Jeffco Blvd Arnold MO 63010

Perform all work as defined in the Contract Documents for a guaranteed maximum price. (\$ Seven Hundred Forty-Three Thousand Four Hundred Fifty-Four and 00/100 )Dollars.

CONTRACTOR COMPANY: Peters-Eichler Mechanical

ADDRESS: 3115 Sutton Blvd. Maplewood, MO 63143

NAME: Gene Ruzicka

AUTHORIZED SIGNATURE: 

DATE: April 11, 2023

DATE AVAILABLE TO START: 2 weeks after arrival of equipment.

(Trane current lead-time is 26 weeks)

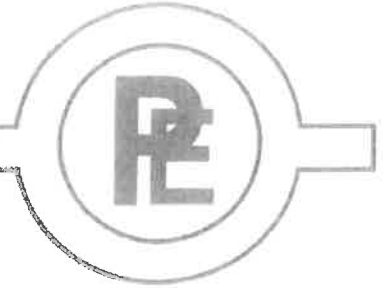
# PETERS-EICHLER MECHANICAL

INCORPORATED

3115 SUTTON AVENUE • ST. LOUIS, MO 63143  
PHONE (314) 647-4023 • FAX (314) 647-6031

**MECHANICAL CONTRACTORS AND ENGINEERS**

**HVAC • POWER & PROCESS PIPING-SHEET METAL**



April 11, 2023

**City of Arnold  
2101 Jeffco Blvd  
Arnold Missouri, 63010**

## **RE; Arnold Rec Center PoolPak Replacements**

Peters-Eichler Mechanical proposes to provide Equipment, Materials and Labor for the replacement of Natatorium PoolPaks 1 & 2 at Arnold Rec Center per provided Engineered specifications. Included are the following:

- Tag(s) Qty PAU-1 & PAU-2
- PoolPak Outdoor PPK-190
    - o 2" double wall construction, bottom return & supply
    - o Pool water heater
    - o Unit mounted hot water coil with modulating valve
    - o MERV 13 filters
    - o Motorized OA damper
    - o Unit mounted exhaust fan
    - o BACnet MS/TP
    - o Fused disconnect.
    - o Curb adapter (Field Installed) \*Includes field measurement visit from Thybar
  - Air-cooled Fluid cooler with disconnect and hail guards
    - o (4) mounting rails per roof plan
  - Factory startup
  - 2-year driveline, compressor, and coil warranty

Also provided:

- All related piping between PoolPaks and Fluid Cooler
- Piping of Pool water to pool water heater
- Electrical disconnect and reconnect utilizing existing service from disconnect in main panel.
- Hoisting of equipment
- Environmentally safe disposal of old equipment
- Roof penetration and repairs
- Controls (provided by Trane – see below)

Following is a summary of the control work provided by Trane (**controls were NOT included in original budget proposal of 1/12/22**):

1. Control wiring for the Tracer system is included. All wiring will be installed per NEC. Wiring will be installed utilizing plenum rated cable supported by bridle rings above lift-out ceilings. Wiring in mechanical equipment rooms and open ceilings will be installed in EMT conduit. Trane will provide the installing contractor with wiring diagrams and wiring specification guidelines. All communication wiring shall comply with Trane standards. Installation of dampers, sensing wells, flow switches, pressure switches, tubing associated with pressure sensors, variable frequency drives, smoke detectors, smoke dampers, and valve bodies is not included. Wiring of smoke dampers and fire/smoke dampers is not included.
2. Engineered shop drawings, software programming, graphics generation, and Trane control system start-up are included.

Trane scope of work, cont'd.:

3. Integration of the new equipment with the existing Tracer SC building automation system is included.
4. Direct digital control of two (2) Trane packaged PoolPak Dehumidification Units (PAU-1, PAU-2) is included.
5. Interlocking wiring to two (2) Dry Coolers (DC-1, DC-2) is included.
6. Trane will check and report any issues that would result in improper operation of control dampers, emergency transfer fan, and heating coil per note 6 and 7 on plan M1.1. Any work or material associated with defective wiring or devices found defective is not included.
7. All smoke dampers, fire dampers, and combination fire/smoke dampers are NOT included and must be provided and installed by others. Control and monitoring of the fire/smoke dampers are NOT included. Power and control wiring of the fire smoke dampers from the fire alarm control modules is NOT included and must be provided by others.
8. Demolition of any existing equipment and/or controls is not included and must be provided by others.
9. Control work and wiring associated with any equipment not listed above is not included and must be provided by others.
10. Training of operations personnel on system use: eight hours are included.
11. Warranty on new control components is twelve months.
12. Any items not specifically mentioned above are excluded from Trane's proposal.

This proposal does not include:

- a. Premium Labor, cutting, patching, or painting.
- b. Installation of valves, wells, taps, etc. in pipes.
- c. Furnishing or installing tubing required for pressure controls.
- d. Furnishing or installing any loose dampers.
- e. Furnishing or installing loose VFDs.
- f. Furnishing or installing lighting controls, photo cells, switches, or contactors.
- g. Furnishing or installing fire alarm/smoke detection systems or equipment.
- h. System testing or balancing

**Total Net Price (Excluding Sales Tax) ..... \$ 743,454.00**

**Price Add for 3rd – 5th year Driveline, Compressor, and Coil Warranty ..... Add \$ 25,935.00**



## Hold Harmless Agreement

To the fullest extent permitted by law, Peters - Eichler Mechanical, Inc hereafter referred to as Contractor, agrees to indemnify, defend and hold harmless the City of Arnold, its officers, agents, volunteers, invitees, lessees and employees from and against any and all suits, claims, damages losses and expenses, including but not limited to attorneys' fees, court costs or alternative dispute resolution costs arising out of or related to any such suit, claim, damage, loss or expense involving an injury to a person or persons, whether bodily injury or other personal injury (including death), or involving an injury or damage to property (including loss of use or diminution in value), but only to the extent that such suits, claims, damages, losses or expenses were caused by the negligence or other wrongdoing of Contractor, or of any supplier or subcontractor, or their agents or employees, directly or indirectly, regardless of whether caused in part by the negligence or wrongdoing of CITY or any of its agents or employees.

Pursuant to the requirements of the bid and contract for **POOL PAK REPLACEMENT PROJECT**, Contractor shall purchase and maintain the following insurance, at Contractor's expense:

- Commercial General Liability Insurance with a minimum limit of \$2,000,000 each occurrence/\$4,000,000 general aggregate written on an occurrence basis. If Contractor maintains higher limits than the minimums required, the CITY requires and shall be entitled to coverage for the higher limits maintained by Contractor.
- Workers Compensation Insurance with statutorily limits required by any applicable Federal or State law and Employers Liability insurance with minimum limit of \$2,000,000 per accident.

Contractor shall make CITY an additional insured on each policy of insurance that Contractor is required to maintain. Similarly, Contractor shall require insurance with the same coverage and limits from its subcontractors and suppliers, and their insurance policies shall be endorsed to name the same additional insured as required of Contractor. Any coverage available to CITY as a named insured shall be secondary, so that the coverage to the CITY as an additional insured on the policies maintained by Contractor and Contractor's subcontractors is primary and non-contributory. CITY reserves the right to selectively trigger any one or more insurance policies that afford CITY coverage, whether as a named insured or as an additional insured. Contractor agrees that CITY shall be provided at least thirty (30) days advance written notice of any cancellation or rescission of any policy that Contractor or any of its subcontractors or suppliers is required to maintain under the contract documents. Prior to commencing work, Contractor shall provide CITY certificates of insurance and endorsements evidencing the required coverage. CITY's receipt or review of any certificate of insurance reflecting that Contractor or one of its subcontractors or suppliers has failed or may have failed to comply with any insurance

requirement shall not constitute a waiver of any of CITY's insurance rights under the contract documents, with all such rights being fully and completely reserved by the CITY.

No provision of this agreement shall constitute a waiver of the CITY's right to assert a defense based on the doctrines of sovereign immunity, official immunity or any other immunity available under law.

