



8/31/2020
Posted Amended
4:35pm

BOARD OF ALDERMAN
AMENDED 8/31/2020 - SPECIAL SESSION AGENDA
TUESDAY, SEPTEMBER 1st, 2020 at 6:30 p.m.

MEETING WILL BE RECORDED AND POSTED ON FACEBOOK - CITY OF BOLIVAR, MISSOURI

**ROLL CALL
PLEDGE OF ALLEGIANCE
MOTION TO ADOPT AGENDA**

1. Bill No. 2020-32 An Ordinance Authorizing a Contract with DCBC, L.L.C. for a Development Economic Incentive Arrangement.
2. Special Event Application: Curly Q's Fundraiser, September 5th, 2020.

Amended 8/31/2020 to add the following:


3. Bill No. 2020-33 An Ordinance Authorizing a Contract with Ozarks Regional YMCA for the Purchase of Real Estate Improvements and Equipment, and Buy-Out of Current Lease.

**CALL OF A SPECIAL SESSION MEETING
OF THE CITY OF BOLIVAR BOARD OF ALDERMEN.**

I, Christopher Warwick, Mayor of the City of Bolivar, Missouri, do hereby call a Special Session Meeting of the Bolivar Board of Aldermen on Tuesday, September 1st, 2020, at 6:30 p.m. for the purpose of transacting any lawful business that might be brought before said Council at said meeting.



Paula Henderson, City Clerk


Christopher Warwick, Mayor

Posted: 8/31/2020 4:35pm

IF UNABLE TO ACCESS FACEBOOK ACCOUNT, PLEASE CONTACT CITY CLERK FOR ADDITIONAL OPTIONS

#wherelibertyflows

If you have a need for special accommodations,
Please contact the City Clerk's office 24 hours prior to the meeting.

ORDINANCE COVER SHEET

Bill No. 2020-32

Ordinance No.

**“AN ORDINANCE AUTHORIZING A CONTRACT WITH DCBC, L.L.C. FOR A
DEVELOPMENT ECONOMIC INCENTIVE ARRANGEMENT.”**

Filed for public inspection on _____.

First reading _____ In Full; _____ By Title on _____.

Second reading _____ In Full; _____ By Title on _____.

Vote by the Board of Aldermen on _____:

_____ **Aye; _____ Nay; _____ Abstain**

_____ **Approved by the Mayor on _____.**

_____ **Vetoed by the Mayor on _____.**

Board of Aldermen Vote to Override Veto on _____.

_____ **Aye; _____ Nay; _____ Abstain**

Bill Effective Date: _____.

Bill No. 2020-32

Ordinance No.

“AN ORDINANCE AUTHORIZING A CONTRACT WITH DCBC, L.L.C. FOR A DEVELOPMENT ECONOMIC INCENTIVE ARRANGEMENT.”

Be it Ordained by the Board of Aldermen of the City of Bolivar, Missouri, as follows:

Section I: The City is hereby authorized to enter into an agreement with DCBC, L.L.C. for a development economic incentive arrangement; with such contract and terms to be in the form attached hereto as Exhibit “A” and made a part hereof by reference.

Section II: The Mayor and Aldermen and City Clerk are and at all relevant times were hereby authorized and directed to enter into an agreement as described above for and on behalf of the City.

Section III: This Ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

Christopher Warwick, Mayor

ATTEST:

Paula Henderson, City Clerk

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Economic Development Incentive Agreement (hereinafter referred to as the “Agreement”) is made and entered into to be effective on the _____ day of _____, 2020, between **the City of Bolivar, Missouri, a Municipal Corporation** (hereinafter referred to as the “City”), and **DCBC, L.L.C.** (hereinafter collectively referred to as the “Developer”).

WHEREAS, the Developer or one or more of Developer’s Affiliates will acquire and expects to develop certain real property located within the City of Bolivar, Missouri as generally set forth in Exhibit “A” attached hereto and made a part hereof by reference (the “Subject Property”) and has plans to make commercial improvements that will include public benefits/infrastructure improvements on the Subject Property. The commercial improvements will provide a valuable catalyst for development in the City and increased tax revenues for the City; and

WHEREAS, in order to maximize the economic benefits that the commercial improvements can bring to the City, the City and Developer desire to enter into this Agreement; and

WHEREAS, the City desires to offer certain development incentives to the Developer as allowed by Missouri law to promote the local economic development and stimulate business and commercial activity in the City; and

WHEREAS, the Board of Alderman for the City has determined that by entering into this Agreement, the potential economic benefits that will accrue to the City under the terms and conditions of this Agreement are consistent with the City’s economic development objectives and that construction and continuous operation of the commercial improvements will further the goals for positive growth in the City. In addition, the Board of Aldermen has determined that the incentives as set forth herein are appropriate means to achieve the construction and operation of the commercial improvements, which the Board of Aldermen has determined are necessary and desirable, and that the potential economic benefits that will accrue to the City pursuant to the terms and conditions of this Agreement are consistent with the City’s economic development objectives.

THE CITY AND THE DEVELOPER MUTUALLY AGREE TO THE FOLLOWING TERMS AND CONDITIONS

1. Definitions: The following terms are hereby defined for purposes of this Agreement:

- a. **“Affiliate”** means all entities, incorporated or otherwise, under common control with, controlled by or controlling the Developer. For purposes of this definition, “control” means fifty percent (50%) or more of the ownership determined by either value or vote.
- b. **“Agreement”** means this Economic Incentives Development Agreement, together with all exhibits or schedules attached to the Agreement from time to time.
- c. **“Commercial Improvements”** means any improvements housing a commercial enterprise generating sales tax revenues and located on the Subject Property as shown Exhibit “A” attached hereto and made part hereof by reference.
- d. **“Construction Costs”** means construction costs (including materials and labor) directly expended by the Developer for the Public Benefits Improvements, and additionally will include amounts equal to the finance charges (interest and fees), if any, paid by the Developer

to service any financing obtained by the Developer to cover the costs of the Public Benefits Improvements.

