

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 312-11

AN ORDINANCE

authorizing the City Manager to execute a contract for the sale of real estate with Frech Leasing Company, LLC for construction of the Hominy Creek Trail Phase II and the future Ballenger Lane extension; directing the City Clerk to have the contract recorded; 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 contract for the sale of real estate with Frech Leasing Company, LLC for construction of the Hominy Creek Trail Phase II and the future Ballenger Lane extension. The form and content of the contract 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 Clerk is authorized and directed to have the contract recorded in the office of the Boone County Recorder of Deeds.

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

PASSED this _____ day of _____, 2011.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

CONTRACT FOR SALE OF REAL ESTATE

This agreement is dated this _____ day of _____, 2011, by and between the City of Columbia, Missouri, a municipal corporation (hereinafter referred to as "City") and Frech Leasing Company, LLC (hereinafter referred to as "Seller").

WITNESSETH:

1. City agrees to buy and Seller agrees to sell the following described real property located on I-70 Drive Southeast in Columbia, Boone County, Missouri more particularly described as follows:

Tract Two (2) of survey recorded in Book 337, Page 120, Records of Boone County, Missouri, being a part of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 9, Township 48, Range 12.

ALSO a Tract of land located in the T & T SUBDIVISION OF PLAT NUMBER TWO (2), said Subdivision plat recorded in Plat Book 24, Page 20, Boone County, Records; said Tract being further described as follows:

BEGINNING at the Northwesterly corner of Lot One (1) of said T & T Subdivision Plat No. Two (2); thence North 72° 04' East, along the northerly line thereof, 325.5 feet; thence leaving said line, South 0° 05' West, 494.75 feet; thence North 86° 29' West, 310.15 feet to the Westerly line of said Lot One (1); thence North 0° 05' East along said line, 375.45 to the POINT OF BEGINNING and containing 3.09 acres, more or less.

on the following terms and conditions set out herein.

2. The purchase price for the property shall be One Hundred Eighty-five Thousand Dollars (\$185,000.00) payable to Seller at closing.

3. Merchantable title of record and in fact shall be conveyed by warranty deed, free and clear of all encumbrances, except as hereinafter provided.
4. Seller shall obtain a commitment to title insurance issued by a title insurance company acceptable to City. The commitment must obligate the title insurance company to issue a title insurance policy to City at closing which insures that Seller's title is free and clear of encumbrances. The amount of the title insurance shall be the purchase price. The premium shall be paid by City at closing. The title insurance commitment must describe any exceptions to the policy, which will be issued immediately at closing.
5. In order to establish whether any environmental contamination or hazard exists on any portion of the property, City may obtain, at City's expense, a Phase I Environmental Survey from a reputable environmental engineering firm as soon as reasonably possible after execution of this agreement. The environmental study shall reflect the presence or absence of any hazardous waste, biological or environmental hazard or unsafe condition within the meaning of federal or state environmental protection laws. If the survey reflects the possible existence of hazardous waste or any environmental hazard on the property, the closing date shall be delayed for a reasonable period of time (not to exceed one hundred twenty days). Within this period of time, City, at its expense, shall arrange for additional environmental tests and studies to establish to City's satisfaction that there is no environmental contamination of the soil or groundwater on the property which would impose any liability under any federal or state law for remediation of the condition by the City if City acquires the property. If such tests reveal or recognize environmental condition or contamination on the property that requires remediation under federal or state law, City shall so notify Seller. Within ten (10) days of receipt of such notice, Seller must notify City whether or not Seller will remediate the contamination. If Seller fails to notify City within the ten (10) days, Seller shall conclusively be presumed to have decided not to remediate the contamination. If Seller decides not to remediate the contamination, City shall have the option of either purchasing the property or declaring this agreement void.
6. Seller has until December 31, 2011 to remove any stockpiled topsoil, fill soil, rock and gravel from the property. Any materials not removed by that date becomes City's property.
7. This transaction shall be closed on or before Dec. 1, 2011, or at such other time when the parties may agree at the office of the City Counselor, City of Columbia, Second Floor of the City Hall Building, 701 East Broadway, Columbia, MO 65201, at which time title to the property shall be delivered to City and all monies and papers shall be delivered and transferred.

8. Real estate taxes for the year 2011 shall be prorated and Seller shall remit their portion of said taxes to Buyer at closing.
9. This agreement shall be binding upon and inure to the benefit of the heirs, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have been duly authorized to execute this contract as of the day and year first above written.

CITY:

CITY OF COLUMBIA, MISSOURI

By: _____
Mike Matthes, City Manager

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Fred Boeckmann, City Counselor

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

On this _____ day of _____, 2011, before me appeared Mike Matthes, 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 first above written.

Notary Public

My commission expires: _____.

SELLER:

FRECH LEASING COMPANY, LLC

By: Betty Frech
BETTY FRECH, MEMBER

ATTEST:

By: _____

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

On this 6th day of Oct., 2011, before me, a Notary Public in and for said state, personally appeared, BETTY FRECH, who being by me duly sworn, acknowledged that they are the MEMBER of Frech Leasing Company, LLC, and that said instrument was signed in behalf of said limited liability company and further acknowledged that they executed the same as their free act and deed for the purposes therein stated and that they have been granted the authority by said limited liability company to execute the same.