Peters-Eichler Mechanical

---

CONTRACTOR

April 11, 2023

---

DATE

# MECHANICAL CONTRACTOR

ID NO 22-000238



**ISSUED TO**

Mindl Domijan  
Peters-Eichler Mechanical, Inc  
3115 Sutton Blvd  
Saint Louis, MO 63143

**ISSUED BY**

Kristin Howdeshell  
City of Arnold, MO  
2101 Jeffco Blvd  
Arnold, MO 63010

# MECHANICAL CONTRACTOR

**ISSUED TO**

Peters-Eichler Mechanical, Inc  
Mindl Domijan  
3115 Sutton Blvd  
Saint Louis, MO 63143

**ISSUED BY**

Kristin Howdeshell  
2101 Jeffco Blvd  
Arnold, MO 63010



VALID FROM: **09/27/2022**  
EXPIRES: **08/31/2023**  
ID NO: **22-000238**

*Kristin Howdeshell*

Approved By

This credential is Non-Transferable

*This credential issued in compliance with City of Arnold, MO and subject to the provisions thereof.*

# Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

## Bid Bond

### CONTRACTOR:

(Name, legal status and address)

Peters-Eichler Mechanical, Inc.

3115 Sutton  
St. Louis, MO 63143

### OWNER:

(Name, legal status and address)

City of Arnold  
2101 Jeffco Blvd.  
Arnold, MO 63010

### SURETY:

(Name, legal status and principal place of business)

Fidelity and Deposit Company of Maryland  
1299 Zurich Way, 5th Floor  
Schaumburg, IL 60196-1056

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**BOND AMOUNT:** Ten Percent of Amount Bid

### PROJECT:

(Name, location or address, and Project number, if any)

Pool Pak Replacement at the Arnold Recreation Center

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 10th day of April, 2023

Peters-Eichler Mechanical, Inc.

(Principal)

(Seal)

(Witness)

(Title)

JEFFREY L. HOEVELMANN, PRESIDENT

Fidelity and Deposit Company of Maryland

(Surety)

(Seal)

(Witness)

(Title)

Brandi L. Bullock, Attorney-in-Fact

State of Missouri  
County of City of St. Louis

On this April 10, 2023, before me personally appeared  
Brandi L. Bullock to me known to be an Attorney-in-Fact of  
Fidelity and Deposit Company of Maryland the corporation described in the  
within instrument, and he acknowledged that he executed the within instrument as the act of the said  
Company in accordance with authority duly conferred upon him by said Company.



  
Notary Public

**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by **Robert D. Murray, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Gregory L. STANLEY, Michael T. REEDY, Carey M. PREWITT, Cindy ROHR, Joel KARSTEN, Karen SPECKHALS, Christopher J. O'HAGAN, Brandi L. BULLOCK, Don K. ARDOLINO, Kimberly Ann CONNELL, Gerald M. ROGERS, Edwin L. POLITTE, Jr., Linda MCCARTHY, Harold F. JAMES, Trudy D. WHITROCK, Michelle WILSON and Allan GARDNER, of Chesterfield and St. Louis, Missouri**, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 20th day of May, A.D. 2021.



**ATTEST:  
ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

By: *Robert D. Murray*  
Vice President

By: *Dawn E. Brown*  
Secretary

**State of Maryland  
County of Baltimore**

On this 20th day of May, A.D. 2021, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Constance A. Dunn*

Constance A. Dunn, Notary Public  
My Commission Expires: July 9, 2023

Authenticity of this bond can be confirmed at [bondvalidator.zurichna.com](http://bondvalidator.zurichna.com) or 410-559-8790

**EXTRACT FROM BY-LAWS OF THE COMPANIES**

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

**CERTIFICATE**

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 10th day of April, 2023.



*Brian M. Hodges*

By: Brian M. Hodges  
Vice President

**TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:**

Zurich Surety Claims  
1299 Zurich Way  
Schaumburg, IL 60196-1056  
[www.reportsfclaims@zurichna.com](mailto:www.reportsfclaims@zurichna.com)  
800-626-4577

Authenticity of this bond can be confirmed at [bondvalidator.zurichna.com](http://bondvalidator.zurichna.com) or 410-559-8790

STATE OF MISSOURI )  
COUNTY OF \_\_\_\_\_ ) SS

**AFFIDAVIT OF AMERICAN PRODUCTS PURCHASE**

Comes now before me Jeffrey Hoewelmann as President of Peters-Eichler Mechanical, Inc.  
(NAME) (OFFICE HELD) (COMPANY NAME)

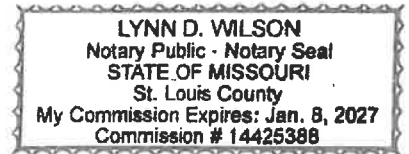
being duly sworn on his/her oath, affirms that said company has complied with Missouri State Law Section 34-353 RSMo regarding the purchase of manufactured good or commodities used or supplied in the performance of the City of Arnold's **POOL PAK REPLACEMENT PROJECT**

I also affirm that Peters-Eichler Mechanical, Inc. did not and would not knowingly  
(COMPANY NAME)

purchase or supply manufactured goods or commodities used on the aforementioned City of Arnold project, being compliant with the law. In affirmation thereof, the facts stated above are true and correct (the undersigned understands that false statements made in this filing are subject to penalties provided under Section 575.040 RSMo).

[Signature]  
SIGNATURE (PERSON WITH AUTHORITY)

Jeffrey Hoewelmann  
(PRINTED NAME)



President  
(TITLE)

April 11, 2023  
(DATE)

Subscribed and sworn to before me this 11th day of APRIL, 2023.

Lynn D. Wilson  
Notary Public

My commission expires on: Jan. 8, 2027

( Qualification - Please be advised Trane equipment is manufactured in Canada )



NON-COLLUSION FORM

Jeffrey L. Hoevelmann

being duly sworn in oath deposed and states:

I. That in connection with this procurement,

- a. The prices in this bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other bidder or with any competitor;
b. The prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening directly or indirectly to any other bidder; or to any competitor; and,
c. No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition.

II. The undersigned further states:

- a. He is the person in the bidders' organization responsible within that organization for the decision as to the prices being bid herein and that he has not participated, and will not participate, in any action contrary to (I) (a) through (I) (c) above.
b. He is not the person in the bidder's organization responsible within that organization for the decision as to the prices being bid herein but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (I) (a) through (I) (c) above, and as their agent does hereby so certify; and he has not participated, and will not participate in any action contrary to (I) (a) through (I) (c) above.

III. The Contractor hereby attests to their intent to comply with the American with Disabilities Act. (ADA).

IV. It is expressly understood that the foregoing statements, representations, and promises are made as a condition to the right of the bidder to receive payment under any award made hereunder.

For Corporations

Peters-Eichler Mechanical, Inc
(NAME, INDICATE IF CORPORATION, PARTNERSHIP OR SOLE PROPRIETOR)

(Corporate Seal)

President
(OFFICE HELD IN BIDDER ORGANIZATION)

ATTEST:

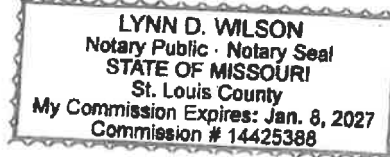
[Signature]

By [Signature]

Subscribed and sworn to before me this 11th day of APRIL, 2023.

Lynn D. Wilson
Notary Public

My commission expires on: Jan 8, 2027



**Affidavit of Work Authorization**

Comes now Jeffrey Hoevermann (name) as President (office held) first being duly sworn, on my oath, affirm Peters - Eichler Mechanical, Inc (company name) is enrolled and will continue to participate in a federal work authorization program in respect to employees that will work in connection with the contracted services related to the **POOL PAK REPLACEMENT PROJECT** for the duration of the contract, if awarded in accordance with RSMo Chapter 285.530 (2).

I also affirm that Peters - Eichler Mechanical, Inc (company name) does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services related to the **POOL PAK REPLACEMENT PROJECT** for the duration of the contract, if awarded.

**In Affirmation thereof, the facts stated above are true and correct (The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo).**



Signature

Jeffrey Hoevermann

Printed Name

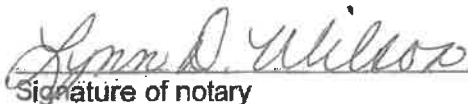
President

Title

April 11, 2023

Date

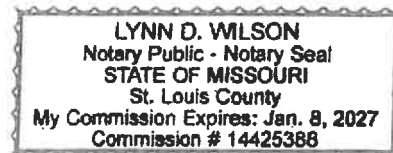
Subscribed and sworn before me the 11<sup>th</sup> day of APRIL. I am commissioned as a notary public within the county of ST. LOUIS. State of MISSOURI, and my commission expires on JAN. 8, 2027.



