



City of Jackson

TO: Mayor and Board of Aldermen

CC: Jim Roach, City Administrator

FROM: George Harris, Engineer

DATE: June 17, 2024

RE: Lease Agreement Between Penzel Construction Company and the City of Jackson for the purpose of temporary housing of Fire Station No. 1 operations during renovation work at Fire Station No. 1

Penzel Construction Company has proposed an alternate to the temporary housing included in the original project contract documents. The offered alternate is a substitution resulting in the operations of Fire Station No. 1 being conducted from facilities constructed inside the warehouse on the Penzel Construction Company property for a period of one year.

The one-year lease agreement is proposed to facilitate insurance coverages under the proposed substitution included in Change Order No. 1 by establishing an agreement between the parties at a cost of one dollar.

City staff recommends that the Mayor and Board of Aldermen approve the proposed Lease Agreement Between Penzel Construction Company and the City of Jackson for Temporary Housing of Fire Station No. 1 Operations During Renovation Work at Fire Station No. 1.

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF JACKSON, MISSOURI, TO EXECUTE A SUBLEASE AGREEMENT BY AND BETWEEN THE CITY OF JACKSON, MISSOURI, AND *PENZEL CONSTRUCTION COMPANY, INC., OF JACKSON, MISSOURI*, RELATIVE TO ALLOWING THE JACKSON FIRE RESCUE TO OPERATE A TEMPORARY FIRE STATION DURING CONSTRUCTION UPGRADES OF EXISTING FIRE STATION NO. 1; FURTHER SAID ORDINANCE SHALL AUTHORIZE AND DIRECT THE CITY CLERK TO ATTEST THE SIGNATURE OF THE MAYOR.

WHEREAS, the Mayor and Board of Aldermen have been presented a sublease agreement attached hereto and incorporated herein as if fully set forth; and

WHEREAS, the Mayor and Board of Aldermen of the City of Jackson, Missouri, deem it advisable to enter into said sublease agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF JACKSON, MISSOURI, AS FOLLOW:

Section 1. That the Mayor and Board of Aldermen of the City of Jackson, Missouri, approve the sublease agreement attached hereto and incorporated herein as if fully set forth between the City of Jackson, a municipal corporation, and **Penzel Construction Company, Inc. of Jackson, Missouri**. It is the belief of the Mayor and Board of Aldermen that it is in the best interest of the citizens of the City of Jackson, Missouri, that the City enters into said sublease agreement.

Section 2. That the Mayor is hereby authorized and directed to execute said sublease agreement for and on behalf of the City of Jackson, Missouri.

Section 3. That the City Clerk of the City of Jackson is hereby authorized and directed to attest to the signature of the Mayor on the attached sublease agreement.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion

shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5. That this Ordinance shall take effect and be in force from and after its passage and approval.

FIRST READING: June 17, 2024.

SECOND READING: June 17, 2024.

PASSED AND APPROVED this 17th day of June 2024, by a vote of ___ ayes, ___ nays, ___ abstentions and ___ absent.

CITY OF JACKSON, MISSOURI

(SEAL)

ATTEST:

BY: _____
Mayor

City Clerk

SUBLEASE AGREEMENT

This Sublease Agreement ("Sublease") was made and entered into effective this _____ day of _____, 2024, between **PENZEL CONSTRUCTION COMPANY, INC.**, organized under the laws of the State of Missouri, having its principal office in the County of Cape Girardeau, State of Missouri ("Sublandlord"), and **CITY OF JACKSON**, a municipal corporation organized under the laws of the State of Missouri, having its principal office at 101 Court Street, City of Jackson, County of Cape Girardeau, State of Missouri ("Subtenant").

RECITALS

The parties recite and declare:

- A. Sublandlord is the sole owner of the premises described below, and desires to Sublease the premises to a suitable Subtenant for business purposes.
- B. Subtenant desires to Sublease the premises for the purpose of its use to temporarily relocate its fire station during construction upgrades of the existing fire station.
- C. The parties desire to enter a Sublease defining their rights, duties, and liabilities relating to the premises.

