



**CITY COUNCIL MEETING
GLADSTONE, MISSOURI
MONDAY, JANUARY 10, 2022**

The City Council will meet in Closed Executive Session at 6:15 pm Monday, January 10, 2022, Gladstone City Hall, 7010 North Holmes, Gladstone, Missouri. The Closed Executive Session is closed pursuant to RSMo. Open Meeting Act Exemption 610.021(1) for Litigation and Confidential or Privileged Communications with Legal Counsel, 610.021(2) Real Estate, and 610.021(3) Personnel.

OPEN STUDY SESSION 7:00 PM

1. **Kansas City Area Transportation Authority-** Representatives of KCATA will discuss public transportation services and the proposed contracts for portions of 2021-2022.

REGULAR MEETING: 7:30 PM

TENTATIVE AGENDA

1. **Meeting Called to Order.**
2. **Roll Call.**
3. **Pledge of Allegiance to the Flag of the United States of America.**
4. **Approval of Agenda.**
5. **Approval of the December 13, 2021, Closed City Council Meeting Minutes.**
6. **Approval of the December 13, 2021, Regular City Council Meeting Minutes.**

7. CONSENT AGENDA

RESOLUTION R-22-01 A Resolution authorizing Change Order No. 2 in the amount of \$38,782.00 to the contract with Royal Construction Services, LLC, for the Municipal Pool Bathhouse Renovation Project CO2053.

RESOLUTION R-22-02 A Resolution authorizing the City Manager to enter into an agreement with Dr. Charles J. White, M.D. to provide Medical Director services to the City of Gladstone Fire and Emergency Medical Services Department.

RESOLUTION R-22-03 A Resolution authorizing the City Manager to enter into an agreement with American Specialty Health (ASH) for providing fitness services to members of American Specialty Health.

Approve Financial Statement ending November 30, 2021.

8. Communications from the Audience.

Members of the public are invited to speak about any topic not listed on the agenda. When speaking, please state your name and address for the record and limit comments to 5 minutes.

9. Communications from the City Council.

10. Communications from the City Manager.

REGULAR AGENDA

11. FIRST READING BILL NO. 22-01 An Ordinance calling a General Election for the election of one position to the Gladstone City Council on Tuesday, April 5, 2022; describing the form of the ballot and directing the City Clerk to submit certification of such election to the Clay County Board of Election Commissioners pursuant to RSMo. 115.125.

12. FIRST READING BILL NO. 22-02 An Ordinance declaring a 2016 Ford Transit van surplus property and authorizing the City Manager to enter into an agreement with the Clay County Sheriff's Department to transfer ownership of said property in exchange for municipal prisoner housing credit.

13. FIRST READING BILL NO. 22-03 An Ordinance authorizing the City Manager to execute agreements between the City of Gladstone, Missouri, and the Kansas City Area Transportation Authority to provide public transportation services and property management assistance for the period of July 1, 2021, through December 31, 2021.

14. FIRST READING BILL NO. 22-04 An Ordinance authorizing the City Manager to execute agreements between the City of Gladstone, Missouri, and the Kansas City Area Transportation Authority to provide public transportation services and property management assistance for the period of January 1, 2022, through June 30, 2022.

15. Other Business.

16. Adjournment.

Representatives of the News Media may obtain copies of this notice by contacting:

Becky Jarrett
City of Gladstone
7010 North Holmes
Gladstone, MO 64118
816-423-4100

Posted at 4:00 pm



Community Development Department Memorandum

DATE: January 4, 2022

TO: Scott C. Wingerson, City Manager

FROM: Alan D. Napoli, Community Development Administrator | Building Official

CC: Austin Greer, Assistant to the City Manager | Community Development Director

RE: Kansas City Area Transportation Authority's 2021 – 2022 Annual Update and Contract

The Kansas City Area Transportation Authority (KCATA) has been providing public transportation to Gladstone Residents for years. There are six (6) routes that are associated with Gladstone; three (3) are currently running and three (3) are currently suspended.

- #201 – North Oak (see attached map)
 - Monday thru Friday – Every 30-minutes
 - Saturday – Hourly
 - Sunday - Hourly
- #234 Route Suspended
- #236 Route Suspended
- #237 Route Suspended
- #238 – Meadowbrook (see attached map)
 - Monday thru Friday – Hourly
 - Saturday – Hourly
 - Sunday – No service
- #299 Gladstone-Antioch
 - See attached for map of coverage, times and rider information

David Johnson with KCATA will give a short update on the routes and current impact on ridership during the January 10, 2022 City Council open study session. The July 1, 2021 through December

31, 2021 and January 1, 2022 through June 30, 2022 KCATA contracts are on the January 10, 2022 Council Agenda for their consideration.



LEGEND LEYENDA

Regular Route
Ruta regular

Non-Stop Service
Servicio sin paradas

Schedule Time Point
Hora de llegada/parte de salida

Transfer Options
Opciones de transbordo

Major Transfer Hub
Ubicación de transferencia

Streetcar Route
Ruta de tranvía

Park & Ride
Aparcamiento grande para viaje por el autobús

Bike Share Station
Estación de bicicletas compartidas

238 Meadowbrook

Effective August 2, 2020

Efectivo agosto 2, 2020

LEGEND

LEYENDA

 Regular Route
Rutas regular

 Non-Stop Service
Servicio sin interrupciones

 Schedule Time Point
Hora de llegada parada de autobús

 Transfer Options
Opciones de transbordo

 Major Transfer Hub
Ubicación de transferencia

 FREE Park & Ride
Aparcamiento gratis para viajeros de autobús

 Streetcar Route
Ruta del tranvía

 Bike Share Station
Estación de bicicletas compartidas



Service Upon Request

RideKC Flex service will pick you up and take you to your destination. All trips must be within the boundaries of the map below.

Call 816.346.0346

Service is offered Monday through Friday from 8 a.m. to 3:30 p.m.

Please call at least 24 hours in advance of your requested trip.

Monday-Friday: 5 a.m. to 9:30 p.m.

Saturday: 5 a.m. to 9 p.m.

Sunday/Holiday: 10 a.m. to 6 p.m.

Regular Rider Service

For trips to the same location at the same time on a daily, weekly or monthly basis, you can set up a **Standing Order** by calling 816.346.0346 and telling the agent you wish to be a regular rider. Your future trips will be automatically scheduled.

Cancelling Your Trip

If your plans change and you wish to cancel your Standing Order, please call 816.346.0346 as soon as possible. Repeatedly failing to show for trips will result in the loss of the Standing Order privileges.





**MINUTES
REGULAR CITY COUNCIL MEETING
GLADSTONE, MISSOURI
MONDAY, DECEMBER 13, 2021**

PRESENT: Mayor R.D. Mallams
Mayor Pro Tem Bill Garnos
Councilmember Jean Moore
Councilman Tom Frisby
Councilmember Tina Spallo

City Manager Scott Wingerson
Assistant City Manager Bob Baer
City Attorney Chris Williams

Item No. 1. On the Agenda. Meeting Called to Order.

Mayor Mallams opened the Regular City Council Meeting Monday, December 13, 2021, at 7:30 pm.

Item No. 2. On the Agenda. Roll Call.

Mayor Mallams stated that all Councilmembers were present.

Item No. 3. On the Agenda. Pledge of Allegiance to the Flag of the United States of America.

Item No. 4. On the Agenda. Approval of Agenda.

The agenda was approved as published.

Item No. 5. On the Agenda. Approval of the November 8, 2021, Closed City Council Meeting Minutes.

Mayor Pro Tem Garnos moved to approve the minutes of the November 8, 2021, Closed City Council meeting as presented. **Councilmember Spallo** seconded. The Vote: "aye", Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Item No. 6. On the Agenda. Approval of the November 8, 2021, Regular City Council Meeting Minutes.

Mayor Pro Tem Garnos moved to approve the minutes of the November 8, 2021, Regular City Council meeting as presented. **Councilmember Spallo** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Item No. 7. On the Agenda. Consent Agenda

Following the Clerks’ reading:

Councilmember Moore moved to approve the Consent Agenda as published. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Councilmember Moore moved to approve **RESOLUTION R-21-54** A Resolution authorizing the City Manager to execute a Settlement Agreement and Mutual Release with North American Specialty Insurance Company for final payment in the amount of \$25,524.42 for work completed on the 2019 Water Main Replacement Project WP1986. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Councilmember Moore moved to approve **RESOLUTION R-21-55** A Resolution authorizing the City Manager to execute a Contract with MEGAKC Corporation, in the total amount not to exceed \$281,250.00 for the Carriage Commons Drainage Improvements Project CP2132 pending concurrence from the Missouri Department of Natural Resources. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Councilmember Moore moved to approve **RESOLUTION R-21-56** A Resolution authorizing the execution of a Contract with Spectrum Enterprise for Fiber Internet Service. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Councilmember Moore moved to approve **RESOLUTION R-21-57** A Resolution authorizing the City Manager to enter into an Agreement with Enterprise Fleet Management for acquisition and disposal of vehicles. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Councilmember Moore moved to approve the **Building Permit** at Van Subaru, 90 NW Vivion Road. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Councilmember Moore moved to ratify the **Special Event Permit**: Atkins-Johnson Farm and Museum, Cookies with Santa. Saturday, December 11, 2021 from 12:00 pm to 3:00 pm. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Councilmember Moore moved to approve the **Financial Report Month End October 2021**. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Item No. 8. On the Agenda. Communications from the Audience.

Jim Oldebeken, NE 76th Terrace, addressed the City Council. Mr. Oldebeken said that one of his primary goals is to help the community prepare to have one of the grandest 250th celebrations of the Declaration of Independence in this region. His hope for this celebration is for a spark in democracy restoration at the citizen level. He is concerned about a couple of things, one of which is citizens attending these meetings. Looking back on some old minutes from 1974, he was impressed about how many citizens were present. Mr. Oldebeken read a few sentences from those minutes. He said that citizens should be aware of what goes on in their city, and there is no better way to do that than to attend these meetings in person.

Mr. Oldebeken said that in some ways our difficulties with citizen involvement and the lack of a newspaper, have contributed to an on-going issue from one citizen who has been here often talking about personal concerns and his demands of this City. This has resulted in a lawsuit that was filed in January of this year for \$150 Million. Mr. Oldebeken said he believes that there are consequences for being so focused on one citizen and his demands. He thinks maybe there is a chance to benefit from this low spot by citizens becoming informed of this issue.

Mr. Oldebeken stated that because citizens have not been at these meetings, they may not be aware of this situation. He has focused himself, until the end of the year, to help our community become aware of this lawsuit. He presented the City Council with a packet of information that he has been distributing throughout the City. He continued by going into detail about the cave property that is involved in the lawsuit including maps that depict the cave. Mr. Oldebeken thanked the City Council for their time this evening.

REGULAR AGENDA

Item No. 9. On the Agenda. Communications from the City Council.

- Board and Commission Appointments (attached)

Mayor Mallams said that the City Council has two plaques for individuals stepping down from their service on a Board and Commission. *(They were not present)* Sid Robbins, who has served on the Arts Commission, and Lauren Crome, who has served on the Parks and Recreation Advisory Board. He thanked them both for their service.

Councilmember Moore moved to approve the **Board and Commission Appointments**. **Councilmember Spallo** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Councilmember Moore wished everyone a Merry Christmas and Happy Holidays.

Councilmember Spallo said that it has been a fantastic year for our City with all the work that has already been completed and the projects still to come as well as the change in our Police and Fire Departments. There is still a lot of work ahead of us and the City Council looks forward to supporting all that is yet to come in 2022. She also wished everyone Happy Holidays.

Councilman Frisby agreed with and echoed Councilmember Spallo’s comments.

Mayor Mallams thanked the City Council and City staff who worked to make the Mayor’s Christmas Tree lighting a great success. It was a great night! Also thanks to those who have supported the three non-profits. Thank you to Councilmember Spallo who is the Chair for Northland Christmas Store. Mayor Mallams passed along his congratulations to Director Accurso and his staff for the recent successful audit. He wished everyone a very happy and safe Holiday Season.

Item No. 10. On the Agenda. Communications from the City Manager.

City Manager Wingerson announced that there were two pots of Federal funds that the City qualified for related to COVID. The first was CARES. About a year ago the City received \$2.5 Million, which was used for small business grants, help residents with utilities, and PPE for City personnel. A few months ago, the City received \$2.7 Million of a project \$5.4 Million of ARPA Funds. Those funds are currently in a holding account waiting for the Federal Government to issue their final ruling on how those monies can be used. As soon as they do that, staff will have some recommendations on how best to apply those funds to benefit the community.

City Manager Wingerson also took a moment to thank Assistant City Manager Baer for stepping up in the last week as City Clerk and again tonight. City Hall will be closed on December 23 and 24 for the Christmas Holiday. Merry Christmas to everyone!

Regular Agenda

Item No. 11. On the Agenda. **First Reading Bill No. 21-38** An Ordinance amending Title IX of the City of Gladstone, Missouri, Code of Ordinances by repealing certain provisions contained therein and enacting in lieu thereof new provisions designated as Title IX relating to the Construction and Maintenance of Structures and Property within the City and designated as the “Building and Construction Ordinance” for the City of Gladstone, Clay County, Missouri.

Councilman Frisby moved **Bill No. 21-38** be placed on its First Reading. **Councilmember Moore** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0). The Clerk read the Bill.

Councilman Frisby moved to accept the First Reading of **Bill No. 21-38**, waive the rule, and place the Bill on its Second and Final Reading. **Councilmember Moore** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0). The Clerk read the Bill.

Councilman Frisby moved to accept the Second and Final Reading of **Bill No. 21-38**, and enact the Bill as **Ordinance 4.574**. **Councilmember Moore** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Item No. 12. On the Agenda. First Reading Bill No. 21-39 An Ordinance approving the Show Me Courts Agreement with the Office of State Courts Administrator and authorizing the City Manager to execute the Agreement.

Councilmember Spallo moved **Bill No. 21-39** be placed on its First Reading. **Mayor Pro Tem Garnos** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0). The Clerk read the Bill.

Councilmember Spallo moved to accept the First Reading of **Bill No. 21-39**, waive the rule, and place the Bill on its Second and Final Reading. **Mayor Pro Tem Garnos** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0). The Clerk read the Bill.

Mayor Pro Tem Garnos asked why this not a violation of the Hancock Amendment. He thought Jefferson City wasn't supposed to pass things that would require expenditures on a municipal level.

City Attorney Williams answered that it is a requirement that the City convert to the Show Me Courts system. They are not, under the Hancock Amendment, allowed to impose unfunded mandates on the City, but he is not sure that we can choose not to participate. He said he could research it and get a better answer for them.

Mayor Pro Tem Garnos said it seemed like an unfunded mandate, but it is coming from the judiciary branch instead and getting passed on as court costs. He was just curious.

Mayor Mallams explained to those present that this new software allows all municipal courts to operate under a uniform platform, which is certainly an advantage. The costs will be covered with an increase in court costs.

Councilmember Spallo moved to accept the Second and Final Reading of **Bill No. 21-39**, and enact the Bill as **Ordinance 4.575**. **Mayor Pro Tem Garnos** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Item No. 13. On the Agenda. **First Reading Bill No. 21-40** An Ordinance amending Chapter 125, Municipal Court, of the Code of Ordinances of the City of Gladstone, Missouri, by adding Section 1.255.380 regarding court costs for Show Me Courts.

Councilmember Moore moved **Bill No. 21-40** be placed on its First Reading. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0). The Clerk read the Bill.

Councilmember Moore moved to accept the First Reading of **Bill No. 21-40**, waive the rule, and place the Bill on its Second and Final Reading. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0). The Clerk read the Bill.

Councilmember Moore moved to accept the Second and Final Reading of **Bill No. 21-40**, and enact the Bill as **Ordinance 4.576**. **Councilman Frisby** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Item No. 14. On the Agenda. **First Reading Bill No. 21-41** An Ordinance authorizing the City of Gladstone, Missouri, to issue its Taxable Industrial Development Revenue Bonds (Parkside Investors Project), Series 2021, in a Principal Amount not to exceed \$35,380,000 to finance the costs of a Project for Parkside Investors, LLC, a Missouri Limited Liability Company, consisting of constructing and improving real property; Approving a plan for an Industrial Development Project for the Company; Inviting affected Taxing Districts to submit comments to the City Council no later than December 13, 2021, for fair and due consideration by the City Council; Authorizing certain documents; and Authorizing certain other actions in connection with the issuance of the Bonds.

City Manager Wingerson stated that Rick McConnell, bond counsel, is here this evening, if the City Council has any questions for him.

Rick McConnell, Armstrong, Teasdale Law Firm, addressed the City Council. Mr. McConnell stated that this is the typical type of Chapter 100 transaction that we have seen before in terms of structure where the City will actually take ownership of the project to effect tax abatement. We have a big number in this ordinance, but this is really not a financing vehicle, it is a tax abatement vehicle. It is the vehicle that we have under Missouri Law in non-blighted areas to do tax abatement. The \$35 Million is the developer's projected project costs; a very high quality project. His compliments to City staff for the negotiations with the developer. He would be happy to answer any questions.

Councilmember Spallo moved **Bill No. 21-41** be placed on its First Reading. Councilmember Moore seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0). The Clerk read the Bill.

Councilmember Spallo moved to accept the First Reading of **Bill No. 21-41**, waive the rule, and place the Bill on its Second and Final Reading. **Councilmember Moore** seconded. The Vote:

“aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0). The Clerk read the Bill.

Councilmember Moore stated that it seems like we do this often, but it is really exciting; a \$35 Million project in an area of the City that has not had much development.

Councilmember Spallo said that a project of this magnitude would not be happening if it were not for our City staff and City Manager. Congratulations!

Councilmember Spallo moved to accept the Second and Final Reading of **Bill No. 21-41**, and enact the Bill as **Ordinance 4.577**. **Councilmember Moore** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0)

Item No. 15. On the Agenda. Consider Building Permit: Parkside at Hobby Hill, 7510 North Oak Trafficway.

Mayor Pro Tem Garnos made a motion to approve the **Building Permit** at 7510 North Oak Trafficway; Parkside at Hobby Hill. **Councilmember Moore** seconded. The Vote: “aye”, Councilmember Spallo, Councilman Frisby, Councilmember Moore, Mayor Pro Tem Garnos, and Mayor Mallams. (5-0).

Item No. 16. On the Agenda. Other Business.

Mayor Mallams thanked many in the audience who serve on Boards and Commission for being present this evening.

Item No. 17. On the Agenda. Adjournment.

Mayor Mallams adjourned the December 13, 2021, Regular City Council meeting at 8:12 pm.

Respectfully submitted:

Bob Baer, Temporary City Clerk

Approved as presented: ____

Approved as modified: ____

Mayor R.D. Mallams



Request for Council Action

RES ☒ # R-22-01

BILL ☐ # City Clerk Only

ORD # City Clerk Only

Date: 1/4/2022

Department: Parks & Recreation

Meeting Date Requested: 1/10/2022

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: Outdoor Municipal Pool Shade Structure Additions/Change order #2, Project CO2053

Background: Additional shade structures have been requested and are recommended to be installed at the outdoor pool. Location for one shade will be near the splash pad area at the southwest corner of the pool facility and the other shade near the climbing wall/lap lanes/diving board at the northwest side of the pool facility. Both shade structures will enhance the pool user's experience, as it will offer the ability to be out of the sun while supervising their children.

Budget Discussion: Funds are budgeted in the amount of \$38,782 from the CERF Fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$0

Public/Board/Staff Input:

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Justin Merkey
Department Director/Administrator

SW
City Manager

JM
City Attorney

RESOLUTION NO. R-22-01

A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 IN THE AMOUNT OF \$38,782.00 TO THE CONTRACT WITH ROYAL CONSTRUCTION SERVICES, LLC, FOR THE MUNICIPAL POOL BATHHOUSE RENOVATION PROJECT CO2053.

WHEREAS, additional work under the Municipal Pool Bathhouse Renovation Project has been determined necessary and is recommended by the Director of Parks, Recreation and Cultural Arts.

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

THAT, the City Manager of the City of Gladstone, Missouri, is hereby authorized to execute Change Order No. 2 to the Municipal Pool Bathhouse Renovation Project CO2053 with Royal Construction Services, LLC, as follows:

Original Contract Amount:	\$ 446,000.00
Change Order 1	<u>7,852.00</u>
Total approved to date:	453,852.00
Change Order 2	<u>38,782.00</u>
Revised Contract Amount:	<u>\$ 492,634.00</u>

FURTHER, THAT, funds for such purpose are authorized from the Capital Equipment Replacement Fund.

INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 10th DAY OF JANUARY 2022.

R.D. Mallams, Mayor

ATTEST:

Becky Jarrett, Deputy City Clerk



November 8, 2021

City of Gladstone, Missouri
Justin Merkey
7010 N Holmes
Gladstone, MO 64118

Re: Gladstone Bathhouse Reno – Sunshades

The following is our proposal for the (2) sunshades as shown:

(1). Solar Shade	\$18,115.00
(2). Drill Rig	\$2,880.00
(3). Concrete, rebar, material	\$2,770.00
(4). Equipment	\$800.00
(5). Labor (3 men 5 days)	\$9,000.00
(6). Contingency	<u>\$1,000.00</u>
Sub Total	\$34,565.00
P&O	\$3,457.00
Bond	<u>\$760.00</u>
Total	\$38,782.00

Sincerely,



Steve VanSickle
Project Manager



7606 North 14th Street
Rich Hill, MO 64779
Phone (417) 395-4500 Fax (417) 395-4515

DATE November 5, 2021
Quotation # 11.05.21.1Q
Customer ID Elaine

Quoted To:
Elaine Fata
Royal Construction

Quotation valid until: December 5, 2021
Prepared by: Brian Richardson

Gladstone MO Pool

PLEASE SEND ALL PURCHASE ORDERS TO: ACCOUNTS@SOLARSHADEUSA.COM
Comments or special instructions: Price does not include anchoring hardware or installation
50% Deposit Required to begin

Description	AMOUNT
1525.3C 15' x 25' - 3 column cantilever	\$ 7,990.00
- Engineering	1,500.00
32' x 25' x 20' Trishade	6,875.00
- Engineering	1,250.00
Delivery to Gladstone MO	500.00
Tax not included	
All credit card payments are subject to 5% service charge	
TOTAL	

sales tax, if applicable: 5.225%

If you have any questions concerning this quotation, contact:

Brian Richardson
(417) 395-4500
brianr@solarshadeusa.com

THANK YOU FOR YOUR BUSINESS!



Aug 1st 10 AM	Aug 1st 12 PM
Aug 1st 2 PM	Aug 1st 4 PM

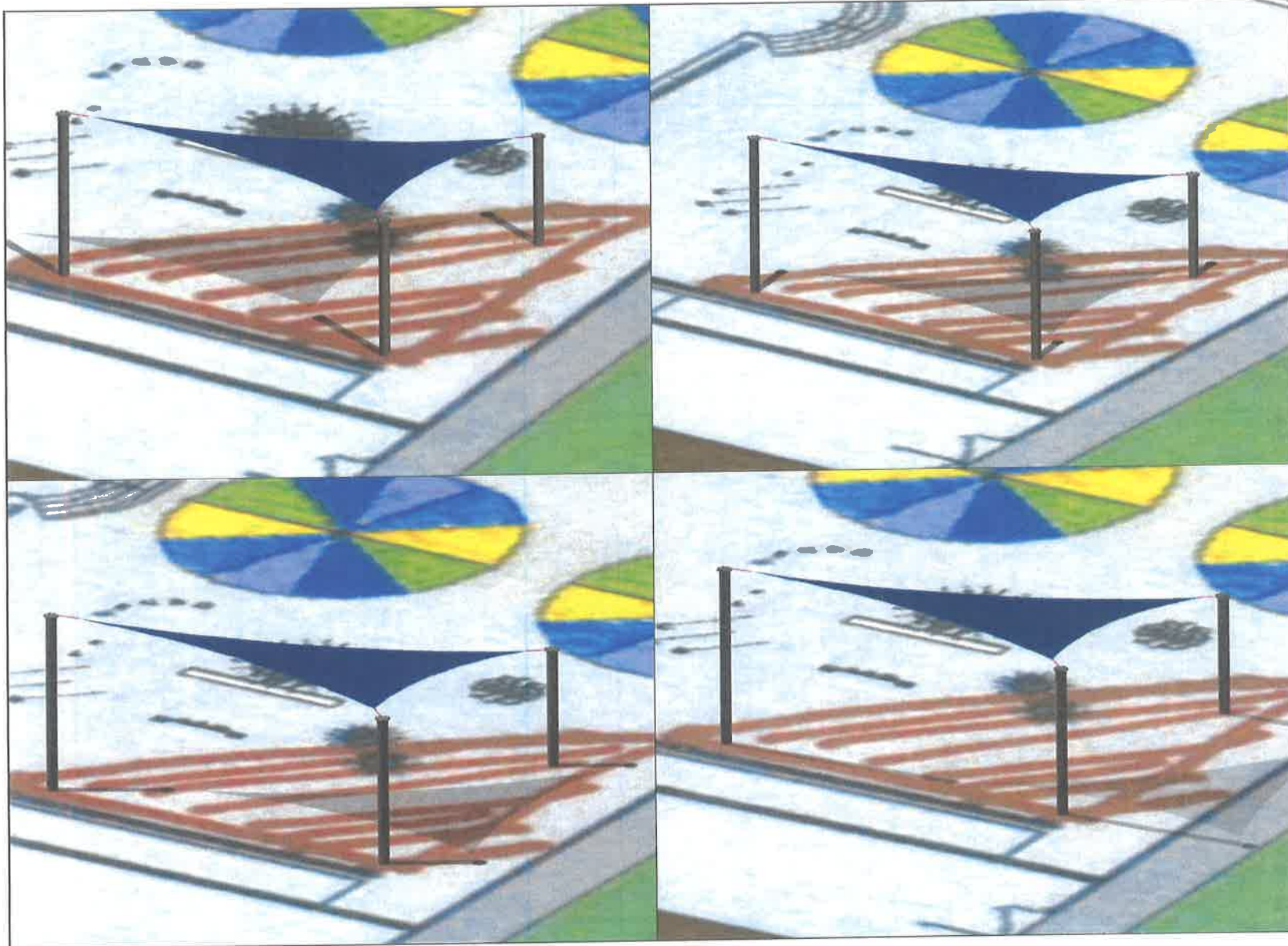
Royal Construction
Gladstone Pool 1525.3C

This drawing is copyright and remains the property of Solarshade USA LLC and must not be retained, copied, or used without authority.