Signature of notary

4-11-23

Date





# Proposal

(Valid for 30 days from Proposal date)

*PROPRIETARY AND CONFIDENTIAL PROPERTY OF Trane U.S. Inc.*  
*DISTRIBUTION TO OTHER THAN THE NAMED RECIPIENT IS PROHIBITED*  
© 2022 Trane Technologies All rights reserved

**Prepared For:**  
Peters-Eichler Mechanical

**Date:** January 4, 2022

**Job Name:**  
Arnold Rec Center

**Proposal Number:** Q3-115644-2

**Delivery Terms:**  
Freight Allowed and Prepaid - F.O.B. Factory

**Payment Terms:**  
Net 30 Days

Trane U.S. Inc. is pleased to provide the following proposal for your review and approval.

**Tag Data - PoolPak PPK (Qty: 2)**

Tag(s)	Qty
PDU	2

- PoolPak PPK, Outdoor Packaged Dehumidifier
- Pool Water Heater, Vented
- Cabinet Horizontal 2-in Double Walled - Return Plenum - Bottom
- 460V-480V/3PH
- CommandPak c/w Building Communication and Remote Panel
- Building Communication BACNet (IP)
- Refrigerant R410A
- Disconnect Fused Unit Mounted
- Direct driven plug fans
- Supply Air Orientation Bottom Supply
- Air Filter Type MERV 13
- OA Inlet Motorized Damper & Filter
- Unit mounted Exhaust Fan
- Unit mounted Hot Water Coil
  - Heat Control Modulating - factory supplied and wired valve
- Air Conditioning Air Cooled A/C - For Use With Remote Outdoor Air Cooled Equipment
  - O AFC Model NG-V-22
  - O AFC Voltage 460V-480V/3PH
  - O AFC Disconnect Unit mounted non-fused disconnect
  - O AFC Hail Guards Hail Guards
- Warranty 2 years on driveline, 5 years on compressor, 2 years on coils
- Factory startup
- Curb adapter (Field Installed)

**Total Net Price (Excluding Sales Tax) .....\$ 434,450.00**

Tax Status:	Taxable <input type="checkbox"/>	IF EXEMPT PLEASE SUBMIT COMPLETED TAX EXEMPTION CERTIFICATE WITH YOUR SIGNED PROPOSAL OR WITH YOUR PURCHASING DOCUMENTS, KEEP YOUR ORIGINAL ON FILE IN THE OFFICE. YOU WILL BE CHARGED TAX IF A VALID EXEMPTION CERTIFICATE IS NOT ON FILE BEFORE EQUIPMENT, PARTS OR SERVICES ARE PROVIDED. SEE <a href="http://WWW.TAXSITES.COM/STATE-LINKS.HTML">WWW.TAXSITES.COM/STATE-LINKS.HTML</a> FOR TAX FORMS.
	Exempt <input type="checkbox"/>	

**COVID-19 NATIONAL EMERGENCY CLAUSE**

The parties agree that they are entering into this Agreement while the nation is in the midst of a national emergency due to the Covid-19 pandemic ("Covid-19 Pandemic"). With the continued existence of Covid-19 Pandemic and the evolving guidelines and executive orders, it is difficult to determine the impact of the Covid-19 Pandemic on Trane's performance under this Agreement. Consequently, the parties agree as follows:

1. Each party shall use commercially reasonable efforts to perform its obligations under the Agreement and to meet the schedule and completion dates, subject to provisions below;
2. Each party will abide by any federal, state (US), provincial (Canada) or local orders, directives, or advisories regarding the Covid-19 Pandemic with respect to its performance of its obligations under this Agreement and each shall have the sole discretion in determining the appropriate and responsible actions such party shall undertake to so abide or to safeguard its employees, subcontractors, agents and suppliers;
3. Each party shall use commercially reasonable efforts to keep the other party informed of pertinent updates or developments regarding its obligations as the Covid-19 Pandemic situation evolves; and
4. If Trane's performance is delayed or suspended as a result of the Covid-19 Pandemic, Trane shall be entitled to an equitable adjustment to the project schedule and/or the contract price.

**This proposal is subject to your acceptance of the attached Trane terms and conditions (Equipment).**

CUSTOMER ACCEPTANCE	TRANE ACCEPTANCE
<hr/> <p>Authorized Representative</p> <hr/> <p>Printed Name</p> <hr/> <p>Title</p> <hr/> <p>Purchase Order _____</p> <hr/> <p>Acceptance Date _____</p>	<p>Trane U.S. Inc.</p> <hr/> <p>Submitted By: Mike Molnar                      Cell: (314) 605-8476                      Office: (636) 305-3647</p> <hr/> <p>Authorized Representative</p> <hr/> <p>Title</p> <hr/> <p>Signature Date</p>

**TERMS AND CONDITIONS - COMMERCIAL EQUIPMENT**

"Company" shall mean Trane U.S. Inc..

1. **Acceptance.** These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the "Agreement") resulting from Company's proposal (the "Proposal") for the sale of the described commercial equipment and any ancillary services (the "Equipment"). COMPANY'S TERMS AND CONDITIONS AND EQUIPMENT PRICES ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT. The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent ("Customer") delivered to Company within 30 days from the date of the Proposal. Prices in the Proposal are subject to change at any time upon notice to Customer. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counteroffer to provide Equipment in accordance with the Proposal and the Company's terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counteroffer will be deemed accepted. Notwithstanding anything to the contrary herein, Customer's acceptance of the Equipment will in any event constitute an acceptance by Customer of Company's terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability.
2. **Connected Services.** In addition to these terms and conditions, the Connected Services Terms of Service ("Connected Services Terms"), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.
3. **Title and Risk of Loss.** All Equipment sales with destinations to Canada or the U.S. shall be made as follows: FOB Company's U.S. manufacturing facility or warehouse (full freight allowed). Title and risk of loss or damage to Equipment will pass to Customer upon tender of delivery of such to carrier at Company's U.S. manufacturing facility or warehouse.
4. **Pricing and Taxes.** Within thirty (30) days following Customer acceptance of the Proposal without addition of any other terms and conditions of sale or any modification, Customer shall provide notification of release for immediate production at Company's factory. Prices for Equipment are subject to change at any time prior to shipment to reflect any cost increases related to the manufacture, supply, and shipping of Equipment. This includes, but is not limited to, cost increases in raw materials, supplier components, labor, utilities, freight, logistics, wages and benefits, regulatory compliance, or any other event beyond Company's control. If shipment is delayed due to Customer's actions, Company may also charge Customer with storage fees if a release is not received within 6 months after the date of order acceptance, Company reserves the right to cancel any order. If a release is not received within 6 months following order acceptance, Company reserves the right to cancel any order. Company shall be entitled to equitable adjustments in the contract price to reflect any cost increases as set forth above and will provide notice to Customer prior to the date for which the increased price is to be in effect for the applicable customer contract. In no event will prices be decreased. The price of Equipment does not include any present or future foreign, federal, state, or local property, license, privilege, sales, use, excise, value added, gross receipts or other like taxes or assessments. Such amounts will be itemized separately to Customer, who will make prompt payment to Company. Company will accept valid exemption documentation for such taxes and assessments from Customer, if applicable. All prices include packaging in accordance with Company's standard procedures. Charges for special packaging, crating or packing are the responsibility of Customer.
5. **Delivery and Delays.** Delivery dates are approximate and not guaranteed. Company will use commercially reasonable efforts to deliver the Equipment on or before the estimated delivery date will notify Customer if the estimated delivery dates cannot be honored, and will deliver the Equipment and services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery.
6. **Performance.** Company shall be obligated to furnish only the Equipment described in the Proposal and in submittal data (if such data is issued in connection with the order). Company may rely on the acceptance of the Proposal, and in submittal data as acceptance of the suitability of the Equipment for the particular project or location. Unless specifically stated in the Proposal, compliance with any local building codes or other laws or regulations relating to specifications or the location, use or operation of the Equipment is the sole responsibility of Customer. If Equipment is tendered that does not fully comply with the provisions of this Agreement, and Equipment is rejected by Customer, Company will have the right to cure within a reasonable time after notice thereof by substituting a conforming tender whether or not the time for performance has passed.
7. **Force Majeure.** Company's duty to perform under this Agreement and the Equipment prices are contingent upon the non-occurrence of an Event of Force Majeure. If the Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days' notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid); and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.
8. **Limited Warranty.** Company warrants the Equipment manufactured by Company for a period of the lesser of 12 months from initial start-up or 18 months from date of shipment, whichever is less, against failure due to defects in material and manufacture and that it has the capacities and ratings set forth in Company's catalogs and bulletins ("Warranty"). **Equipment manufactured by Company that includes required start-up and sold in North America will not be warranted by Company unless Company performs the Equipment startup.** Exclusions from this Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; modifications made by others to the Equipment; repairs or alterations by a party other than Company that adversely affects the stability or reliability of the Equipment; vandalism; neglect; accident; adverse weather or environmental conditions; abuse or improper use; improper installation; commissioning by a party other than Company; unusual physical or electrical or mechanical stress; operation with any accessory, equipment or part not specifically approved by Company; refrigerant not supplied by Company; and/or lack of proper maintenance as recommended by Company. Company shall not be obligated to pay for the cost of lost refrigerant or lost product. Company's obligations and liabilities under this Warranty are limited to furnishing replacement equipment or parts, at its option, FCA (Incoterms 2000) factory or warehouse (f.o.b. factory or warehouse for US domestic purposes) at Company-designated shipping point, freight-allowed to Company's warranty agent's stock location, for all non-conforming Company-manufactured Equipment (which have been returned by Customer to Company). Returns must have prior written approval by Company and are subject to restocking charge where applicable. Equipment, material and/or parts that are not manufactured by Company ("Third-Party Product(s)") are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **CUSTOMER UNDERSTANDS THAT COMPANY IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY MANUFACTURER, NOT COMPANY AND CUSTOMER IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY COMPANY OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN. COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. ADDITIONALLY, COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF,**