In consideration of the mutual covenants contained in this Sublease, the parties agree as follows:

SECTION ONE SUBJECT AND PURPOSE

Sublandlord subleases the building and adjoining land with ingress and egress in the City of Jackson, County of Cape Girardeau, State of Missouri, and located at 324 West Jackson Blvd., to Subtenant for Subtenant's use as its use as a temporary fire station during construction upgrades of the existing fire station.

SECTION TWO TERM AND RENT

- A. Sublandlord demises the above-described premises for a term of one (1) year, commencing June 3, 2024, and terminating on the last day of June 2, 2025, at 5:00 p.m., or sooner as provided in this Sublease for the initial annual rental of One Dollar (\$1.00) per annum and other good and valuable consideration, payable in full at the time of execution of this Sublease.

SECTION THREE UTILITIES

All applications and connections for necessary utility services on the demised premises shall be made in the name of Subtenant only. Subtenant shall be solely liable for utility charges as they become due, including, but not limited to, those for sewer, water, gas, electricity, and telephone services.

SECTION FOUR INSURANCE

Subtenant shall provide to Sublandlord proof of public liability, property damage, and workman's compensation insurance as follows:

Commercial General Liability Insurance with a minimum limit of \$1,000,000 each occurrence/\$2,000,000 general aggregate written on an occurrence basis.

Comprehensive Business Liability Insurance for all owned, non-owned, and hired automobiles and other vehicles used with a combined single limit of \$1,000,000 minimum.

Worker's Compensation Insurance within statutory limits required by any applicable federal or state law and Employers Liability Insurance with minimum limit of \$1,000,000 per accident.

Additional Insured Endorsement naming the Sublandlord as an additional insured and applying only to Subtenant's use of the building Subleased from Sublandlord.

SECTION FIVE INDEMNITY

To the fullest extent permitted by law, Subtenant agrees to indemnify, defend and hold harmless the Sublandlord, its officers, agents, volunteers, Subtenants, invitees, and employees from and against all suits, claims, damages, losses, and expenses, including but not limited to attorneys' fees, court costs, or alternative dispute resolution costs arising out of, or related to the use of Sublandlord's demised premises, facilities, buildings, equipment or infrastructure under this Sublease involving an injury to a person or persons, whether bodily injury or other personal injury (including death), or damage to property (including loss of use or diminution in value), but only to the extent that such suits, claims, damages, losses, or expenses are caused by the negligence or other wrongdoing of Subtenant its officers, agents, and volunteers, or anyone directly or indirectly employed or hired by the Subtenant or anyone for whose acts the Subtenant may be liable, regardless of whether caused in part by the negligence or wrongdoing of Sublandlord and any of its agents or employees.

**SECTION SIX
LIABILITY OF
SUBLANDLORD**

Subtenant shall be in exclusive control and possession of the demised premises, and Sublandlord shall not be liable for any injury or damages to any property or to any person on or about the demised premises or for any injury or damage to any property of Subtenant. The provisions of this Sublease permitting Sublandlord to enter and inspect the demised premises are made to ensure that Subtenant is in compliance with the terms and conditions of this Sublease and to insure that Subtenant makes repairs which Subtenant has failed to make. Sublandlord shall not be liable to Subtenant for any entry on the premises for inspection purposes.

**SECTION SEVEN
REPRESENTATIONS BY
SUBLANDLORD**

At the commencement of the term, Subtenant shall accept the buildings and improvements and any equipment in its existing condition and state of repair, and Subtenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Sublandlord in respect thereto except as contained in the provisions of this Sublease. Sublandlord shall in no event be liable for any latent defects.

**SECTION EIGHT
NOTICES**

All notices, demands, or other writings in this Sublease provided to be given or made or sent, or which may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered and postage prepaid, and addressed as follows:

TO SUBLANDLORD: 6231 State Highway F
 Whitewater, MO 63785

TO SUBTENANT: 101 Court Street
 Jackson, MO 63755

**SECTION NINE
ASSIGNMENT, MORTGAGE, OR SUBSUBLEASE**

Subtenant shall not assign, mortgage, pledge, or encumber this Sublease or sublet the demised premises in whole or in part or permit the demised premises to be used or occupied by others, nor shall this Sublease be assigned or transferred by operation of law, without the prior, express, and written consent in writing of Sublandlord in each instance.