- e. “Developer” means DCBC, L.L.C., or their successor or assigns.
- f. “Local Sales Tax” means the City’s local portion, allocated to the City’s general fund, that is received on all taxable sales occurred from the Commercial Improvements.
- g. “Public Benefits Improvements” means: (i) extensions of water lines as necessary to serve the Subject Property; and (ii) extensions of sewer lines as necessary to serve the Subject Property; and (iii) a one-time extension and improvement to @@@@ avenue as deemed necessary by the Developer; provided that said improvements are constructed to completion during the term of this Agreement to City required specifications as exist at the time of construction of the same and that are ultimately accepted by the City.
- h. “Sales Tax Revenue” means the available Local Sales Tax, such as that presently in effect, as may be amended, resulting from sales taxes received by the City and collected by the commercial enterprises on sales transacted on the Commercial Improvements.

2. Term of Agreement: The term of this Agreement will begin on the date that this Agreement has been executed by all parties hereto, and will continue for a term of one (1) year thereafter; provided that this Agreement may be renewed for additional terms by the agreement of both parties for successive periods of no longer than one (1) year at a time, and further provided that in any event this Agreement will not be renewed more than twenty-four (24) times after the initial term.

3. Developer Obligations:

- a. Construction of Commercial Improvements: Developer will commence (or cause to be commenced) the construction of the Commercial Improvements at the Subject Property and will have obtained a building permit for the same on or before @@@@, 20@@. Developer in good faith represents that the anticipated completion of the Commercial Improvements and application for certificate of occupancy will be on or before @@@, 20@@, subject to normal construction delays and delays that are not yet anticipated by the Developer.
- b. Construction of Mandatory Public Benefits Improvements: Developer will, in conjunction with and contemporaneously with the construction of the Commercial Improvements (and any other future construction at the Subject Property during the term of this Agreement that will be built by the Developer), construct the Public Benefits Improvements at Developer’s cost. Upon payment of such costs, the Developer will itemize and certify the Construction Costs for such improvements and will deliver the same to the City Clerk. Upon filing of the itemized and certified Construction Costs with the City Clerk, and upon the acceptance of the completed Public Benefits Improvements by the City, such costs will be eligible for repayment through Sales Tax Revenues to the extent as provided for in this Agreement. It is understood by the parties that Public Benefits Improvements may be done in phases, and that any single Public Benefits Improvement will be “complete” upon completion of construction and acceptance by the City.
- c. Consideration of Optional Public Benefits Improvements: Developer may, at any time during the term of this Agreement, propose for construction additional Public Benefits Improvements at the Subject Property for consideration by the City for acceptance (“Optional Public Benefits Improvements”). In order for the costs of any Optional Public Benefits Improvements to be eligible for repayment through Sales Tax Revenues, the Developer must notify the City of its

plans for such improvements along with the reasonably anticipated and estimated costs for such improvements and the City must affirmatively vote to accept such improvements by ordinance. Optional Public Benefits Improvements may or may not be approved at the sole discretion of the City. Thereafter, the Developer may construct the Optional Public Benefits Improvements at the Developer's cost. Upon payment of such costs, the Developer will itemize and certify the Construction Costs for such improvements and will deliver the same to the City Clerk. Upon filing of the itemized and certified Construction Costs with the City Clerk, and upon the acceptance of the completed Optional Public Benefits Improvements by the City, such costs will be eligible for repayment through Sales Tax Revenues to the extent as provided for in this Agreement. It is understood by the parties that Optional Public Benefits Improvements may be done in phases, and that any single Optional Public Benefits Improvement will be "complete" upon completion of construction and acceptance by the City.

- d. Performance Bond or Letter of Credit for Public Benefits Improvements: As to all Public Benefits Improvements that will be accepted by the City (either because they are required by this Agreement or optional by ordinance), the Developer will post a Performance Bond or provide a Letter of Credit (LOC) (or both) in a total amount approved by the City's Public Works Director, with performance bonds to be in a form approved by the City Attorney that will be conditioned upon the Developer's completion of the improvements described therein and within time limits therein imposed.

If a LOC is issued in conjunction with a Performance Bond; and further if the term for the LOC is initially less than the time for performance of the Developer's obligations (whether as stated herein or by extension, if any, agreed upon by the parties); and further if it appears to the City that the LOC cannot or will not be renewed by the issuing party, then the City reserves the right to require the issuance of a new Performance Bond secured by a separate Surety (to be approved by the City) prior to the expiration of the LOC. In the event that the Developer fails to provide such new Performance Bond upon the demand of the City and with sufficient time to allow the City to collect on the LOC, then the City may accelerate the deadline for Developer's performance under this Agreement to five (5) days prior to the last date that the City can collect on the LOC; and the City may thereafter collect on the LOC as though the Developer has defaulted on this Agreement in the event that the Developer fails to complete its obligations under this Agreement prior to the accelerated deadline.

- e. Completion of Public Benefits Improvements: The City may withhold any permits (including occupancy permits) for any improvement on the Subject Property (including the Commercial Improvements) until all then scheduled Public Benefits Improvements / Optional Public Benefits Improvements have been completed.

4. City's Obligations – Local Sales Tax Rebate:

Local Sales Tax Rebate: Subject to the annual appropriations limitations and the possibility of early termination by the City's Board of Aldermen as set forth below, the City will provide a rebate to the Developer equivalent to 100% of Sales Tax Revenues generated, and actually received by the City, from the Commercial Improvements for the sole purpose of reimbursement to the Developer of the Construction Costs of Public Benefits Improvements / Optional Public Benefits Improvements at the Subject Property. The City will pay the rebates quarterly based upon the actual Sales Tax Revenues received by the City as reflected in the sales tax reports received from the State of Missouri, and the City will be solely responsible for determining and confirming the amount of the rebate, subject to cooperation from the Developer if necessary to obtain such information. The rebate will be paid within sixty (60) days of the last report being provided to the City Clerk for the preceding applicable quarter. The total

value of the rebate in this paragraph may equal but will not exceed the amount of Construction Costs for the said Public Benefits Improvements actually expended by the Developer during the term of this Agreement.

Subject to the annual appropriations limitations and the possibility of early termination by the City's Board of Aldermen as set forth below, the terms of this paragraph will survive the final renewal term of this Agreement until such time as the Developer has recouped the amount of Construction Costs for the said Public Benefits Improvements actually expended by the Developer during the term of this Agreement.

The Developer agrees to cooperate with the City and to otherwise complete (or obtain from commercial entities within the Subject Property) any documentation, if any, necessary for the State of Missouri to release sales tax information pertaining to the Commercial Improvements before operations begin at the Commercial Improvements and during the term of this Agreement.