**SERVICES OR OTHERWISE. IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO.** No warranty liability whatsoever shall attach to Company until Customer's complete order has been paid for in full and Company's liability under this Warranty shall be limited to the purchase price of the Equipment shown to be defective. Additional warranty protection is available on an extra-cost basis and must be in writing and agreed to by an authorized signatory of the Company. **EXCEPT FOR COMPANY'S WARRANTY EXPRESSLY SET FORTH HEREIN, COMPANY DOES NOT MAKE, AND HEREBY EXPRESSLY DISCLAIMS, ANY WARRANTIES, EXPRESS OR IMPLIED CONCERNING ITS PRODUCTS, EQUIPMENT OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF DESIGN, MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, OR OTHERS THAT ARE ALLEGED TO ARISE FROM COURSE OF DEALING OR TRADE.**

**9. Indemnity.** To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

**10. Insurance.** Upon request, Company will furnish evidence of its standard insurance coverage. If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive any rights of subrogation.

**11. Customer Breach.** Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement, require payment prior to shipping, or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to the Company for all Equipment furnished and all damages sustained by Company (including lost profit and overhead).

**12. Limitation of Liability.** **NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, PUNITIVE, EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS), OR CONTAMINANTS LIABILITIES, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY.** In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

**13. CONTAMINANTS LIABILITY**

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. **IN NO EVENT WILL COMPANY BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION, OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH), DAMAGE TO PROPERTY, OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION, MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANTS LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES COMPANY FROM ANY SUCH CONTAMINANTS LIABILITIES.**

**14. Nuclear Liability.** In the event that the Equipment sold hereunder is to be used in a nuclear facility, Customer will, prior to such use, arrange for insurance or governmental indemnity protecting Company against all liability and hereby releases and agrees to indemnify Company and its suppliers for any nuclear damage, including loss of use, in any manner arising out of a nuclear incident, whether alleged to be due, in whole or in part to the negligence or otherwise of Company or its suppliers.

**15. Intellectual Property; Patent Indemnity.** Company retains all ownership, license and other rights to all patents, trademarks, copyrights, trade secrets and other intellectual property rights related to the Equipment, and, except for the right to use the Equipment sold, Customer obtains no rights to use any such intellectual property. Company agrees to defend any suit or proceeding brought against Customer so far as such suit or proceeding is solely based upon a claim that the use of the Equipment provided by Company constitutes infringement of any patent of the United States of America, provided Company is promptly notified in writing and given authority, information and assistance for defense of same. Company will, at its option, procure for Customer the right to continue to use said Equipment, or modify it so that it becomes non-infringing, or replace same with non-infringing Equipment, or to remove said Equipment and to refund the purchase price. The foregoing will not be construed to include any Agreement by Company to accept any liability whatsoever in respect to patents for inventions including more than the Equipment furnished hereunder, or in respect of patents for methods and processes to be carried out with the aid of said Equipment. The provision of Equipment by Company does not convey any license, by implication, estoppel, or otherwise, under patent claims covering combinations of said Equipment with other devices or elements. The foregoing states the entire liability of Company with regard to patent infringement. Notwithstanding the provisions of this paragraph, Customer will hold Company harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Customer's designs or specifications or instructions.

**16. Cancellation.** Equipment is specially manufactured in response to orders. An order placed with and accepted by Company cannot be delayed, canceled, suspended, or extended except with Company's written consent and upon written terms accepted by Company that will reimburse Company for and indemnify Company against loss and provide Company with a reasonable profit for its materials, time, labor, services, use of facilities and otherwise. Customer will be obligated to accept any Equipment shipped, tendered for delivery or delivered by Company pursuant to the order prior to any agreed delay, cancellation, suspension or extension of the order. Any attempt by Customer to unilaterally revoke, delay or suspend acceptance for any reason whatever after it has agreed to delivery of or accepted any shipment shall constitute a breach of this Agreement. For purposes of this paragraph, acceptance occurs by any waiver of inspection, use or possession of Equipment, payment of the invoice, or any indication of exclusive control exercised by Customer.

**17. Invoicing and Payment.** Unless otherwise agreed to in writing by Company, equipment shall be invoiced to Customer upon tender of delivery thereof to the carrier. Customer shall pay Company's invoices within net 30 days of shipment date. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Company may at any time decline to ship, make delivery or perform work except upon receipt of cash payment, letter of credit, or security, or upon other terms and conditions satisfactory to Company. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all Equipment to secure payment in full of all amounts due Company and its order for the Equipment, together with these terms and conditions, form a security agreement (as defined by the UCC in the United States and as defined in the Personal Property Security Act in Canada).

Customer shall keep the Equipment free of all taxes and encumbrances, shall not remove the Equipment from its original installation point and shall not assign or transfer any interest in the Equipment until all payments due Company have been made. The purchase money security interest granted herein attaches upon Company's acceptance of Customer's order and on receipt of the Equipment described in the accepted Proposal but prior to its installation. The parties have no agreement to postpone the time for attachment unless specifically noted in writing on the accepted order. Customer will have no rights of set off against any amounts, which become payable to Company under this Agreement or otherwise.

**18. Claims.** Company will consider claims for concealed shortages in shipments or rejections due to failure to conform to an order only if such claims or rejections are made in writing within 15 days of delivery and are accompanied by the packing list and, if applicable, the reasons in detail why the Equipment does not conform to Customer's order. Upon receiving authorization and shipping instructions from authorized personnel of Company, Customer may return rejected Equipment, transportation charges prepaid, for replacement. Company may charge Customer any costs resulting from the testing, handling, and disposition of any Equipment returned by Customer which are not found by Company to be nonconforming. All Equipment damaged during shipment and all claims relating thereto must be made with the freight carrier in accordance with such carrier's policies and procedures. Claims for Equipment damaged during shipment are not covered under the warranty provision stated herein.