REVISIONS
model


Solar Shade USA
 7606 N. 14TH ST. RICH HILL, MO
 PH: 417.395.4500
 info@solarshadeusa.com

DATE: date	SCALE: scale
DWG BY int	CHKD BY int
JOB# job	REV
DWG# drw#	rev



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Royal Construction
Gladstone Pool 1525.3C

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REVISIONS

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Request for Council Action

RES ☒ # R-22-02

BILL ☐ # City Clerk Only

ORD # City Clerk Only

Date: 1/4/2022

Department: General Administration

Meeting Date Requested: 1/10/2022

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: A Resolution authorizing the City Manager to enter into an agreement with Dr. Charles J. White M.D. to provide Medical Director services to the City of Gladstone Fire and Emergency Medical Services Department.

Background: Every emergency response agency in the State of Missouri is required to have a designated Medical Director in order to receive licensure through the Division of Health and Senior Services, Bureau of Emergency Medical Services. For nearly seven (7) years, Dr. Brad Houts M.D. and Dr. David George M.D., shared these responsibilities and did a remarkable job in advancing the medical care provided by our paramedics. Recently, Dr. Houts and Dr. George advised Chief Daugherty that they wished to resign their position as Medical Director; however, they collectively recommended Dr. Charles White to replace them. Chief Daugherty and Battalion Chief Rulon met with Dr. White and have also recommended he be named as the new Medical Director. Dr. White is employed as an Emergency Room Physician at North Kansas City Hospital and has expressed enthusiasm for taking on the Medical Director responsibilities for our department. At the present time, the Medical Director receives \$2,200 quarterly, which Dr. White has agreed to.

Budget Discussion: Funds are budgeted in the amount of \$ 8,800 from the General Fund. Ongoing costs are estimated to be \$ 8,800 annually. Previous years' funding was \$8,800.

Public/Board/Staff Input: Staff recommends approval of the proposed Resolution

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Bob Baer
Department Director/Administrator

SW
City Manager

JM
City Attorney

RESOLUTION NO. R-22-02

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH DR. CHARLES J. WHITE M.D. TO PROVIDE MEDICAL DIRECTOR SERVICES TO THE CITY OF GLADSTONE FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT.

WHEREAS, the City of Gladstone operates a Fire/EMS Department, which provides emergency medical care and transport; and

WHEREAS, all emergency medical response agencies in the State of Missouri are required to have a designated Medical Director to review reporting forms, develop and monitor medical protocols, and provide overall emergency medical care guidance; and

WHEREAS, the prior Medical Directors have decided to resign their positions and have recommended Dr. Charles J. White to replace them; and

WHEREAS, Dr. Charles J. White M.D., possesses all of the licenses, certifications and experience required to perform the duties of a Medical Director and is currently employed as an Emergency Room Physician at North Kansas City Hospital, a facility that receives approximately 80% of Gladstone's emergency medical transports.

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

THAT, the City Manager for the City of Gladstone is hereby authorized to enter into an agreement with Dr. Charles J. White M.D. to serve as the Medical Director for the City of Gladstone Fire and Emergency Medical Services Department.

INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI THIS 10TH DAY OF JANUARY, 2022.

R.D. Mallams, Mayor

ATTEST:

Becky Jarrett, Deputy City Clerk

MEDICAL DIRECTOR SERVICES AND HIPAA BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of February, 2022 is entered into pursuant to Chapter 190 of the Missouri Revised Statutes, specifically Section 190.103, and pursuant to HIPAA Regulations promulgated by the Secretary of Health and Human Services under Title II, Subtitle F, of the Health Insurance Portability and Accountability Act (Public Law 104-191), and between the City of Gladstone, in its capacity as an "Emergency Medical Response Agency" and as "Covered Entity" (hereinafter "Agency"), and Charles J. White MD., in his capacity as the "Medical Director" and as a "Business Associate" (hereinafter "Director") under the following terms and conditions:

WHEREAS, Agency desires to protect the general interest and welfare of the Citizens of Gladstone by participating in a program which promotes the services and skills of the emergency medical personnel employed by Agency; and

WHEREAS, a Medical Director is required for all emergency medical response agencies and it is necessary for Agency to designate a medical director to review ambulance reporting forms, develop ambulance protocols, certify license maintenance for paramedics, certify training programs for paramedics, maintain federal and state drug licenses for purchase of medications, and all other standards of care; and

WHEREAS, Agency desires to contract with Director for the purposes of providing educational and instructional services for the paramedics of Agency; serving as an advisor to Agency on matters relating to emergency medical service delivery; and coordinating educational and training sessions designed to provide for skills maintenance for the employees of Agency who provide emergency medical services.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein set forth, it is hereby agreed as follows:

1. Director shall maintain a license to practice medicine in the State of Missouri as set forth in Missouri State Regulation 19 CSR 30-40.303 and, in a timely manner, the Director shall advise the Agency on all matters relating to Sections 190.001 to 190.245 RSMo., and rules adopted by the Division of Health and Senior Services pursuant to law.
2. In the absence or inability of Director to fulfill the obligations hereunder, Director shall designate another qualified individual to provide such services to Agency on a temporary basis during the absence or inability of Director to perform the functions prescribed herein.
3. Director agrees to provide medical direction services to Agency through Agency's Fire/EMS Department, including the following:

- a. Perform consulting and advisory services on behalf of Agency with respect to matters relating to or affecting the emergency medical services program of Agency; and
- b. Ensure that the personnel providing emergency medical services for Agency are able to provide care, meeting established standards of care with consideration for state and national standards as well as local area needs and resources; and
- c. Establish and develop triage, treatment and transport protocols, which may include authorization for standing orders; and
- d. Review ambulance reporting forms and the operation of the paramedic program and make suggestions regarding appropriate emergency medical care to employees of Agency; and
- e. Provide organized instruction, educational services and practical training for the employees of Agency; and
- f. Serve as an advisor to Agency on matters relating to emergency medical service delivery; and
- g. Coordinate educational and training sessions to provide for skills maintenance for the employees of Agency who provide emergency medical services; and
- h. Determine standards of pre-hospital care through protocols and standing orders to ensure providers are qualified and competent to treat patients and shall monitor compliance and establish goals; and
- i. Provide and/or perform any other service or duty as required by 19 CSR 30-40.303, and otherwise ensure compliance with all Regulations promulgated by the Missouri Department of Health for Emergency Medical Response Agencies and Ambulance Services; and
- j. The Agency's Liability, Crime and Employee Fidelity insurance coverage generally provides that professional services of any type or kind are not covered; however, the services of a medical director are not excluded for activities or services arising out of services rendered solely for and on behalf of the Agency. **This coverage by exception includes Bodily injury of any kind caused by direct and indirect patient care. A certificate of insurance will be provided Charles J. White M.D., specifying limits of liability, deductible and Dr. White's status as Additional insured.**
- k. Indemnify and hold harmless Agency from any and all claims for damages arising out of Director's performance, or failure to perform, any professional duties on behalf of Agency.

1. To be familiar with and comply with the most recent HIPAA Regulations promulgated by the Secretary of Health and Human Services under Title II, Subtitle F, of the Health Insurance Portability and Accountability Act.
4. Agency agrees to:
 - a. Communicate with and notify Director of training and operational concerns and needs as determined and established by Fire/EMS Department protocols and standing orders; and
 - b. Provide Director with copies of Missouri ambulance reporting forms for review on critical responses cases as recommended by the Missouri Bureau of Emergency Medical Services and set forth in Department of Public Safety Continuing Quality Improvement Programs; and
 - c. Pay Director the sum of twenty-two hundred dollars (\$2,200) quarterly for services rendered to Agency as herein provided; and
5. It is understood and agreed to by the parties that some of Director's services will be rendered at its business office, but that Director will from time to time come to Agency's Fire Department facilities in Gladstone, Missouri, or such other place as designated by Agency, to meet with employees of Agency.
6. In the performance of the services, the particular services and the hours Director is to work on any given day will be entirely within Director's control and Agency will rely upon Director to work such number of hours as are reasonably necessary to fulfill the spirit and purpose of this Agreement.
7. The parties hereby agree that the term of this Agreement shall be for a period of one (1) year from _____, and may be renewed for unlimited successive one-year terms by mutual agreement of the parties unless sooner terminated as provided herein.
8. This Agreement may be terminated without cause by any party upon thirty (30) days' written notice to the other parties. This Agreement shall be immediately terminated without notice in the event Director becomes unable to practice medicine in the State of Missouri.
9. Director is an independent contractor performing a service for Agency and shall not be considered an employee of Agency for any purpose.
10. A grievance is a complaint by a customer/patient (hereinafter "grievant") concerning emergency care services provided by the medical response agency or ambulance service, personnel and the medical director. A grievance can be initiated only by the grievant or his/her parent, if a minor, legal guardian or conservator, attorney-in-fact or personal representative. The grievance must be reduced to writing and presented to the Emergency Medical Response Agency Administrator within seven (7) weekdays of the event giving rise to the grievance.

If the Administrator fails to resolve the grievance to the grievant's satisfaction, then the grievant may, within three weekdays of the Administrator's decision, submit the same written grievance to the City Manager. On receipt of such written grievance, the City Manager or his/her designee shall as expeditiously as possible review the grievance. If the City Manager elects, a meeting may be held with the grievant.

The decision of the City Manager shall be final and no further administrative review of the grievance will be afforded.

11. Additionally, it is agreed to as follows:

- a. Agency may make available and/or transfer to Director certain confidential information, in conjunction with services that are being provided by Director to Agency. This information must be afforded special treatment and protection.
- b. Director will have access to and/or receive from Agency certain information that can be used or disclosed only in accordance with this Agreement and the Privacy Regulations of the U.S. Department of Health and Human Services.
- c. Director hereby agrees that it shall be prohibited from using or disclosing the information provided or made available by Agency for any purpose other than as expressly permitted or required by this Agreement.
- d. The term of this contract shall commence as of the date executed (the "Effective Date"), and shall expire when all the information provided by Agency to Director is destroyed or returned to Agency.
- e. Director shall be permitted to use and/or disclose information provided or made available from Agency for the purposes stated in §§ 3.a. through 3.k. and §§ 4.a. through 4.c., above.
- f. Director is permitted to use information if necessary for the proper management and administration of Director or to carry out legal responsibilities of Director.
- g. Director is permitted to disclose information received from Agency for the proper management and administration of Director or to carry out legal responsibilities of Director, *provided* that the disclosure is required by law; or the Director obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies Director of any instance of which it is aware in which the confidentiality of the information has been breached.

- h. Director is also permitted to use or disclose information to provide data aggregation services, as that term is defined by 45 C.F.R. § 164.501, relating to the healthcare operations of Agency.
- i. Director will establish and maintain appropriate safeguards to prevent any disclosure of the information, other than as provided for by the contract.
- j. Director hereby agrees that it shall immediately report to Agency any use or disclosure of information not provided for or allowed by the contract.
- k. Director hereby agrees that, any time information is provided or made available to any subcontractors or agents, Director must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions, and restrictions on the use and disclosure of information as contained in this Agreement. Director must obtain Agency's approval prior to entering into such agreements.
- l. Director hereby agrees to make available and provide right of access to information by the individual in accordance with 45 C.F.R. § 164.524, including substitution of the word "Agency" with "Director" where appropriate.
- m. Director agrees to make information available for amendment and to incorporate any amendments to information in accordance with 45 C.F.R. § 164.526, including substitution of the word "Agency" with "Director" where appropriate.
- n. Director agrees to make information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528, including substitution of the word "Agency" with "Director" where appropriate.
- o. Director hereby agrees to make its internal practices, books and records relating to the use or disclosure of information received from, or created or received by, Director on behalf of Agency, available to the Secretary of Health and Human Services or the Secretary's designee for the purpose of determining compliance with the Privacy Regulations.
- p. At termination of the contract, Director hereby agrees to return or destroy all information received from, or created or received by, Director on behalf of Agency. Director agrees not to retain any copies of the information after termination of the contract. If return or destruction of the information is not feasible, Director agrees to extend protections of the contract for as long as necessary to protect the information and to limit any further use or disclosure. If Director elects to destroy the information, it shall certify to Agency that the information has been destroyed.

- q. Director agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of information in a manner contrary to the contract or the Privacy Regulations.
 - r. Director agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement or the Privacy Regulations.
 - s. The information shall be and remain the property of Agency. Director agrees that it acquires no title or rights to the information, including any de-identified information, as a result of the contract.
 - t. Director agrees that Agency has the right to immediately terminate the contract and seek relief under Paragraph v., if Agency determines that Director has violated a material term of the contract.
 - u. Any non-compliance by Director with the contract or the Privacy Regulations will automatically be considered to be grounds for breach, if Director knew and failed to immediately take reasonable steps to cure the non-compliance.
 - v. Notwithstanding any rights or remedies provided for in the contract, Agency retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of information by Director or any agent, contractor or third party that received information from Director.
12. This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.
13. This Agreement contains the entire agreement of the parties, and may not be modified orally, but only by an agreement in writing signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF GLADSTONE MISSOURI,
Emergency Medical Response Agency

Scott Wingerson, City Manager

Attest:

City Clerk

Charles Jared White; M.D. Medical Director



Request for Council Action

RES ☒ # R-22-03

BILL ☐ # City Clerk Only

ORD # City Clerk Only

Date: 1/6/2022

Department: Parks & Recreation

Meeting Date Requested: 1/10/2022

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: American Specialty Health Member Fitness Agreement

Background: American Specialty Health (ASH) is a private insurance group who provides benefits to their members by paying for memberships to fitness centers in the insurance member's area. ASH has requested the Gladstone Community Center to become one of those sites. As a result and through the attached agreement, ASH will pay the Gladstone Community Center \$20/month/member so long as the member goes to the center one time during the month.

Budget Discussion: Funds are budgeted in the amount of \$0 from the N/A Fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$

Public/Board/Staff Input: Staff recommends entering this agreement to garner more members to the Gladstone Community Center resulting in increased revenue.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Justin Merkey
Department Director/Administrator

SW
City Manager

JM
City Attorney

RESOLUTION NO. R-22-03

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH AMERICAN SPECIALTY HEALTH (ASH) FOR PROVIDING FITNESS SERVICES TO MEMBERS OF AMERICAN SPECIALTY HEALTH.

WHEREAS, insurers, trust funds, health care service plans, health maintenance organizations, employer groups and other groups (collectively referred to as "ASH Clients" and further defined below) have entered into arrangements with ASH Fitness for the provision of Services to their Members.

WHEREAS, ASH Fitness wishes to arrange for and facilitate the provision of Services to Members with the Gladstone Community Center.

WHEREAS, the Gladstone Community Center has all necessary licenses and authorizations to operate in its location in which it operates and wishes to contract with ASH Fitness for the provision of Services to Members;

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

THAT, the City Manager of the City of Gladstone, Missouri is hereby authorized to accept and enter into an agreement to provide fitness services for American Specialty Health.

INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 10th DAY OF JANUARY 2022.

R.D. Mallams, Mayor

ATTEST:

Becky Jarrett, Deputy City Clerk

AMERICAN SPECIALTY HEALTH FITNESS, INC.

FITNESS CENTER SERVICES AGREEMENT

GLADSTONE COMMUNITY CENTER

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**AMERICAN SPECIALTY HEALTH FITNESS, INC.
FITNESS CENTER SERVICES AGREEMENT**

THIS FITNESS CENTER SERVICES AGREEMENT, ("this Agreement") is entered into between American Specialty Health Fitness, Inc., a Delaware corporation ("ASH Fitness"), and the fitness center whose name and other identifying information appear on the signature page herein ("Fitness Center"). This Agreement will be effective as of the Effective Date specified in Article 27 of this Agreement. Please read this Agreement carefully. This Agreement requires the use of arbitration on an individual basis to resolve disputes, rather than jury trials or class actions.

This Agreement supersedes and replaces any prior Fitness Center Services Agreements entered into between ASH Fitness and Fitness Center.

RECITALS

WHEREAS, insurers, trust funds, health care service plans, health maintenance organizations, employer groups and other groups (collectively referred to as "ASH Clients" and further defined below) have entered into arrangements with ASH Fitness for the provision of Services to their Members (as defined below in Section 1.08);

WHEREAS, ASH Fitness wishes to arrange for and facilitate the provision of Services to Members;

WHEREAS, Fitness Center has all necessary licenses and authorizations to operate in its location(s) in the State(s) in which it operates and wishes to contract with ASH Fitness for the provision of Services to Members;

NOW, THEREFORE, ASH Fitness and Fitness Center agree as follows:

ARTICLE 1 DEFINITIONS.

For purposes of this Agreement and in addition to the terms elsewhere defined herein, the following terms shall have the meanings indicated:

1.01 Agreement. Agreement is this Fitness Center Services Agreement between Fitness Center and ASH Fitness, the attachments and exhibits listed below, the Program Manual and any amendments to such documents.

- Attachment A: Silver&Fit[®] Basic Attachment
- Attachment B: Silver&Fit[®] Full Attachment
- Attachment C: Active&Fit[®] Attachment
- Attachment D: Intentionally Left Blank
- Attachment E: Intentionally Left Blank
- Attachment F: Intentionally Left Blank
- Attachment G: Medicare Addendum
- Attachment H: Program Compensation Attachment

The attachments and exhibits listed above and the Program Manual are hereby incorporated by reference. However, Fitness Center's obligations will be dependent upon its agreement to participate in the programs described in Attachment A through Attachment F as indicated on the signatory page of this Agreement.

1.02 ASH Client. ASH Client is a health care service plan, health maintenance organization, insurer, employer group, trust fund, third party administrator, or other person or entity who contracts with ASH Fitness or an ASH Fitness' affiliate to arrange for the provision of Services. ASH Clients will be listed on the ASH Client List which is provided to Fitness Center by ASH Fitness.

1.03 ASHLink. The ASHLink[®] system as described in the Program Manual is a proprietary software system developed by an ASH Fitness affiliate and utilized by ASH Fitness to support the secure and confidential electronic distribution of information with Fitness Center via the Internet.

- 1.04 **Benefit Year.** Benefit Year is the twelve (12) month period specified in the ASH Client List.
- 1.05 **Contracted Center.** Contracted Center is a fitness center that has contracted with ASH Fitness.
- 1.06 **Effective Date.** The Effective Date is the date this Agreement becomes operative, as specified in Article 27 of this Agreement.
- 1.07 **Fitness Center Participating Location.** A Fitness Center Participating Location is the Fitness Center location where Services will actually be performed. For ease of reference, Fitness Center and Fitness Center Participating Location shall be used interchangeably for a Fitness Center with only one participating location.
- 1.08 **Member(s).** Member(s) is/are individual(s) who is/are eligible to receive Services by meeting all the eligibility requirements for participation in a program.
- 1.09 **Member Eligibility/Benefits.** Member Eligibility/Benefits is information maintained by ASH Fitness or one of its affiliates pertaining to each Member regarding his or her eligibility, including initial date of eligibility, term of membership and benefits.
- 1.10 **Member Payments.** Member Payments are charges which are the direct financial responsibility of the Member and are paid directly to Fitness for any service which is a Non-Covered Service under this Agreement.
- 1.11 **Member Termination Report.** Member Termination Report as described in the program manual is a report which lists Members who have terminated their Membership at the Fitness Center and/or are no longer eligible for participation under the program.
- 1.12 **Non-Covered Services.** Non-Covered Services are all services other than a Standard Fitness Center Membership and any other program components as clearly laid out in each attachment and as applicable to the Member's benefit. All Non-Covered Services are ineligible for compensation by ASH Fitness and are the direct responsibility of the Member.
- 1.13 **Party(ies).** Party(ies) is/are the individual(s) or entity(ies) that execute this Agreement.
- 1.14 **Program Compensation Rate.** The Program Compensation Rate is the amount ASH Fitness will pay Fitness Center for each Member who has signed a membership agreement with Fitness Center and has had at least 1 Visit in the month that Fitness Center is seeking compensation for. The Program Compensation Rate is set forth in Attachment H for each program that applies to this Agreement.
- 1.15 **Services.** Services are those collective services which fall under this Agreement and its Attachments A through Attachment F.
- 1.16 **Standard Fitness Center Membership.** A Standard Fitness Center Membership provides Member with at least the following services: access to a Fitness Center Participating Location during normal facility hours of operation for the use of cardiovascular exercise equipment (e.g. treadmills, exercise bicycles, "elliptical machines", etc.), strength or resistance training equipment (e.g. selectorized equipment, free weights, etc.), and use of locker room and shower facilities. It also includes instructor-led classes (such as group fitness classes, Pilates, group cycling, yoga, etc.) which do not require a separate fee to be paid to Fitness Center for an individual class or set of classes, but are routinely included for the general membership as part of the general monthly fee. The Standard Fitness Center Membership does not include instructor-led classes, personal training and other amenities for which the Fitness Center routinely charges a separate fee.
- 1.17 **Visit.** Unless otherwise specified in a program attachment, a Visit is where a Member utilizes the Fitness Center Participating Location for exercise. A Visit does not include virtual video workout sessions or individual video exercises.

ARTICLE 2 ASH FITNESS' RESPONSIBILITIES.

- 2.01 **Prepare and Maintain Program Manual.** ASH Fitness shall prepare and maintain a program manual setting forth ASH Fitness' policies, processes, standards and procedures regarding Fitness Center's participation in any ASH Fitness' fitness network ("Program Manual").
- 2.02 **Distribution of Revised Agreement, Attachments, Amendments, and Program Manual.** ASH Fitness shall prepare and distribute any updated Agreements, attachments and exhibits, Member Termination Reports, ASH Client Lists, amendments and/or Program Manual, which may be revised by ASH Fitness in accordance with Article 24 of this Agreement. ASH Fitness may distribute all materials directly to Fitness Center and to each Fitness Center Participating Location, where such information pertains to the Fitness Center Participating Location.
- 2.03 **Records Management.** ASH Fitness and its affiliates shall develop, update and maintain policies and procedures that comply with applicable statutory and regulatory requirements for the secure and confidential storage, retention, retrieval and destruction of all records pertaining to its business operations, whether these records are in paper or electronic form.
- 2.04 **Maintain Eligibility.** ASH Fitness or its affiliates shall provide Fitness Center with services related to Member Eligibility verification for Services to be provided by Fitness Center. ASH Fitness makes no representation or guarantees concerning the number of Members, if any, that will access Fitness Center under this Agreement.
- 2.05 **Communication Regarding Participation of Fitness Center.** ASH Fitness and its affiliates shall communicate the participation of Fitness Center in ASH Fitness or its affiliates' programs to existing and prospective ASH Clients in various forms, including but not limited to ASH Client proposals, ASH Fitness or ASH Client network directories and the applicable websites accessed by Members. Such communication may include information such as Fitness Center's name and logo, address, telephone number, and available services. ASH Fitness shall assist Members to select a Contracted Facility under the Member's program. In addition, ASH Fitness shall, within sixty (60) days of the effective date of a location, notify ASH Clients of the addition of a Fitness Center Participating Location where that location may perform Services for ASH Client.
- 2.06 **Deletion of Fitness Center Participating Location from Network Directories.** ASH Fitness will remove Fitness Center information from the online directory as of the effective date of Fitness Center Participating Location's resignation or termination of this Agreement.
- 2.07 **ASH Fitness' Payment to Fitness Center.** ASH Fitness shall compensate Fitness Center in accordance with the Program Compensation Rates specified in Attachment H under which Fitness Center is participating within thirty (30) days of receipt of a billing report for Services provided to Members.