NOTWITHSTANDING ANY OF THE FOREGOING PROVISIONS, IT IS UNDERSTOOD THAT THE CITY'S OBLIGATION TO REBATE SALES TAX REVENUE AS SET FORTH ABOVE IS FROM YEAR-TO-YEAR ONLY, AND THE CITY'S OBLIGATION IS SUBJECT TO AND CONTINGENT UPON ANNUAL APPROVAL AND APPROPRIATION BY THE CITY'S BOARD OF ALDERMEN, AND SUCH ANNUAL APPROVAL AND APPROPRIATION MAY BE WITHHELD BY THE BOARD OF ALDERMAN IN ANY GIVEN YEAR WITHOUT RECOURSE. THE DEVELOPER ASSUMES ALL RISK ASSOCIATED THE POSSIBILITY OF THE DISCONTINUATION OF SALES TAX REVENUE REBATES AFTER ANY GIVEN YEAR BY THE BOARD OF ALDERMEN NOTWITHSTANDING THE FACT THAT THE DEVELOPER MAY NOT HAVE RECAPTURED ALL OF ITS CONSTRUCTION COSTS.

5. Compliance with Government Regulations: Developer will at all times fully comply with all applicable state, county and municipal codes and regulations, and with all federal codes and regulations, including but not limited to, all regulations from the U.S. Department of Labor Occupational Safety and Health Organization (OSHA).

6. Relationship Between City and Developer: It is expressly understood and agreed that the Developer (and Developer's employees, agents, and contractors) will not operate as an independent contractor or as an agent, representative or employee of the City. Developer will have the exclusive right to control all details and day-to-day operations relative to the Commercial Improvements, Subject Property and improvements thereon and will be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, subcontractors, licensees and invitees in connection therewith. Developer acknowledges that the doctrine of *respondeat superior* will not apply as between the City and Developer, its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. Developer further agrees that nothing in this Agreement will be construed as the creation of a partnership or joint enterprise between the City and Developer.

7. Indemnification: Developer, at no cost to the City, agrees to defend, indemnify and hold the City, its officers, agents and employees, harmless against any and all claims, lawsuits, actions, costs and expenses of any kind, including, but not limited to, those for property damage or loss (including alleged damage or loss to Developer's business and any resulting lost profits) and/or personal injury, including death, that may relate to, arise out of or be occasioned by (i) Developer's breach of any of the terms or provisions of this Agreement; or (ii) any act or omission or intentional misconduct of Developer, its officers, agents, associates, employees, contractors (other than the City, or its employees, officers, agents, associates, contractors or subcontractors), or subcontractors due or related to or arising from the Commercial Improvements and any operations and activities on the Subject Property or otherwise to the performance of this Agreement.

8. Notices: Any notices authorized or required to be given hereunder may be personally delivered to the person or persons whose names appear below, or by depositing the same in the United States mail, postage fully prepaid, certified, return receipt requested, and if intended for the City addressed as follows:

City of Bolivar
ATTN: City Administrator
P.O. Box 9
Bolivar, Missouri 65613

and if intended for the Developer addressed as follows:

Either party will notify the other party as soon as is practicable upon the change of address for notification purposes. If properly addressed and mailed pursuant to the terms of this paragraph, delivery of notices will conclusively be deemed to have been made two days after mailing.

9. Breach and Early Termination: Unless specified otherwise in this Agreement, a party will be in default of this Agreement if such party breaches any term or condition of this Agreement and such breach remains uncured after thirty (30) calendar days following receipt of written notice from the other party of such breach (or such additional amount of time as the parties have mutually agreed to in writing), the non-breaching party will have the right to terminate this Agreement immediately by providing written notice to the breaching party.

10. Authorized Employees: Developer acknowledges that Section 285.530 RSMo. prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Developer therefore covenants that it is not knowingly in violation of Subsection 1 of Section 285.530 RSMo., and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens, and that its employees are lawfully eligible to work in the United States.

11. Prevailing Wages: To the extent required under the State of Missouri's prevailing wages laws for public works contracts, §§ 290.210 *et seq.*, the parties stipulate that the Developer is responsible for ensuring that not less than the prevailing hourly rate of wages shall be paid to all workmen performing work on the Subject Property for any work for which such prevailing wages would be applicable, if any.

12. Assignment: Developer may at any time assign, transfer or otherwise convey any of its rights or obligations under this Agreement to an Affiliate without the approval of the City so long as the Developer, the Affiliate and the City (which approval will not be unreasonably withheld or denied), first execute an agreement under which the Affiliate agrees to assume and be bound by all covenants and obligations of Developer under this Agreement. The Developer may also assign its rights and obligations under this Agreement to a financial institution or other lender for purposes of granting a security interest in the Commercial Improvements or Subject Property, provided that such financial institution or other lender first executes a written agreement with the City governing the rights and obligations of the City, Developer and the financial institution or other lender with respect to such security interest. Otherwise, the Developer may not assign, transfer or otherwise convey any of its rights or obligations under this

Agreement to any other person or entity without the prior consent of the City's Board of Aldermen, which consent will not be unreasonably withheld, conditioned or delayed, so long as: (i) the prior approval of the assignee or successor and a finding by the City's Board of Aldermen that the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement; and (ii) prior execution by the proposed assignee or successor of a written agreement with the City under which the proposed assignee or successor agrees to assume and be bound by all covenants and obligations of Developer under this Agreement. Any attempted assignment without the City's Board of Aldermen prior consent will constitute a breach and be grounds for termination of this Agreement following receipt of written notice from the City to Developer. Any lawful assignee or successor in interest of Developer of all rights under this Agreement will be deemed "Developer" for all purposes under this Agreement.

13. Waiver: All parties to this Agreement agree that the failure of any party to this Agreement to strictly enforce any term of this Agreement will not ever result in a waiver of such party to subsequently enforce the conditions of this Agreement.

14. Severability: In the event that any provision, paragraph, sub-paragraph, or sentence of this Agreement is declared to be invalid for any reason, it will not affect the validity of any other provision of this Agreement, and all other provisions, paragraphs, sub-paragraphs, and sentences will remain in full force and effect.

15. Complete Agreement: It is agreed and understood by all parties to this Agreement that this instrument constitutes the entire agreement between the parties, and that the terms and provisions of this Agreement are contractual and not mere recitals. No additional promises, agreements, and conditions have been entered into other than those expressly set forth in this Agreement. This Agreement may not be modified or amended without the written, signed consent of all parties to this Agreement.