**19. Export Laws.** The obligation of Company to supply Equipment under this Agreement is subject to the ability of Company to supply such items consistent with applicable laws and regulations of the United States and other governments. Company reserves the right to refuse to enter into or perform any order, and to cancel any order, under this Agreement if Company in its sole discretion determines that performance of the transaction to which such order relates would violate any such applicable law or regulation. Customer will pay all handling and other similar costs from Company's factories including the costs of freight, insurance, export clearances, import duties and taxes. Customer will be "exporter of record" with respect to any export from the United States of America and will perform all compliance and logistics functions in connection therewith and will also comply with all applicable laws, rules and regulations. Customer understands that Company and/or the Equipment are subject to laws and regulations of the United States of America which may require licensing or authorization for and/or prohibit export, re-export or diversion of Company's Equipment to certain countries, and agrees it will not knowingly assist or participate in any such diversion or other violation of applicable United States of America laws and regulations. Customer agrees to hold harmless and indemnify Company for any damages resulting to Customer or Company from a breach of this paragraph by Customer.

**20. General.** Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state of New York for Equipment shipped to a U.S. location and the laws of the province to which Equipment is shipped within Canada, without regard to its conflict of law principles that might otherwise call for the application of a different state's or province's law, and not including the United Nations Convention on Contracts for the International Sale of Goods. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Equipment is being used at a site owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

**21. Equal Employment Opportunity/Affirmative Action Clause.** Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

**22. U.S. Government Work.**

**The following provision applies only to direct sales by Company to the US Government.** The Parties acknowledge that Equipment ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1).

**The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the sale of the Equipment is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

**23. Limited Waiver of Sovereign Immunity.** If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.







# Proposal

Proposal is valid for 15 days.

Customer must obtain credit approval and release order to production within 60 days of proposal date.

**PROPRIETARY AND CONFIDENTIAL PROPERTY OF Trane U.S. Inc.  
DISTRIBUTION TO OTHER THAN THE NAMED RECIPIENT IS PROHIBITED**

**Prepared For:**  
Peters-Eichler Mechanical

**Date:** April 10, 2023

**Job Name:**  
Arnold Rec Center PoolPak Replacements

**Proposal Number:** Q3-163125-5820-1

**Delivery Terms:**  
Freight Allowed and Prepaid - F.O.B. Factory

**Payment Terms:**  
Net 30 Days

Trane U.S. Inc. is pleased to provide the following proposal for your review and approval.

**Tag Data – PoolPak Replacement Units (Qty: 2)**

Tag(s)	Qty
PAU-1 & PAU-2	2

- PoolPak Outdoor PPK-190
  - 2" double wall construction, bottom return & supply
  - Pool water heater
  - Unit mounted hot water coil with modulating valve
  - MERV 13 filters
  - Motorized OA damper
  - Unit mounted exhaust fan
  - BACnet MS/TP
  - R-410A
  - Fused disconnect.
  - Curb adapter (Field Installed) \*Includes field measurement visit from Thybar
- Air-cooled Fluid cooler with disconnect and hail guards
  - (4) mounting rails per roof plan
- Factory startup
- 2-year driveline, compressor, and coil warranty

Trane is pleased to provide the following proposal to furnish and install the following components as an extension to the existing Tracer SC system that spans across the existing Arnold Rec Center System.

1. Control wiring for the Tracer system is included. All wiring will be installed per NEC. Wiring will be installed utilizing plenum rated cable supported by bridle rings above lift-out ceilings. Wiring in mechanical equipment rooms and open ceilings will be installed in EMT conduit. Trane will provide the installing contractor with wiring diagrams and wiring specification guidelines. All communication wiring shall comply with Trane standards. Installation of dampers, sensing wells, flow switches, pressure switches, tubing associated with pressure sensors, variable frequency drives, smoke detectors, smoke dampers, and valve bodies is not included. Wiring of smoke dampers and fire/smoke dampers is not included.
2. Engineered shop drawings, software programming, graphics generation, and Trane control system start-up are included.
3. Integration of the new equipment with the existing Tracer SC building automation system is included.

4. Direct digital control of two (2) Trane packaged PoolPak Dehumidification Units (PAU-1, PAU-2) is included.
5. Interlocking wiring to two (2) Dry Coolers (DC-1, DC-2) is included.
6. Trane will check and report any issues that would result in improper operation of control dampers, emergency transfer fan, and heating coil per note 6 and 7 on plan M1.1. Any work or material associated with defective wiring or devices found defective is not included.
7. All smoke dampers, fire dampers, and combination fire/smoke dampers are NOT included and must be provided and installed by others. Control and monitoring of the fire/smoke dampers are NOT included. Power and control wiring of the fire smoke dampers from the fire alarm control modules is NOT included and must be provided by others.
8. Demolition of any existing equipment and/or controls is not included and must be provided by others.
9. Control work and wiring associated with any equipment not listed above is not included and must be provided by others.
10. Training of operations personnel on system use: eight hours are included.
11. Warranty on new control components is twelve months.

**Any items not specifically mentioned above are excluded from this proposal.**

**This proposal does not include:**

- a. Premium Labor, cutting, patching, or painting.
- b. Installation of valves, wells, taps, etc. in pipes.
- c. Furnishing or installing tubing required for pressure controls.
- d. Furnishing or installing any loose dampers.
- e. Furnishing or installing loose VFDs.
- f. Furnishing or installing lighting controls, photo cells, switches, or contactors.
- g. Furnishing or installing fire alarm/smoke detection systems or equipment.
- h. System testing or balancing.
- i. All fire stop caulking.

**General notes pertaining to this proposal:**

All work to be done during normal working hours of 7AM to 4:30 PM.

**Total Net Price (Excluding Sales Tax) ..... \$ 599,980.00**

**Price Add for 3<sup>rd</sup> – 5<sup>th</sup> year Driveline, Compressor, and Coil Warranty.....\$ 25,935.00**

Tax Status: Taxable <input type="checkbox"/> Exempt <input type="checkbox"/>	IF EXEMPT PLEASE SUBMIT COMPLETED TAX EXEMPTION CERTIFICATE WITH YOUR SIGNED PROPOSAL OR WITH YOUR PURCHASING DOCUMENTS, KEEP YOUR ORIGINAL ON FILE IN THE OFFICE. YOU WILL BE CHARGED TAX IF A VALID EXEMPTION CERTIFICATE IS NOT ON FILE BEFORE EQUIPMENT, PARTS OR SERVICES ARE PROVIDED. SEE <a href="http://WWW.TAXSITES.COM/STATE-LINKS.HTML">WWW.TAXSITES.COM/STATE-LINKS.HTML</a> FOR TAX FORMS.
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Sincerely,

**Mike Molnar - Trane U.S. Inc.**  
 101 Matrix Commons Drive  
 Fenton, MO 63026  
 Office Phone: (636) 305-3647

**COVID-19 NATIONAL EMERGENCY CLAUSE**

The parties agree that they are entering into this Agreement while the nation is in the midst of a national emergency due to the Covid-19 pandemic ("Covid-19 Pandemic"). With the continued existence of Covid-19 Pandemic and the evolving guidelines and executive orders, it is difficult to determine the impact of the Covid-19 Pandemic on Trane's performance under this Agreement. Consequently, the parties agree as follows:

1. Each party shall use commercially reasonable efforts to perform its obligations under the Agreement and to meet the schedule and completion dates, subject to provisions below;
2. Each party will abide by any federal, state (U.S.), provincial (Canada) or local orders, directives, or advisories regarding the Covid-19 Pandemic with respect to its performance of its obligations under this Agreement and each shall have the sole discretion in determining the appropriate and responsible actions such party shall undertake to so abide or to safeguard its employees, subcontractors, agents and suppliers;
3. Each party shall use commercially reasonable efforts to keep the other party informed of pertinent updates or developments regarding its obligations as the Covid-19 Pandemic situation evolves; and
4. If Trane's performance is delayed or suspended as a result of the Covid-19 Pandemic, Trane shall be entitled to an equitable adjustment to the project schedule and/or the contract price.

**This proposal is subject to your acceptance of the attached Trane terms and conditions.**

**TERMS AND CONDITIONS – COMMERCIAL INSTALLATION**

“Company” shall mean Trane U.S. Inc. for Work performed in the United States or Trane Canada ULC for Work performed in Canada.