**SECTION TEN
SURRENDER OF POSSESSION**

A. Subtenant shall, on the last day of the term, or on earlier termination and forfeiture of this Sublease, peaceably and quietly surrender and deliver the demised premises to Sublandlord free of subtenancies, including all buildings, additions, and improvements constructed or placed on the demised premises by Subtenant, except moveable trade fixtures, all in good condition and repair.

B. If Sublandlord so elects, any trade fixtures or personal property not used in connection with the operation of the demised premises and belonging to Subtenant, if not removed at the termination or forfeiture of this Sublease, shall be deemed abandoned and become the property of Sublandlord without any payment or offset for such fixtures or property. At Sublandlord's election, Sublandlord may remove such fixtures or property from the demised premises and store them at the risk and expense of Subtenant.

C. Subtenant shall repair and restore all damage to the demised premises caused by the removal of equipment, trade fixtures, and personal property.

**SECTION ELEVEN
ENTIRE AGREEMENT**

This Sublease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Sublease shall not be binding upon either party except to the extent incorporated in this Sublease.

**SECTION TWELVE
MODIFICATION OF AGREEMENT**

Any modification of this Sublease or additional obligation assumed by either party in connection with this Sublease shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

**SECTION THIRTEEN
BINDING EFFECT**


This Sublease shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the parties.

**SECTION FOURTEEN
APPLICABLE LAW**

This Sublease shall be governed by and construed in accordance with the laws of the State of Missouri and any dispute between the parties shall be heard in the Circuit Court of Cape Girardeau County, Missouri.

SUBLANDLORD:

Penzel Construction Company, Inc.

By: 
Philip C. Penzel, Member

SUBTENANT:

CITY OF JACKSON, MISSOURI

By: _____
Mayor

Attest:

City Clerk

CONSENT TO SUBLEASE AGREEMENT

Cooper Properties, 325, LLC ("Cooper") is the owner of the above described property that was leased to Penzel Construction Company, Inc. ("Penzel"). Cooper does hereby grant consent to this Sublease Agreement between Penzel and the City of Jackson, Missouri.

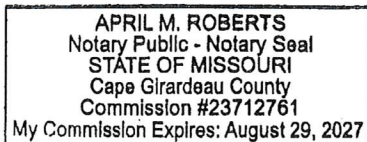
Dated this _____ day of May, 2024

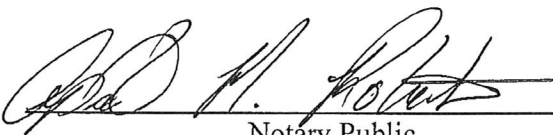

Clayton C. Randol, Member

STATE OF MISSOURI)
) ss.
COUNTY OF CAPE GIRARDEAU)

On this 23 day of May, 2024, before me personally appeared Philip C. Penzel, to me known to be the member of Penzel Construction Company, Inc., (Sublandlord herein), and authorized to execute the within document on behalf of the said limited liability company and acknowledged to me that he executed the same as his free act and deed and as the free act and deed of said limited liability company for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year first above written.




Notary Public
State of Missouri, County of Cape Girardeau
My term expires:

STATE OF MISSOURI)
) ss.
COUNTY OF CAPE GIRARDEAU)

On this ____ day of _____, 2024, before me personally appeared Dwain Hahs, to me known to be the person described and who, being by me first duly sworn, did say that he is MAYOR of the CITY OF JACKSON, MISSOURI, a municipal corporation of the State of Missouri, and said instrument was signed on behalf of said municipal corporation by authority of its Board of Aldermen, and the said Dwain Hahs acknowledged said instrument to be the free act and deed of said municipal corporation.

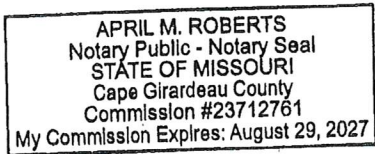
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year first above written.

