

## ANNEXATION AGREEMENT

This Agreement between the **City of Columbia, Missouri**, a municipal corporation (hereinafter "City") and James F. Harasha and Rita F. Harasha, husband and wife (hereinafter "Owner") is entered into as of the last date of all of the parties to execute the Agreement (the "Effective Date"). In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Owner hereby represents that Owner is the sole legal owner of the following described real estate located in Boone County, Missouri and has the capacity to enter into this Agreement:

See legal description attached as Exhibit A, which is incorporated herein by reference

(hereinafter the "Property").

2. Owner proposes to design and construct certain sanitary sewer extensions to serve a maximum of 350 single-family detached dwellings and 20 multi-family dwellings on the Property in the general location as shown on Exhibit B attached hereto and incorporated herein by this reference (the "Project"). Owner shall dedicate at no cost to the City or Boone County Regional Sewer District (hereinafter the "District") the public utility easements reasonably necessary for the construction, operation and maintenance of the sanitary sewer lines serving the Project.

3a. WEST TRACT: City agrees to allow Owner to connect sanitary sewer lines serving that portion of the Property located in the West Tract of Exhibit A, generally depicted as the area with diagonal hatching and shaded pink on Exhibit D, to the District's sanitary sewer system as set forth herein and in accordance with the Grindstone Creek Watershed Connection Agreement between the District and the City as attached hereto as Exhibit C, as may be amended from time to time. The total authorized wastewater discharge from the Property into the sanitary sewer lines shall not exceed the equivalent of 370 gallons per day per dwelling unit. Owner shall make the connection to the District's sanitary sewer system at Owner's sole cost and expense. Owner shall obtain all necessary permits for the sewer construction and connection. Following connection to the District's sanitary sewer system, Owner shall become a sewer customer of the District.

3b. EAST TRACT, NORTH OF WATERSHED BOUNDARY: City agrees to allow Owner to connect sanitary sewer lines serving that portion of the Property located north of the Grindstone Creek watershed boundary in the East Tract of Exhibit A, generally depicted as the area with

horizontal hatching and shaded yellow on Exhibit D, to the City's sanitary sewer system as set forth herein and in accordance with the Grindstone Creek Watershed Connection Agreement between the District and the City as attached hereto as Exhibit C, as may be amended from time to time. The total authorized wastewater discharge from the Property into the sanitary sewer lines shall not exceed the equivalent of 370 gallons per day per dwelling unit. Owner shall make the connection to the City's sanitary sewer system at Owner's sole cost and expense. Owner shall obtain all necessary permits for the sewer construction and connection from the City and shall pay all fees required to connect to the City's sewer system as set forth in the City's Code of Ordinances. Following connection to the City's sanitary sewer system, Owner shall become a sewer customer of the City and subject to payment of all monthly fees and charges as set forth in the City's Code of Ordinances.

3c. EAST TRACT, SOUTH OF WATERSHED BOUNDARY: City agrees to allow Owner to connect sanitary sewer lines serving that portion of the Property located south of the Grindstone Creek watershed boundary in the East Tract of Exhibit A, generally depicted as the area with brick hatching and shaded blue on Exhibit D, to the City's sanitary sewer system as set forth herein. The total authorized wastewater discharge from the Property into the sanitary sewer lines shall not exceed the equivalent of 370 gallons per day per dwelling unit. Owner shall make the connection to the City's sanitary sewer system at Owner's sole cost and expense. Owner shall obtain all necessary permits for the sewer construction and connection from the City and shall pay all fees required to connect to the City's sewer system as set forth in the City's Code of Ordinances. Following connection to the City's sanitary sewer system and pursuant to the District's (DATE) Consent to Serve letter attached hereto as EXHIBIT E, Owner shall become a sewer customer of the City and subject to payment of all monthly fees and charges as set forth in the City's Code of Ordinances.

3d. LOTS LOCATED WITHIN BOTH WEST TRACT AND EAST TRACT: For that portion of the Property that will be final platted in the future and include lots that are located both within the West Tract and the East Tract, the City shall serve all lots where fifty (50) percent or more of the area of the lot is located in the East Tract, and the District shall serve all lots where fifty (50) percent or more of the area of the lot is located in the West Tract. Lots that will be served by the District shall be subject to paragraph 3a. Lots that will be served by the City that are located north of the watershed boundary shall be subject to paragraph 3b. Lots that will be served by the City that are located south of the watershed boundary shall be subject to paragraph 3c.