Fitness Center and ASH Fitness agree that a program of equal to best pricing and equal to best reimbursement model supports fair and competitive pricing and that fair and competitive pricing fosters program competition, enhancement and innovation, and reduces costs. The parties agree that Fitness Center will offer to ASH Fitness Equal To Or Best Pricing and an Equal To Or Best Reimbursement model for Subsidized Fitness Programs. For the purposes of this Agreement and any Attachments, Subsidized Fitness Benefit Programs means any of programs by which an eligible individual receives membership with and/or access to Fitness Center in connection with Silver&Fit and Active&Fit (collectively "Fitness Benefit Programs"). Any ASH Fitness consumer-direct purchase program is not included in this definition. "Equal To Or Best Pricing" means that Fitness Center agrees that for each contract it enters with any third party(s) offering Subsidized Fitness Benefit Programs, the rates that Fitness Center will charge such third party(s) will not be less than the rate that Fitness Center charges ASH Fitness under this contract. Equal To Or Best Reimbursement Model means that Fitness Center will not utilize any reimbursement model that permits a third party offering Subsidized Fitness Benefit Programs to reimburse Fitness Center for fitness services at a lower rate than the rate that Fitness Center is charging ASH Fitness under this contract, regardless of the reimbursement model.

Nothing herein shall prevent Fitness Center and a third party offering Subsidized Fitness Benefit Programs from agreeing to a rate lower than the rate Fitness Center charges ASH Fitness pursuant to this contract at the time of the agreement, or from agreeing to a reimbursement model that permits the third party to reimburse Fitness Center for fitness services at a rate lower than the rate Fitness Center is charging ASH Fitness under this contract at the time of the agreement, regardless of reimbursement model. If Fitness Center contracts with a third party to offer lower pricing or a better reimbursement model than which it has with ASH Fitness, Fitness Center will provide notice to ASH Fitness in advance of the effective date of such third party agreement and, upon ASH Fitness' written notice stating that ASH Fitness wishes to have the rates that Fitness Center charges ASH Fitness reduced to reflect the better pricing/reimbursement model offered to the third party ("Pricing Notice"), Fitness Center shall automatically provide the same lower pricing and/or the better reimbursement model to ASH Fitness as of the effective date of the third party contract. Upon ASH Fitness' delivery to Fitness Center of the Pricing Notice, this agreement will be deemed automatically amended to incorporate the lower rates and/or better reimbursement model with all other contract terms remaining unchanged. The parties agree that the existence of Equal To Or Best Pricing and Reimbursement Models will be subject to audits by an independent third party agreed upon by ASH Fitness and Fitness Center. If Fitness Center does not provide the advance notice required by this paragraph, ASH Fitness shall have the right to recover the difference between the lower price and/or reimbursement model and ASH Fitness' current pricing and reimbursement model as of the effective date of the lower price and/or reimbursement model by offsetting future payments to Fitness Center until such time the recovery is complete. Such remedy does not exclude ASH Fitness from seeking other remedies to which it may be entitled.

ARTICLE 3 FITNESS CENTER'S RESPONSIBILITIES.

- 3.01 Business License(s) and Comply with Federal and State Law.** Fitness Center shall maintain and demonstrate upon request by ASH Fitness that Fitness Center has appropriate business licenses for its operations at each of the Fitness Center Participating Locations and meets all federal and state regulations applicable to such operations.
- 3.02 Comply with Program Manual.** Fitness Center shall comply fully with the Program Manual as described in Section 2.01.
- 3.03 Comply with Quality Management Program.** Fitness Center shall comply with ASH Fitness' quality management program and shall cooperate with ASH Fitness in ASH Fitness' administration of its grievance procedures, which can be found in the Program Manual, including procedures to resolve complaints or grievances filed by Members with ASH Fitness as they pertain to Fitness Center and its responsibilities under this Agreement.
- 3.04 Compliance with Medicare and/or Medicaid Requirements.** Where Fitness Center is providing Services to Members enrolled in an ASH Client's Medicare Advantage plan and/or Medicaid Managed Care plans, Fitness Center shall comply with the provisions outlined in Attachment G to this Agreement.
- 3.05 Immediate Notification by Fitness Center of Certain Occurrences.** Fitness Center shall notify ASH Fitness in writing by overnight mail service, email, facsimile or other means of notification made available to Fitness Center by ASH Fitness within forty-eight (48) hours of the occurrence of: i) the commencement of any voluntary or involuntary bankruptcy proceedings by or against Fitness Center or any similar proceedings; ii) any lapse of general and/or professional liability insurance maintained by Fitness Center; iii) the filing of criminal charges against Fitness Center's owners, directors, management or staff that directly interact with Members that Fitness Center's owner(s) or manager(s) know(s), or reasonably should have known; iv) a change in Fitness Center's ownership and/or management; (v) any change to, including but not limited to the loss or potential loss of, its business license; and (vi) any potential non-compliance or suspected non-compliance with applicable federal or state law or regulation relevant to this Agreement.
- 3.06 Notification of Change in Any Information.** Fitness Center shall notify ASH Fitness at least sixty (60) days prior to any change in Fitness Center or Fitness Center Participating Location's physical address, Fitness Center or Fitness Center Participating Location's mailing address, telephone number, email address, office hours, taxpayer identification number, or any other information listed in the Network Application. Where

sixty (60) days prior notice is not possible, Fitness Center shall notify ASH Fitness as soon as possible of such changes.

- 3.07 **Non-Interference with Property and Contract Rights.** During the term of this Agreement and for one (1) year following the date of its termination, Fitness Center agrees that Fitness Center shall not interfere with ASH Fitness or an ASH Fitness affiliate's property or contract rights with any ASH Client or Member. This includes, but is not limited to, advising any Member to dis-enroll from any Services, advising any party who has contracted with ASH Fitness or an ASH Fitness Affiliate to terminate, cancel or decline renewal of its contract, and/or solicit any Member to enroll for the provision of similar services offered by any other firm administering fitness benefit programs, health care service plan, health maintenance organization, health insurer, preferred provider organization or any other similar organization.

If Fitness Center violates this Section, Fitness Center acknowledges that it will be responsible for paying any and all actual damages incurred by ASH Fitness or any ASH Client as a result of that violation and may be liable for other costs, expenses, damages, claims or liabilities; and, if money damages are insufficient to compensate ASH Fitness or ASH Client for the violation of this Section, Fitness Center may be subject to an injunction prohibiting the activity which constitutes a violation of this Section and/or other equitable relief. Nothing in this Section shall affect any of ASH Fitness' other rights under this Agreement, at law or in equity. Nothing in this Section shall prohibit Fitness Center from maintaining a direct relationship with Member that is no longer enrolled in a program with ASH Fitness or its affiliates due to Member dis-enrollment or termination of this Agreement.

- 3.08 **Election to Participate in all Product Offerings.** Fitness Center may elect to participate in any program specified in Attachment A through Attachment F and indicates in Article 27 which programs it wishes to participate in. Fitness Center is not obligated to participate in all programs but must participate in at least one program at all times while this Agreement is in effect. Any time after the Effective Date of the Agreement Fitness Center may choose to expand the programs it participates in. However, after the Effective Date Fitness Center may only terminate participation in a specific program, pursuant to Article 6.

- 3.09 **Provision of Member Services.** Fitness Center responsibilities for the provision of Member Services are outlined in this Section 3.09.

3.09.1 **Standard Fitness Center Membership.** Fitness Center shall provide Members with a Standard Fitness Center Membership and any other services as required by the applicable program attachments. The Standard Fitness Center Membership shall include, at no cost to the Member, an orientation session to familiarize Members with the Fitness Center and its equipment.

3.09.2 **Conversion of Pre-Established Membership.** Fitness Center agrees to assist any Member that has a previously established membership with Fitness Center and the Member becomes eligible for a program under this Agreement. Fitness Center will freeze the Member's previously established Fitness Center membership, or terminate the membership without any penalty to the member and accept the Program Compensation rate as payment in full for the Standard Fitness Center Membership on behalf of the Member while they are eligible for ASH Program Services. Where a Member is no longer eligible for ASH Program Services and the membership was frozen, Fitness Center shall re-activate the Member's frozen membership subject to the original terms and conditions of the previously established membership. Fitness Center shall not charge Member any activation fees or penalties for the re-activation and such membership shall be reinstated for the period of time that was remaining on the membership at the time it was frozen.

3.09.3 **Fitness Center Staff.** Fitness Center agrees to support Services by training one or more Fitness Center employee(s) in the ASH Fitness programs to support Member questions and enrollment into the applicable Services as described in this Agreement and its Attachments during normal business hours.

3.09.4 **Offering of non-Covered Services and Notification to Members of Financial Responsibility for Member Payments for Non-Covered Services.** Fitness Center may upgrade or sell Members' additional products or services not covered under this Agreement or any applicable program

attachment but only if Fitness Center informs Members in advance and in writing that such products and services are Non-Covered Services, are the Member's financial responsibility, and are completely voluntary on the part of the Member. Fitness Center shall collect appropriate Member Payments as that term is defined in Section 1.10, at the time of service and shall bill Members according to the procedures described in the Program Manual. Where a Member upgrades their Standard Fitness Center Membership, Fitness Center agrees that the upgraded membership will be equal to or less than the pricing offered to the general public ("Upgraded Membership Price") and the cost to the Member shall be the Upgraded Membership Price minus the Fitness Center's standard fee for a basic membership (this is not the Program Compensation Rate but the standard fee charged by the Fitness Center). Fitness Center agrees to refund any amounts paid by a Member that the Fitness Center collects in a manner not consistent with this Section.

3.09.5 Member Billing. Nothing in this Agreement shall preclude Fitness Center from charging Member for Services rendered, where Member is determined to not be eligible, including retroactive determinations, for a program under this Agreement and where Fitness Center complied with Section 3.10. Any such charges shall be consistent with Fitness Center's lowest standard membership dues. In addition, as Section 3.09.4 details, Fitness Center may charge a Member for Non-Covered Services where Member has been informed, in writing, prior to the provision of the Non-Covered Services.

3.09.6 Non Discrimination. Fitness Center shall not illegally discriminate against Member for any reason, including but not limited to race, ethnicity, national origin, religion, gender, age, mental or physical disability, health status, payment experience, medical history, genetic information, gender identity, veteran status, evidence of insurability or geographic location within the service area or source or amount of compensation. Fitness Center shall offer Services to a Member covered by ASH Fitness or one of its affiliates in the same manner, in accordance with the same standards, and within the same time availability as services offered to members who are not covered by ASH Fitness or its affiliates.

3.10 Verification of Member Eligibility and Services. Unless otherwise specified in a program attachment, Fitness Center shall verify Member Eligibility and applicable Services with ASH Fitness at the time of a Member's first attempt to utilize Fitness Center Participating Location within a Benefit Year. Fitness Center shall verify the Member's eligibility with ASH Fitness by using the member's fitness card/welcome letter or by collecting the member's first name, last name and day/month of birth. Fitness Center may contact ASH Fitness via ASHLink or call customer service to verify eligibility. Member's current fitness card/welcome letter is not a guarantee of current eligibility and Fitness Center must verify the Member's eligibility with ASH Fitness upon the Member's first Visit to the Fitness Center Participating Location.

3.11 Program Compensation. Fitness Center shall accept Program Compensation Rates, as specified in Attachment H as payment in full for the Fitness Center Visits and Services provided pursuant to this Agreement. Fitness Center shall not charge the Member an initiation fee, enrollment fees, processing fee, monthly membership fees and/or any other administrative fees for the Standard Fitness Center Membership. Fitness Center shall be responsible for any and all sales, use or other taxes which may be imposed on the compensation paid to Fitness Center by ASH Fitness or any fees for Non-Covered Services collected from a Member. The number of Visits compensated in a month shall not limit the number of Visits a Member may make to Fitness Center in a month. Members must have unlimited access and their visits may exceed the Visits compensated per month as specified in Attachment H. A Member may make multiple Visits to Fitness Center over the course of one day, however, Fitness Center is only entitled to receive compensation for one (1) of those Visits. Program services will be compensated by ASH Fitness up to the maximum number of sessions and the maximum amount specified in Attachment H.

3.12 Billing Report Submission. Unless otherwise specified in a program attachment, Fitness Center will submit a billing report each month and shall provide supporting information to ASH Fitness that identifies each Visit at a Fitness Center Participating Location, the Member name, Member's Fitness Identification number program abbreviation, Member month and day of birth and the dates of the Visit. Total number of visits will not be accepted for reimbursement. Such information should be submitted electronically via ASHLink unless an alternate method has been agreed to by ASH Fitness. Any reports not received via ASHLink will not be

accepted for payment. ASH Fitness will reject any reports that are not submitted in the required format and/or do not include the required fields listed in this section. Only actual Visits to the Fitness Center Participating Location should be submitted. Virtual or streamed video workout sessions or individual video exercises by eligible Members are not permitted to be billed for reimbursement and should not be submitted in the billing report. Including such activities on the billing report may be considered by ASH Fitness as fraudulent billing. ASH Fitness reserves the right to perform random audits to verify accuracy of billing reports and may also contact members to confirm Visits made to a Fitness Center Participating Location.

Billing reports received over ninety (90) days after the date of service will not be approved for payment due to late submission. Fitness Center shall waive all charges against Member, ASH Fitness and/or ASH Client related to a billing report received by ASH Fitness more than ninety (90) days after the date of service.

- 3.13 **Reimbursement Adjustments.** ASH Fitness may be required to make an adjustment to a reimbursement previously paid by ASH Fitness in order to correct an over or under payment as a result of (1) corrected information received by ASH Fitness, or (2) incorrect determination of benefit or (3) an incorrect calculation of payment amounts. The process for any reimbursement adjustment shall be set forth in the Program Manual.
- 3.14 **Fitness Center's Participating Locations.** Where Fitness Center has more than one location operating under the terms of this Agreement, Fitness Center shall have additional obligations, including but not limited to: Agreement notification, informing participating locations, and members' use of multiple locations. These additional obligations shall be described in the Program Manual. Fitness Center shall require each Fitness Center Participating Location to comply with the requirements of this Agreement and any applicable state or federal law or regulations, including but not limited to, the federal False Claims Act (31 U.S.C. §§ 3729–3733). Any incidents of non-compliance should be reported immediately to ASH Fitness upon discovery.
- 3.15 **Liability Insurance Limits.** Fitness Center shall maintain professional liability insurance, comprehensive general liability insurance and/or any other insurance policies, including but not limited to Workers' Compensation, in accordance with ASH Fitness' liability insurance requirements in this Agreement. Fitness Center shall notify ASH Fitness within five (5) days of any material change to any or all insurance policies, which shall include, but not be limited to, a reduction in a policy amount or cancellation or non-renewal of a policy. All such policies required under this section shall be primary to any insurance available to ASH Fitness. This insurance requirement will be required for each of the Fitness Center Participating Locations. Fitness Center shall maintain general liability insurance in the amount of one million dollars (\$1,000,000) for each occurrence and one million dollars (\$1,000,000) in the aggregate, and professional liability insurance in the amount of one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate per year for each Fitness Center Participating Location. ASH Fitness recognizes that the Fitness Center is a municipality and as such may be self-funded under provisions of applicable state statutes and local ordinances.
- 3.16 **Fitness Center Removal from Provision of Program Services to Members by ASH Clients.** Fitness Center acknowledges that an ASH Client may, in its sole discretion, request ASH Fitness to remove or restrict Fitness Center from providing Member Services to ASH Client's Members and if necessary impose sanctions on Fitness Center.

ARTICLE 4 CORRECTIVE ACTION PLANS

Corrective Action Plans. ASH Fitness shall have the ability to evaluate Fitness Center's participation and performance in accordance with the terms of this Agreement and fitness industry business practices. If ASH Fitness finds that Fitness Center is not performing in accordance with the terms of this agreement, ASH Fitness may issue a Corrective Action Plan (CAP) to Fitness Center as more fully described in the Program Manual. Fitness Center acknowledges that a frequent or repeated lack of compliance with a program requirement may be considered a pattern of performance that is unacceptable to ASH Fitness and may consider this a material breach of the Agreement giving rise to the right to terminate the Agreement for cause pursuant to Section 6.02.

ARTICLE 5 TERM.

The initial term of this Agreement shall be from the Effective Date specified in Article 27 of this Agreement through and including December 31st of the current year subject to the termination provisions set forth in Article 6. After the initial term, this Agreement shall automatically renew for one (1) year on each successive January 1st, unless a) either Party provides the other Party with written notice at least one hundred twenty (120) days prior to the renewal date of its intention not to renew this Agreement, or b) prior to such renewal, the Agreement is terminated pursuant to Article 6.

ARTICLE 6 TERMINATION.

6.01 Termination of This Agreement with Cause with Notice. Notwithstanding any other provision in this Agreement, either Party may terminate this Agreement with cause for the other Party's breach of any material term, covenant or condition and subsequent failure to cure such breach. The Party asserting cause for termination of this Agreement ("Terminating Party") shall provide written notice of termination to the other Party ("Receiving Party"). The notice of termination shall specify the breach or deficiency underlying the cause for termination. Receiving Party shall have thirty (30) calendar days from the receipt of such notice to cure the breach or deficiency to the satisfaction of the Terminating Party. If Receiving Party fails to cure the breach or deficiency, this Agreement shall terminate upon written notice from the Terminating Party. The termination date shall be the date the Receiving Party receives such notice or such other date as may be specified in the notice.

6.02 ASH Fitness Immediate Termination of This Agreement for Cause with Notice. ASH Fitness may terminate this Agreement, or a Fitness Center Participating Location(s) participation, immediately upon written notice by ASH Fitness to Fitness Center upon any of the following occurrences:

- a) A determination that services rendered to a Member by Fitness Center in conjunction with this Agreement do not meet the recognized fitness industry standards adopted by ASH Fitness and/or potentially place a Member at risk;
- b) Any material misrepresentation, falsification or failure to provide accurate information to ASH Fitness, ASH Client, or a Member by Fitness Center or Fitness Center's staff, agent or representative in connection with this Agreement;
- c) The filing and/or conviction of any criminal charges against Fitness Center's directors, officers, owners or employees;
- d) The termination of any contractual relationship other than this Agreement between Fitness Center and ASH Fitness, or an ASH Fitness' affiliate;
- e) Fitness Center is not participating in at least one program pursuant to this Agreement;
- f) Fitness Center has no Fitness Center Participating Locations; or
- g) Any occurrence or condition which materially impairs the ability of Fitness Center or a Fitness Center Participating Location to perform responsibilities under this Agreement.

6.03 Fitness Center Program Participation Termination. Fitness Center may terminate participation in a program by providing at least one hundred twenty (120) days' notice prior to the expiration of the current term. Such termination of participation will be effective on January 1st immediately preceding the notice.

6.04 Fitness Center Appeal of Termination. Fitness Center may appeal ASH Fitness' termination for cause by providing a written request to ASH Fitness within thirty (30) days from the date of the termination notice by ASH Fitness. Such appeal rights may occur before and/or after the effective date of termination. If a termination appeal results in a reinstatement, ASH Fitness may provide Fitness Center with a new Effective Date for this Agreement

6.05 Effect of Termination. Except as otherwise provided herein, this Agreement shall be of no further force or effect following the date of termination, except that each Party shall remain liable for any obligations or liabilities arising from the activities carried on by it hereunder prior to the date of termination.

6.06 Survival of Certain Contractual Provisions after Termination. Notwithstanding any other provision of this Agreement, the following provisions of this Agreement shall survive any termination of this Agreement:

Sections 2.02, 2.04, 3.01, 3.07, 3.09.2, 6.05, 6.06, and 6.07, in addition to, Article 7, Article 8, Article 9, Article 10, Article 15, Article 16, Article 18, Article 19, and Article 20.

- 6.07 **Fitness Center Responsibility during Termination Notice Period.** Where Fitness Center or ASH Fitness provides notice of non-renewal pursuant to Article 5 or termination pursuant to Section 6.01 Fitness Center shall continue to provide Services pursuant to this Agreement up to and including the effective date of termination or non-renewal.
- 6.08 **Fitness Center Responsibilities after Termination of Program, Location or Agreement.** Fitness Center understands that materials such as network directories provided to Members by ASH Fitness or ASH Clients may continue to reflect that a location is participating in the ASH Fitness and/or ASH Client's network for some period of time following the termination of a location's participation. Therefore, to avoid Member confusion regarding the location's status with ASH Fitness, regardless of which Party terminates this Agreement or a location's participation, Fitness Center shall inform any Member who seeks Services that the location is no longer contracted with ASH Fitness.

ARTICLE 7 HOLD HARMLESS.

Fitness Center shall be solely responsible for and shall hold ASH Fitness free and harmless from any claims, losses, damages, liabilities, costs, expenses, attorneys' fees and costs or obligations arising from or relating to: i) any act or omission of Fitness Center, Fitness Center's agents, partners, associates, employees or representatives in providing or failing to provide Services in conjunction with this Agreement to Members; ii) arising from or relating to any act or responsibility of Fitness Center; or iii) any injuries occurring at the Fitness Center. Nothing in this Agreement constitutes a waiver by Fitness Center of any statutory or common law defenses, immunities or limits on liability. ASH Fitness shall be solely responsible for and shall hold Fitness Center free and harmless from any claims, losses, damages, liabilities, costs, expenses, attorneys' fees and costs or obligations arising from or relating to any act or omission of ASH Fitness, its agents, employees or representatives in connection with ASH Fitness' responsibilities under this Agreement.

The party requesting indemnification "Indemnified Party" will notify the other party "Indemnifying Party" in writing of its knowledge or receipt of any notice of a potential demand, claim or legal action (collectively "Legal Claim") or the commencement a Legal Claim as soon as practicable, provided that the failure to notify the Indemnifying Party will not relieve the Indemnifying Party from any liability under this Agreement except to the extent that the Indemnifying Party's ability to defend against or avoid Legal Claims has been prejudiced by such delay. The Indemnifying Party shall promptly (and in no event later than thirty (30) days after receiving notice of a Legal Claim) decide whether to assume control of the defense of a Legal Claim. If the Indemnifying Party does not elect to control such defense, then the Indemnified Party shall assume such control of the defense and the Indemnifying Party will remain liable to indemnify for all reasonable attorneys' fees and costs. In the event that the Indemnifying Party elects to control the defense of Legal Claims, the Indemnifying Party's choice of counsel shall be reasonably satisfactory to the Indemnified Party, and the Indemnified Party shall be entitled to participate in such defense and shall cooperate fully in connection therewith, including in determining the validity of any Legal Claim or assertion requiring indemnity hereunder and in defending against third parties with respect to the same. The party that is not controlling the defense of a Legal Claims may have its own counsel present at its own cost to monitor proceedings related to the Legal Claims. The Indemnifying Party hereby agrees not to settle or compromise any Legal Claims without prior written consent of the Indemnified Party.

ARTICLE 8 COMMUNICATION OF RELATIONSHIP WITH ASH FITNESS AND ASH CLIENTS.

Fitness Center shall not initiate any written communication, solicitation or advertisement of any type referencing the relationship with ASH Fitness and/or ASH Client without the prior written approval of the communication by ASH Fitness. This includes, but is not limited to, Internet web pages, social networking, newspapers, yellow pages, billboards, mass mailings, telemarketing, location posters or business cards. Only where ASH Fitness reviews and gives prior written approval may Fitness Center display and/or distribute materials to promote programs associated with this Agreement. If Fitness Center sends an advertisement or communication without prior approval from ASH Fitness, ASH Fitness reserves the right to remove Fitness Center from its Fitness Center directory and restrict access to new members for a period of one (1) month for the first occurrence and three (3) months for the second occurrence.

ASH Fitness reserves the right to terminate this Agreement after the third occurrence of an advertisement or communication being sent without ASH Fitness' approval.

ARTICLE 9 RECORDS AND DATA COLLECTION.

9.01 Maintenance of Records. Fitness Center shall maintain and provide ASH Fitness, and upon the request of ASH Clients, U.S. Department of Health and Human Services, U.S. Department of Justice, Office of Inspector General, Center for Medicare and Medicaid Services and/or other federal and state agencies, with all records relating to Services provided to each Member by Fitness Center, in such form and containing such information as is required by applicable federal and state law, and such other information as ASH Fitness, ASH Clients, or other such agencies may require. For Members enrolled in an ASH Client's Medicare Advantage and/or Medicaid plans, records shall be retained in accordance with Section 8 of Attachment G. For all other Members, such records shall be retained by Fitness Center the greater of ten years or in accordance with applicable state laws.

9.02 Access to Facility and Records. Fitness Center shall provide access to ASH Fitness, at reasonable times upon request by ASH Fitness, ASH Client, and/or regulatory agencies with oversight of ASH Fitness or ASH Client operations, to monitor program compliance and inspect Fitness Center's facilities, equipment, books, papers, and records relating to Fitness Center's performance under this Agreement.

9.03 Confidential Member Information.

9.03.1 ASH Fitness and its affiliates shall protect access to, and distribution of, information and/or records that are subject to regulatory requirements for protection of member information and privacy including, but not limited to protection for non-public personal information. Therefore, ASH Fitness and Fitness Center shall abide by all applicable Federal and State laws and regulations regarding privacy, security and disclosure of Member personal information. Fitness Center agrees to maintain records and other information with respect to Members in an accurate and timely manner, to provide timely access by Members to the records and information that pertain to them and to safeguard the privacy of any non-public information that can be used to identify a particular Member. Fitness Center shall limit uses and disclosures of personal information obtained in connection with this Agreement (including any information received from ASH Fitness or through ASHLink) solely for payment and related operational purposes permitted or required by this Agreement or as required by law. Fitness Center shall use such personal information only to the extent minimally necessary to satisfy those obligations. Any other use of personal information obtained in connection with this Agreement is strictly prohibited unless required by law or as otherwise permitted in writing by ASH Fitness. This specifically includes using Member's personal information obtained or created in fulfillment of obligations under this Agreement for marketing and fundraising purposes. Fitness Center further certifies that use of any information collected, created or received through access as noted above is strictly limited to purposes required to meet obligations under this agreement and may not be directly or indirectly sold, exchanged, bartered or otherwise brokered for consideration to any third parties.