16. Choice of Law and Venue: This instrument will be construed and enforced under the laws of the State of Missouri. Any Dispute Resolution or legal action arising hereunder will be handled in Polk County, Missouri, and all parties consent to the venue of such Court.

17. No Third-Party Beneficiaries: There are no third-party beneficiaries to this Agreement. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either party.

18. Binding Effect: This Agreement will be binding upon and will inure to the benefit of the City, and their respective successors and assigns, and upon the Developer, and their heirs, personal representatives, successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

THIS IS A BINDING LEGAL DOCUMENT. BEFORE SIGNING BELOW, THE PARTIES TO THIS AGREEMENT DECLARE THAT THEY ARE OF SOUND MIND AND ARE OTHERWISE LEGALLY CAPABLE OF ENTERING INTO THIS AGREEMENT, THAT THEY HAVE COMPLETELY READ THIS INSTRUMENT, AND THAT THEY FULLY UNDERSTAND ALL OF THE TERMS CONTAINED HEREIN.

City of Bolivar, Missouri

Christopher Warwick, Mayor

DATE

ATTEST

City Clerk

DATE

Signature of Developer, or Developer's Agent

@@@@@@@@@@@@

DATE

By, @@@@

@@@@@@@@@@@@

DATE

By, @@@@

@@@@@@

DATE

SPECIAL EVENT APPLICATION

Sponsor Name: Curly Que Barbecue
Address: 507 E. Maupin
City: Bolivar State: Mo Zip: 65613
Daytime phone: 417-770-0070 Cell phone: 417-770-0875
Fax: _____ Cell phone (during event): 417-777-0004
Email: lockh37@gmail.com
Preferred method of contact: call or email

Event name: Rowley family Hog Roast + Dessert Auction
Event location: Curly Que BBQ
Date & time of Set up: 9/5 @ 3pm
Date & time of Event: 9/5 4pm - 8pm
Date & time of Clean up: 9/5 8pm
Anticipated number of attendees: ? 250

Will the event sponsor be present and in charge of the event at all times? Yes No
If no, please provide name of responsible party present.

Name: _____ Cell phone (during event): _____

Type of activities planned (check all that apply):

- | | | |
|---|---|-----------------------------------|
| <input type="checkbox"/> Carnival | <input checked="" type="checkbox"/> Concert | <input type="checkbox"/> Festival |
| <input type="checkbox"/> Fireworks | <input type="checkbox"/> Parade | <input type="checkbox"/> Run/Walk |
| <input type="checkbox"/> Sporting Event | <input checked="" type="checkbox"/> Other (please explain) <u>Hog Roast</u> | |

Will the following be served? (check all that apply) Food Alcohol
If food is being served, a permit with the Polk County Health Center shall be obtained. Event sponsor will be responsible to monitor alcohol remains in defined event area.

Will temporary booths be set up? Yes No
If yes, will goods be available for purchase? Yes No
Sponsor is required to obtain a City business license for all vendors selling goods during the event.

Will event be open to the public? Yes No

Will admission be charged? Yes No

Will donations be accepted? Yes No

Will electricity be required? Yes No

Will generators be used? Yes No

Will live music be performed? Yes No

Will a stage be set up/constructed? Yes No

Please list performance times 4-6 only - varied singers * only if we are allowed to close off street

Will banners/signs be installed? Yes No

ALL signs require a sign permit issued by the Community Development Department. With the approval of the Special Events Permit, the organization is entitled to 2 cost-free sign permits. The cost-free permits still require a sign application and approval by the Community Development Department. All other signs require sign application submission, approval and permit charge.

Is this an event for Charity? Yes No

Fundraiser for family who lost their house to a fire.

List participating organizations/with name of contact (attach list if needed)

Organization: _____ Contact _____

Organization: _____ Contact _____

Organization: _____ Contact _____

Please indicate who is planned to provide the following services (for EMS, Fire, and security only check City provided if you want dedicated staffing at your event. This will incur additional charges):

Service	City provided	Self provided	Not Applicable
Crowd Control		✓	
EMS Services			✓
Fire Watch		✓	
Restroom Facilities		✓	
Security		✓	
Street Barricades	✓		
Traffic Control		✓	
Trash clean-up*		✓	

*The City reserves the right to charge the event sponsor for clean-up provided by the City.

In addition to the information provided above, please provide a detailed narrative description of the event. Also provide a map illustrating the locations of the activities planned and requested street barricades. (Except for very limited circumstances, the City will require that a street closing be from cross intersection to cross intersection so that no traffic can turn into closed street.) Please use additional sheets as needed.

We would like to close off Maupin Street
from Springfield Ave to Benton in front of Curly Que so
 we can set up our smoker, donation table + extra
 parking for this event. The only thing we would need
 from the city are barricades.

I hereby agree that my organization will comply with all City, County and State regulations and those that are specific to public safety.

Signature: Cindi Lockhart Print: Cindi Lockhart

Organization Name: Curly Que Barbecue Date: 8/30/2020

Date submitted: _____

Date scheduled to be presented to Council: _____

Emergency Management: _____ Date: _____

Community Development: _____ Date: _____

Building Inspector (if applicable): _____ Date: _____

Fire Chief: _____ Date: _____

Police Chief: _____ Date: _____

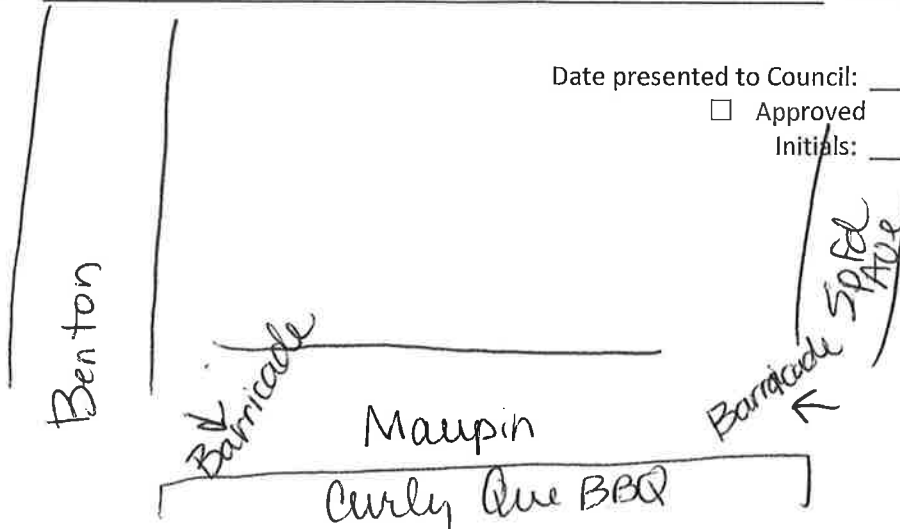
Public Works Director: _____ Date: _____