4. All sewer lines and appurtenances serving the Property shall be located within standard public utility easements dedicated to the public use and constructed in compliance with City regulations and standards. Construction of the sewer lines and appurtenances may be inspected by the City and the District and shall be subject to the City and the District approval. The sewer lines and appurtenances in the West Tract shall be conveyed to the District following construction and approval.

5. Owner shall not allow any other property to connect to or utilize the sewer lines constructed in connection with the Project other than the Property specifically set forth in this Agreement without the express written consent of the City.

6. Code Compliance.

- a. Except as provided in Paragraph 6 d, development and construction on the Property by Owner shall conform to all Boone County ordinances and standards, including County storm water standards, for the duration the property remains outside the city limits. During such time, Owner agrees to obtain all required

approvals from the appropriate Boone County authorities for zoning, platting and all applicable development and construction permits necessary to construct a residential development as generally depicted on Exhibit B.

- b. Once annexed into the City, development and construction on the Property shall conform to all City standards, including, but not limited to, the Unified Development Code. Provided, however, any phase of development under construction at the time of annexation may be completed under applicable Boone County requirements together with inspections and approvals by Boone County provided the construction is completed within two (2) years following the date of annexation. Nothing in this Paragraph constitutes a waiver of the obligation to comply with City standards as indicated in Paragraph 6.d.
- c. Construction of streets by Owner and direct access to streets for individual lots shall conform to all Boone County ordinances and standards both before and following annexation. Following construction, all sanitary sewers, storm sewers, streets and sidewalks shall be forever dedicated to the public use.
- d. After the date of execution of this agreement but prior to annexation, Owner shall construct and maintain the following items in connection with such development as required by the city code as though the Property is located within the City limits: (1) tree preservation areas (note: per city code, tree preservation plans must be approved prior to any land disturbance), (2) street frontage landscaping (note: per city code, a landscape plan must be approved prior to any land disturbance), (3) installation of a at least a five- (5) foot wide sidewalk along all of the development's streets, except that an eight- (8) foot pedway will be constructed along the Richland Road frontage, and (4) compliance with the International Fire Code, as adopted and amended by City ordinance ("City Fire Code").
  - i. Owner shall submit tree preservation plans to the City Arborist for approval accompanied by a processing fee payment of \$200.00. Plans shall provide for one or more common lots containing at least 25% of the pre-development climax forest as required by the City's tree preservation ordinance, or, in the alternative, the plans shall provide for 30% of the pre-development climax forest preserved through a combination of common lots and preservation easements, with at least 20% of the pre-development climax forest contained in one or more common lots. The tree preservation easement shall be in a form satisfactory to the City. In presenting tree preservation plans to the city, Owner shall provide plans that are in compliance with the requirements of Chapter 29-4.4 (Landscaping, Screening, and Tree Preservation) of the Unified Development Code, amended and adopted, by City Ordinance.
  - ii. Owner shall submit a landscaping plan to the City Arborist for approval accompanied by a processing fee payment of \$200.00 that shows compliance with the "Street Frontage Landscaping" requirements of Chapter 29-4.4 (Landscaping, Screening and Tree Preservation) of the Unified Development Code, amended and adopted, by City Ordinance.

- iii. Owner shall submit a copy of the proposed preliminary plat and required revision(s) as well as a copy of the proposed construction plans and required revision(s) to the City Fire Marshal for review and approval concurrent with application to seek Boone County Planning and Zoning Commission or County Commission approval of the preliminary plat or issuance of a land disturbance permit authorizing the installation of infrastructure. The plat and plans submitted to the City Fire Marshal shall demonstrate compliance with the City Fire Code.
  
- e. Development and construction on the Property shall be subject to County standards and those City standards as specifically set forth in paragraph 6 (a)-6 (d). Prior to annexation, if any irreconcilable conflict exists between a County regulation and a City regulation, the Owner, to the extent required by law, shall follow the County regulation including County storm water standards. Owner acknowledges that no conflict is involved where a City regulation, except City storm water standards or sidewalk installation requirements imposes a more stringent minimum requirement than a corresponding County regulation or in any instance where the City imposes a regulation that is not imposed by the County. In such instance, Owner shall be required to follow the more stringent requirement.