9.03.2 Upon discovering an incident where the personal information of a Member could have been acquired, used or disclosed in a manner not permitted under this Agreement, including situations where such personal information could have been viewed by persons other than Fitness Center employees authorized by the Fitness Center to perform duties under this Agreement, Fitness Center shall immediately, but in no case later than one business day, report the incident to ASH Fitness' Privacy Office. Fitness Center will expediently supply all information reasonably requested by ASH Fitness regarding the investigation of suspected privacy incidents referenced above.

9.03.3 Fitness Center shall advise members of its workforce of their obligations to protect and safeguard Members' personal information obtained or created in the fulfillment of Fitness Center's obligations under this Agreement. Fitness Center will develop, implement, maintain and use appropriate administrative, technical and physical safeguards consistent with minimum standards set forth in state or federal law (such as the Social Security Act §1173(d), 45 C.F.R. §164.530(c)(1) and any other implementing regulations issued by the U.S. Department of Health and Human Services), to

preserve the integrity and confidentiality of and to prevent non-permitted or violating use or disclosure of Member's personal information.

- 9.03.4** Fitness Center shall notify ASH Fitness Privacy Office immediately of any requests received from a Member related to obligations under this Agreement for restrictions on uses and disclosure of personal information, any requests for deletion of personal information, any requests for an accounting of personal information, or any requests to authorize an agent to act on the Member's behalf. Fitness Center will direct any questions or concerns regarding ASH's privacy practices to the ASH Privacy Office.
- 9.03.5** ASH Fitness is the exclusive owner of information, including personal information, generated or used by Fitness Center for fulfillment of its obligations under the terms of this Agreement.
- 9.03.6** Fitness Center will indemnify and hold harmless ASH Fitness, its officers, directors, employees or agents from and against any claim, cause of action, liability, damage, cost or expense, including attorneys' fees and costs and court or proceeding costs, arising out of or in connection with any non-permitted or violating use or disclosure of Members' personal information by Fitness Center or any subcontractor, agent, person or entity under Fitness Center's control. Nothing in this Agreement constitutes a waiver by Fitness Center of any statutory or common law defenses, immunities or limits on liability.
- 9.03.7** Upon termination, cancellation, expiration or other conclusion of the services provided by Fitness Center, Fitness Center will if feasible, return to ASH Fitness or destroy all Confidential Member Information in whatever form or medium including any electronic medium under Fitness Center's custody or control that Fitness Center created or received for or from ASH Fitness. Fitness Center will complete such return or destruction as promptly as possible, but no later than thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the services provided by Fitness Center. If return or destruction of Confidential Member Information is infeasible, Fitness Center will extend the protections of this Article 9 to such information and limit its further use or disclosure to those purposes that make return or destruction of Confidential Member Information infeasible.
- 9.03.8** Notices to the ASH Fitness Privacy Office may be sent by overnight mail, first class mail, email or hand delivery to:

American Specialty Health Fitness, Inc.
Attn: Privacy Officer
10221 Wateridge Circle
San Diego, CA 92121
E-mail: HIPAA@ashn.com
Tel: (800) 848-3555
Fax: (858) 237-3839

ARTICLE 10 PROPRIETARY INFORMATION.

All information, documents, software and other materials of any sort furnished to Fitness Center by ASH Fitness including, without limitation, this Agreement and any rates included in this Agreement, the Program Manual, any Client Lists, and any copyrighted or trademarked materials, shall be the property of ASH Fitness and shall be treated as confidential. Such proprietary information shall not be disclosed to anyone who does not have a need to know such information and is only to be used by Fitness Center in connection with the performance of Fitness Center's obligations under this Agreement and only in the manner provided for in this Agreement. Fitness Center shall not disclose or use any proprietary information or trade secrets for Fitness Center's own benefit during the term of this Agreement or after termination of this Agreement, except as required by law or as authorized in writing by ASH Fitness. Fitness Center shall have no ownership rights in said proprietary information including, but not limited to, copying, use or distribution of said proprietary information. ASH Fitness acknowledges that Fitness Center is subject to the requirements of its state's Public Records Act and that some information which ASH Fitness deems confidential may be disclosed under this Act. In the event that any such proprietary information of ASH Fitness is required to be

disclosed by Fitness Center by law or valid order of a court or other governmental authority, Fitness Center shall, to the extent legally permitted, give notice to ASH Fitness. ASH Fitness shall be responsible for objecting to such disclosure or for obtaining a protective order requiring that the propriety information so disclosed be used only for the purposes for which the order was issued.

Upon termination of this Agreement, Fitness Center shall destroy all proprietary information in Fitness Center's possession. Fitness Center shall cooperate with ASH Fitness in maintaining the confidentiality of such proprietary information at all times during and after termination of this Agreement.

Fitness Center acknowledges that a breach of the terms and conditions of this Article shall cause immediate and irreparable harm to ASH Fitness, and as such, ASH Fitness shall be entitled to seek any monetary and equitable relief allowed by law. Notwithstanding the foregoing, in the event a breach of confidentiality involves any rates set forth in this Agreement, ASH Fitness may, in its discretion, immediately reduce the compensation rates paid to Fitness Center.

ARTICLE 11 TRADEMARKS

11.01 Use of Names and Marks. This Agreement does not grant Fitness Center a license or sublicense, except as provided in this Article 11, to use the names, trademarks, service marks, corporate names, trade names, domain names, or logos owned by ASH Fitness or its parent company American Specialty Health Incorporated ("ASH Marks"). During the term of this Agreement Fitness Center may use ASH Fitness' name or ASH Marks solely in connection with identifying the relationship as contemplated in this Agreement or as specified in the Program Manual. Any other use of ASH Marks is subject to the prior review and written approval of ASH Fitness. Fitness Center shall be allowed to use the ASH Marks Silver&Fit®, Silver&Fit Signature Series Classes®, Active&Fit®, and/or ExerciseRewards™ on its web sites and print media for the promotion of Fitness Center's participation in the applicable programs for which Fitness Center is a Contracted Facility¹. Such use must comply with this Article and the "Guidelines for Trademark Use by Third Parties" issued by ASH Fitness from time to time, a current version of which can be found in the Program Manual. Approval in this Section shall be deemed automatically withdrawn upon the effective date of expiration or termination of this Agreement, unless sooner withdrawn by written notice from ASH Fitness.

11.02 Injunctive Relief. The Parties agree that a breach of the terms and conditions of this Article may cause immediate and irreparable harm. Therefore, in addition to any other rights or remedies available at law or in equity, ASH Fitness is entitled to seek injunctive relief to restrain or enjoin the breach, without any requirement of bond or security.

ARTICLE 12 ASSIGNMENT AND CHANGE OF OWNERSHIP.

ASH Fitness may, in its discretion, assign all or a portion of its rights or responsibilities under this Agreement to any party at any time without approval of Fitness Center. All provisions of this Agreement and obligations arising hereunder shall extend to and be binding upon the Parties hereto and their respective successors and assignees and shall inure to the benefit, and be enforceable by the Parties hereto and their respective legal representatives, successors and assignees.

ARTICLE 13 SUBCONTRACTS

Fitness Center shall not subcontract any of its obligations under this Agreement to any third party without the prior written approval of ASH Fitness, which may be withheld or withdrawn in its sole discretion. Where ASH Fitness allows Fitness Center to subcontract any of its obligations to another party, Fitness Center shall remain ultimately responsible to ASH Fitness for the Services performed hereunder.

¹ Silver&Fit, Silver&Fit Signature Series Classes, Active&Fit, and ASHLink are registered trademarks of American Specialty Health, Incorporated. All rights are hereby reserved.

ARTICLE 14 FORCE MAJEURE.

Neither party will be liable for delay in delivery or nonperformance in whole or in part (other than a failure to pay any amount due hereunder), nor will the other party have the right to terminate this Agreement where delivery or performance has been affected by a Force Majeure Event, except as otherwise specifically provided in this Section or in any Termination provisions of this Agreement. "Force Majeure Event" means any act or event, whether foreseen or unforeseen, that prevents a nonperforming party, in whole or in part, from performing its obligations under this Agreement, or satisfying any conditions to the obligations of the performing party under this Agreement where: (i) the act or event is beyond reasonable control of and not the fault of the nonperforming party, e.g. war, terrorism, riot or insurrections, law or regulation, strike, flood, fire, explosion, pandemic, epidemic, quarantine or other similar event; (ii) the nonperforming party has been unable to avoid or overcome the act or event by the exercise of best efforts; and (iii) the nonperforming party gives notice to the performing party as soon as is practicable after the act or event (or commencement of the act or event if the Force Majeure event lasts more than three (3) calendar days) stating the nature of the act or event, its anticipated duration, and any action the nonperforming party is taking to avoid or minimize its effect

The suspension of performance will be of no greater scope and no longer duration than is reasonably required and the nonperforming party must use commercially reasonable efforts to remedy its inability to perform. In the event the suspension of performance continues for twenty-one (21) calendar days after the initial occurrence of the Force Majeure Event, and such failure to perform would constitute a material breach of this Agreement in the absence of such Force Majeure Event, then ASH Fitness may terminate this Agreement immediately by providing written notice to Fitness Center.

ARTICLE 15 INDEPENDENT CONTRACTORS.

- 15.01** None of the provisions of this Agreement shall be construed to create a relationship of agency, representation, joint venture, ownership, control or employment between the Parties, other than that of independent parties contracting solely for the purpose of effectuating this Agreement.
- 15.02** Fitness Center shall be responsible solely to eligible Members for Services. Fitness Center is an independent contractor and ASH Fitness shall have no dominion or control over Fitness Center, Fitness Center-Member relationship, Fitness Center's personnel or Fitness Center's services. Fitness Center and Fitness Center's employees and agents shall not have any claim, under this Agreement or otherwise, against ASH Fitness for vacation pay, sick leave or retirement or other benefits of any kind. During the term of this Agreement or any renewals hereof, Fitness Center shall be fully responsible and liable for all state and federal income taxes or other taxes to which payments made by ASH Fitness to Fitness Center may become subject. Fitness Center is responsible to maintain all necessary insurance policies, such as workers' compensation, errors and omissions, and general business liability insurance in amounts necessary to provide adequate coverage for all liabilities and in accordance with Section 3.16 of this Agreement. Where Fitness Center has independent contractors, Fitness Center will require its independent contractors to carry the required insurance amounts specified in Section 3.16 if not covered under Fitness Center's insurance.

ARTICLE 16 GOVERNING LAW.

This Agreement shall be interpreted and governed by the laws of the State in which the Fitness Center is located, except to the extent that law is contrary to or preempted by federal law. Any provisions required to be in this Agreement by any law shall bind the Parties hereto, whether or not expressly provided in this Agreement.

ARTICLE 17 SEVERABILITY.

In the event any provision of this Agreement is rendered invalid or unenforceable by state or federal law or declared null and void by any court of competent jurisdiction, the remainder of the provisions of this Agreement shall remain in full force and effect unless otherwise specified in this Agreement. In the event that a provision of this Agreement is rendered invalid or unenforceable or declared null and void as provided herein, and its removal has the effect of materially altering the obligations of either Party in such manner as, in the judgment of the Party affected, will cause serious financial hardship to such Party or will cause such Party to act in violation of its corporate articles or bylaws,

the Party so affected shall have the right to terminate this Agreement by providing the other Party with at least fifteen (15) days prior written notice.

ARTICLE 18 DISPUTES BETWEEN FITNESS CENTER AND MEMBERS.

Where ASH Fitness and/or an ASH Client determine that a dispute between Fitness Center and Member is subject to the provisions of this Agreement and ASH Fitness and/or ASH Client's appeals and grievance processes, policies, procedures and standards, Fitness Center agrees to assist ASH Fitness and provide any information necessary, at no cost to ASH Fitness, for ASH Fitness to review and evaluate a Member grievance or appeal presented for resolution. ASH Fitness' grievance and appeal process is described in the Program Manual. This section does not preclude Fitness Center and Member from seeking any appropriate legal action to resolve any controversy, dispute or claim which is not governed by the terms of this Agreement.

ARTICLE 19 DISPUTES BETWEEN FITNESS CENTER AND ASH FITNESS.

In the event of any dispute between Fitness Center and ASH Fitness (or their respective affiliates, owners, employees, agents, predecessors, or successors) arising out of or relating to this Agreement, Fitness Center and ASH Fitness shall first attempt in good faith to resolve the dispute mutually between themselves. If Fitness Center and ASH Fitness are unable to resolve the dispute by mutual agreement then all matters in controversy shall be submitted, upon the motion of either party, to binding arbitration pursuant to the requirements of the Federal Arbitration Act, 9 U.S.C. §§ 1-16. Arbitration proceedings shall be administered by the American Arbitration Association ("AAA") in accordance with the AAA. The arbitrator shall be bound by applicable state and federal law, subject to Article 16, and shall issue a written opinion setting forth findings of fact and conclusions of law. Fitness Center and ASH Fitness agree to share equally the AAA administrative fee as well as the arbitrator's fees and expenses, if any, unless otherwise assessed by the arbitrator. The administrative fees shall be advanced by the initiating Party, subject to final apportionment by the arbitrator. In addition, except as provided below, in any arbitration commenced by the Fitness Center, if the amount of the Fitness Center's claims is less than \$10,000, the Fitness Center's share of the AAA administrative fees and the arbitrator's fees and expenses shall be capped at \$25. And if the amount of the Fitness Center's claims is between \$10,000 and \$50,000, the Fitness Center's share of the AAA administrative fees and the arbitrator's fees and expenses shall be capped at \$500. However, if the arbitrator concludes that the Fitness Center's claims are frivolous or brought for an improper purpose (as measured by the standards of Federal Rule of Civil Procedure 11(b)), then all such fees and expenses shall be allocated by the arbitrator in accordance with the AAA Commercial Arbitration Rules, and Fitness Center agrees to reimburse ASH Fitness for any monies paid on Fitness Center's behalf that would be Fitness Center's responsibility under those rules.

Fitness Center and ASH Fitness agree that the arbitrator's award may be enforced in any court having jurisdiction thereof by the filing of a petition to enforce said award. Costs of filing to have an award enforced may be recovered by the Party which brings such action.

Any arbitration proceedings shall occur in the state in which Fitness Center is providing Services to Members pursuant to this Agreement.

Unless forbidden by applicable law, Fitness Center and ASH Fitness agree that if they become involved in a claim or dispute under the arbitration process outlined herein, neither Party will disclose to any other person not directly involved in the arbitration process: (i) the substance of, or basis for, the claim; (ii) the content of any testimony or other evidence presented at the arbitration hearing or obtained through discovery; or (iii) the terms or amount of any agreement reached pursuant to arbitration.

The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim without affecting other contracted Fitness Facilities. The Contracted Fitness Center and ASH Fitness agree that they may bring claims against the other only in their respective individual capacities, and not as a plaintiff or class member in any purported class, representative, or private Attorney General proceeding. Further, unless all parties agree otherwise, the arbitrator may not consolidate more than one contracted Fitness Center's claims, and may not otherwise preside over any form of a class, representative, or private attorney general proceeding. If a court decides that applicable law precludes enforcement of any of this subsection's limitations as to a particular claim for relief, then that claim (and only that claim) must be severed from the arbitration and may be brought in court.

ARTICLE 20 DISPUTES BETWEEN FITNESS CENTER AND ASH CLIENT.

In the event of any dispute between Fitness Center and an ASH Client (or their respective affiliates, owners, employees, agents, predecessors, or successors) arising out of or relating to this Agreement, at the request of ASH Fitness, Fitness Center shall first attempt in good faith to resolve the dispute mutually with the ASH Client through ASH Fitness, including but not limited to, utilizing all available levels of ASH Fitness' grievance and appeals processes, unless otherwise prohibited by state law. Fitness Center may seek ASH Fitness' assistance with regard to any dispute by contacting ASH Fitness in writing or by telephone at the address and telephone referenced in Article 21.

ARTICLE 21 NOTICES.

Any notice required or permitted to be given under this Agreement to ASH Fitness or Fitness Center, shall be in writing and shall be (a) delivered by electronic means (i.e. ASHLink, sent via an inalterable email document (such as PDF)), (b) delivered in person, (c) sent by certified, registered mail, or "overnight express" by the United States Postal Service with return receipt requested and postage prepaid, or (d) sent "express mail," "two day delivery," "3-5 day ground" or any similar service offered by private, prepaid courier such as Federal Express, United Parcel Service or any similar organization. ASH Fitness shall send all notices to Fitness Center's ASHLink account, email or mailing address on file with ASH Fitness. Fitness Center shall provide at least thirty (30) day notice to any change in its email or mailing address to ASH Fitness via ASHLink, or to the email, or address provided below.

NOTICES TO ASH FITNESS:

American Specialty Health Fitness, Inc.
P.O. Box 509117
San Diego, CA 92150-9117

For specific email addresses, call ASH Fitness at (877) 329-2746. The appropriate email address will be provided depending on the nature of the Notice.

Notice shall be effective on the earlier of the date received or the date deemed received.

- Notices given by electronic means (i.e. ASHLink, sent via an inalterable email document (such as PDF)) shall be deemed received one (1) business day after being sent.
- Notices delivered personally shall be deemed received upon actual receipt.
- Notices given by certified or registered mail shall be deemed received two (2) United States Postal Service business days after the date mailed.
- Notices given by "3-5 day ground" will be deemed received five (5) business days after the date delivered to the United States Postal Service, Federal Express, United Parcel Service or any similar organization.
- Notices sent for delivery by any other means specified in this first paragraph of this Article shall be deemed received two (2) business days after delivery to the United States Postal Service, Federal Express, United Parcel Service or any similar organization.

ARTICLE 22 CAPTIONS.

Captions in this Agreement are descriptive only and shall not affect the intent or interpretation of this Agreement.

ARTICLE 23 NO THIRD PARTY BENEFICIARIES.

Except as otherwise expressly provided in this Agreement, nothing in this Agreement shall create or be deemed to create any rights or remedies in any third party, including but not limited to a Member or a Fitness Center other than Fitness Center, subject only to Article 25.

ARTICLE 24 AMENDMENTS.

Any amendments to this Agreement shall be mutually agreed to by the parties. Any amendments to ASH Client Lists or revisions to the Program Manual shall be issued by ASH Fitness and shall be automatically effective and

incorporated into this Agreement on the date received or deemed received pursuant to Article 21 of this Agreement, unless otherwise specified in such notice or required by applicable state law.

ARTICLE 25 INSOLVENCY OF ASH FITNESS; PROTECTION OF INTERESTS OF FITNESS CENTER, MEMBERS, AND ASH CLIENTS.

This Article shall apply only in the event of the insolvency of ASH Fitness and only if, as a result of the insolvency, ASH Fitness is unable to discharge its duties under this Agreement or its Agreement with ASH Clients.

For purposes of this Article, the insolvency of ASH Fitness means the filing of a voluntary petition by ASH Fitness, or the filing of an involuntary petition by ASH Fitness' creditors, under Chapter 7 of the Bankruptcy Code (Liquidation), and the date of the insolvency shall be the date on which any such petition is filed. The insolvency of ASH Fitness shall not include the filing of a voluntary petition by ASH Fitness, or the filing of an involuntary petition by ASH Fitness' creditors, under Chapter 11 of the Bankruptcy Code (Reorganization).

To the extent this Article grants any rights to any ASH Client, Fitness Center agrees and acknowledges that ASH Client is a third-party beneficiary of this Article and shall have all rights granted under law by a third-party beneficiary to enforce this Article.

ARTICLE 26 ENTIRE AGREEMENT.

This Agreement, subject to Attachment I, "Superseding Addendum", includes all attachments, the Program Manual, and all amendments thereto. Each Party acknowledges that no representation, inducement, promise or agreement, orally or otherwise, has been made by any Party or anyone acting on behalf of any Party, which is not embodied herein. In the event of an inconsistency between this Agreement and any ASH Client Summary or this Agreement and attachments, the ASH Client List or attachments, respectively, shall control the rights and duties of the Parties. In the event of any inconsistency between the Program Manual and this Agreement, this Agreement, together with any attachments, exhibits and amendments, including any current ASH Client List, shall control the rights and duties of the Parties.

ARTICLE 27 EFFECTIVE DATE OF AGREEMENT.

ASH Fitness will provide Fitness Center with notice of the Effective Date after Fitness Center returns one original copy of this Agreement to ASH Fitness, and all pre-contractual requirements are fulfilled based upon a determination by ASH Fitness. Fitness Center agrees to be bound by this Agreement as of the Effective Date as determined by ASH Fitness and indicated immediately below.

The Effective Date of this Agreement is _____.
[To be completed by ASH Fitness Only]

Fitness Center agrees to participate in the following attachments, as indicated with a check in the attachment(s) box:

- ☐ Attachment A: Silver&Fit Basic Attachment
- ☐ Attachment B: Silver&Fit Full Attachment
- ☐ Attachment C: Active&Fit Attachment

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the dates set forth below.

FITNESS CENTER
(type or print clearly)

AMERICAN SPECIALTY HEALTH FITNESS, INC.
(To be filled out by ASH Fitness only)

Fitness Center Legal Name

Name Signed

d/b/a (if applicable)

Name Printed

Name Signed

Title

Name Printed

Date of Signature

Title

Date of Signature

Mailing Address:
American Specialty Health Fitness, Inc.
P.O. Box 509117
San Diego, CA 92150-9001

Company Name

Office Address:
American Specialty Health Fitness, Inc.
10221 Wateridge Circle
San Diego, CA 92121

Mailing Address

City, State, Zip

**AMERICAN SPECIALTY HEALTH FITNESS, INC.
FITNESS CENTER SERVICES AGREEMENT**

ATTACHMENT A - SILVER&FIT® BASIC ATTACHMENT

1.0 DEFINITIONS.

For purposes of this attachment and in addition to the terms defined in the Agreement, the following terms shall have the meanings indicated:

- 1.01** Silver&Fit Program. The Silver&Fit Program is an exercise and healthy aging program offered to Members that are health plan enrollees eligible for Medicare coverage or are group retirees.
- 1.02** Silver&Fit Basic Fitness Center. As a Silver&Fit Basic Fitness Center shall provide Members the Standard Fitness Center Membership as set forth in Section 3.09.1 of the Agreement.

2.0 FITNESS CENTER OBLIGATIONS

In addition to the obligations in Article 3 of the Agreement, Fitness Center shall have the following obligations for this program:

- 2.01** Free Trial Obligation. Fitness Center shall offer and honor a one-time free trial (guest pass) for each Member to try out the fitness center prior to joining if the member requests one.
- 2.02** Fitness Center Listing Information. Fitness Center must maintain current and accurate listing information with ASH Fitness. Fitness Center shall notify ASH Fitness with a change to listing information in accordance with Section 3.06 of the Agreement.

AMERICAN SPECIALTY HEALTH FITNESS, INC.
FITNESS CLUB SERVICES AGREEMENT

ATTACHMENT B – SILVER&FIT FULL ATTACHMENT

1.0 DEFINITIONS.

For purposes of this attachment and in addition to the terms defined in the Agreement, the following terms shall have the meanings indicated:

- 1.01 Designated Silver&Fit Exercise Classes. Designated Silver&Fit Exercise Classes are older adult oriented exercise classes that Fitness Center agrees to allow ASH Fitness to approve as a Silver&Fit exercise class in its directory for ASH Clients and Members. The Fitness Center may choose to offer one or more classes from the following categories:

- Silver&Fit Signature Series Classes® (these classes as designed by ASH Fitness and are available to Fitness Center to offer as a Designated Silver&Fit Exercise Class. Any equipment required for these classes may either be provided by Fitness Center itself or to Fitness Center by ASH Fitness for an additional fee.)
- Senior Dance
- Senior Yoga
- Strength/Cardio Training for older adults
- Tai Chi
- Aqua
- Fall Prevention
- Special Conditions

Fitness Center shall elect how many classes it wishes to designate as a Silver&Fit Exercise Class each week in the Fitness Center Election Section of this Attachment, attached hereto as Exhibit 1. Fitness Center may not designate an older adult exercise class sponsored by or provided by any organization which is a competitor of ASH Fitness.

- 1.02 Silver&Fit Program. The Silver&Fit Program is an exercise and healthy aging program offered to Members that are health plan enrollees eligible for Medicare coverage or are group retirees.
- 1.03 Silver&Fit Full Fitness Center. As a Silver&Fit Full Fitness Center, Fitness Center shall provide Members with a Standard Fitness Center Membership as set forth in Section 3.09.1 of the Agreement, Designated Silver&Fit Exercise Classes and/or Quarterly Social Activities.
- 1.04 Quarterly Social Activities. Quarterly Social Activities are quarterly events sponsored by Fitness Center. Examples of these social events may consist of, but is not limited to, bagels and coffee, off-site walking clubs, and potlucks.