1. **Acceptance; Agreement.** These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the “Agreement”) resulting from Company's proposal (the “Proposal”) for the commercial goods and/or services described (the “Work”). COMPANY'S TERMS AND CONDITIONS AND EQUIPMENT PRICES ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT. The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. Prices in the Proposal are subject to change at any time upon notice to Customer. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counteroffer to provide Work in accordance with the Proposal and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counteroffer will be deemed accepted. Notwithstanding anything to the contrary herein, Customer's acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Work rendered by Company to the date of cancellation.
2. **Connected Services.** In addition to these terms and conditions, the Connected Services Terms of Service (“Connected Services Terms”), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.
3. **Title and Risk of Loss.** All Equipment sales with destinations to Canada or the U.S. shall be made as follows: FOB Company's U.S. manufacturing facility or warehouse (full freight allowed). Title and risk of loss or damage to Equipment will pass to Customer upon tender of delivery of such to carrier at Company's U.S. manufacturing facility or warehouse.
4. **Pricing and Taxes.** Unless otherwise noted, the price in the Proposal includes standard ground transportation and, if required by law, all sales, consumer, use and similar taxes legally enacted as of the date hereof for equipment and material installed by Company. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer's tax-exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor/labour do not include sales tax and taxes will be added. Within thirty (30) days following Customer acceptance of the Proposal without addition of any other terms and conditions of sale or any modification, Customer shall provide notification of release for immediate production at Company's factory. Prices for Work are subject to change at any time prior to shipment to reflect any cost increases related to the manufacture, supply, and shipping of goods. This includes, but is not limited to, cost increases in raw materials, supplier components, labor, utilities, freight, logistics, wages and benefits, regulatory compliance, or any other event beyond Company's control. If such release is not received within 6 months after date of order receipt, Company reserves the right to cancel any order. If shipment is delayed due to Customer's actions, Company may also charge Customer storage fees. Company shall be entitled to equitable adjustments in the contract price to reflect any cost increases as set forth above and will provide notice to Customer prior to the date for which the increased price is to be in effect for the applicable customer contract. In no event will prices be decreased.
5. **Exclusions from Work.** Company's obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.
6. **Performance.** Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions could endanger property or put at risk the safety of persons. Unless otherwise agreed to by Customer and Company, at Customer's expense and before the Work begins, Customer will provide any necessary access platforms, catwalks to safely perform the Work in compliance with OSHA or state industrial safety regulations.
7. **Payment.** Customer shall pay Company's invoices within net 30 days of invoice date. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required, Company may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Company for all reasonable shutdown, standby and start-up costs as a result of the suspension. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all equipment from Company to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement. Customer shall keep the equipment free of all taxes and encumbrances, shall not remove the equipment from its original installation point and shall not assign or transfer any interest in the equipment until all payments due Company have been made.
8. **Time for Completion.** Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Company, all dates provided by Company or its representatives for commencement, progress or completion are estimates only. While Company shall use commercially reasonable efforts to meet such estimated dates, Company shall not be responsible for any damages for its failure to do so. Delivery dates are approximate and not guaranteed. Company will use commercially reasonable efforts to deliver the Equipment on or before the estimated delivery date, will notify Customer if the estimated delivery dates cannot be honored, and will deliver the Equipment and services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery.
9. **Access.** Company and its subcontractors shall be provided access to the Work site during regular business hours, or such other hours as may be requested by Company and acceptable to the Work site' owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Company's access to correct any emergency condition shall not be restricted. Customer grants to Company the right to remotely connect (via phone modem, internet or other agreed upon means) to Customer's building automation system (BAS) and/or HVAC equipment to view, extract, or otherwise collect and retain data from the BAS, HVAC equipment, or other building systems, and to diagnose and remotely make repairs at Customer's request.
10. **Completion.** Notwithstanding any other term or condition herein, when Company informs Customer that the Work has been completed, Customer shall inspect the Work in the presence of Company's representative, and Customer shall either (a) accept the Work in its entirety in writing, or (b) accept the Work in part and specifically identify, in writing, any exception items. Customer agrees to re-inspect any and all excepted items as soon as Company informs Customer that all such excepted items have been completed. The initial acceptance inspection shall take place within ten (10) days from the date when Company informs Customer that the Work has been completed. Any subsequent re-inspection of excepted items shall take place within five (5) days from the date when Company informs Customer that the excepted items have been completed. Customer's failure to cooperate and complete any of said inspections within the required time limits shall constitute complete acceptance of the Work as of ten (10) days from date when Company informs Customer that the Work, or the excepted items, if applicable, has/have been completed.
11. **Permits and Governmental Fees.** Company shall secure (with Customer's assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work which are legally required when bids from Company's subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities. If the cost of such permits, fees, licenses and inspections are not included in the Proposal, Company will invoice Customer for such costs.
12. **Utilities During Construction.** Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.
13. **Concealed or Unknown Conditions.** In the performance of the Work, if Company encounters conditions at the Work site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Company shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Company's cost of, or time required for, performance of any part of the Work, Company shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.
14. **Pre-Existing Conditions.** Company is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement (“Pre-Existing Conditions”), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or fungi. Company also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.
15. **Asbestos and Hazardous Materials.** Company's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl (“PCB”), or other hazardous materials (hereinafter, collectively, “Hazardous Materials”). Customer warrants and represents that, except as set forth in a writing signed by Company, there are no Hazardous Materials on the Work site

that will in any way affect Company's Work and Customer has disclosed to Company the existence and location of any Hazardous Materials in all areas within which Company will be performing the Work. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be exclusively responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and, to the fullest extent permitted by law, shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof arising out of or relating to any Hazardous Materials on or about the Work site, not brought onto the Work site by Company. Company shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the Work site for the presence of Hazardous Materials.

**16. Force Majeure.** Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days' notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

**17. Customer's Breach.** Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead)

**18. Indemnity.** To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

**19. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, INCLUDING CONTAMINANTS LIABILITIES, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

#### **20. CONTAMINANTS LIABILITY**

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. IN NO EVENT WILL COMPANY BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH), DAMAGE TO PROPERTY, OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION, MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANT LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES COMPANY FROM ANY SUCH CONTAMINANTS LIABILITIES.

**21. Patent Indemnity.** Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer's design of the articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

**22. Limited Warranty.** Company warrants for a period of 12 months from the date of substantial completion ("Warranty Period") commercial equipment manufactured and installed by Company against failure due to defects in material and manufacture and that the labor/labour furnished is warranted to have been properly performed (the "Limited Warranty"). Trane equipment sold on an uninstalled basis is warranted in accordance with Company's standard warranty for supplied equipment. **Product manufactured by Company that includes required startup and is sold in North America will not be warranted by Company unless Company performs the product start-up.** Substantial completion shall be the earlier of the date that the Work is sufficiently complete so that the Work can be utilized for its intended use or the date that Customer receives beneficial use of the Work. If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said equipment was installed pursuant hereto, labor/labour associated with the replacement of parts or equipment not conforming to this Limited Warranty. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Customer's failure to follow the Company-provided maintenance plan; refrigerant not supplied by Company; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work and/or the purchase price of the equipment shown to be defective. Equipment, material and/or parts that are not manufactured by Company ("Third-Party Product(s)") are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **CUSTOMER UNDERSTANDS THAT COMPANY IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY MANUFACTURER, NOT COMPANY AND CUSTOMER IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY COMPANY OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN. THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. ADDITIONALLY, COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO.**

**23. Insurance.** Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

**24. Commencement of Statutory Limitation Period.** Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

**25. General.** Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

**26. Equal Employment Opportunity/Affirmative Action Clause.** Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

**27. U.S. Government Work.**

The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that all items or services ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business.

The following provision applies only to indirect sales by Company to the US Government. As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions in effect as of the date of this subcontract: 52.203-19; 52.204-21; 52.204-23; 52.219-8; 52.222-21; 52.222-26; 52.222-35; 52.222-36; 52.222-50; 52.225-26; 52.247-64. If the Work is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

**28. Limited Waiver of Sovereign Immunity.** If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

**29. Building Automation Systems and Network Security.** Customer and Trane acknowledge that Building Automation System (BAS) and connected networks security requires Customer and Trane to maintain certain cybersecurity obligations. Customer acknowledges that upon completion of installation and configuration of the BAS, the Customer maintains ownership of the BAS and the connected network equipment. Except for any applicable warranty obligations, Customer is solely responsible for the maintenance and security of the BAS and related networks and systems. In the event there is a service agreement between Trane and Customer, Trane will provide the services as set forth in the service agreement.