7. So long as the Property remains outside the City limits, any subdivision of the Property shall be prepared in accordance with the applicable requirements of Boone County. The City shall be provided written notice of all subdivision actions of the property, but there shall be no requirement that the City approve any plat prior to any action taken on a plat by the Boone County Commission.

8. The parties agree that this agreement shall become null and void in the event the Boone County authorities do not grant the requested zoning, plat and construction approvals for the Project.

9. To the extent allowed by law, at such time as the Property becomes contiguous to the corporate limits of the City, City may, but shall not be obligated to, annex the Property into the City, without further action of the Owner. The City in its sole discretion may, but shall not be required to, delay annexation of the Property until such time the Property is contiguous to the City by property having frontage on an adjacent roadway which serves the Property, or until any other such time the City reasonably and solely determines to be appropriate to annex the Property and provide available municipal services to the Property.

10. Owner irrevocably appoints the City Manager of Columbia, Missouri, as its attorney-in-fact for the sole purpose of presenting a verified petition requesting annexation of the Property to the City Council of Columbia, Missouri. The City Manager may exercise this power of attorney at any time after the Property becomes contiguous to the corporate limits of the City. Any delay in filing such petition shall not be deemed a waiver of any right of the City to file such petition at such time in the future when, in the sole discretion of the City Manager, the filing of such petition is deemed advisable.

11. In lieu of the power of attorney granted to the City Manager herein, the City Manager may request the Owner to submit a verified petition requesting annexation. In such event, Owner shall, within such time as specified by the City Manager, submit a verified petition

requesting annexation of the Property to the Director of Community Development for presentation to the City Council of Columbia, Missouri. The City Manager may request Owner to present an annexation petition at any time after the Property becomes contiguous to the corporate limits of the City. The provisions of this paragraph shall be enforceable by specific performance.

12. The petition for annexation may request that the Property be placed in Zoning District PD (Planned Development), or equivalent, upon annexation. If the proposed ordinance annexing the Property does not place the Property in the zoning district specified herein, Owner may withdraw the petition for annexation. Such withdrawal shall not affect the parties' obligations under this Agreement, including City's obligation to provide sewer service.

13. Except as expressly set forth in paragraph 12 hereof, Owner agrees not to take any action to oppose any annexation initiated by the City which includes the Property. Owner further agrees not to take any action to oppose any annexation initiated by the City or by any property owner which includes any property lying between the Property and the City limits. The parties acknowledge they are entering into this agreement in good faith and that the commitment of Owner to annex the Property into the city limits the City is a material condition upon which the City has placed substantial reliance in entering into the agreement. City states it would not enter into this agreement allowing connection of Owner's Property to the City's sanitary sewer system but for such commitment to annex the Property into the city limits.

14. Owner shall give a copy of this Agreement to each person who buys all or a portion of the Property.

15. If Owner fails to annex the Property as provided herein, City may terminate sewer service to the Property and disconnect the sewer lines serving the Property from the City's sanitary sewer system. City shall give Owner and District five (5) years prior written notice of its intent to terminate sewer service to that portion of the Property located in West Tract. City shall give Owner five (5) years prior written notice of its intent to terminate sewer service to that portion of the Property located in Tract 2.

16. This Agreement is not intended to confer any rights or remedies on any person other than the parties.

17. The benefits and burdens of this Agreement are intended to attach to and run with the land and shall be binding on and inure to the benefit of the parties and their respective legal representatives, successors, heirs and assigns. All persons claiming under the parties shall conform to and observe the provisions of this Agreement.

18. Owner, at Owner's sole cost and expense, hereby agrees to indemnify, protect, release, defend (with counsel acceptable to the City) and hold harmless the City, its municipal officials, elected officials, boards, commissions, officers, employees, attorneys, and agents from and against any and all causes of action, claims, demands, contractual damages and losses, economic damages and losses, any and all other damages and losses, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, out of either Owner's breach of this Agreement or any action or inaction of Owner, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Owner may be liable.

19. This Agreement shall be construed according to the laws of the State of Missouri. The parties shall comply with all local, state, and federal laws and regulations relating to the performance of this Agreement.

20. Any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Boone County, Missouri.

21. This Agreement contains the entire and complete agreement between the City and the Owner. The parties agree that this Agreement constitutes a lawful contract between the parties and the Owner hereby acknowledges and agrees that this Agreement and the City's ordinances and regulations applicable to this Agreement constitute lawful exercises of the City's authority and police power.