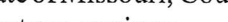
Notary Public
State of Missouri, County of Cape Girardeau
My term expires:

STATE OF MISSOURI)
) ss.
COUNTY OF CAPE GIRARDEAU)

On this 23 day of May, 2024, before me personally appeared CLAYTON C. RANDOL, to me known to be the member of COOPER PROPERTIES 325, LLC, and authorized to execute the within document on behalf of the said limited liability company and acknowledged to me that he executed the same as his free act and deed and as the free act and deed of said limited liability company for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year first above written.





Notary Public
State of Missouri, County of Cape Girardeau
My term expires: _____

EXHIBIT A

TRACT 1:

ALL OF LOT THAT PART OF UNITED STATES PRIVATE SURVEY NUMBER 527, TOWNSHIP 31 NORTH, RANGE 12 EAST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY OF JACKSON, COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING at the Southeast corner of United States Survey Number 221, said Southeast corner also being a corner on the West line of US Survey 527 and on the North line of US Survey Number 244; thence with the common North-South line between US Surveys 221 and 527, North 7°29'10" East, 1219.24 feet to the Southwestern corner of a tract presently owned under the name of B and B Auto Salvage Company; thence with the Southerly line of said tract, South 74°13'46" East, 129.50 feet to the Southeasterly corner of said tract, said point falling within Hubble Creek, thence with the East line of said tract, and with said Hubble Creek, North 3°35'46" West, 58.80 feet; thence North 47°12'14" East, 297.30 feet; thence North 5°12'14" East, 125.40 feet; thence North 6°54'17" West, 92.77 feet; to the Southwest corner of a tract conveyed in Deed book 263 at Page 579; thence with the South line of said Tract, and said line extended, South 73°15'35" East, 713.53 feet; to a 1/2" iron rod on the Southeast corner of a tract conveyed in Document 2017-12195; said point being also a Western line of Lot Number 1 of Penzel Subdivision, said Subdivision being recorded in Document 2020-03789; thence with the Western lines of said Lot 1, South 03°55'04" West, 122.15 feet, thence North 87°25'08" West 113.47 feet; thence South 02°34'52" West, 234.11 feet to the most Southwesterly corner of said Lot 1, thence with the South line of said Lot 1, South 87°25'08" East, 153.68 feet, to the most Southeasterly corner of said Lot 1, thence with the East line of said Lot 1, North 04°04'28" East, 438.08 feet, to a point on the Southerly terminus of the right of way of Penzel Drive, thence with said South right of way line, South 73°05'22" East, 31.79 feet to a 1/2" iron Rod on the West line of the Ceramo Company Inc. Tract, thence with the West line of said Tract South 04°04'28" West, 292.51 feet to a 1/2" iron rod, thence along a Southerly line of said Ceramo Company Inc. tract, South 73°25'24" East, 210.71 feet to a 2" pipe, at a Northwesterly corner of a tract presently owned by Kasten Clay Products, Inc., thence along a Westerly line of said Kasten Clay Products, Inc., tract South 21°03'33" West, 496.73 feet; thence continuing along a Westerly line of said Kasten Clay Products, Inc. tract, South 34°02'05" West, 244.62 feet, thence continuing along a Westerly line of said Kasten Clay Products, Inc. tract, South 33°58'09" West, 705.08 feet, thence along a Northern line of said Kasten Clay Products, Inc. tract, North 83°15'44" West, 741.2 feet to the place of beginning and containing 36.34 acres, more or less, and being subject to easements of record.

ALSO:

All of Lot One (1) of Penzel Subdivision in the City of Jackson, Missouri, as shown by plat filed for record in Document 2020-03789 in the Land Records of Cape Girardeau County, MO.

LESS AND EXCEPT ANY PARCELS HERETOFORE CONVEYED (1) FOR THE CREATION OF PENZEL DRIVE, (2) TO THE MISSOURI DEPARTMENT OF TRANSPORTATION, AND (3) TO RELIABLE COMMUNITY BANK SHARES, INC. OR THE BANK OF MISSOURI, IT BEING THE INTENTION TO CONVEY ALL THAT LAND OWNED BY THE GRANTOR NOW OR PREVIOUSLY CONTIGUOUS TO ANY PART OF THE REAL ESTATE DESCRIBED HEREIN.