City Clerk: _____ Date: _____

Date presented to Council: _____

Approved Rejected

Initials: _____



HOLD HARMLESS AGREEMENT

To the extent permitted by law, Sponsor agrees to indemnify, defend and hold harmless the City of Bolivar, its officers, agents, volunteers and employees from and against all suits, claims, damages, losses and expenses, including but not limited to attorney's fees, court costs or alternative dispute resolution costs arising out of, or related to, Sponsor's use of city streets, roads, parks, sidewalk or other facilities under this agreement 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 are caused by the negligence or other wrongdoing of Sponsor, its officers, agents and volunteers, or anyone directly or indirectly employed or hired by Sponsor or anyone for whose acts Sponsor may be liable, regardless of whether caused in part by the negligence or wrongdoing of City and any of its agents or employees.

1. Sponsor shall purchase and maintain the following insurance, at Sponsor's expense:
 - Commercial General Liability Insurance with a minimum limit of \$1,000,000 each occurrence/\$2,000,000 general aggregate written on an occurrence basis
 - Comprehensive Business Automobile Liability Insurance for all owned, non-owned and hire automobiles and other vehicles used by Sponsor with a combined single limit of \$1,000,000 per accident
2. All policies of insurance must be on a primary basis, non-contributory with any other insurance and/or self-insurance carried by the city.
3. Prior to using City's facilities or infrastructure under this agreement, Sponsor shall furnish the City with certificates of insurance evidencing the required coverage, conditions and limits required by this agreement, have the City named as an additional insured and provide the appropriate additional insured endorsements.
4. 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.

Signature: *Cindi Lockhart* Print: Cindi Lockhart
Organization Name: *Curly Que Barbecue* Date: *8/30/2020*
City of Bolivar Representative: *Paula Henderson* Date: *8/31/2020*



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/31/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

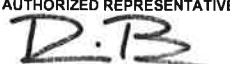
PRODUCER Capstone Insurors, Inc. PO Box 524 Bolivar, MO 65613		CONTACT NAME: PHONE (A/C, No, Ext): (417) 777-7570 FAX (A/C, No): (417) 777-6639 E-MAIL ADDRESS: capstone@capstoneins.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED Curly Que BBQ LLC 2042 Hwy 64 Goodson, MO 65663		INSURER A : Allied P & C Ins Co	42579
		INSURER B :	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR			ACBPBFL3028564304	1/11/2020	1/11/2021	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						GENERAL AGGREGATE	\$ 2,000,000
	OTHER:						PRODUCTS - COMP/OP AGG	\$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						EACH OCCURRENCE	\$
	DED RETENTION \$						AGGREGATE	\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N N/A If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE OTH-ER	
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER City of Bolivar PO Box 9 Bolivar, MO 65613	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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ORDINANCE COVER SHEET

Bill No. 2020-33

Ordinance No. _____

**“AN ORDINANCE AUTHORIZING A CONTRACT WITH THE OZARKS
REGIONAL YMCA FOR THE PURCHASE OF REAL ESTATE IMPROVEMENTS
AND EQUIPMENT, AND BUY-OUT OF CURRENT LEASE.”**

Filed for public inspection on _____.

First reading _____ In Full; _____ By Title on _____.

Second reading _____ In Full; _____ By Title on _____.

Vote by the Board of Aldermen on _____:

_____ **Aye; _____ Nay; _____ Abstain**

_____ **Approved by the Mayor on _____.**

_____ **Vetoed by the Mayor on _____.**

Board of Aldermen Vote to Override Veto on _____.

_____ **Aye; _____ Nay; _____ Abstain**

Bill Effective Date: _____.

“AN ORDINANCE AUTHORIZING A CONTRACT WITH THE OZARKS REGIONAL YMCA FOR THE PURCHASE OF REAL ESTATE IMPROVEMENTS AND EQUIPMENT, AND BUY-OUT OF CURRENT LEASE.”

Be it Ordained by the Board of Aldermen of the City of Bolivar, Missouri, as follows:

Section I: The City is hereby authorized to enter into an agreement with the Ozarks Regional YMCA, for the purchase of real estate improvements and equipment, and buy-out of current lease; with such contract and terms to be in the form attached hereto as Exhibit “A” and made a part hereof by reference.

Section II: The Mayor and City Clerk are hereby authorized and directed to enter into an agreement as described above for and on behalf of the City.

Section III: This Ordinance shall be in full force and effect from and after: its passage by the Board of Aldermen and approval by the Mayor.

Christopher Warwick, Mayor

ATTEST:

Paula Henderson, City Clerk

CERTIFICATION

I, Paula Henderson, do hereby certify that I am the duly appointed and acting City Clerk for the City of Bolivar, Missouri; that the foregoing Ordinance No. _____ was adopted by the Board or Aldermen and thereafter approved by the Mayor and became effective on _____, 2020; and that said Ordinance remains in full force and effect, having never been altered, amended nor repealed.

Paula Henderson, City Clerk

CONTRACT FOR SALE OF REAL ESTATE, IMPROVEMENTS, AND LEASEHOLD INTEREST

This Contract for Sale (hereinafter referred to as the “Agreement”) is made and entered into this 1st day of September, 2020, by and between **OZARKS REGIONAL YMCA, a Missouri Not-for-Profit Corporation** (hereinafter sometimes referred to as the “YMCA”) and the **CITY OF BOLIVAR, MISSOURI, a Missouri Municipal Corporation** (hereinafter sometimes referred to as the “City”).

PURPOSE: The purpose of this Agreement is to obligate the YMCA to sell to the City certain real estate and improvements as identified herein, and to do so in accordance with the terms herein, and to obligate the City to compensate the YMCA for the real estate and improvements in accordance with the terms herein, and to establish the YMCA’s and City’s respective obligations to one another with respect to the purchase of said real estate and improvements.