In order to maintain a minimum level of security for the BAS, associated networks, network equipment and systems, Customer's cybersecurity responsibilities include without limitation:

1. Ensure that the BAS, networks, and network equipment are physically secure and not accessible to unauthorized personnel.
2. Ensure the BAS remains behind a secure firewall and properly segmented from all other customer networks and systems, especially those with sensitive information.
3. Keep all Inbound ports closed to any IP Addresses in the BAS.
4. Remove all forwarded inbound ports and IP Addresses to the BAS.
5. Maintain user login credentials and unique passwords, including the use of strong passwords and the removal of access for users who no longer require access.
6. Where remote access is desired, utilize a secure method such as Trane Connect Secure Remote Access or your own VPN.
7. For any Trane services requiring remote data transfer and/or remote user access, configure the BAS and related firewall(s) per Instructions provided by Trane. This typically includes configuring Port 443 and associated firewall(s) for Outbound only.
8. Perform regular system maintenance to ensure that your BAS is properly secured, including regular software updates to your BAS and related network equipment (i.e., firewalls).

Any and all claims, actions, losses, expenses, costs, damages, or liabilities of any nature due to Customer's failure to maintain BAS security responsibilities and/or industry standards for cybersecurity are the sole responsibility of the Customer.

RESOLUTION NO: 23-14

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE  
CHANGE ORDER NUMBER 1 TO THE 2023 CONCRETE PROJECT.

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BE IT RESOLVED by the Council of the City of Arnold, Missouri, that the Mayor be,  
and is hereby authorized to execute change order No. 1 to the 2023 concrete project.

A copy of said change order is attached hereto and made a part hereof reference.

\_\_\_\_\_  
Presiding Officer of the City Council

\_\_\_\_\_  
Mayor Ron Counts

ATTEST:

\_\_\_\_\_  
City Clerk Tammi Casey

Date: \_\_\_\_\_



3073 Arnold Tenbrook Road  
Arnold, MO 63010

Phone 314-843-5166

Fax 314-843-6106

Proposal Submitted to:  
Judy Wagner  
City of Arnold

Date: 04/14/2023

**Arnold Concrete Repair Project 2023**  
**Change Order #1**

Item	Quantity	Unit	Unit Price	Price
Traffic Control	1	1	\$46,960.00	\$46,960.00
6" PCCP	6274.698	SY	\$57.00	\$357,657.81
4" Type 5 Base Rock	6274.698	SY	\$6.00	\$37,648.19
			Total:	\$442,266.00

**\*Traffic control includes an increase in concrete price and trucking rate.**

Acceptance of Change Order for the above prices, specifications, and conditions are satisfactory and are hereby accepted. Spencer Contracting is hereby authorized to do work as specified. I accept that the above total will become an extra charge over and above the original contracted amount.

Please sign and return a copy of this change order by fax or email to Spencer Contracting Company.

X   
\_\_\_\_\_  
Spencer Contracting Company

X  
\_\_\_\_\_  
City of Arnold





## CITY COUNCIL AGENDA ITEM STAFF REPORT

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<b>MEETING DATE:</b>	April 20, 2023
<b>TITLE:</b>	PC-2023-12 ABV Barrel Shop Bar (Conditional Use Permit)
<b>DEPARTMENT:</b>	Community Development
<b>PROJECT MANAGER:</b>	Sarah Turner, Senior Planner
<b>REQUESTED ACTION:</b>	No Action, Conditional Use Permit stands approved
<b>ATTACHMENTS:</b>	(1) C.U.P. 2023-12 (2) April 11, 2023 Planning Commission Draft Meeting Minutes

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### **EXECUTIVE SUMMARY:**

Jim Fasnacht and Steve Akley, owners and operators of ABV Barrel Shop at 6 Fox Valley Center, requested approval of a Conditional Use Permit (CUP) for a “Bar/Cocktail Lounge” to allow for a member-only bar at 8 Fox Valley Center to be connected to their existing business. This location is within a “C-2” Commercial District.

### **REVIEW & ANALYSIS:**

At its April 11, 2023 meeting, the Planning Commission held a public hearing for the CUP application. Staff found the request consistent with the CUP review criteria contained in the Zoning Ordinance subject to conditions of approval. The applicants were satisfied with Staff’s presentation. The Commission had no follow-up questions for the applicants or Staff. There were no public comments on the request.

### **RECOMMENDATION:**

On April 11, 2023, the Planning Commission, by a unanimous vote of 6 to 0, voted to recommend approval of the Conditional Use Permit subject to seven (7) conditions of approval. Staff added an additional condition (#1 on the attached CUP document) to ensure that the approved site plan is satisfied for the duration of the CUP, for a total of eight (8) conditions of approval.

**CONDITIONAL USE PERMIT 2023-12**

**WHEREAS**, Jim Fasnacht and Steve Akley have requested a Conditional Use Permit for a “Bar/Cocktail Lounge” to allow for a member-only bar/speakeasy at 8 Fox Valley Center, within a “C-2” Commercial District as provided in the Arnold Zoning Ordinance; and

**WHEREAS**, on April 11, 2023, the Planning Commission has held a Public Hearing, reviewed the application for CUP and associated site plan pursuant to the laws of the City of Arnold, and;

**WHEREAS**, on April 20, 2023, the City Council found the proposed land use not detrimental to the surrounding land uses.

**NOW THEREFORE**, the City Council hereby issues a Conditional Use Permit to operate a members-only bar/speakeasy. This Conditional Use Permit shall be identified as C.U.P. 2023-12 and shall be developed in general conformance with City of Arnold Ordinances and with Commission findings with the following eight (8) conditions:

1. The members-only bar/speakeasy shall be established and operated according to the attached site plan (Exhibit A).
2. Activities and operations associated with the members-only bar/speakeasy shall be limited to the hours from 11:00 AM to 10:00 PM.
3. Activities and operations associated with the bar shall only occur indoors.
4. The location and construction of the hidden speakeasy door must be approved by the Arnold Building Commissioner and shall not be in conflict with any applicable building or fire code regulations.
5. The use shall not result in any significant noise, odor, nuisance, or other impacts that are deemed to be detrimental to the surrounding area.
6. This Conditional Use Permit may be revoked by the City Council if the terms of the permit have been found to have been violated. The procedure for revocation shall require a hearing before the City Council.
7. Revocation of this Conditional Use Permit shall constitute grounds for the revocation of all other City licenses and/or permits associated with this business establishment.
8. Approval for Conditional Use Permit does not supersede other local, state, or federal requirements.