2. FITNESS CENTER OBLIGATIONS. In addition to the obligations in Article 3 of the Agreement, Fitness Center shall have the following obligations for this program:

- 2.01 Designated Silver&Fit Exercise Classes. Fitness Center agrees that it shall have at least one (1) instructor who has obtained proper credentials (e.g. certifications, teaching licenses, certificates of completion) to teach the particular Designated Silver&Fit Exercise Class. Fitness Center shall arrange

for any required payment for the exercise programs or training classes required, either by (a) Fitness Center on behalf of the instructor or (b) the instructor directly.

2.02 Free Trial Obligation. Fitness Center shall offer and honor a one-time free trial (guest pass) for each Member to try out the fitness center prior to joining if the member requests one.

2.03 Silver&Fit Exercise Classes Health and Safety Guidelines. Fitness Center shall comply with ASH Fitness' Health & Safety Guidelines for Designated Silver&Fit Exercise Classes. These guidelines are in addition to the Health and Safety Guidelines in Attachment I of this Agreement and shall be distributed to Fitness Center upon notifying ASH Fitness of its election to offer Designated Silver&Fit Exercise Classes. Upon Fitness Center's acceptance of these guidelines, the elected classes shall be listed in ASH Fitness' Fitness Center listing as Designated Silver&Fit Exercise Classes.

2.04 Fitness Center Listing Information. Fitness Center must maintain current and accurate listing information with ASH Fitness. Fitness Center shall notify ASH Fitness with a change to listing information in accordance with Section 3.06 of the Agreement.

3. ASH FITNESS OBLIGATIONS. FitnessEngagement.com. Fitness Center shall have access to a web site that will provide tools to help assist Fitness Center in providing the Silver&Fit Program to Members. The website shall include training materials to help assist with the Designated Silver&Fit Exercise Classes, as well as promotional fliers for Fitness Center to use to promote the Silver&Fit Program and Designated Silver&Fit Exercise Classes.

3.02 Silver&Fit Online Fitness Center Listing. ASH Fitness shall provide ASH Clients and Members with an online Fitness Center listing of participating Fitness Centers. The online listing shall list the Designated Silver&Fit Exercise Classes offered by Fitness Center and if Fitness Center holds Quarterly Social Activities.

AMERICAN SPECIALTY HEALTH FITNESS, INC.
FITNESS CENTER SERVICES AGREEMENT

ATTACHMENT C - ACTIVE&FIT® ATTACHMENT

1.0 DEFINITIONS.

For purposes of this Agreement and in addition to the terms elsewhere defined herein, the following terms shall have the meanings indicated:

- 1.01** Active&Fit Program. The Active&Fit Program is a fitness program whereby ASH Fitness or its affiliates arrange for the provision of Services to Members. This program provides Member with a Standard Fitness Center Membership.

2.0 FITNESS CENTER OBLIGATIONS

- 2.01** Free Trial Obligation. Fitness Center shall offer and honor a one-time free trial (guest pass) for each Member to try out the fitness center prior to joining if the member requests one.

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FITNESS CENTER SERVICES AGREEMENT

ATTACHMENT D - INTENTIONALLY LEFT BLANK

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FITNESS CENTER SERVICES AGREEMENT

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**AMERICAN SPECIALTY HEALTH FITNESS, INC.
FITNESS CENTER SERVICES AGREEMENT**

ATTACHMENT G – MEDICARE ADVANTAGE AND MEDICAID ADDENDUM

This exhibit is entered into by American Specialty Health Fitness, Inc. (“ASH Fitness”) and the Fitness Center listed on the signature page of the Agreement (“Fitness Center”) and is intended to add certain provisions to the Agreement in order to comply with requirements of the Centers for Medicare and Medicaid Services (“CMS”). If any provision in the Agreement is inconsistent with the terms of this attachment, the provisions of this attachment shall be controlling and supersede the provisions of the Agreement for Medicare Advantage and Medicaid Members.

WHEREAS, ASH Fitness has entered into contracts with ASH Clients who offer fitness benefits as part of its Medicare Advantage and/or Medicaid Managed Care plans which require ASH Fitness to include specific contract language in its contract with Fitness Center;

WHEREAS, Fitness Center will be providing Services on behalf of ASH Fitness for certain Medicare Advantage and/or Medicaid members of ASH Clients;

NOW, THEREFORE, the Parties agree to add the following provisions to the Agreement with respect to Medicare Advantage and/or Medicaid members of ASH Clients:

- 1 **Member Non-Liability.** Fitness Center shall in no event, including insolvency of ASH Fitness, hold any member liable for payment of any fees that are the legal obligation of ASH Fitness. This provision does not prohibit Fitness Center from charging the member for services not covered under this Agreement, provided the member was informed in advance and in writing of the fees to be charged. This provision shall survive termination of the Agreement. [42 C.F.R. 422.504(g)(1)(i) and 42 C.F.R. 422.504(i)(3)(i)]
- 2 **Excluded Individuals.** Fitness Center represents and warrants that Fitness Center or any person who owns more than five percent (5%) of Fitness Center are not excluded from participation in a federal or state healthcare program, including but not limited to, Medicare and Medicaid. Also, Fitness Center represents that it does not now employ or contract with, and shall not in the future employ or contract with any individual excluded from participation in such federal or state programs to provide Services to Members. Fitness Center shall check key employees and persons employed, contracted or otherwise affiliated with Fitness Center and any person owning more than five percent (5%) of Fitness Center against the appropriate lists upon hire or contract and monthly thereafter to determine if the persons have been excluded from participation in a federal or state program or has been terminated for cause or default on public transactions and public programs as well as non-reinstatement. Such lists (commonly referred to as Exclusion Lists) include, but are not limited to, the U.S. Department of Health and Human Services Office of Inspector General List of Excluded Individuals/Entities, the General Service Administration Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs, and state published Medicaid exclusion lists). For the purpose of this agreement the term “key employee” refers to all employees/contractors who are (i) involved with the receipt of funds from Members or submit claims/bills to ASH concerning services provided to Members, and (ii) individuals who lead/teach exercise classes that are specifically tailored to Members. Fitness Center shall maintain records relating to its checks of these lists in accordance with Section 8 of this addendum. Fitness Center agrees to indemnify ASH Fitness or ASH Clients, as applicable, for any civil monetary penalties levied against an ASH Client or ASH Fitness as a result of (a) Fitness Center’s failure to properly screen all employed, affiliated or contracted persons who provide Services to Members and/or hold or held more than a five percent (5%) interest in Fitness Center against the Exclusions Lists or (b) Fitness Center’s permitting an individual or entity found on the Exclusions Lists to provide Services to any Medicare Advantage Members, or otherwise be affiliated with those services, under this Agreement. Payments received by Fitness Center in circumstances where (a) or (b) above apply are also subject to recoupment by ASH Fitness upon request and Fitness Center agrees to comply with any such requests. If Fitness Center is revoked or excluded from participating in Medicare, Fitness Center shall submit, within 60 days after the effective date of the revocation or exclusion, all billing reports for services furnished prior to the CMS revocation or exclusion date. [42 C.F.R. 422.752(a)(8)]

- 3 **Compliance with Federal and State Law.** Fitness Studio acknowledges that payments for Services hereunder are, in whole or in part, derived from federal funds and receipt of such payment is subject to all laws and regulations applicable to recipients of such funds. Therefore, Fitness Center shall comply with all laws and regulations applicable to individuals and entities receiving federal funds and all other applicable federal and state laws and regulations, including, but not limited to, those laws and regulation governing participating in the Medicare Advantage or Special Needs Plan Programs, Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, as well as their implementing regulations. [42 C.F.R. 422.504(h)]
- 4 **Quality Review and Improvement.** Fitness Center shall cooperate with all independent quality review and improvement activities relating to Services being provided by Fitness Center required by ASH Fitness and/or ASH Client's or CMS pertaining to the provision of Services. [42 C.F.R. 422.204(b)(4)]
- 5 **Member Appeals and Grievances.** Fitness Center shall cooperate and comply with all ASH Fitness, ASH Clients, and CMS requirements regarding appeals of members, including the obligation to provide information to ASH Fitness within the timeframe reasonably requested for such purpose. [42 C.F.R. 422.562(a)]
- 6 **Collection of Data.** When requested by ASH Fitness, Fitness Center shall participate in the collection and submission of data to CMS. Where applicable, Fitness Center shall certify the accuracy of the data collected and submitted under this section. [42 C.F.R. 422.504(c)]
- 7 **Member Records.** In addition to the requirements set forth in Section 9.03 of the Agreement, to the extent any ASH Client member records or other health and enrollment information is maintained by Fitness Center, Fitness Center shall: 1) safeguard the privacy of any information that identifies a particular member and abide by all federal and state laws and regulations regarding confidentiality and disclosure of all protected health information; 2) maintain member records and information in an accurate and timely manner; and 3) ensure timely access by members to their own records and information in accordance with federal and State laws and regulations. Information from or copies of records may be released only in accordance with federal and state laws and regulations governing such records and the information contained therein. [42 C.F.R. 422.118]
- 8 **Records and Inspections.**
- (a) ASH Fitness and Fitness Center recognize and agree that the United States Department of Health and Human Services (DHHS), the Comptroller General, or their designees may audit, evaluate or inspect any books, contracts, and other records of ASH Fitness and Fitness Center that pertain to any aspect of services performed under this Agreement for purposes of a Medicare product, or as the Secretary of DHHS may deem necessary. ASH Fitness and Fitness Center shall retain all records related to the provision Services for a period of ten (10) years after the final date of the contract period and shall make available their premises, physical facilities and equipment, records related to the provision of Services or any additional relevant information that DHHS may require. [42 C.F.R. 422.504(e)(3)]
- (b) CMS, the Comptroller General, or their designees have the right to inspect, evaluate and audit ASH Fitness and Fitness Center for a period of ten (10) years after the final date of the contract period or the completion of an audit, whichever is later, unless: (a) CMS determines that there is a special need to retain a particular record or group of records for a longer period and notifies ASH Fitness or Fitness Center at least thirty (30) days before the normal disposition date; (b) there has been a termination, dispute or fraud or similar fault by ASH Fitness or Fitness Center in which case retention may be extended to ten (10) years from the date of any final resolution of the termination or fraud or similar fault; or (c) CMS determines that there is a reasonable possibility of fraud, in which case it may inspect, evaluate and audit ASH Fitness and Fitness Center at any time. [42 C.F.R. 422.504(e)(4)]
9. **ASH Client Accountability.** Notwithstanding anything set forth in the Agreement, Fitness Center and ASH Fitness acknowledge and agree that, with respect to Services furnished under this Agreement for ASH Client's, ASH Clients oversee and are ultimately accountable to CMS for any functions and responsibilities performed by Fitness Center.

Fitness Center shall comply with ASH Fitness's policies and procedures as set forth in the Fitness Center Program Manual. Such policies and procedures have been reviewed and approved by ASH Clients. Fitness Center shall furnish Services to members consistent with the requirements of CMS and, including but not limited to, ASH Fitness's contractual obligations to ASH Clients. [42 C.F.R. 422.504(i)(4)(iii) and 42 C.F.R. 422.112]

10. **Insolvency.** If, within sixty (60) days after the date of insolvency of ASH Fitness, an ASH Client provides written notice to Fitness Center stating that, with regard to any Member who is a beneficiary, employee, member, or insured of that ASH Client, (a) ASH Client shall pay Fitness Center, in accordance with the provisions of this Agreement, for any billing reports submitted for Services rendered by Fitness Center to any such Member on or after the date of the insolvency, to the extent ASH Fitness has not paid such reimbursements, and (b) ASH Client otherwise shall use its best efforts to discharge the duties of ASH Fitness under this Agreement, or to cause ASH Fitness to discharge those duties, with regard to any such Member, then Fitness Center shall continue to be available to render Services to those Members and shall continue to render Services to those Members in accordance with the provisions of this Agreement for up to six (6) months after the date of the insolvency, as specified by ASH Client.
11. **Compliance Training.** Fitness Center will provide its employees and any contractors directly involved in providing Services under this Agreement the CMS Medicare Parts C & D Fraud, Waste, and Abuse Training and General Compliance Training module posted on ASHLink within ninety (90) days of hire or contracting and annually thereafter and allow ASH Fitness access to Fitness Center's records upon request to ensure Fitness Center is providing the required trainings. [42 C.F.R. 422.504(h)(1)]
12. **Amendment and Severability of Contracts.** Notwithstanding any provision in the Agreement, this Exhibit may be amended upon request or mandate by CMS to comply with all relevant federal and State laws and regulations and government pronouncements. Additionally, this Exhibit shall be amended to exclude any Medicare product or State-licensed entity specified by CMS. A separate agreement for any such excluded product or entity will be deemed to be in place when such request is made. [42 C.F.R. 422.504(k)(1) and (2)]

**AMERICAN SPECIALTY HEALTH FITNESS, INC.
FITNESS CENTER SERVICES AGREEMENT**

ATTACHMENT H – PROGRAM COMPENSATION

SILVER&FIT BASIC FITNESS CENTER:

The following compensation rate is for a Silver&Fit Basic Fitness Center in the Silver&Fit Program:

Benefit Program	Standard Compensation Rate	Maximum Number of Fitness Center Visits Compensated Per Month	Monthly Compensation Maximum
Silver&Fit Basic	TBD	10	TBD

SILVER&FIT FULL FITNESS CENTER:

The following compensation rate is for a Silver&Fit Full Fitness Center in the Silver&Fit Program:

Benefit Program	Standard Compensation Rate	Maximum Number of Fitness Center Visits Compensated Per Month	Monthly Compensation Maximum
Silver&Fit Full	TBD	12	TBD

ACTIVE&FIT FITNESS CENTER:

The following compensation rate is for the Active&Fit Program:

Benefit Program	Standard Compensation Rate	Maximum Number of Fitness Center Visits Compensated Per Month	Monthly Compensation Maximum
Active&Fit	TBD	10	TBD

ATTACHMENT I
SUPERSEDING ADDENDUM

1. This superseding addendum is made and entered as of the last date in the signature box below, by and between the City of Gladstone, Missouri ("City") and American Specialty Health Fitness, Inc. ("ASH").
2. This superseding addendum form is hereby made a part of the Fitness Center Services Agreement by and between the parties hereto ("Agreement"), modifying and superseding where it is inconsistent. All other terms and conditions of the Agreement remain unchanged, and this addendum is expressly incorporated and made a part of the Agreement.
3. This Agreement shall not be deemed to create any third-party benefit hereunder for any member of the public or to authorize anyone, not a party hereto, to maintain suit pursuant to the terms of this Agreement.
4. Notwithstanding any provision of the Agreement to the contrary, the parties agree that any action at law, suit in equity, or other judicial proceeding arising out of this Agreement shall be instituted only in the Circuit Court of Clay County, Missouri or in the federal court of the Western District of Missouri.
5. Article 19, "Disputes Between Fitness Center and ASH Fitness" is deleted.
6. Notwithstanding any provision of the Agreement to the contrary, nothing in the Agreement shall constitute or be construed or deemed to constitute a waiver of the City's sovereign immunity. The parties agree that the City is not indemnifying ASH or any other person or entity for any reason whatsoever.
7. Article 7, "Hold Harmless" is deleted.
8. In accordance with the laws of the State of Missouri, specifically Missouri Constitution, art. VI, section 26, notwithstanding any provision to the contrary, nothing in the Agreement shall be construed as creating an obligation or debt beyond the City's fiscal year, and in the event that it does, performance of the City's obligations under the Agreement is expressly subject to appropriation of funds by the City year-to-year during the duration of the Agreement.
9. ASH agrees to maintain confidentiality of any nonpublic personal information or protected health information as defined by applicable federal and state law. ASH further agrees to use appropriate safeguards to prevent unauthorized use or disclosure of protected health information and will report any unauthorized use or disclosure to the City within one (1) business day of discovery.
10. ASH agrees not to disclose any confidential information received from the City or otherwise acquired while performing the services. Confidential information for purposes of this section is information that would constitute a closed record under Missouri's Sunshine Law, Chapter 610, RSMo.

11. Paragraph 3.15, "Liability Insurance Limits" is deleted.

12. City represents and covenants that at all times during the Term of this Agreement it will be insured or self-insured for public liability risks in an amount of at least \$1,000,000 per occurrence.

City shall cause ASH to be named as an additional insured on its general liability insurance policy.

13. Notwithstanding any provision of the Agreement to the contrary, the parties acknowledge that the City is subject to the Missouri Sunshine Law, Chapter 610, RSMo, and furthermore the Agreement shall not preclude in any manner the City's ability to respond to a request for records and the City is not obligated to notify the ASH of the Sunshine Law request prior to responding, and furthermore any disclosure by the City pursuant to the Missouri Sunshine Law shall not be considered a breach of any portion of the Agreement.

American Specialty Health Fitness, Inc.:	City of Gladstone, Missouri:
_____	_____
By: _____	By: Scott Wingerson
Title: _____	City Manager
Dated: _____	Dated: _____



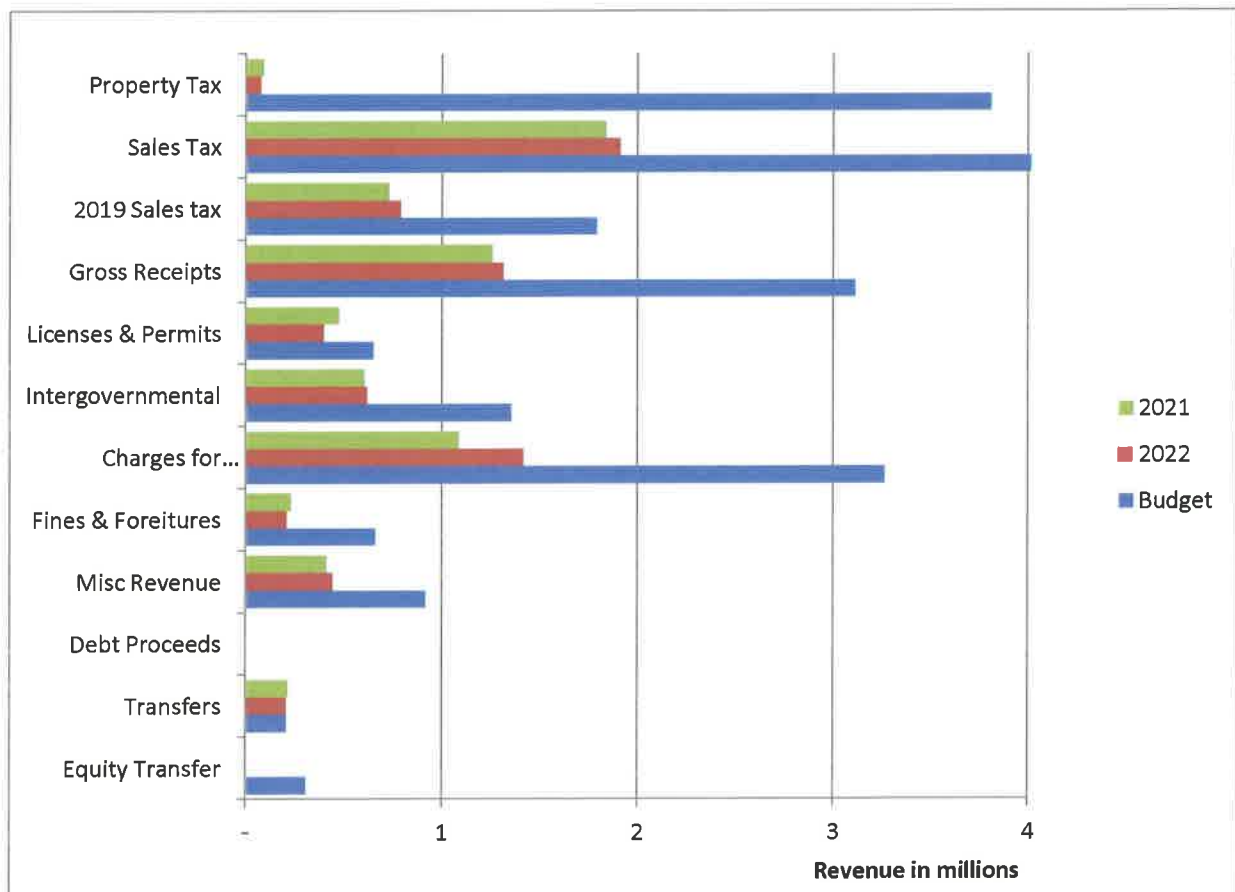
CITY OF GLADSTONE MISSOURI

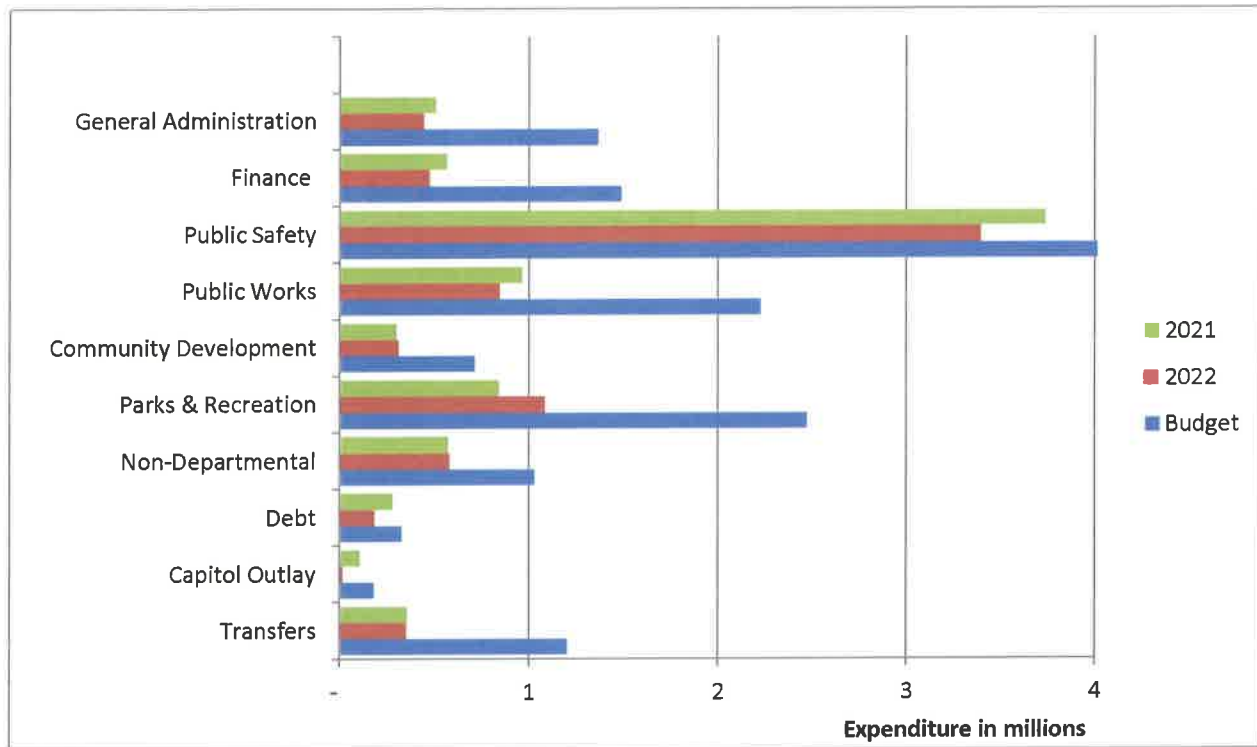
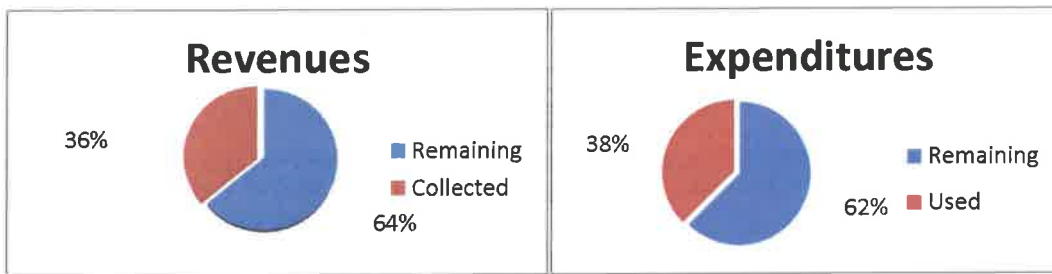
Financial Report for 5 Months Ending
November 30, 2021

GENERAL FUND

General Fund Revenues

Total revenues for the General Fund through 5 months or 42% of this fiscal year are \$7,409,219 compared to total budgeted revenues for the year of \$20,483,988 or 36% of budgeted revenue. Property tax revenue received is \$81,920. Sales tax on a cash basis is \$1,915,242 or \$74,885 (4%) more than previous year. The 2019 sales tax (1/2 cent sales tax passed in 2019) is \$789,800, an increase of 9%. Gross receipts taxes are \$1,318,835, an increase of \$60,954 or 5% from last year due to timing differences. License and Permit revenues are \$397,460 or \$76,416 (16%) less than FY21 due to the issuing of building permits for large construction projects in the prior year. Intergovernmental revenue is \$619,591 or \$17,463 (3%) over the previous year. Charges for Services are \$1,421,167 an increase of 31% or \$334,831 compared to the previous year primarily due to recreation activities. Fines and Forfeitures have decreased 8% from the prior year to \$212,145. Miscellaneous Revenue is \$446,309, an increase of \$32,454 due to increases in the sale of assets and downtown rent. Debt proceeds are not budgeted for the current fiscal year. Transfers made to the fund amount to \$206,750. An equity transfer of \$305,000 is budgeted for the General Fund.