WHEREAS, the City and the YMCA entered into a “Ground Lease Agreement” dated on or about August 18, 2003 (the “Ground Lease”) wherein the City leased to the YMCA certain real estate as identified more specifically herein located in the City of Bolivar, Missouri; and

WHEREAS, the term of the Ground Lease is currently set to expire on or about August 17, 2102; and

WHEREAS, the Ground Lease was amended on or about December 15, 2010 to add additional terms and to revise the legal description of the real estate subject to the Ground Lease; and

WHEREAS, the YMCA has built improvements on the real estate subject to the Ground Lease for the purpose of providing community services and recreational services to the public; and

WHEREAS, economic forces have frustrated the YMCA’s ability to provide the community services and recreational services as contemplated in the Ground Lease; and

WHEREAS, the City desires to acquire the real estate and improvements subject to the Ground Lease for the purpose of continuing community and recreational services for the City’s residents and surrounding area, and the YMCA desires to divest itself of the same.

**NOW, THEREFORE, THE YMCA AND THE CITY
MUTUALLY AGREE TO THE FOLLOWING TERMS AND CONDITIONS**

1. Property to be Purchased: YMCA will sell to the City, and City will purchase from YMCA, the YMCA’s interest in the real estate and improvements being more particularly described and located as follows:

All that part of the Northwest Quarter of Section 11 and the Northeast Quarter of Section 10, all in Township 33 North, Range 23 West, being more particularly described as follows:

COMMENCING at the Northwest Corner of Section 11, Township 33 North, Range 23 West; thence South 65 Degrees 48 Minutes 09 Seconds East, a distance of 314.27 feet to a point in the South Right-of-Way line of Missouri Highway 32 (West Broadway Street), said point being the POINT OF BEGINNING; thence South 28 Degrees 24 Minutes 04 Seconds West, a distance of 717.00 feet to a point; thence North 73 Degrees 34 Minutes 21 Seconds West, a distance of 51.23 feet to a point; thence South 20 Degrees 01 Minutes 59 Seconds West, a distance of 1,294.70 feet to a point; thence North 88 Degrees 09

Minutes 31 Seconds West, a distance of 346.57 feet to a point marked by a found 3/8" iron bar; thence North 21 Degrees 01 Minutes 39 Seconds East, a distance of 700.26 feet to a point; thence North 87 Degrees 53 Minutes 34 Seconds West, a distance of 66.17 feet to a point marked by a found 5/8" iron bar with cap, "Polk Co. Nelson 1837"; thence North 02 Degrees 09 Minutes 25 Seconds East, a distance of 657.43 feet to a point; thence South 88 Degrees 02 Minutes 57 Seconds East, a distance of 457.69 feet to a point marked by a found 5/8" iron bar; thence North 19 Degrees 56 Minutes 27 Seconds East, a distance of 630.18 feet to a point of curvature in said South Right-of-Way line; thence along a non-tangent curve to the right having a Radius of 1860.08 feet, a Length of 305.90 feet, an Internal Angle of 09 Degrees 25 Minutes 21 Seconds, a Chord Bearing of South 76 Degrees 59 Minutes 58 Seconds East, and a Chord Length of 305.55 feet to the POINT OF BEGINNING and containing 721,456 square feet or 16.56 acres of land, more or less, EXCEPT any part thereof taken, deeded or used for road or highway purposes. Subject to any easements or restrictions of record, and

EXCEPT that part described as:

COMMENCING at the Northwest corner of the Northwest Quarter of Section 11, Township 33 North, Range 23 West, Polk County, Missouri; thence South 65 Degrees 48 Minutes 09 Seconds East, a distance of 314.27 feet to the POINT OF BEGINNING; thence South 28 Degrees 24 Minutes 04 Seconds West, a distance of 271.02 feet to a point; thence along the Northerly face of the existing building the following 5 (five) calls; North 56 Degrees 59 Minutes 36 Seconds West, a distance of 119.25 feet to a corner; thence North 33 Degrees 00 Minutes 24 Seconds East, a distance of 2.66 feet to a corner; thence North 56 Degrees 59 Minutes 36 Seconds West, a distance of 26.92 feet to a corner; thence South 33 Degrees 00 Minutes 24 Seconds West, a distance of 2.66 feet to a corner; thence North 56 Degrees 59 Minutes 36 Seconds West, a distance of 24.13 feet to a corner; thence departing said North face of the existing building; North 70 Degrees 19 Minutes 52 Seconds West, a distance of 19.43 feet to a point; thence North 19 Degrees 41 Minutes 19 Seconds East, a distance of 110.63 feet to a point; thence North 13 Degrees 22 Minutes 34 Seconds East, a distance of 25.38 feet to a point; thence North 07 Degrees 31 Minutes 18 Seconds East, a distance of 28.44 feet to a point; thence North 10 Degrees 13 Minutes 16 Seconds East, a distance of 41.35 feet to a point in the South Right-of-Way line of West Broadway Street, as now established; thence along said South Right-of-Way line, along a non-tangent curve to the right having a Radius of 1,860.08 feet, an Included Angle of 07 Degrees 29 Minutes 26 Seconds, a Length of 243.18 feet, a Chord Bearing of South 76 Degrees 02 Minutes 01 Seconds East, a Chord Length of 243.01 feet to the POINT OF BEGINNING, and containing 49,802 square feet or 1.14 acres of land, more or less, EXCEPT any part thereof taken, deeded or used for road or highway purposes. Subject to any easements or restrictions of record.

To the extent not already included in the legal description above, the sale will also include the following property in Polk County, Missouri, to-wit:

Beginning S 65°48'16"E 314.27' from the Northwest corner of Section 11, Township 33N, Range 23W, at the South right of way of Missouri Highway "32", thence S 28°23'57"W 717.00', thence N 73°34'28"W 51.23', thence S 20°01'52"W 1294.70', thence N 88°09'38"W 346.57', thence N 21°01'32" E 700.62', thence N 87°53'41"W 66.17' to the Southeast corner of Meadow Lane Estates, thence N 02°09'18"E 657.43', thence S 88°03'04"E 457.69', thence N 19°56'20"E 630.19', thence Easterly along the South right of way of Missouri Highway "32", 305.42' to the point of beginning, in Bolivar, Polk County,

Missouri and containing 16.55 acres more or less as surveyed in County Surveyor's Record Book 11 at Page 300; subject, however, to a right of ingress and egress across that part of the Premises that is ultimately built as a parking lot to allow patrons of the Polk County Library and patrons of the Polk County Senior Citizens Center that are located on either side of the Premises to cross the drive areas of the parking lot for ingress to or egress from said facilities or to pass between those facilities and the YMCA facility to be constructed on the Premises.