22. The City shall record this Agreement in the office of the Boone County Recorder of Deeds.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day set forth below each of their signatures.

**CITY OF COLUMBIA, MISSOURI**

By: \_\_\_\_\_  
John Glascock, City Manager

ATTEST:

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

\_\_\_\_\_  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nancy Thompson, City Counselor

STATE OF MISSOURI            )  
  ) ss  
COUNTY OF BOONE            )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared John Glascock, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the City of Columbia, Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of the City and that this instrument was signed and sealed on behalf of the City by authority of its City Council and the City Manager acknowledged this instrument to be the free act and deed of the City.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal, at my office in Columbia, Boone County, Missouri, the day and year last above written.

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

My commission expires: \_\_\_\_\_.

**OWNER: James F. Harasha and Rita F. Harasha**

By: \_\_\_\_\_  
James F. Harasha

By: \_\_\_\_\_  
Rita F. Harasha

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

STATE OF MISSOURI            )  
  ) ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for said state, personally appeared, James F. Harasha and Rita F. Harasha, husband and wife, to me personally known, who, being by me duly sworn, did say that the foregoing agreement was signed by them and acknowledged such agreement to be their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and state aforesaid the day and year last above written.

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

My commission expires: \_\_\_\_\_.



## **Exhibit A**

### **Legal Description of the Property**

(TO BE ADDED)

Property: Entire 145.72 acres

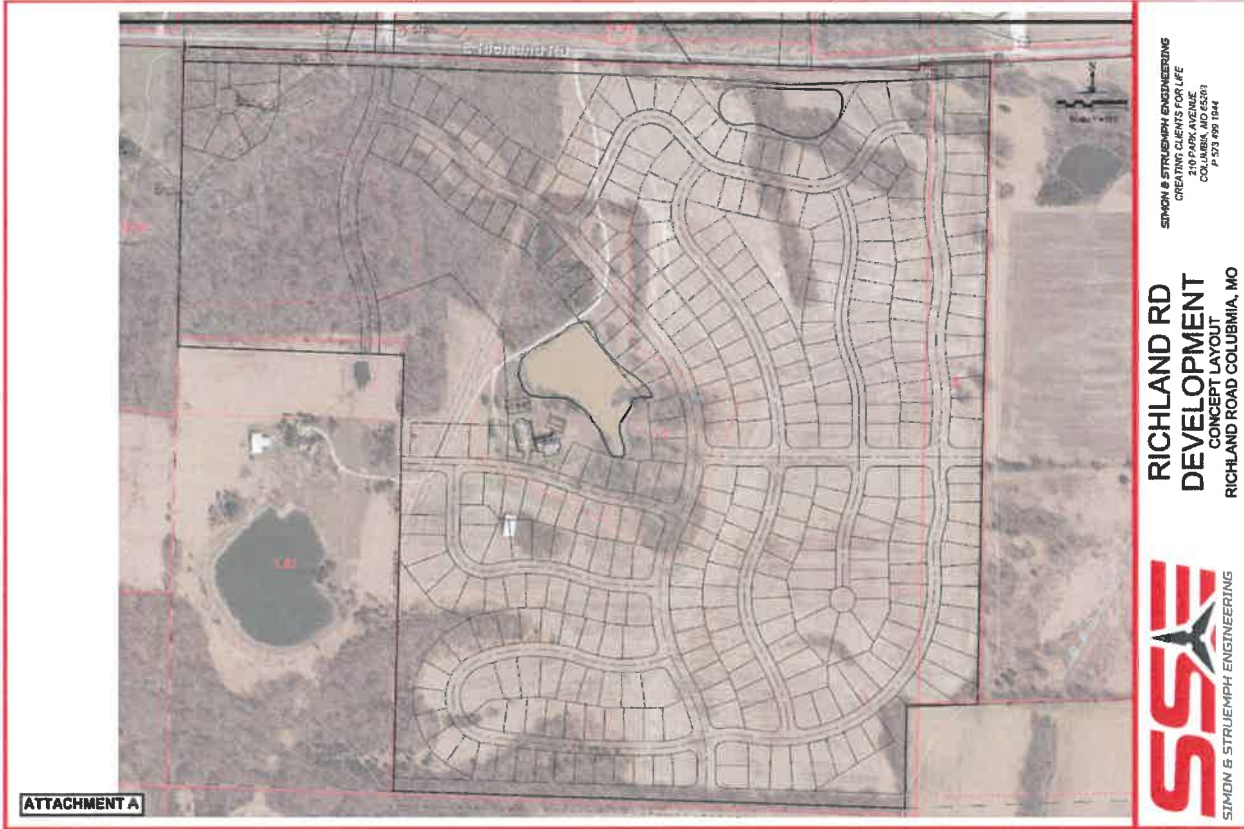
West Parcel: West parcel shown in pink (134.3 ac)