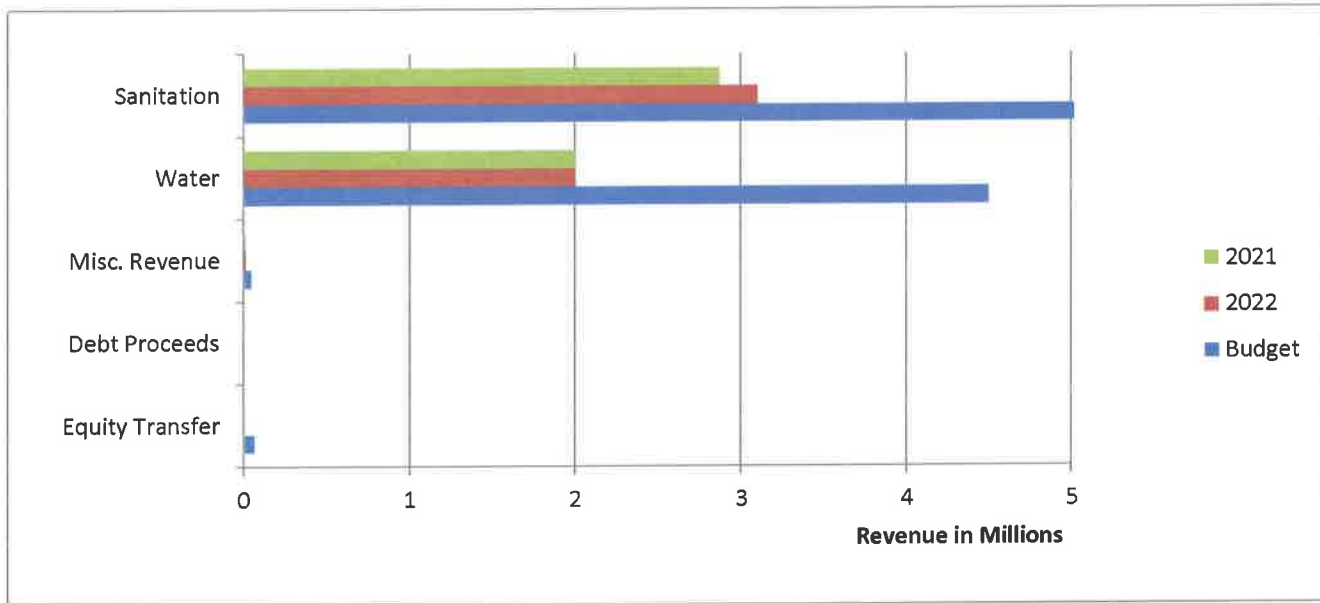




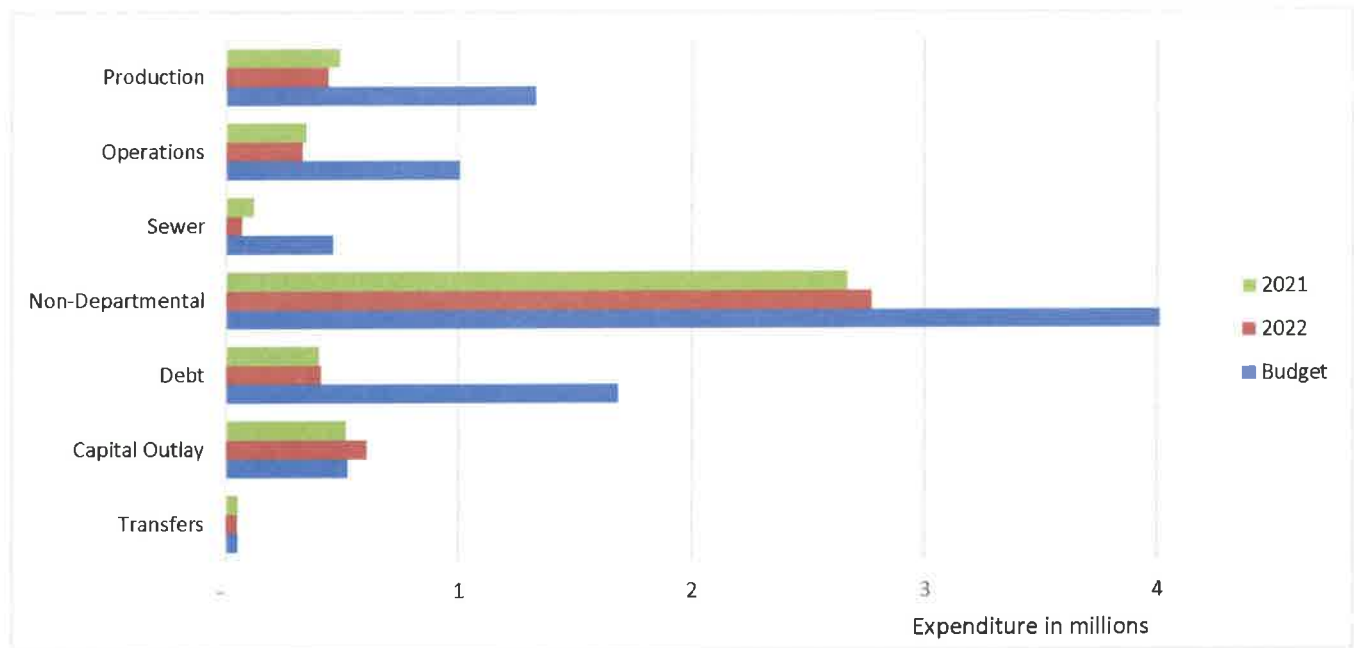
Expenditures through 5 months or 42% of this fiscal year amounted to \$7,687,554 or 38% of FY22 budgeted expenditures of \$20,483,988. This indicates that actual expenditures are 6% or \$512,208 less than last year's expenditures of \$8,199,762. The primary reason for the difference is that in FY21, July had three payroll periods. For FY22, July had only two. All departments experienced a significant decrease in period one (this difference is temporary and is only a timing difference). General Administration expenditures are \$444,380, a decrease of \$60,510 or 12% due to contractual payments (timing of Magazine). Finance expenditures have decreased \$87,701 (16%) to \$473,701 due to the timing of software support maintenance. Public Safety expenditures are \$3,397,745, a decrease of \$339,668 (9%). Public Works expenditures are \$847,316, \$115,883 or 12% less than the prior year due to the timing of road salt purchases and the Beautification event held last fall. Community Development expenditures are \$309,246, a decrease of \$13,037 (4%) due to abatement/mowing. Parks & Recreation expenditures are \$1,084,908, an increase of 29% or \$248,806 from the same time last year due to increases in Senior and Recreation activities. Non-Departmental expenditures are \$579,575, an increase of 2% or \$10,493 due to increases in liability and property insurance and training. Debt payments are \$183,317, a decrease of 33% or \$91,733 due to moving debt payments of the 2020 and 2019 lease purchases to CERF. Capitol Outlay is \$17,366. Transfers made to other funds amount to \$350,000. Current expenditures exceed current revenues by \$278,336. This is due to the full payment of property and liability insurance in July and the majority of property tax receipts will occur in January.

COMBINED WATER AND SEWERAGE SYSTEM FUND

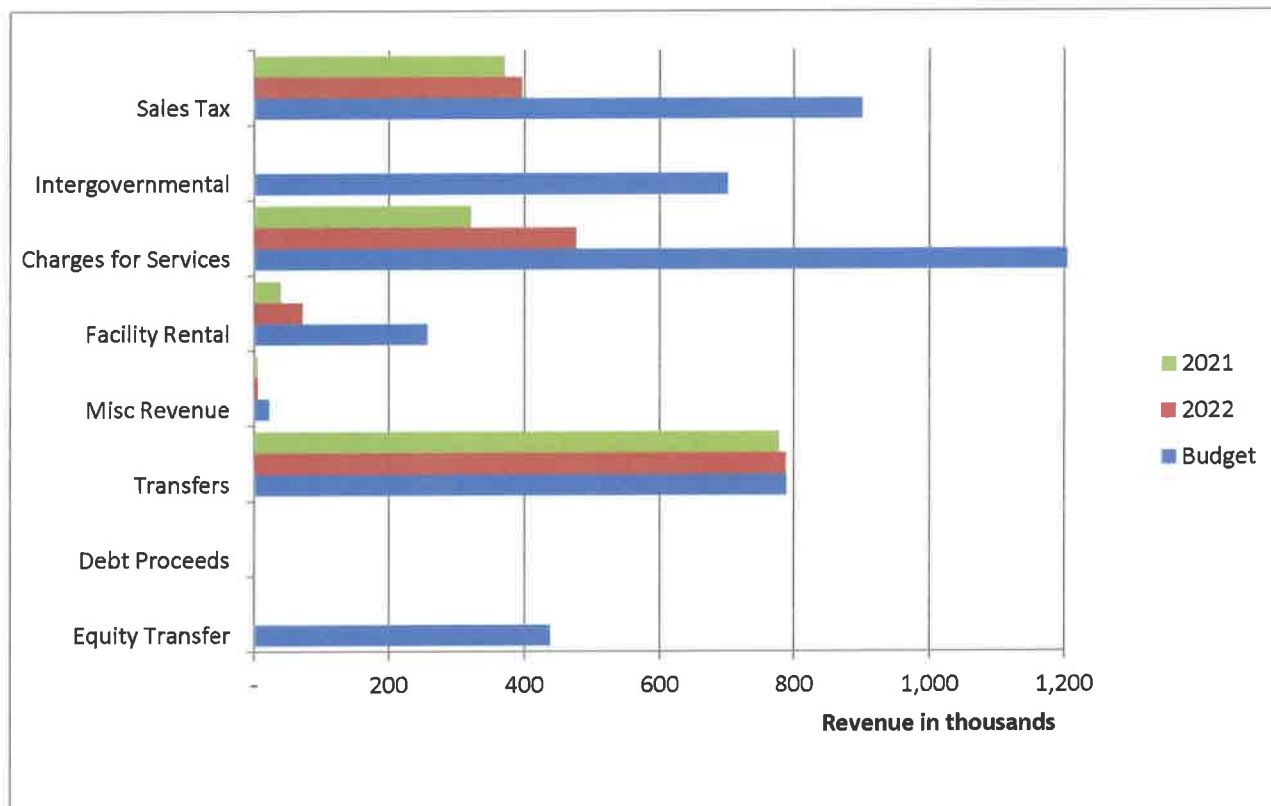
Total budgeted revenues for the fiscal year are \$12,227,438. Total revenues through 5 months or 42% of this fiscal year, amounted to \$5,126,368 or 42% of FY22 budgeted revenues. Although consumption has decreased, operating revenues are up \$239,081 (5%) from the previous year due to increased water and sewer rates.

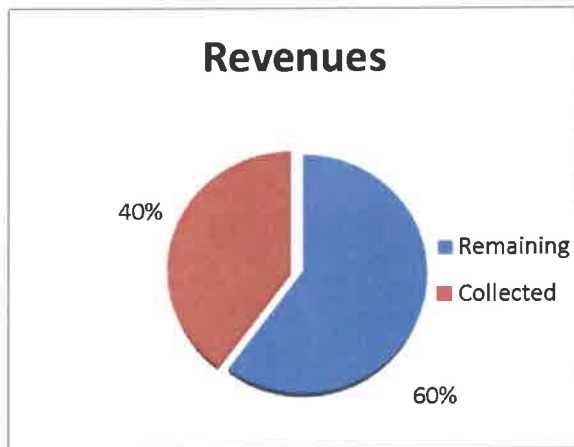


Total budgeted expenditures for the fiscal year are \$12,227,438. Total expenditures through 5 months or 42% of this fiscal year amounted to \$4,693,697 or 38% of FY22 budgeted expenditures. The same payroll difference occurred in the CWSS Fund as the General Fund (three payrolls in July of FY2021 and two payrolls in July of FY2022). Differences other than decreases in payroll are noted in the following narrative. Production expenditures are down \$45,710 (9%) to \$443,596 due to timing of equipment maintenance. Operations division expenditures are \$332,793, a decrease of \$12,409 (4%). Sewer division expenditures have decreased \$46,747 (40%) to \$71,250 due to the timing of sewer line maintenance. Non-departmental expenditures are \$2,772,569, up \$105,505 due to the increase in sewage rates. Payments for debt have increased 3% or \$11,340 to \$413,950 due to the 2020 COP. Capital outlay is \$609,539. Transfers for the fund are \$50,000. Current revenues exceed current expenditures by \$432,670.



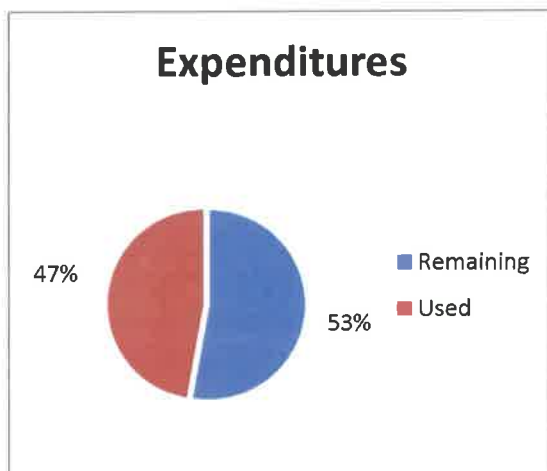
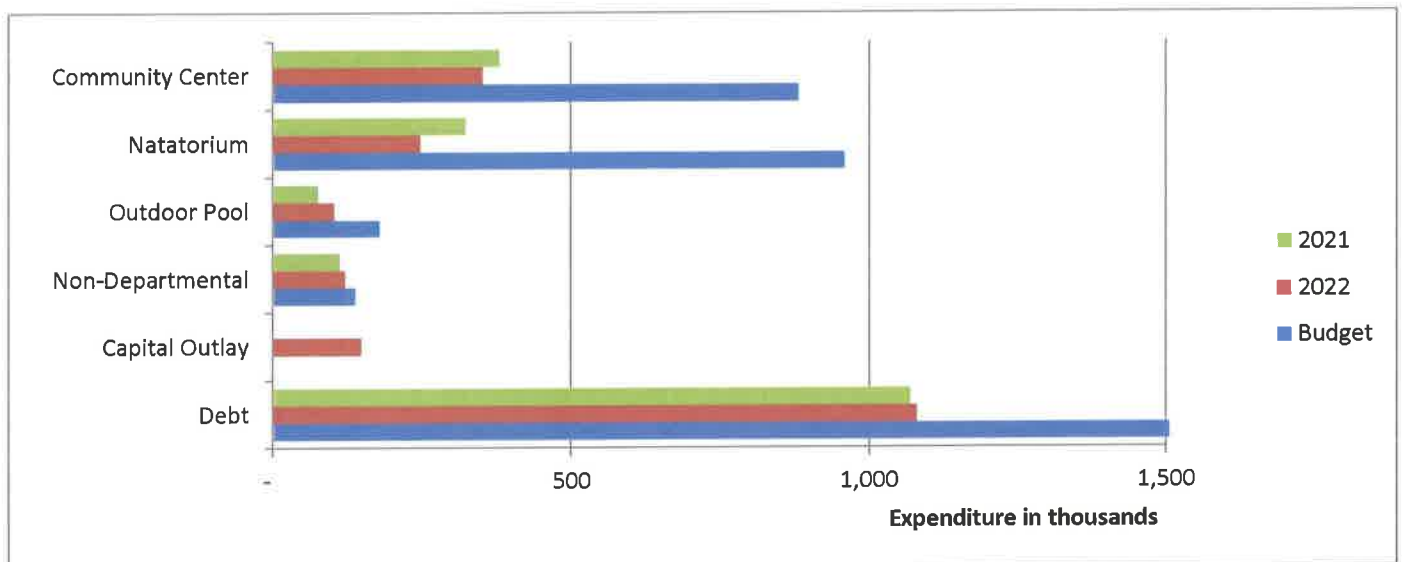
COMMUNITY CENTER AND PARKS TAX FUND





Total budgeted revenues for the fiscal year are \$4,358,940. Total revenues through 5 months or 42% of this fiscal year, amounted to \$1,738,496 or 40% of FY22 budgeted revenues. Sales tax received is \$396,349, an increase of \$26,888 from the previous year. Intergovernmental revenue (Charge to the North Kansas City School District for the natatorium) is usually received in January. Charges for Services are \$475,934, an increase of \$155,522 from the previous year. Revenue from facility rental is \$72,536, an increase of \$33,395. Miscellaneous revenue is \$5,377. Budgeted transfers to the fund are \$788,300. Equity transfer budgeted for the fiscal year is \$437,109. Although revenue increases from

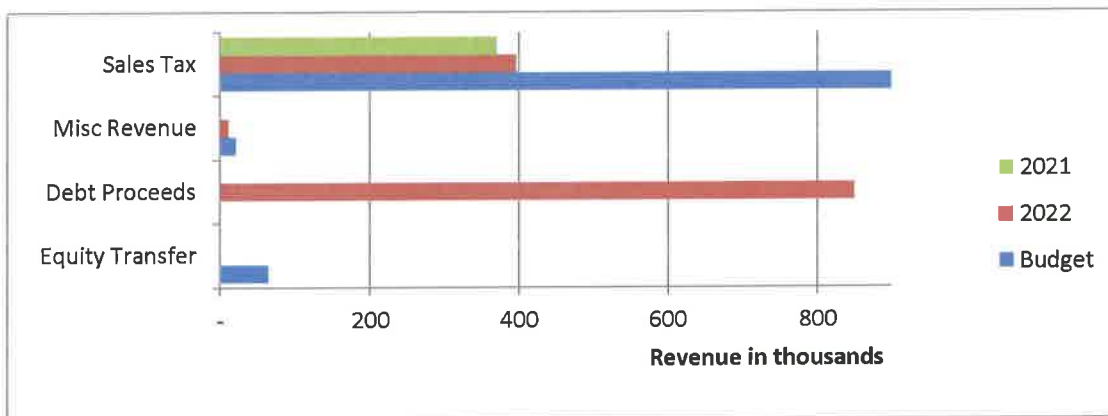
charges for services and facility rental are significant, percentages of total budgeted revenue for those two categories are lagging as a total percentage of the budget year (42% into the budget year and 38% of charges for services and 28% of facility rental collected).



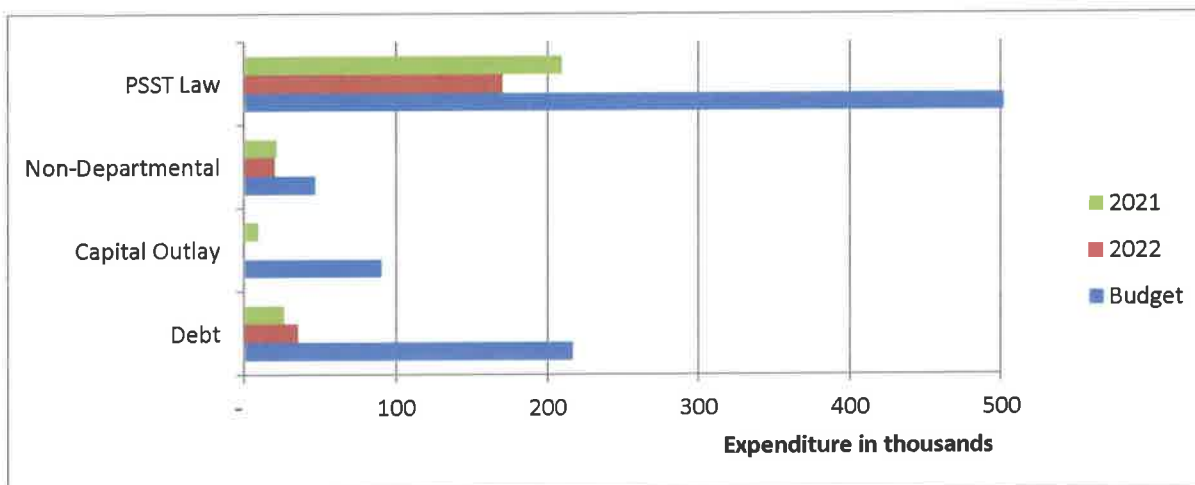
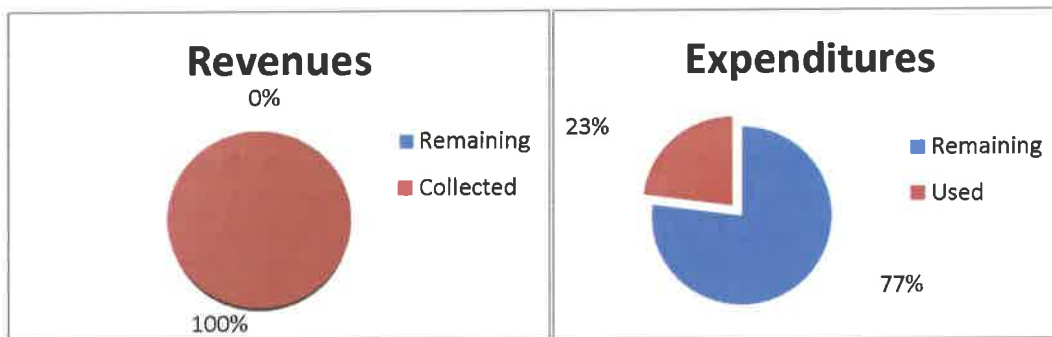
Total budgeted expenditures for the fiscal year are \$4,358,940. Total expenditures through 5 months or 42% of this fiscal year amounted to \$2,055,904 or 47% of FY22 budgeted expenditures. The same payroll difference occurred in the CCPT Fund as the General Fund (three payrolls in FY2021 and two payrolls in FY2022). Differences other than decreases in payroll are noted in the following narrative. Community Center expenditures have decreased \$27,724 (7%) from the same time last year to \$352,218. Natatorium expenditures are \$248,527, a decrease of \$75,144 (23%) due to vacant positions. Outdoor Pool expenditures are \$103,274, an increase of \$26,923 due to increases in part time personnel costs. Non-departmental expenditures have increased

\$9,254 to \$121,779 due to increases in property and liability insurance. Expenditures for Capital Outlay are \$149,322. Debt has increased by \$11,949 to \$1,080,784 due to the 2020A COP. Current expenditures exceed current revenues by \$317,409.

PUBLIC SAFETY SALES TAX FUND



Total budgeted revenues for the fiscal year are \$985,818. Total revenues through 5 months or 42% of this fiscal year amounted to \$1,257,822 or 128% of FY22 budgeted revenues. Sales tax on a cash basis is \$396,341, or an increase of \$27,018 (7%). Miscellaneous revenue is \$11,481. Debt proceeds of \$850,000 are from a lease purchase for the purchase of new radios (revenue budget will be budgeted at midyear).



Total budgeted expenditures for the fiscal year are \$985,818. Total expenditures through 5 months or 42% of this fiscal year are \$226,176 or 23% of the FY22 budgeted expenditures. The same payroll difference occurred in the PSST Fund as the other funds (three payrolls in FY2021 and two payrolls in FY2022). Differences other than decreases in payroll are noted in the following narrative. Law division is \$170,048, down \$39,202 (19%) from the same time last year due to vacant positions. Non-Departmental is \$20,317, compared to \$21,240 during the previous year. Capital outlay is budgeted at \$90,000 (police vehicles and radios have been ordered but not received). Budget for the radios will be added at midyear. Payments for debt are \$35,811, an increase of \$9,600 due to the radio lease purchase executed at the beginning of the 2022 fiscal year. Current revenue over expense for the fund is \$1,031,645 (\$181,645 not including lease purchase debt proceeds).

Respectfully submitted,

A handwritten signature in dark ink, reading "Dominic Accurso". The signature is fluid and cursive, with a large initial "D".

Dominic Accurso
Director of Finance



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # 22-01

ORD # 4.578

Date: 1/4/2022

Department: General Administration

Meeting Date Requested: 1/10/2022

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: This ordinance declares that a municipal election for the City of Gladstone, Missouri will take place on Tuesday, April 5, 2022. Three individuals have filed for one available position: Bill Garnos (incumbent), Taylor Sherrell, and Cody Allen McElroy. After adoption of this ordinance, the City Clerk will certify the names attached with the Clay County Election Board prior by January 25, 2022.