The improvements are generally located at 1710 W. Broadway, Bolivar, MO 65613. In addition, the YMCA will sell to the City and the City will purchase from the YMCA, the tangible personal property and equipment now present at the Subject Property, more particularly identified in Exhibit "A" attached hereto and incorporated herein by reference.

The real estate, improvements, tangible personal property, and the Ground Lease identified above are sometimes collectively referred to herein as the "Subject Property."

2. Purchase Price: The purchase price for the Subject Property will be the sum of Five-Hundred-Seventy-Five-Thousand and no/100s Dollars (\$575,000.00). The purchase price will be paid as follows:

The City will pay all of the purchase price at closing in cash or certified funds.

3. Title Insurance and Other Certification Related to Real Estate and Personal Property: The parties acknowledge that a reputable title company will obtain a Commitment for Owner's Title Insurance for the full amount of the purchase price of the real estate issued by a reputable company authorized to write such insurance within the State of Missouri in form approved by the American Land Title Association ("ALTA"). Such Commitment shall show good and marketable title, subject only to (i) right-of-ways for public roads and highways, (ii) private roadways and utility easements which are either obvious from an inspection of the premises, or which do not materially effect the use or value of the property for its intended use, (iii) other defects or encumbrances which may be, and are in fact, removed or cured prior to or concurrently with closing, and (iv) standard exceptions of an ALTA form of Owner's Title Insurance Commitment. After closing City shall be furnished with an Owner's Title Insurance policy in form approved by the ALTA for the full amount of the purchase price showing good and marketable title in City and containing no exceptions from the coverage except those permitted herein, and standard exceptions of Owner's Title Insurance policies written in the State of Missouri. Title insurance costs are to be paid as provided below. This PART II is contingent upon receipt of a Commitment for Owner's Title Insurance in accordance with the provisions above, and good and marketable title in the premises on or before the date of Closing.

Additionally, the YMCA will certify prior to closing that the YMCA has full title to and the right to transfer the leased personal property free and clear of any encumbrances of any kind. The YMCA will indemnify and hold the City harmless from any and all damages or losses incurred by City by reason of the YMCA not having full title to and the right to transfer the leased personal property free and clear from encumbrances.

Notwithstanding the foregoing provisions, the parties acknowledge that the YMCA is the owner of the improvements but that the real estate itself will likely be shown as already owned by the City and subject to the existing Ground Lease between the parties. The City will otherwise be looking for confirmation of clear title, and not necessarily that the underlying real estate is owned by the YMCA. The parties acknowledge that the value of the transaction is in: (i) The City's purchase of the improvements as built by the YMCA and located on the underlying real estate; and (ii) the termination of the Ground Lease and

obtaining free and clear interest in the underlying real estate; and (iii) the City's purchase of the tangible personal property as identified herein.

4. Condition of Improvements: City shall have the right to have the premises inspected at their cost by third parties for termites or other insect infestations, for structural integrity and conditions, for roof conditions; for compliance with electrical, plumbing and HVAC codes, and for other conditions effecting the value and desirability of the property. Said inspection, if elected by the City, will be completed no later than thirty (30) days after the date of this Agreement. YMCA will not be obligated to expend additional amounts to cure safety or health conditions, or conditions that effect the integrity of the improvements, that are revealed by the inspections. If the cost of treatment and/or repair is reasonably estimated to be greater than \$1,000.00, and the conditions are material defects that are not readily observable by a visual inspection of the premises by an average person not skilled as a builder or contractor, YMCA shall have five (5) days following delivery of the inspection report to elect in writing to treat or repair the conditions. If YMCA elects not to so repair, City shall have five (5) days within which to elect in writing to terminate this Agreement without liability by either party, or to proceed with closing subject to the defective conditions. If City waives their right to cause the premises to be inspected, or elect to proceed to closing because the cost of treatment and repair exceeds \$1,000.00 and YMCA has elected not to expend money to cure the defective conditions, City's purchase of the property will be "as is" and with all defects (except those elected to be repaired by YMCA). Notwithstanding the provisions of the preceding sentence, YMCA covenants that (i) they have not knowingly made any misrepresentation regarding the condition of the premises, and (ii) the possession of the improvements will be delivered pursuant to the terms of this Contract in at least as good of a condition as at the date of City's last inspection prior to the execution of this Contract. However, **except for any intentional misrepresentations or conditions first occurring after the date of City's last inspection, YMCA shall have no responsibility for any defective conditions except as otherwise specifically set forth in this Section.**

5. Closing Date; Extension of Closing: The sale shall be closed in Bolivar, Missouri on or before the _____ day of _____, 2020 at a time and location mutually agreeable to the parties. YMCA may extend the closing date upon written notice to City for no more than fifteen (15) days for the purpose of curing title defects disclosed by the company issuing the Commitment for Owner's Title Insurance. If title defects are not cured within the time allowed despite the diligent efforts of YMCA to do so, City may either extend YMCA additional time to cure such defects, or terminate this Agreement. If this Agreement shall be terminated as a result of YMCA's inability to deliver City good and marketable title notwithstanding YMCA's diligent efforts to correct the defective conditions, such termination shall be without liability to either party; provided, that the YMCA shall pay all costs incurred for title searches, title insurance commitments or title examinations.

6. Closing Procedure: At closing, YMCA shall make, execute, and deliver to the City a Quit-Claim Deed conveying the YMCA's interest in and to the Subject Property to the City, along with a written assignment or termination of the existing Ground Lease between the parties, so that the City will thereafter have title free and clear of all liens and encumbrances except as specifically herein provided to the contrary. YMCA will also execute all necessary documentation to transfer title to all of the tangible personal property identified in Exhibit "A" to the City. Concurrently therewith, all payments required to be made at closing shall be made with certified funds, and City shall execute and deliver all documents called for herein. Each party shall execute such other instruments as may be necessary, appropriate or convenient to close the sale, and to enable the closing agent to comply with appropriate state or federal laws, rules or regulations.

