

Introduced by _____

First Reading _____ Second Reading _____

Ordinance No. _____ Council Bill No. B 92-05

AN ORDINANCE

authorizing the City Manager to execute a right of use permit and post-mitigation agreement with Centerstate Properties, L.L.C. on property located along Hinkson Creek adjacent to the City landfill; and fixing the time when this ordinance shall become effective.

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

SECTION 1. The City Manager is hereby authorized to execute a right of use permit with Centerstate Properties, L.L.C. for construction, improvement, operation and maintenance of the Hinkson Creek Stream Bank Stabilization Project on City property adjacent to the landfill site. The form and content of the agreement shall be substantially as set forth in "Exhibit A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 2. The City Manager is hereby authorized to execute a post-mitigation agreement with Centerstate Properties, L.L.C. in connection with the Centerstate/Bass Pro Hinkson Creek Mitigation Project to be constructed and maintained on City property adjacent to the landfill site. The form and content of the agreement shall be substantially as set forth in "Exhibit B" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 3. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2005.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

RIGHT OF USE PERMIT

KNOW ALL MEN BY THESE PRESENTS that the City of Columbia, Missouri, in consideration of the sum of Ten Dollars (\$10.00) and other considerations to it paid, does hereby permit **Centerstate Properties, L.L.C.**, their heirs and/or assigns (hereinafter referred to as "Permittee") to enter upon the following described lands owned by the City of Columbia and located within the County of Boone, State of Missouri, and more particularly described as follows, to-wit:

a 50' wide mitigation easement along Hinkson Creek at the City Landfill (Parcel No. 12-504-00-00-008.00-01) within the limits of the City of Columbia, further described by an exhibit attached to this right-of-use permit.

This permit is subject to the following conditions and stipulations:

1. This permit is for the exclusive purpose of construction, improvement, operation and maintenance of a Stream Bank Stabilization Project upon the property of the City of Columbia as stated above.
2. This permit does not grant Permittee or any of its officers, agents or employees the right to cut, grade, excavate or damage the property without City Consent.
3. Permittee will be responsible for the costs of any repairs, maintenance or replacements which is the result from Permittee's use under this right-of-use permit for a period of five (5) years and will repair or replace such improvements at its own cost and hold the City of Columbia harmless for any of the costs associated with the repair, replacement or any other costs associated with the damage to the improvements.
4. This permit shall remain in effect for a period of five (5) years or until canceled by the City of Columbia, which shall notify Permittee six (6) months in advance of the cancellation.

IN WITNESS WHEREOF, this permit has been executed this ___ day of _____, 2005.

CITY OF COLUMBIA, MISSOURI

CENTERSTATE PROPERTIES, L.L.C.

BY: _____
Raymond A. Beck, City Manager

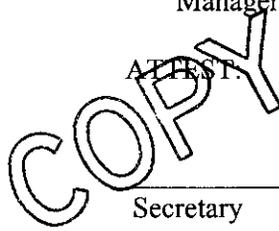
BY: _____
Manager

ATTEST:

Sheela Amin, City Clerk

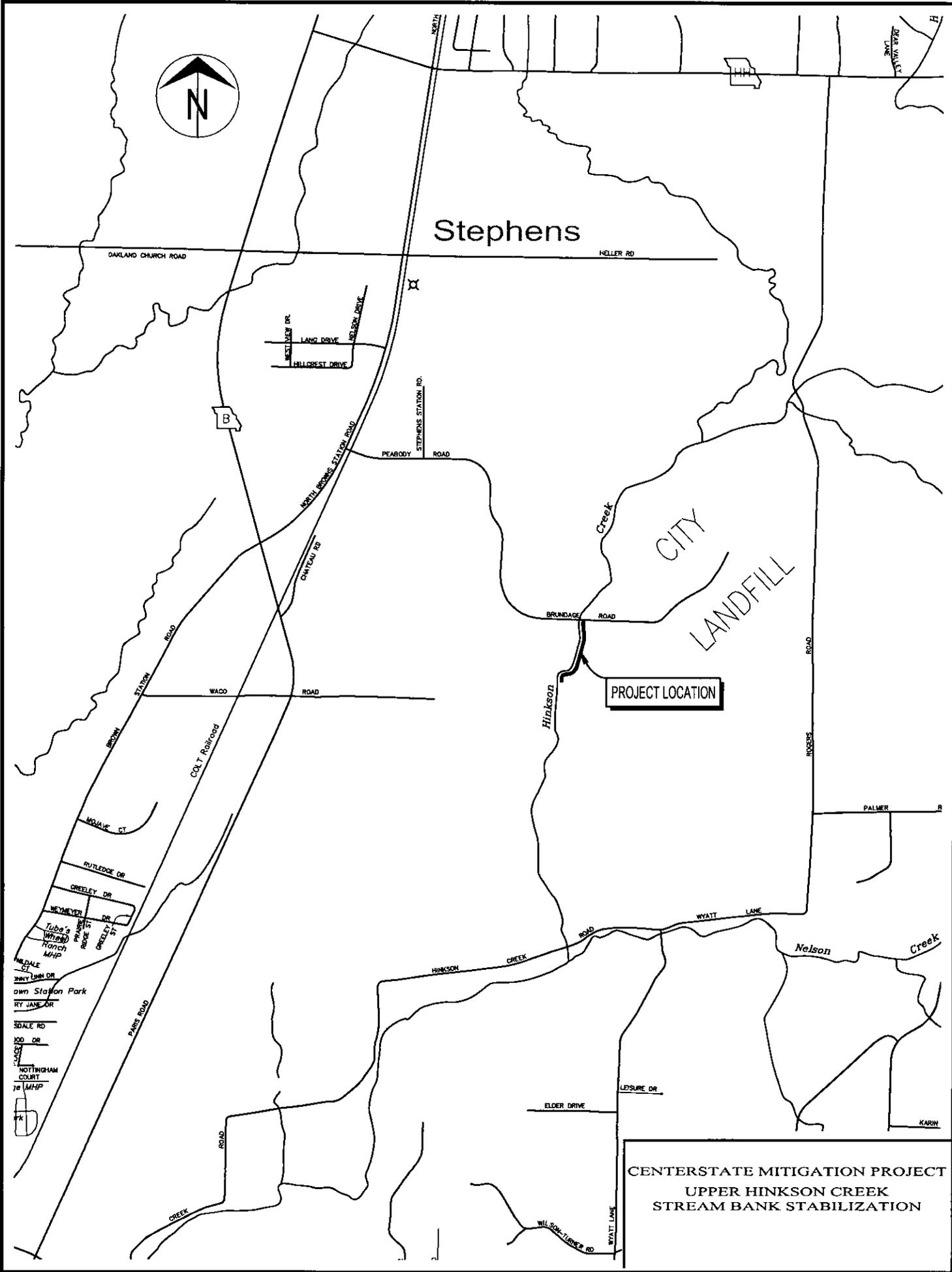
ATTEST:

Secretary



APPROVED AS TO FORM:

Fred Boeckmann, City Counselor



POST-MITIGATION AGREEMENT

THIS POST-MITIGATION AGREEMENT is entered into on this ___ day of _____, 2005, by and between Centerstate Properties, L.L.C., a Missouri limited liability company ("Centerstate"), and the City of Columbia, Missouri ("City").

WHEREAS, the City has approved plans dated February 11, 2004, and revised on September 22, 2004 (the "Plans") for Centerstate's participation in the Hinkson Creek Mitigation and Stream Bank Stabilization Project (the "Mitigation Project") in the location shown on the Plans (the "Mitigation Site"); and

WHEREAS, the City and Centerstate desire to enter into an agreement providing that Centerstate will be responsible for maintenance of certain stabilization measures made as part of the Mitigation Project subsequent to completion thereof; and

WHEREAS, the parties desire to set forth the terms of their agreement in writing.

NOW THEREFORE, the City and Centerstate hereby agree as follows:

1. Centerstate shall be responsible for removal of the tree cages called for in the Plans five (5) years after placement of said cages.
2. For a period of five (5) years following the completion of the Mitigation Project, Centerstate shall be responsible for the following:
 - a. Monitoring and providing annual reports to the City, the Missouri Department of Natural Resources, and the Army Corps of Engineers on the status of the Mitigation Site.
 - b. At the time of the annual inspections and reports referred to hereinabove in paragraph 2.a., removal of any dead trees as well as the associated posts and cages.
 - c. Monitoring trees planted as part of the Mitigation Project after major flow events, and replace/repair trees on the Mitigation Site as necessary.
 - d. Mowing and maintenance of the Mitigation Site.
 - e. Repairing any ruts created by Centerstate or its employees/agents within the access easement to be granted to Centerstate by the City for purposes of access to the Mitigation Site.
3. The City shall not require from Centerstate a bond or other surety to secure the work called for herein.
4. This Agreement is not intended to confer any rights or remedies on any person other than the parties.

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

City of Columbia, MO

Centerstate Properties, LLC

By _____
Raymond A. Beck, City Manager

By _____
Manager

Attest: _____
Sheela Amin, City Clerk

COPY

Approved as to Form:

By _____
Fred Boeckmann, City Attorney

Source

Lowell Patterson



TO: City Council

FROM: City Manager and Staff 

DATE: March 11, 2005

SUBJECT: Right of Use Permit and Post-Mitigation Agreement for Centerstate Properties L.L.C. to allow a streambank mitigation on City Property adjacent to the City Landfill.

Fiscal Impact

- Yes
- No

Other Info.

EXECUTIVE SUMMARY

Staff has prepared for Council consideration an ordinance authorizing the City Manager to execute a Right-Of-Use Permit and a Post-Mitigation Agreement with Centerstate Properties L.L.C. to allow earthwork, stream bank stabilization, plant installation, and follow up access for maintenance for five years.

Centerstate Properties L.L.C. has proposed the repair and stabilization of approximately 1500 linear feet of collapsing streambank on City Landfill property to mitigate disturbance within the Hinkson Creek watershed in association with the Centerstate/Bass Pro project. The work includes grading the streambank, revetting portions of the toeslope with surplus cedars harvested from the landfill site, and revegetating the disturbed areas with native grass, shrubs and trees. The Right Of Use and Post-Mitigation agreements allow the aforementioned work, and access to the site to maintain the planting for 5 years as required by the Army Corps of Engineers permit regulating the mitigation.

SUGGESTED COUNCIL ACTION

Approval of the ordinance.