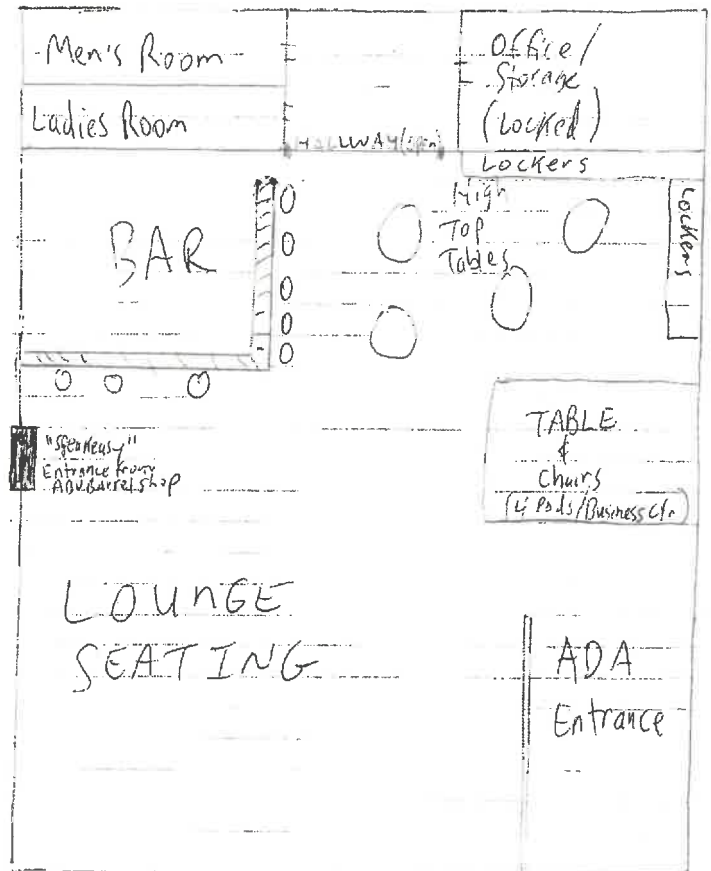
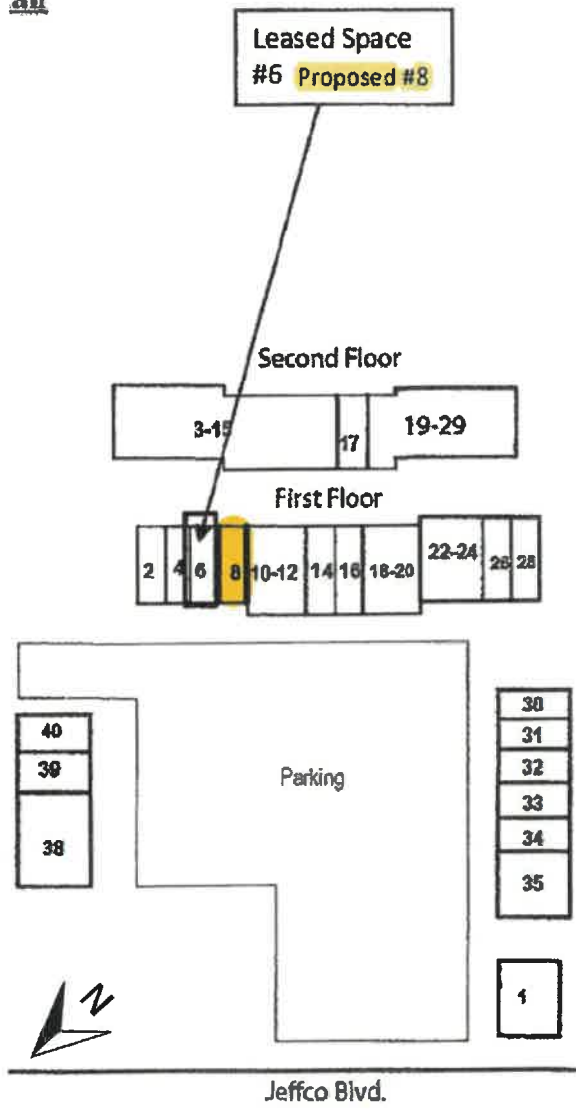
\_\_\_\_\_  
Phillip Hogan  
Acting Planning Commission Chairman

\_\_\_\_\_  
Date

Before me personally appeared Phillip Hogan, known to be the Vice Chairman of the Planning Commission for the City of Arnold, who executed the same on the City of Arnold’s behalf.

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Date



(Conceptual interior plans)



**PLANNING COMMISSION MEETING  
COUNCIL CHAMBERS, CITY HALL, 2101 JEFFCO BLVD.  
APRIL 11, 2023**

**MINUTES**

**REGULAR SESSION**

1. **CALL TO ORDER:** The regular meeting of the Arnold Planning Commission was called to order by Acting Chair Phil Hogan at 7:00 p.m.
2. **ROLL CALL OF COMMISSIONERS:** Andrew Sutton (Excused), Alan Bess, Brian McArthur, Del Williams, Frank Kutilek, Steve Buss (Excused), Justin Lurk (Absent), Phil Hogan, Bill Moritz. **STAFF PRESENT:** David Bookless (Community Development Director), Allison Sweeney (City Attorney), Christie Hull-Bettale (Engineer/Planner) (Zoom), Sarah Turner (Senior Planner).
3. **PLEDGE OF ALLEGIANCE:** The Commission and Staff stood and spoke the Pledge of Allegiance.
4. **APPROVAL OF MINUTES:** Motion by Moritz to approve the minutes from the March 14<sup>th</sup>, 2023 meeting. Second by Williams. *Voice vote:* Approved 6-0.
5. **PUBLIC COMMENT:** There was no comment from members of the public present or on Zoom.
6. **PUBLIC HEARINGS:**
  - a. **PC-2023-12 ABV Barrel Shop Bar (Conditional Use Permit):** Mr. Hogan requested a motion to open the public hearing. Motion by Moritz. Second by Kutilek. *Voice vote:* Approved 6-0. Ms. Turner presented the Staff Report, recommending favorable consideration of the CUP request with eight (8) conditions of approval. The applicants, Jim Fasnacht and Steve Akley, introduced themselves and were satisfied with Staff's presentation. There were no comments from the Commission. There were no public comments. Mr. Hogan requested a motion to close the hearing. Motion by Moritz. Second by Kutilek. *Voice vote:* Approved 6-0.
7. **OTHER BUSINESS:**
  - a. **Comprehensive Plan Update:** Mr. Hogan stated that this standing agenda item was not to be discussed.
8. **ADJOURNMENT OF REGULAR SESSION:** Motion by Moritz to close the public hearings and regular session and move into executive session. Second by Williams. *Voice vote:* Approved 6-0. Session adjourned at 7:12 p.m.

**EXECUTIVE SESSION**

9. **OLD BUSINESS:** *None*
10. **NEW BUSINESS:**
  - a. **PC-2023-12 ABV Barrel Shop Bar (Conditional Use Permit):** Motion by Moritz to recommend approval of the requested CUP to the City Council with the conditions of approval recommended by Staff. Second by Williams. Williams commented in favor of the proposal. The Commission had no further discussion. *Roll call vote.* Alan Bess, yes; Brian McArthur, yes; Del Williams, yes; Frank Kutilek, yes; Phil Hogan, yes; Bill Moritz, yes. Approved 6-0.
11. **DIRECTOR'S REPORT:** The next meeting of the Commission scheduled for April 25<sup>th</sup> has two projects: a text amendment to move fence appeals to the jurisdiction of the Board of Adjustment instead of the Commission, and a zoning amendment for a "C-4" Planned Commercial District to allow for secured outdoor storage. Mr. Bookless congratulated Bill Moritz for winning his election to the City Council and thanked him for his service on this Commission.
12. **COUNCIL LIAISON'S REPORT:** Councilman McArthur reported the success of Proposition Public Safety and thanked officials and the Police Department for campaigning for the ballot initiative.

**13. ANNOUNCEMENTS:** Moritz announced that this was his last meeting on the Planning Commission due to his election to City Council. He thanked the Commissioners and Staff and said it was a pleasure to serve. The other Commissioners congratulated him. There were no more announcements.

**14. ADJOURNMENT:** Motion by Moritz to adjourn. Second by Williams. *Voice vote:* Approved 6-0. Meeting adjourned at 7:16 p.m.

Respectfully Submitted,

Sarah Turner  
Acting Planning Commission Secretary

**VOTE RECORD**

	Roll Call	Minutes	PC-2023-12 PH Open	PC-2023-12 PH Close	Close Reg. Open Exec.	Vote PC-2023-09	Adjourn
<b>Andrew Sutton</b>	E	-	-	-	-	-	-
<b>Alan Bess</b>	P	Y	Y	Y	Y	Y	Y
<b>Brian McArthur</b>	P	Y	Y	Y	Y	Y	Y
<b>Del Williams</b>	P	2 <sup>nd</sup> – Y	Y	Y	1 <sup>st</sup> – Y	2 <sup>nd</sup> – Y	2 <sup>nd</sup> – Y
<b>Frank Kutilek</b>	P	Y	2 <sup>nd</sup> – Y	2 <sup>nd</sup> – Y	Y	Y	Y
<b>Steve Buss</b>	E	-	-	-	-	-	-
<b>Justin Lurk</b>	A	-	-	-	-	-	-
<b>Phil Hogan</b>	P	Y	Y	Y	Y	Y	Y
<b>Bill Moritz</b>	P	1 <sup>st</sup> – Y	1 <sup>st</sup> – Y	1 <sup>st</sup> – Y	2 <sup>nd</sup> – Y	1 <sup>st</sup> – Y	1 <sup>st</sup> – Y
<i>David Bookless</i>	P						
<i>Allison Sweeney</i>	P						
<i>Christie Hull-Bettale</i>	P (Z)						
<i>Sarah Turner</i>	P						

CALL TO ORDER:	7:00 pm
ADJOURN REGULAR:	7:12 pm
ADJOURN EXECUTIVE:	7:16 pm