7. Payment of Costs: The parties agree to the following division of the costs of this Agreement: City will pay the cost of any survey, and title policy. The YMCA will pay the costs of title commitment.

YMCA and City will each pay one-half (1/2) of all remaining costs associated with this Agreement, including escrow or closing fees, provided that each party will pay its own legal fees.

8. Risk of Loss: Risk of loss of the improvements located on the premises prior to closing shall be on YMCA. In the event any improvements shall be damaged by fire or other casualty prior to closing, but the same may be restored within a period of sixty (60) calendar days, YMCA shall restore the premises to at least their present condition, and the sale shall be closed upon the completion of such repairs or on the closing date above provided, whichever is later. In the event the premises are so destroyed that they cannot be restored within said period of time, the parties may either (i) extend the closing date, in writing, to allow YMCA time to repair the damaged or destroyed improvements, or (ii) close this Contract with an equitable adjustment to the purchase price and terms of sale as agreed upon, in writing, by the parties, or (iii) either party may terminate this agreement by giving written notice to the other, without liability to either party.

9. Default: In the event of default by either party as to this Agreement, each party will retain their rights and will be entitled to seek any remedy available to them at law or in equity.

10. Possession: Formal “fee simple” possession of the Subject Property will accompany delivery of the deed and all other necessary closing documents to the City.

11. Insurance: YMCA agrees to assign to City, if they so request, any insurance policy insuring the premises at date of closing and premiums shall be prorated.

12. YMCA's Additional Covenants: YMCA hereby covenants as follows:

- a. **Warranties of Subject Property:** YMCA covenants and warrants that they have good right to sell their interest in the Subject Property; and that they will indemnify and hold the City harmless from all costs, expenses or damages incurred as a result of claims or demands against the City for breach of these provisions.
- b. **Lenders and Holders of Security Interests:** The obligations of the City to this Agreement are contingent upon the YMCA providing adequate assurance prior to closing that any lenders holding a security interest of any kind related to the improvements, Ground Lease or the tangible personal property have granted the YMCA with permission to enter into this Agreement. The YMCA will indemnify and hold the City harmless from all costs, expenses or damages incurred as a result of any breach of the provisions of this section.

13. Costs, Expenses, and Attorney Fees: If either party incurs costs, expenses, or attorneys’ fees in order to enforce any of the provisions of this Agreement as a result of a breach or alleged breach of this Agreement by the other party, then the party who is found or adjudicated to be in default will be responsible to reimburse the other party for all costs, expenses, and reasonable attorneys’ fees incurred by party not in default.

14. Notices: Any notices authorized or required to be given hereunder may be personally delivered to the person or persons whose names appear below, or by depositing the same in the United States mail, postage fully prepaid, certified, return receipt requested, and if intended for YMCA addressed as follows:

City of Bolivar, Missouri
Attn: City Administrator and Mayor
PO Box 9
Bolivar, MO 65613

and if intended for City addressed as follows:

Ozarks Regional YMCA
c/o Kathryn Custer

Either party will notify the other party as soon as is practicable upon the change of address for notification purposes. If properly addressed and mailed pursuant to the terms of this paragraph, delivery of notices will conclusively be deemed to have been made two days after mailing.

15. Taxes: If applicable, taxes for the year 2019 and all prior years shall be paid by YMCA; and taxes for the year 2020 shall be prorated between the parties depending upon the date the sale is closed.

16. Environmental Concerns: Anything to the contrary in this agreement notwithstanding, the obligation of the City to consummate the closing of this transaction is subject to and conditioned on the satisfaction at or prior to closing of the following condition precedent: City shall receive evidence satisfactory to City that the property has not been used for the handling, treatment, storage, or disposal of any hazardous or toxic substance, as defined under any applicable state or federal laws or regulations, including, but not limited to, the Comprehensive Environmental Response Compensation and Liability Act, as amended, and regulations under this Act, and analogous laws and regulations of the State of Missouri. This section will not apply to the storage of any substance by the City as needed to properly maintain the City's aquatic center that is adjacent to and connected to improvements on or around the Subject Property.

17. Waiver: All parties to this Agreement agree that the failure of any party to this Agreement to strictly enforce any term of this Agreement will not ever result in a waiver of such party to subsequently enforce the conditions of this Agreement.

18. Severability: In the event that any provision, paragraph, or sub-paragraph, sentence, or phrase of this Agreement is declared to be invalid for any reason, it will not affect the validity of any other provision of this Agreement, and all other provisions, paragraphs and sub-paragraphs, sentences and phrases will remain in full force and effect.

19. Complete Agreement: It is agreed and understood by all parties to this Agreement that this instrument constitutes the entire agreement between the parties, and that the terms and provisions of this Agreement are contractual and not mere recitals. No additional promises, agreements, and conditions have been entered into other than those expressly set forth in this Agreement. This Agreement may not be modified or amended without the written, signed consent of all parties to this Agreement.

20. Governing Law and Choice of Venue: This Agreement will be construed and enforced under the laws of the State of Missouri. All parties to this Agreement agree that the primary venue for any court proceeding of any nature that may arise for the enforcement of or collection pursuant to this Agreement will be in the County of Polk, in the State of Missouri, and all parties hereby submit to the jurisdiction of the courts of Polk County, Missouri as the venue for adjudication of any disputes arising from the enforcement of or collection pursuant to this Agreement.

21. Binding Effect: This Agreement will be binding upon and will inure to the benefit of the YMCA, and their respective personal representatives, successors, heirs and assigns, and upon the City, and their heirs, personal representatives, successors and assigns.

THIS IS A BINDING LEGAL DOCUMENT. BEFORE SIGNING BELOW, THE PARTIES TO THIS AGREEMENT DECLARE THAT THEY ARE OF SOUND MIND AND ARE OTHERWISE LEGALLY CAPABLE OF ENTERING INTO THIS AGREEMENT, THAT THEY HAVE COMPLETELY READ THIS INSTRUMENT, AND THAT THEY FULLY UNDERSTAND ALL OF THE TERMS CONTAINED HERIN.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement has been signed on the date or dates indicated opposite the signature of each party hereto.

YMCA's Signature

Authorized Agent, Ozarks Regional
YMCA

DATE

[Print Name and Title]

City's Signature

By Christopher Warwick, Mayor

DATE

ATTEST

City Clerk

DATE

EXHIBIT "A"

LISTING OF TANGIBLE PERSONAL PROPERTY AND EQUIPMENT