Background: N/A

Budget Discussion: Funds are budgeted in the amount of \$0 from the N/A Fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$

Public/Board/Staff Input: Staff recommends approval of the proposed ordinance.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Scott Wingerson
City Manager

JM
City Attorney

BILL NO. 22-01

ORDINANCE NO. 4.578

AN ORDINANCE CALLING A GENERAL ELECTION FOR THE ELECTION OF ONE POSITION TO THE GLADSTONE CITY COUNCIL ON TUESDAY, APRIL 5, 2022; DESCRIBING THE FORM OF THE BALLOT AND DIRECTING THE CITY CLERK TO SUBMIT CERTIFICATION OF SUCH ELECTION TO THE CLAY COUNTY BOARD OF ELECTION COMMISSIONERS PURSUANT TO RSMo. 115.125.

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

Section 1. General Election Called.

A General Councilmanic Election shall be, and the same is hereby ordered to be held in the City of Gladstone, Missouri, on Tuesday, April 5, 2022, and the following candidate names shall be printed on the ballot in the order of the filing as the nominee for one Gladstone City Council position as indicated:

FOR COUNCILMEMBER

Three Year Term

(Vote for One)

Bill Garnos
Taylor Sherrell
Cody Allen McElroy

Section 2. Notification.

The City Clerk is hereby directed to notify the Board of Election Commissioners of Clay County, Missouri, of the enactment of this Ordinance pursuant to RSMo 115.125.

INTRODUCED, READ, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI THIS 10th DAY OF JANUARY, 2022.

RD Mallams, Mayor

Attest:

Becky Jarrett, Deputy City Clerk

First Reading: January 10, 2022

Second Reading: January 10, 2022



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # 22-02

ORD # 4.579

Date: 1/4/2022

Department: General Administration

Meeting Date Requested: 1/10/2022

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: An Ordinance declaring a 2016 Ford Transit Van surplus property and authorizing the City Manager to enter into an agreement with the Clay County Sheriff's Department to transfer ownership of said property in exchange for prisoner housing credit.

Background: The Police Department is currently in possession of a 2016 Ford Transit Van that is equipped for transporting prisoners. The vehicle has been rarely utilized and often sits for extended periods of time, which has contributed to ongoing maintenance issues. The Clay County Sheriff's Department has started a specialized unit for transporting municipal prisoners and has expressed an interest in purchasing the under-utilized vehicle. The Sheriff's Department has agreed to provide prisoner housing credit in exchange for ownership of the vehicle. Both parties have agreed that \$30,000 is fair market value for the vehicle.

Budget Discussion: Funds are budgeted in the amount of \$0 from the N/A Fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$

Public/Board/Staff Input: Staff recommends approving the proposed Ordinance

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Bob Baer
Department Director/Administrator

SW
City Manager

JM
City Attorney

BILL NO. 22-02

ORDINANCE NO. 4.579

AN ORDINANCE DECLARING A 2016 FORD TRANSIT VAN SURPLUS PROPERTY AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE CLAY COUNTY SHERIFF'S DEPARTMENT TO TRANSFER OWNERSHIP OF SAID PROPERTY IN EXCHANGE FOR MUNICIPAL PRISONER HOUSING CREDIT.

WHEREAS, the City of Gladstone presently owns a 2016 Ford Transit Van equipped specifically for transporting detained individuals; and

WHEREAS, the Clay County Sheriff's Department has instituted a prisoner transport service, which significantly decreases the need for the Police Department to transport detained subjects; and

WHEREAS, The Clay County Sheriff's Department presently houses municipal inmates for the City of Gladstone for a daily fee; and

WHEREAS, the Clay County Sheriff's Department has agreed to provide \$30,000 worth of prisoner housing credit in exchange for the 2016 Ford Transit Van.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI AS FOLLOWS:

THAT, the 2016 Ford Transit Van, VIN# 1FTBW2CG8GKa41566, is hereby declared surplus property of the City of Gladstone; and

FURTHER, THAT, the City Manager of the City of Gladstone is hereby authorized to enter into an agreement with the Clay County Sheriff's Department to exchange the surplus vehicle for \$30,000 in prisoner housing credit.

INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 10TH DAY OF JANUARY, 2022.

R.D. Mallams, Mayor

ATTEST:

Becky Jarrett, Deputy City Clerk

1st Reading: January 10, 2022

2nd Reading: January 10, 2022

AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2022 (the “**Effective Date**”) by and between the City of Gladstone, Missouri, (the “**City**”) and Clay County, Missouri (the “**County**”), (collectively referred to herein as the “**Parties**”).

WHEREAS, the County currently accepts and houses at the Clay County Detention Center certain inmates detained under the City’s authority; and,

WHEREAS, the City desires to sell and convey a certain vehicle to the County for a credit from the County of Thirty Thousand Dollars and NO/100 Cents (\$30,000.00) towards the housing of City inmates at the Clay County Detention Center; and,

WHEREAS, the Parties desire to enter in this Agreement to reflect the same.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE MUTUAL PROMISES, COVENANTS AND AGREEMENTS HEREIN CONTAINED, THE ADEQUACY AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED AND CONFESSED, THE PARTIES HERETO DO MUTUALLY PROMISE, COVENANT AND AGREE AS FOLLOWS:

- I. **The City’s Conveyance.** Subject to the terms and provisions of this Agreement, and in consideration of the payment by the County, the City agrees to sell and convey to County a vehicle as described herein, including all rights, title, and interest in the same. The City shall convey such vehicle to the County on a date mutually agreeable to the Parties, in no event shall such date be later than 45 days after the Effective Date of this Agreement. The vehicle to be conveyed is conveyed “AS IS,” and the City makes no representations or warranties as to the condition or performance of the vehicle. County has done its due diligence regarding the vehicle to be conveyed and accepts it “AS IS” in its condition at the time of conveyance.

Vehicle to be conveyed:

1. Make: Ford
2. Model: Transit Van
3. Year: 2016
4. Vehicle Identification Number (VIN): 1FTBW2CG8GKA41566

- II. **The County’s Payment.** Subject to the terms and provisions of this Agreement, and in consideration of the conveyance by the City, the County agrees to provide the City with a credit of Thirty Thousand Dollars and NO/100 Cents (\$30,000.00) towards the housing of those certain inmates detained under the City’s authority at the Clay County Detention Center. Such credit to be provided to the City immediately upon the date of the conveyance referred to in paragraph I. Should City inmates, for any reason, no longer be housed at the Clay County Detention Center, County shall promptly tender payment of all credit remaining due to the City.

- III. **Notices.** All notices required by this Agreement shall be in writing sent by regular U.S. mail, postage prepaid, commercial overnight courier, or facsimile to the following. All notices mailed by regular U.S. mail are effective three (3) days after mailing

The City: City of Gladstone, Missouri
Attn: Scott Wingerson – City Manager
7010 North Holmes
Gladstone, Missouri 64118

The County: Clay County Sheriff's Department
Attn: Will Akin - Sheriff
12 South Water
Liberty, MO 64068

- IV. **Compliance With Laws.** The Parties shall comply with all federal, state and local laws, ordinances and regulations applicable to this Agreement.
- V. **No Third-Party Benefit.** The provisions of this Agreement shall not be deemed to create any third-party benefit hereunder for any member of the public or to authorize anyone, not a party hereto, to maintain suit pursuant to the terms of this Agreement.
- VI. **Assignment.** Neither Party shall assign any rights or duties under this Agreement without the prior written consent of the other party, which consent may be granted or withheld in such other party's absolute discretion.
- VII. **Severability.** Should one or more of the provisions of this Agreement be determined to be illegal or unenforceable, the other provisions nonetheless shall remain in full force and effect. The illegal or unenforceable provision or provisions shall be deemed amended to conform to applicable laws so as to be valid and enforceable if such an amendment would not materially alter the intention of the parties.
- VIII. **Entire Agreement; Governing Law.** This Agreement constitutes the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and negotiations with respect thereto. This Agreement may be amended only by a written instrument signed by all parties. This Agreement shall be governed by the laws of the State of Missouri. In the event this Agreement is litigated, venue shall be proper only in the Circuit Court of Clay County, Missouri.
- IX. **Counterparts.** This Agreement may be executed in separate counterparts.

X. **Authority.** Each party represents to the other parties that it has the power and authority to enter into this Agreement and that the person(s) executing it on its behalf has the power to do so and to bind it to the terms of this Agreement.

XI. **Binding Effect.** This Agreement shall be binding upon the Parties and their successors in interest.

IN WITNESS WHEREOF, the County and the City have executed this Agreement as of the Effective Date.

CLAY COUNTY, MISSOURI:

CITY OF GLADSTONE, MISSOURI:

By: _____

By: _____

Name: Will Akin

Name: Scott Wingerson

Title: Clay County Sheriff

Title: City Manager

Dated: _____

Dated: _____



Community Development Department Memorandum

DATE: December 29, 2021

TO: Scott C. Wingerson, City Manager

FROM: Alan D. Napoli, Community Development Administrator | Building Official

CC: Austin Greer, Assistant to the City Manager | Community Development Director

RE: Kansas City Area Transportation Authority's Divided Contract for Fiscal Year July 1, 2021 thru June 30, 2022.

On the City Council's January 10, 2022 agenda for their consideration are two (2) transit contracts for Kansas City Area Transportation Authority (KCATA). Due to COVID the July 1, 2020 thru June 30, 2021 contracts were split into two (2) six (6) month contracts. This again is being done for the July 1, 2021 thru June 30, 2022 contracts.

Last budget year 2021 the two (2) contract were presented to the City Council during their respective six (6) month period. This budget year 2022 we did not receive the first six (6) month contract till mid-late October 2021 and we received the second six (6) month contract mid-late November 2021. Therefore, I held off presenting to the City Council until the January Meeting so that we can have a representative(s) from KCATA present an update during the open study session on January 10, 2022.

Because we have not had a signed contract with KCATA for the July 1, 2021 thru December 31, 2021 we have not, to date, been billed for any services.

I have spoken with representatives from KCATA and advised them that with the July 1, 2022 thru June 30, 2023 contract, it be a one (1) year contract.



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # 22-03

ORD # 4.580

Date: 1/4/22

Department: Community Development

Meeting Date Requested: 1/10/22

Public Hearing: Yes ☐ Date: Click here to enter a date.

Subject: (July 2021- Dec 2021) Approval or Ordinance for contract between the City of Gladstone and Kansas City Area Transportation Authority (KCATA) for ongoing transit services and maintenance assistance.

Background: The KCATA operates six routes through the City of Gladstone. The cost of these services has remained drastically low due to COVID-19 reducing the ridership. Therefore, the City and KCATA have agreed to continue, for the budget year July 1, 2021 through June 30, 2022, a six month contract for July 1, 2021 through December 31, 2021; which may have revised costs dependent upon ridership increase, and routes returning to normal.

The cost of services for this contract is \$37,559. After all subsidies, the City's share is \$27,279.00. The property management services cost related to the regular maintenance of the shelters and amenities is \$10,489.00. Total cost for July 1, 2021 through December 31, 2021 contract, and transit service management assistance is \$37,768.00.

In addition to the local share and property management, the City and KCATA have agreed to a project holder of \$5,000.00 for implementation of the North Oak Fast and Frequent Transit Service. COVID-19 has continued to slow this down, but the implementation and transit plan is still viable.

The total cost with local share, property management and project holder is \$42,768.00.

Budget Discussion: Funds are budgeted in the amount of \$ 122,238.00 from the N/A Fund. Ongoing costs are estimated to be \$ 128,350.00 annually. Previous years' funding was \$122,238.00

Public/Board/Staff Input: None.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Alan D. Napoli, C.B.O.
Community Development Administrator
Building Official

SW
Scott Wingerson

JM
City Attorney

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS BETWEEN THE CITY OF GLADSTONE, MISSOURI, AND THE KANSAS CITY AREA TRANSPORTATION AUTHORITY TO PROVIDE PUBLIC TRANSPORTATION SERVICES AND PROPERTY MANAGEMENT ASSISTANCE FOR THE PERIOD OF JULY 1, 2021, THROUGH DECEMBER 31, 2021.

WHEREAS, the City Council of the City of Gladstone, Missouri, has determined that entering into a contract with Kansas City Area Transportation Authority (KCATA) for the retention of public transportation to serve Gladstone residents during the period of July 1, 2021, through December 31, 2021, will benefit the city; and

WHEREAS, the cost of public transit and property management services to be provided by KCATA to the residents of the City of Gladstone, Missouri, is estimated to be \$42,768.00; and

WHEREAS, the total obligation of public transit services to the City of Gladstone is estimated to be \$27,279.00; and

WHEREAS, the cost of management services provided by the KCATA to regularly maintain the transit stops amenities is estimated to be \$10,489.00; and

WHEREAS, the City of Gladstone is participating in the KCATA implementation plan for the North Oak Fast and Frequent Transit Service.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

THAT, the City Manager is hereby authorized to execute the contract with Kansas City Area Transportation Authority for public transit services within Gladstone at a cost not to exceed \$27,279.00.

FURTHER, THAT, the City Manager is authorized to execute additional contract services for the property management services for a total cost not to exceed \$10,489.00.

FURTHER, THAT, the City Manager is authorized to execute additional contract services for the North Oak Trafficway implementation plan for the Fast and Frequent Service Transit Service at a cost not to exceed \$5,000.00.

FURTHER, THAT, expenditures of such funds is hereby authorized from the Transportation Sales Tax fund.

INTRODUCED, READ, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 10TH DAY OF JANUARY 2022.

RD Mallams, Mayor

Attest:

Becky Jarrett, Deputy City Clerk

First Reading: January 10, 2022

Second Reading: January 10, 2022

**City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021**

KANSAS CITY AREA TRANSPORTATION AUTHORITY

A Contract for Transit Service and Management Assistance

GLADSTONE, MISSOURI

THIS CONTRACT entered into this ____ day of _____, 2021 by and between the **KANSAS CITY AREA TRANSPORTATION AUTHORITY** (hereinafter referred to as the “KCATA”), a body corporate and politic and a political subdivision of both the States of Missouri and Kansas and the **CITY OF GLADSTONE, MISSOURI** (hereinafter referred to as the “Community”).

WITNESSETH:

WHEREAS, a sound, efficient and viable public transportation system is essential to the socio-economic wellbeing of the Kansas City Area Transportation District (hereinafter referred to as the “District”), including the Counties of Cass, Clay, Jackson, and Platte in Missouri, and the Counties of Johnson, Leavenworth, and Wyandotte in Kansas; and

WHEREAS, the KCATA is a public agency authorized by law to plan, own, operate, have and generally deal with public transportation systems and facilities in the District; and

WHEREAS, the Community desires to promote the convenience, comfort, prosperity, general interests and welfare of its citizens, and

WHEREAS, the public transportation facilities and services of most immediate concern are those estimated to be provided by the KCATA at a deficit, generally described in amounts and, more specifically, by the formula set forth in Attachment “A” adopted in January 1976, modified in August 1977, revised in January 1983, and in December 1997.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

A.) Public Mass Transit Services

1. The Community requests public transportation services (hereinafter referred to as “Contract Service”), set forth in Attachment “B,” be operated by the KCATA for the period July 1, 2021, through December 31, 2021.
2. The level of service, as generally set forth in Attachment “B,” shall not be changed or be modified without the consent of the Community.
3. The computations and, more specifically, the formula contained in Attachment “A” attached hereto and made a part hereof, are the accepted methods for the determination of the estimated deficit of the Community.

City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021

4. The KCATA and the Community estimate the Community's total payment for the service (hereinafter referred to as "Local Share") to be **\$27,279**. This estimate is based on the following components of cost and revenue to be applied to the Agreement:

Service Cost	\$ 37,559
Passenger Revenue	\$ (0)
Estimated Total Deficit	\$ 37,559
Federal Preventative Maintenance	\$ (8,001)
State of Missouri	\$ (0)
Local Operating Contribution	\$ 26,808
Local Capital Contribution	\$ 471
Total Local Share	\$ 27,279

5. It is the understanding of the parties that, notwithstanding any provision of this Agreement, the maximum obligation of the Community under this Contract for public transit service shall be the sum of **\$27,279**. If the actual total deficit and other factors are such that the KCATA deems the full Local Share is not required, the KCATA shall require payment of less than the Local share, or reimburse the Community for a portion of the Local Share previously paid.
6. The method of payment of the Local Share provided for in Paragraph "4" is as follows:
- a. The Community's monthly Local Share will be one-twelfth of the Community's portion of the estimated total deficit amount for the twelve-month period.
 - b. The KCATA will invoice the community for 100% of Community monthly Local Share by the 15th of the month preceding the month service will be provided. The Community is required to remit 100% of the monthly Local Share by the first of the month service will be provided.
 - c. By the 20th of the month following the month in which service was provided, the KCATA will provide the Community with reports showing service capital and operating costs and revenue for Contract Services. The report will also provide a reconciliation of subsidy amounts with the advance payment provided to in Sub-paragraph "b." The report will detail Local Share, and Federal and State Share amounts used to cover the month's service deficit. Any balance of Local Share subsidy required by the reconciliation will be invoiced at this time, to be paid within ten days.
 - d. For the month of December, the monthly report and reconciliation provided for in Sub-paragraph "c" will not be prepared until the completion of the KCATA's annual audit.
7. When the estimated total deficit of \$37,559 is reached, KCATA's obligation to furnish services shall terminate. The Community and KCATA may mutually agree to amend this

**City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021**

Contract to provide additional operating subsidy or to adjust the level of service so that the cost of such service will not exceed the contractual subsidy.

8. If, for any reason, the KCATA is unable to obtain the federal or state assistance (the Federal and State Share), as provided for in Paragraph "4" of this Contract. The Community will be immediately notified, and this Contract will be amended to provide additional Local Share subsidy or to adjust the level of service. If a satisfactory amendment is not agreed to after a reasonable period, KCATA's obligation to furnish services will terminate.
9. The KCATA shall indemnify, save and hold the Community harmless from any and all damage, loss or liability of any kind whatsoever arising out of this Contract, including, but not limited to, any loss occasioned by reason of any injury to property or third persons occasioned, in whole or in part, by any act, omission, neglect or wrongdoing of the KCATA, or any of its officers, agents, representatives or employees. At its own cost and expense, the KCATA will defend all losses arising therefrom.

B. Contracted Property Management Services

1. The Community has requested, and KCATA has agreed to install passenger amenities at locations (see Attachment "C") that do not meet KCATA's policy threshold for deploying such amenities
2. The Community has requested that KCATA clean, maintain, inspect, and repair the installed passenger amenities at these locations.
3. The Community agrees to reimburse the KCATA for the cleaning and inspection costs, as shown in Attachment "C" for the period from July 1, 2021 – December 31, 2021.
4. The fee to be paid by the Community to KCATA for these services is **\$10,489**.
5. The Community will make monthly payments of \$1,748.16 to KCATA for these services. KCATA will invoice the Community for the monthly amount by the 15th of the month preceding the month services will be provided. The Community is required to remit the monthly fee by the first of each month of which services will be provided.
6. Regular stop cleaning and inspection services will consist of the following:
 - a. Power washing the panels and dome tops of the passenger shelters inside and out, washing any information kiosks and cleaning of glass or 21 acrylic panels.
 - b. Remove any debris within the area of the transit stop.
 - c. Emptying all litter containers and relining said containers with new plastic bags.
 - d. Removal of graffiti on the shelter, benches, kiosks, and the area surrounding the transit stop. Inspection and safety monitoring of electrical and lighting services.
5. For repair of damaged stop or amenities, replacement of damaged shelter panels or other components or any other special maintenance required, KCATA will request prior

City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021

approval from the Community for repairs or other work projected to be in excess of \$500, unless repair constitutes a safety hazard requiring immediate action to correct. The Community agrees to reimburse the KCATA for the actual cost of the approved repair work and KCATA administration based on invoices submitted to the Community.

6. This Agreement shall be for an initial one-year term that shall be automatically renewed for an additional four successive one-year terms at the above-stipulated rates until terminated. Either party may terminate this Agreement by giving notice to the other party no less than thirty days prior to the July 1 renewal date. In addition, either party may terminate this Agreement upon thirty days' written notice for just cause. Upon such termination, the terminating party shall remit to the non-terminating party its share of costs then due and owing.
7. This Agreement may be modified at any time with the concurrence of both parties.

C. Total Community Funding Obligation

Public Mass Transit Service	\$27,279
Contracted Property Management Services	\$10,489
North Oak Project Holder	<u>\$ 5,000</u>
Total	\$42,768

FOR THE KANSAS CITY AREA TRANSPORTATION AUTHORITY

By: _____

David Bower, Chairman

Date: _____

FOR THE CITY OF GLADSTONE

By: _____

Date: _____

Name and Title: Scott Wingerson, City Manager

Attachments

Attachment A: Revenue and Cost Allocation Procedures
Attachment B: Contract Service
Attachment C: Bus Stop Maintenance

ATTACHMENT "A"

REVENUE AND COST ALLOCATION PROCEDURES

Operating Expense and Revenue

The procedure to be used in determining passengers, direct operating expenses, indirect operating expenses, farebox revenue, and estimated loss for transit service shall be as follows:

- A. **Passengers and Revenue** - The number of passengers and the amount of revenue reported will be derived from electronic farebox reports.
1. Revenue figures are computed as follows:
 - a. Total Fare Revenue is the total farebox revenue plus pass sales proration.
 - b. Pass Sales proration for a line is the Pass Sales Revenue multiplied by a pass utilization factor as determined by data from electronic fareboxes.
 2. Passenger types - definitions
 - a. Intra-city passenger - a passenger boarding and alighting in the same jurisdiction.
 - b. Inter-city passenger - a passenger who boards in one jurisdiction and alights in another.
 3. Computation of inter-city and intra-city passengers
 - a. Intra-city passengers for each subsidizing jurisdiction will be determined by multiplying total passengers by the appropriate intra-city passenger ratios, as determined by periodic activity checks. An intra-city passenger ratio is the ratio of passengers who both board and alight a bus within that community to total route passengers on the line.
 - b. Inter-city passengers for the route will be determined by subtracting the intra-city passengers from the total route passengers.
- B. **Direct Operating Expenses** - Each route shall be charged direct labor and benefits based on scheduled pay hours (including allowances, spread, guarantee, and overtime) times the fully burdened operator cost per hour of service for each type of bus used

City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021

(Large, Small, or RideKC Flex). Each route shall be charged fuel and tire expense for the same type of bus used (Large, Small, or RideKC Flex) in the proportion of route miles per type of bus to total system miles for the same type of bus.

C. Indirect Operating Expenses - Indirect operating expenses shall be allocated to each route on the ratio of route miles to total system miles for the same type of bus used (Large, Small, or RideKC Flex). Indirect operating expenses include all expenses except direct labor and fuel and tire expense, such as maintenance cost, vanpool operations, administrative and overhead expense, and a contribution to self-insured reserves for revenue vehicle and workers compensation.

D. Estimated Net Income or Loss - Intra-City Routes - Estimated net income or loss for each route shall be calculated by subtracting total fare revenue for each route from the total operating expenses for each route.

E. Allocation of Net Income or Loss on Inter-City Routes.

1. Suburban Express Routes

- a. A suburban express route is a route or portion of a route that is designed to serve inter-city passengers and suburban community intra-city passengers and does not serve Kansas City, Missouri, intra-city passengers.
- b. Net income or net losses of inter-city routes shall be prorated among the subsidizing jurisdictions by calculating the net loss per passenger (total operating expense less total fare revenue) and then multiplying the net loss per passenger by the number of passengers boarding in each jurisdiction.

2. Local Service Inter-City Routes

- a. A local service inter-city route is a route designed to serve Kansas City, Missouri, intra-city passengers, as well as inter-city passengers and suburban community intra-city passengers.
- b. Revenue shall be credited among subsidizing jurisdictions by assigning intra-city passenger revenue to the jurisdiction in which the trips are made. Inter-city passenger revenue shall be assigned by calculating the revenue per inter-city passenger and then by multiplying the revenue per inter-city passenger by the number of inter-city passengers boarding in each jurisdiction.
- c. Operating costs shall be allocated among subsidizing jurisdictions as follows:
 - (l) Direct labor costs shall be allocated based on operator cost per hour of service multiplied by the actual time operated in each jurisdiction.

**City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021**

- (2) Fuel and tire expense in the proportion of miles in each jurisdiction to total system miles.
 - (3) Indirect operating expense in the proportion of miles in each jurisdiction to total system miles.
 - d. The Net Income or Loss for each jurisdiction is calculated as the sum of direct labor cost, fuel and tire expense, and indirect operating expense, less passenger revenue credit.
- F. Capital Expense** - Each jurisdiction will be charged capital expense, prorated on community miles to system miles, to be used for the acquisition of buses, facilities, and other equipment. The capital charge may be used for the purchase of vans for a vanpool operation that will facilitate in providing a regional transit system. Such vanpool operation must provide service to or from the Community that is reasonable when compared to the amount of the Community's capital contribution for the vans.
- G. Enclave Communities** - Local service inter-city routes operating from a part of Kansas City, Missouri, through another jurisdiction and into another portion of Kansas City, Missouri, will be treated differently for the allocation of Net Income or Loss. The Net Income or Loss for the intermediate (enclave) jurisdiction will be based on 50% of the calculated cost for that jurisdiction per Item "E." The remaining 50% of the calculated cost within the intermediate jurisdiction will be allocated to Kansas City, Missouri.
- H. For Service Implemented After December 31, 1997** – Service implemented after December 31, 1997, that is above the service level that exists as of December 31, 1997, will be allocated costs as stated in other sections of this Appendix, except for Indirect Operating Expenses. Indirect Operating Expenses shall be allocated to such service based on 45 percent of the ratio of route miles to total system miles for each type of bus. Indirect Operating Expenses include all expenses except direct labor and fuel and tire expense, such as maintenance cost, vanpool operations, administrative and overhead expenses, etc.