East Parcel: East parcel shown in blue/yellow (11.42 ac)

# Exhibit B

## Richland Road Development Concept Layout

(PLACEHOLDER FOR REFERENCE)



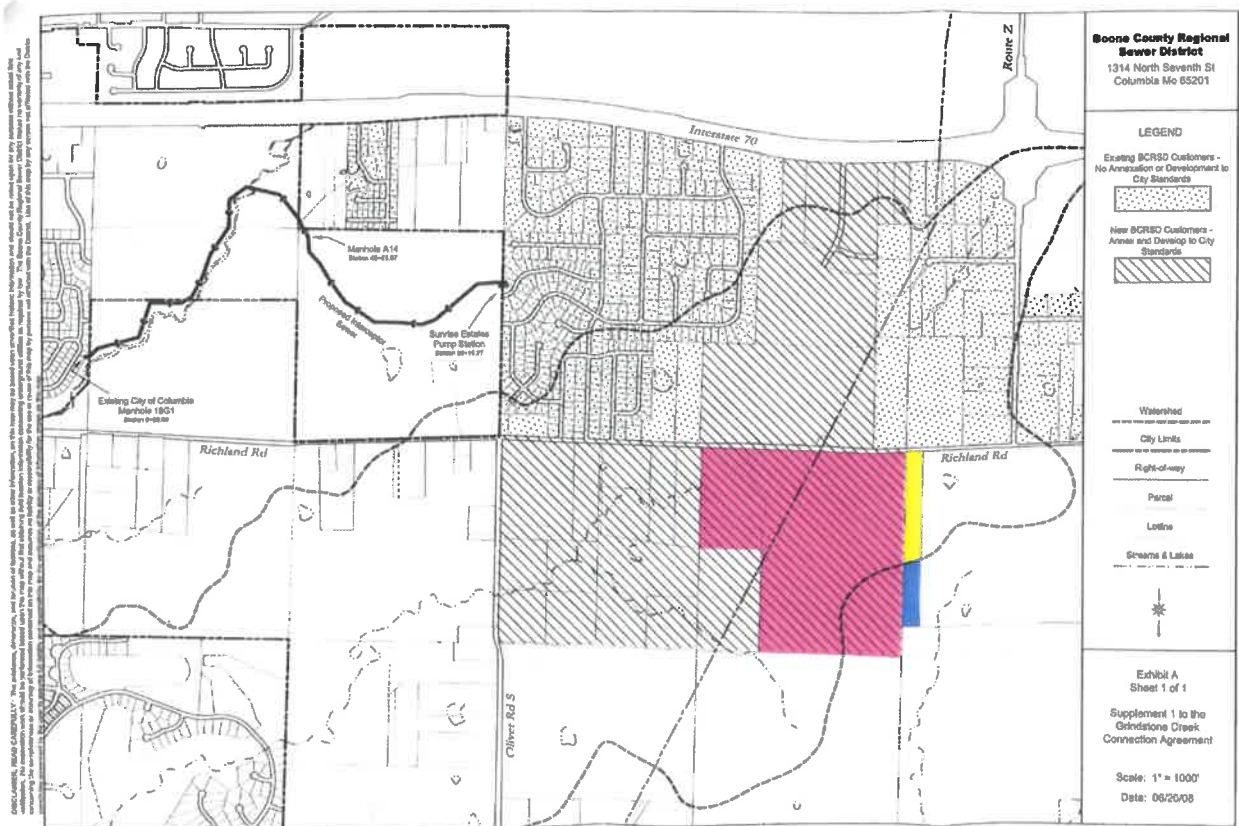
**Exhibit C**

Grindstone Creek Watershed Sewer Connection Agreement between the  
Boone County Regional Sewer District and the City of Columbia

# Exhibit D

## Exhibit A, Supplement 1 to the Grindstone Creek Connection Agreement

(PLACEHOLDER FOR REFERENCE)



**Exhibit E**

Consent to Serve Letter from the District