City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021

ATTACHMENT "B"

CITY OF GLADSTONE

CONTRACT SERVICE

Four fixed routes provide service between Gladstone and downtown Kansas City, Missouri, and one fixed route provides service with an east-west axis traversing the Northland. There is one demand-responsive Flex zone providing service within Gladstone (#299-Gladstone/Antioch RideKC Flex).

The **#201 - North Oak*** route operates between Zona Rosa, Boardwalk Square, Barry Road, North Oak, Burlington, downtown KCMO, and Crown Center. The route runs seven days per week. Weekday service runs 5:04 AM-11:230 PM with hourly off-peak and thirty-minute peak frequency. **COVID schedule - Saturday runs hourly 6:32 AM-11:25 PM, Sunday runs hourly 8:31 AM-11:25 PM.

The **#238 - Meadowbrook *** operates between Maple Woods Community College, Northland Human Services, Gladstone (via MO-1 and N. Prospect), Antioch Center, Briarcliff, North Kansas City, and downtown Kansas City. Service runs hourly from approximately 6:07 AM to 6:47 PM, Monday through Friday. It runs from 7:00 AM to 6:47 PM on Saturday. There are twelve southbound trips and twelve northbound trips Monday through Friday. There are twelve southbound trips and twelve northbound trips on Saturday. **COVID schedule – Saturday service schedule

The **#299 – Gladstone/Antioch Flex *** provides a weekday demand responsive service from 8:00 AM to 3:30 PM. The zone boundaries are 72nd Street on the north; Antioch/N. Prospect, Bales, Brighton, and Bennington on the east; Parvin, Chouteau, Vivion, and Englewood Road on the south; Chouteau, N. Troost and N. Broadway on the west. **COVID schedule – Weekday service schedule to be operated

**City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021**

ATTACHMENT “C”

CITY OF GLADSTONE - BUS STOP MAINTENANCE

This Agreement covers the July 1, 2021 to December 31, 2021 maintenance costs for the following transit stops in Gladstone, Missouri:

1. Southbound transit stop at 70th & North Oak (shelter, passenger platform, trash can, electronic kiosk, and cleaning).
2. Northbound transit stop at 70th & North Oak (bench, passenger platform, trash can, electronic kiosk, and cleaning).
3. Southbound transit stop at 72nd & North Prospect (shelter, passenger platform, trash can, and cleaning).
4. Southbound transit stop at North Oak Trafficway & NE 61st Street (passenger platform, bench, trans can, and cleaning).
5. Southbound transit stop at North Prospect (M-1 HWY) at NE 68th Street (passenger platform, bench, trans can, and shelter cleaning).
6. Northbound transit stop at 68th & North Oak (passenger platform, bench, trans can, and cleaning).
7. In addition to the full-service maintenance at the above three stops, KCATA will provide weekly trash and recycling service at four additional local bus stops in Gladstone.
8. If requested by the City of Gladstone, KCATA will provide a bench, a recycling/trash container, and a weekly trash/recycling service at two additional local bus stops in Gladstone. The costs for these will be in keeping with the unit costs in the below table.

The total 2020-2021 annual bus stop maintenance cost for these stops in Gladstone is **\$10,489**, as detailed in the following table. Any new services will be in addition to what is shown in this table.

Cleaning and Inspection Items	Stops	Annual Occurrences	Rate Per Occurrence	Annual Cost
Transit stop cleaning - weekly <i>The combined rate for cleaning shelter stops</i>	N/A	26	\$286.44	\$7,447.50
Trash removal – Weekly	12	26	\$8.04	\$2,508.50.
Semi-Annual In-Depth Electrical Inspection	2	1	\$97.50	\$195.
Electrical inspection and maintenance – monthly at two shelter locations	2	5	\$33.80	\$338.
Total annual bus stop maintenance cost:				\$10,489

- Electrical power to the two kiosks at 70th and North Oak will be provided by the City and directly billed and paid by the City. KCATA will inspect monthly the electric lines and connections at the 70th and North Oak bus stops and kiosks.

City of Gladstone - Annual Contract
July 1, 2021 – December 31, 2021

- Required repairs to these items will be billed separately. Any repairs (other than emergency safety-related repairs needing immediate action) expected to cost more than \$500 will be undertaken by KCATA only after prior City approval and City funding commitment in keeping with Section B of this Agreement.
- Total maintenance cost does not include the cost of any requested electric line locates, which will be billed to the City at the actual cost of KCATA's contractor (Black and McDonald) and KCATA's administrative expense.



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # 22-04

ORD # 4.581

Date: 1/4/22

Department: Community Development

Meeting Date Requested: 1/10/22

Public Hearing: Yes ☐ Date: Click here to enter a date.

Subject: (Jan 2022- June 2022) Approval of Ordinance for contract between the City of Gladstone and Kansas City Area Transportation Authority (KCATA) for ongoing transit services and maintenance assistance.

Background: The KCATA operates six routes through the City of Gladstone. The cost of these services has remained drastically low due to COVID-19 reducing the ridership. Therefore, the City and KCATA agreed to continue, for the budget year July 1, 2021 through June 30, 2022, a six month contract for January 1, 2022, through June 30, 2022; which may have revised costs dependent upon ridership increase, and routes returning to normal.

The cost of services for this contract is \$52,337. After all subsidies, the City's share is \$27,577.00. The property management services cost related to the regular maintenance of the shelters and amenities is \$10,489.00. Total cost for the July 1, 2021 through December 31, 2021 contract, and transit service management assistance is \$38,066.00.

In addition to the local share and property management, the City and KCATA have agreed to a project a holder of \$5,000.00 for implementation of the North Oak Fast and Frequent Transit Service. COVID-19 has continued to slow this down, but the implementation and transit plan is still viable.

The total cost with local share, property management, and project holder is \$43,066.00.

Budget Discussion: Funds are budgeted in the amount of \$ 122,238.00 from the N/A Fund. Ongoing costs are estimated to be \$ 128,350.00 annually. Previous year's funding was \$122,238.00

Public/Board/Staff Input: None.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Alan D. Napoli, C.B.O.
Community Development Administrator
Building Official

SW
City Manager

JM
City Attorney

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS BETWEEN THE CITY OF GLADSTONE, MISSOURI, AND THE KANSAS CITY AREA TRANSPORTATION AUTHORITY TO PROVIDE PUBLIC TRANSPORTATION SERVICES AND PROPERTY MANAGEMENT ASSISTANCE FOR THE PERIOD OF JANUARY 1, 2022, THROUGH JUNE 30, 2022.

WHEREAS, the City Council of the City of Gladstone, Missouri, has determined that entering into a contract with Kansas City Area Transportation Authority (KCATA) for the retention of public transportation to serve Gladstone residents during the period of January 1, 2022, through June 30, 2022, will benefit the city; and

WHEREAS, the cost of public transit and property management services to be provided by KCATA to the residents of the City of Gladstone, Missouri, is estimated to be \$43,066.00; and

WHEREAS, the total obligation of public transit services to the City of Gladstone is estimated to be \$27,577.00; and

WHEREAS, the cost of management services provided by the KCATA to regularly maintain the transit stops amenities is estimated to be \$10,489; and

WHEREAS, the City of Gladstone is participating in the KCATA implementation plan for the North Oak Fast and Frequent Transit Service.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

THAT, the City Manager is hereby authorized to execute the contract with Kansas City Area Transportation Authority for public transit services within Gladstone at a cost not to exceed \$27,577.00.

FURTHER, THAT, the City Manager is authorized to execute additional contract services for the property management services for a total cost not to exceed \$10,489.00.

FURTHER, THAT, the City Manager is authorized to execute additional contract services for the North Oak Trafficway implementation plan for the Fast and Frequent Service Transit Service at a cost not to exceed \$5,000.00.

FURTHER, THAT, expenditures of such funds is hereby authorized from the Transportation Sales Tax fund.

INTRODUCED, READ, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 10TH DAY OF JANUARY 2022.

RD Mallams, Mayor

Attest:

Becky Jarrett, Deputy City Clerk

First Reading: January 10, 2022

Second Reading: January 10, 2022

**City of Gladstone – 6 Month Contract
January 1, 2022 – June 30, 2022**

KANSAS CITY AREA TRANSPORTATION AUTHORITY

A Contract for Transit Service and Management Assistance

GLADSTONE, MISSOURI

THIS CONTRACT entered into this ____ day of _____, 2021 by and between the **KANSAS CITY AREA TRANSPORTATION AUTHORITY** (hereinafter referred to as the “KCATA”), a body corporate and politic and a political subdivision of both the States of Missouri and Kansas and the **CITY OF GLADSTONE, MISSOURI** (hereinafter referred to as the “Community”).

WITNESSETH:

WHEREAS, a sound, efficient and viable public transportation system is essential to the socio-economic wellbeing of the Kansas City Area Transportation District (hereinafter referred to as the “District”), including the Counties of Cass, Clay, Jackson, and Platte in Missouri, and the Counties of Johnson, Leavenworth, and Wyandotte in Kansas; and

WHEREAS, the KCATA is a public agency authorized by law to plan, own, operate, have and generally deal with public transportation systems and facilities in the District; and

WHEREAS, the Community desires to promote the convenience, comfort, prosperity, general interests and welfare of its citizens, and

WHEREAS, the public transportation facilities and services of most immediate concern are those estimated to be provided by the KCATA at a deficit, generally described in amounts and, more specifically, by the formula set forth in Attachment “A” adopted in January 1976, modified in August 1977, revised in January 1983, and in December 1997.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

A.) Public Mass Transit Services

1. The Community requests public transportation services (hereinafter referred to as “Contract Service”), set forth in Attachment “B,” be operated by the KCATA for the period January 1, 2022, through June 30, 2022.
2. The level of service, as generally set forth in Attachment “B,” shall not be changed or be modified without the consent of the Community.
3. The computations and, more specifically, the formula contained in Attachment “A” attached hereto and made a part hereof, are the accepted methods for the determination of the estimated deficit of the Community.

**City of Gladstone – 6 Month Contract
January 1, 2022 – June 30, 2022**

4. The KCATA and the Community estimate the Community's total payment for the service (hereinafter referred to as "Local Share") to be **\$27,577**. This estimate is based on the following components of cost and revenue to be applied to the Agreement:

Service Cost	\$ 25,868
Additional SCV Contribution	\$ 26,469
Passenger Revenue	\$ (0)
Estimated Total Deficit	\$ 52,337
Federal Preventative Maintenance	\$ (8,002)
State of Missouri	\$ (\$226)
COVID Funding	<u>\$ (17,000)</u>
Local Operating Contribution	\$ 27,108
Local Capital Contribution	<u>\$ 469</u>
Total Local Share	\$ 27,577

5. It is the understanding of the parties that, notwithstanding any provision of this Agreement, the maximum obligation of the Community under this Contract for public transit service shall be the sum of **\$27,577**. If the actual total deficit and other factors are such that the KCATA deems the full Local Share is not required, the KCATA shall require payment of less than the Local share, or reimburse the Community for a portion of the Local Share previously paid.
6. The method of payment of the Local Share provided for in Paragraph "4" is as follows:
- a. The Community's monthly Local Share will be one-twelfth of the Community's portion of the estimated total deficit amount for the twelve-month period.
 - b. The KCATA will invoice the community for 100% of Community monthly Local Share by the 15th of the month preceding the month service will be provided. The Community is required to remit 100% of the monthly Local Share by the first of the month service will be provided.
 - c. By the 20th of the month following the month in which service was provided, the KCATA will provide the Community with reports showing service capital and operating costs and revenue for Contract Services. The report will also provide a reconciliation of subsidy amounts with the advance payment provided to in Sub-paragraph "b." The report will detail Local Share, and Federal and State Share amounts used to cover the month's service deficit. Any balance of Local Share subsidy required by the reconciliation will be invoiced at this time, to be paid within ten days.
 - d. For the month of December, the monthly report and reconciliation provided for in Sub-paragraph "c" will not be prepared until the completion of the KCATA's annual audit.

**City of Gladstone – 6 Month Contract
January 1, 2022 – June 30, 2022**

7. When the estimated total deficit of \$52,337 is reached, KCATA's obligation to furnish services shall terminate. The Community and KCATA may mutually agree to amend this Contract to provide additional operating subsidy or to adjust the level of service so that the cost of such service will not exceed the contractual subsidy.
8. If, for any reason, the KCATA is unable to obtain the federal or state assistance (the Federal and State Share), as provided for in Paragraph "4" of this Contract. The Community will be immediately notified, and this Contract will be amended to provide additional Local Share subsidy or to adjust the level of service. If a satisfactory amendment is not agreed to after a reasonable period, KCATA's obligation to furnish services will terminate.
9. The KCATA shall indemnify, save and hold the Community harmless from any and all damage, loss or liability of any kind whatsoever arising out of this Contract, including, but not limited to, any loss occasioned by reason of any injury to property or third persons occasioned, in whole or in part, by any act, omission, neglect or wrongdoing of the KCATA, or any of its officers, agents, representatives or employees. At its own cost and expense, the KCATA will defend all losses arising therefrom.

B. Contracted Property Management Services

1. The Community has requested, and KCATA has agreed to install passenger amenities at locations (see Attachment "C") that do not meet KCATA's policy threshold for deploying such amenities
2. The Community has requested that KCATA clean, maintain, inspect, and repair the installed passenger amenities at these locations.
3. The Community agrees to reimburse the KCATA for the cleaning and inspection costs, as shown in Attachment "C" for the period from July 1, 2021 – December 31, 2021.
4. The fee to be paid by the Community to KCATA for these services is **\$10,489**.
5. The Community will make monthly payments of \$1,748.16 to KCATA for these services. KCATA will invoice the Community for the monthly amount by the 15th of the month preceding the month services will be provided. The Community is required to remit the monthly fee by the first of each month of which services will be provided.
6. Regular stop cleaning and inspection services will consist of the following:
 - a. Power washing the panels and dome tops of the passenger shelters inside and out, washing any information kiosks and cleaning of glass or 21 acrylic panels.
 - b. Remove any debris within the area of the transit stop.
 - c. Emptying all litter containers and relining said containers with new plastic bags.
 - d. Removal of graffiti on the shelter, benches, kiosks, and the area surrounding the transit stop. Inspection and safety monitoring of electrical and lighting services.

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5. For repair of damaged stop or amenities, replacement of damaged shelter panels or other components or any other special maintenance required, KCATA will request prior approval from the Community for repairs or other work projected to be in excess of \$500, unless repair constitutes a safety hazard requiring immediate action to correct. The Community agrees to reimburse the KCATA for the actual cost of the approved repair work and KCATA administration based on invoices submitted to the Community.
6. This Agreement shall be for an initial one-year term that shall be automatically renewed for an additional four successive one-year terms at the above-stipulated rates until terminated. Either party may terminate this Agreement by giving notice to the other party no less than thirty days prior to the July 1 renewal date. In addition, either party may terminate this Agreement upon thirty days' written notice for just cause. Upon such termination, the terminating party shall remit to the non-terminating party its share of costs then due and owing.
7. This Agreement may be modified at any time with the concurrence of both parties.

C. Total Community Funding Obligation

Public Mass Transit Service	\$27,577
Contracted Property Management Services	\$10,489
North Oak Project Holder	<u>\$ 5,000</u>
Total	\$43,066

FOR THE KANSAS CITY AREA TRANSPORTATION AUTHORITY

By: _____

David Bower, Chairman

Date: _____

11-17-21

FOR THE CITY OF GLADSTONE

By: _____

Date: _____

Name and Title: Scott Wingerson, City Manager

Attachments

Attachment A: Revenue and Cost Allocation Procedures
Attachment B: Contract Service
Attachment C: Bus Stop Maintenance

ATTACHMENT “A”

REVENUE AND COST ALLOCATION PROCEDURES

Operating Expense and Revenue

The procedure to be used in determining passengers, direct operating expenses, indirect operating expenses, farebox revenue, and estimated loss for transit service shall be as follows:

- A. **Passengers and Revenue** - The number of passengers and the amount of revenue reported will be derived from electronic farebox reports.
1. Revenue figures are computed as follows:
 - a. Total Fare Revenue is the total farebox revenue plus pass sales proration.
 - b. Pass Sales proration for a line is the Pass Sales Revenue multiplied by a pass utilization factor as determined by data from electronic fareboxes.
 2. Passenger types - definitions
 - a. Intra-city passenger - a passenger boarding and alighting in the same jurisdiction.
 - b. Inter-city passenger - a passenger who boards in one jurisdiction and alights in another.
 3. Computation of inter-city and intra-city passengers
 - a. Intra-city passengers for each subsidizing jurisdiction will be determined by multiplying total passengers by the appropriate intra-city passenger ratios, as determined by periodic activity checks. An intra-city passenger ratio is the ratio of passengers who both board and alight a bus within that community to total route passengers on the line.
 - b. Inter-city passengers for the route will be determined by subtracting the intra-city passengers from the total route passengers.
- B. **Direct Operating Expenses** - Each route shall be charged direct labor and benefits based on scheduled pay hours (including allowances, spread, guarantee, and overtime) times the fully burdened operator cost per hour of service for each type of bus used

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(Large, Small, or RideKC Flex). Each route shall be charged fuel and tire expense for the same type of bus used (Large, Small, or RideKC Flex) in the proportion of route miles per type of bus to total system miles for the same type of bus.

- C. Indirect Operating Expenses** - Indirect operating expenses shall be allocated to each route on the ratio of route miles to total system miles for the same type of bus used (Large, Small, or RideKC Flex). Indirect operating expenses include all expenses except direct labor and fuel and tire expense, such as maintenance cost, vanpool operations, administrative and overhead expense, and a contribution to self-insured reserves for revenue vehicle and workers compensation.
- D. Estimated Net Income or Loss - Intra-City Routes** - Estimated net income or loss for each route shall be calculated by subtracting total fare revenue for each route from the total operating expenses for each route.
- E. Allocation of Net Income or Loss on Inter-City Routes.**
1. Suburban Express Routes
 - a. A suburban express route is a route or portion of a route that is designed to serve inter-city passengers and suburban community intra-city passengers and does not serve Kansas City, Missouri, intra-city passengers.
 - b. Net income or net losses of inter-city routes shall be prorated among the subsidizing jurisdictions by calculating the net loss per passenger (total operating expense less total fare revenue) and then multiplying the net loss per passenger by the number of passengers boarding in each jurisdiction.
 2. Local Service Inter-City Routes
 - a. A local service inter-city route is a route designed to serve Kansas City, Missouri, intra-city passengers, as well as inter-city passengers and suburban community intra-city passengers.
 - b. Revenue shall be credited among subsidizing jurisdictions by assigning intra-city passenger revenue to the jurisdiction in which the trips are made. Inter-city passenger revenue shall be assigned by calculating the revenue per inter-city passenger and then by multiplying the revenue per inter-city passenger by the number of inter-city passengers boarding in each jurisdiction.
 - c. Operating costs shall be allocated among subsidizing jurisdictions as follows:
 - (1) Direct labor costs shall be allocated based on operator cost per hour of service multiplied by the actual time operated in each jurisdiction.

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- (2) Fuel and tire expense in the proportion of miles in each jurisdiction to total system miles.
 - (3) Indirect operating expense in the proportion of miles in each jurisdiction to total system miles.
 - d. The Net Income or Loss for each jurisdiction is calculated as the sum of direct labor cost, fuel and tire expense, and indirect operating expense, less passenger revenue credit.
- F. Capital Expense** - Each jurisdiction will be charged capital expense, prorated on community miles to system miles, to be used for the acquisition of buses, facilities, and other equipment. The capital charge may be used for the purchase of vans for a vanpool operation that will facilitate in providing a regional transit system. Such vanpool operation must provide service to or from the Community that is reasonable when compared to the amount of the Community's capital contribution for the vans.
- G. Enclave Communities** - Local service inter-city routes operating from a part of Kansas City, Missouri, through another jurisdiction and into another portion of Kansas City, Missouri, will be treated differently for the allocation of Net Income or Loss. The Net Income or Loss for the intermediate (enclave) jurisdiction will be based on 50% of the calculated cost for that jurisdiction per Item "E." The remaining 50% of the calculated cost within the intermediate jurisdiction will be allocated to Kansas City, Missouri.
- H. For Service Implemented After December 31, 1997** – Service implemented after December 31, 1997, that is above the service level that exists as of December 31, 1997, will be allocated costs as stated in other sections of this Appendix, except for Indirect Operating Expenses. Indirect Operating Expenses shall be allocated to such service based on 45 percent of the ratio of route miles to total system miles for each type of bus. Indirect Operating Expenses include all expenses except direct labor and fuel and tire expense, such as maintenance cost, vanpool operations, administrative and overhead expenses, etc.

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ATTACHMENT “B”

CITY OF GLADSTONE

CONTRACT SERVICE

Four fixed routes provide service between Gladstone and downtown Kansas City, Missouri, and one fixed route provides service with an east-west axis traversing the Northland. There is one demand-responsive Flex zone providing service within Gladstone (#299-Gladstone/Antioch RideKC Flex).

The **#201 - North Oak*** route operates between Zona Rosa, Boardwalk Square, Barry Road, North Oak, Burlington, downtown KCMO, and Crown Center. The route runs seven days per week. Weekday service runs 5:04 AM-11:230 PM with hourly off-peak and thirty-minute peak frequency. **COVID schedule - Saturday runs hourly 6:32 AM-11:25 PM. Sunday runs hourly 8:31 AM-11:25 PM.

The **#238 - Meadowbrook *** operates between Maple Woods Community College, Northland Human Services, Gladstone (via MO-1 and N. Prospect), Antioch Center, Briarcliff, North Kansas City, and downtown Kansas City. Service runs hourly from approximately 6:07 AM to 6:47 PM, Monday through Friday. It runs from 7:00 AM to 6:47 PM on Saturday. There are twelve southbound trips and twelve northbound trips Monday through Friday. There are twelve southbound trips and twelve northbound trips on Saturday. **COVID schedule – Saturday service schedule

The **#299 – Gladstone/Antioch Flex *** provides a weekday demand responsive service from 8:00 AM to 3:30 PM. The zone boundaries are 72nd Street on the north; Antioch/N. Prospect, Bales, Brighton, and Bennington on the east; Parvin, Chouteau, Vivion, and Englewood Road on the south; Chouteau, N. Troost and N. Broadway on the west. **COVID schedule – Weekday service schedule to be operated

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ATTACHMENT “C”

CITY OF GLADSTONE - BUS STOP MAINTENANCE

This Agreement covers the annual 2020-2021 maintenance costs for the following transit stops in Gladstone, Missouri:

1. Southbound transit stop at 70th & North Oak (shelter, passenger platform, trash can, electronic kiosk, and cleaning).
2. Northbound transit stop at 70th & North Oak (bench, passenger platform, trash can, electronic kiosk, and cleaning).
3. Southbound transit stop at 72nd & North Prospect (shelter, passenger platform, trash can, and cleaning).
4. Southbound transit stop at North Oak Trafficway & NE 61st Street (passenger platform, bench, trans can, and cleaning).
5. Southbound transit stop at North Prospect (M-1 HWY) at NE 68th Street (passenger platform, bench, trans can, and shelter cleaning).
6. Northbound transit stop at 68th & North Oak (passenger platform, bench, trans can, and cleaning).
7. In addition to the full-service maintenance at the above three stops, KCATA will provide weekly trash and recycling service at four additional local bus stops in Gladstone.
8. If requested by the City of Gladstone, KCATA will provide a bench, a recycling/trash container, and a weekly trash/recycling service at two additional local bus stops in Gladstone. The costs for these will be in keeping with the unit costs in the below table.

The total 2020-2021 annual bus stop maintenance cost for these stops in Gladstone is **\$20,978.** as detailed in the following table. Any new services will be in addition to what is shown in this table.

Cleaning and Inspection Items	Stops	Annual Occurrences	Rate Per Occurrence	Annual Cost
Transit stop cleaning - weekly <i>The combined rate for cleaning shelter stops</i>	N/A	52	\$286.44	\$14,895
Trash removal – Weekly	12	52	\$8.04	\$5,017.
Semi-Annual In-Depth Electrical Inspection	2	2	\$97.50	\$390.
Electrical inspection and maintenance – monthly at two shelter locations	2	10	\$33.80	\$676.
Total annual bus stop maintenance cost:				\$20,978

- Electrical power to the two kiosks at 70th and North Oak will be provided by the City and directly billed and paid by the City. KCATA will inspect monthly the electric lines and connections at the 70th and North Oak bus stops and kiosks.

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- Required repairs to these items will be billed separately. Any repairs (other than emergency safety-related repairs needing immediate action) expected to cost more than \$500 will be undertaken by KCATA only after prior City approval and City funding commitment in keeping with Section B of this Agreement.
- Total maintenance cost does not include the cost of any requested electric line locates, which will be billed to the City at the actual cost of KCATA's contractor (Black and McDonald) and KCATA's administrative expense.