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

Wendy Morfno Lister
Notary Public

My commission expires: _____

WENDY MORFNO LISTER
Notary Public - Notary Seal
STATE OF MISSOURI
Boone County
My Commission Expires 11/30/2011
Commission # 07434957

Boone County Internet Parcel Map

Prepared by the Boone County Assessor's Office, (573) 886-4262



Boone County Assessor's Office

0 188ft

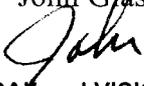
© Topphoto 2007
Map Generated 10/2/2011 11:44:59 AM

ATTENTION!!

DISCLAIMER; READ CAREFULLY: These maps were prepared for the inventory of real property based on the utilization of deeds, plans, and/or supportive data. In addition, map files are frequently changed to reflect changes in boundaries, lot lines and other geographic features resulting from changes in ownership, development and other causes. The existence, dimension, and location of features, as well as other information, should not be relied upon for any purpose without actual field verification. The County of Boone makes no warranty of any kind concerning the completeness or accuracy of information contained on these maps and assumes no liability or responsibility for the use or reuse of these maps by persons not affiliated with Boone County. Use of these maps by any person not affiliated with Boone County constitutes agreement by the user to assume full liability and responsibility for the verification of the accuracy of information shown.

Source:

John Glascock

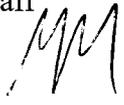


Agenda Item No. _____

FISCAL and VISION NOTES:

TO: City Council

FROM: City Manager and Staff

DATE: October 17, 2011 

RE: Hominy Creek Trail Phase II – Contract for Sale of Real Estate

EXECUTIVE SUMMARY:

Staff has prepared for Council consideration an ordinance authorizing the City Manager to execute a Contract for Sale of Real Estate to acquire a parcel of land in fee simple from Frech Leasing, LLC to facilitate the construction of the Hominy Creek Trail Phase II and the future Ballenger Lane extension.

DISCUSSION:

On July 5, 2011, the City Council approved a motion to negotiate with Frech Leasing, LLC to purchase 4311 I-70 Drive SE in response to Report to Council 108-11. Allan Moore, MAI of Moore & Shryock, LLC, completed an appraisal of this property for the city on August 3, 2011. Mrs. Frech, owner of Frech Leasing, LLC was presented with a \$155,000.00 offer in August. Mrs. Frech made an \$185,000.00 counter offer based on information she received from her real estate advisor Paul Land. Based on Mr. Land's conclusions of value, her counter-offer was accepted and a contract negotiated. In authorizing the City Manager to enter into this Real Estate Contract with Frech Leasing, LLC, the necessary right-of-way for the Hominy Creek Trail project along the roadside alignment will be acquired as well as needed right-of-way for the future Ballenger Lane extension. Mrs. Frech has signed the City prepared real estate contract.

FISCAL IMPACT:

The estimated total cost for Phase II of the Hominy Creek Trail project is \$1,151,544 (\$115,098 for design, \$148,000 for easements and \$886,857 for construction) with \$285,640 appropriated to date. This acquisition will be paid from Annual Streets account (formerly Corridor Preservation) with the trail portion paid from the Non-Motorized Transportation Pilot Program.

VISION IMPACT:

An extensive, safe network of trails; a safe, interconnected, non-motorized transportation network; and diverse travel options that allow for safe and efficient travel to and through destination points. Travel options will be compatible with adjacent land uses and coordinated with the transportation timing needs of the community.

SUGGESTED COUNCIL ACTIONS:

Approve the ordinance authorizing the City Manger to execute all documents necessary to complete the acquisition.

City Fiscal Impact Enter all that apply:	
\$155,759	City's current net FY cost.
\$285,640	Amount of Funds Already appropriated
\$0	Amount of budget amendment needed
\$185,000	Estimated 2 yr net costs:
\$0	One-time
	Operating / On-going
Program Impact:	
N	New program/ agency (Y/N)
N	Duplicates/expands an existing program (Y/N)
N	Fiscal impact on any local political subdivision (Y/N)
Resources Required:	
N	Requires add'l FTE personnel? (Y/N)
N	Requires additional facilities? (Y/N)
N	Requires additional capital equipment? (Y/N)
Mandates:	
N	Federal or state mandated? (Y/N)
Vision Implementation Impact Enter Below All That Applies: Refer to Website:	
Y	Vision Impact? (Y/N or if N, go no further)
12, 13	Primary Vision, Strategy and/or Goal Item#
12.4.1, 13.1, 13.2.2	Secondary Vision, Strategy and/or Goal Item#
N/A	FY11/FY12 Implementation Task#



2401 BERNADETTE DR.
 SUITE 117
 COLUMBIA, MO 65203
 PH: 573-445-1020
 FAX: 573-445-2613

BUSINESS PROPERTY
 LEASING & SALES

August 18, 2011

Betty Frech
 Frech Leasing Company
 703 Wildrose Place
 Columbia, MO 65201

Dear Betty:

At your request I have reviewed the property at I-70 Dr. SE, parcel #17-203-00-05-004.01 01 consisting of 3.09 acres. Such property is currently zoned R-3. Such zoning would allow up to 51 units in multi-family development.

I think this land would be a reasonable candidate for C-3 or M-C zoning districts if you intended to pursue such zoning for a commercial enterprise. In my opinion, City Staff, Planning and Zoning Commission, and City Council would approve such zoning change.

However, prior to pursuing such zoning changeover or development for R-3 uses, you have been presented with an offer from the City of Columbia to acquire such parcel, in its entirety for the City's long term dedication to trail and road system improvements. You indicated their recent offer of \$155,000± established by appraisal firm Moore-Shyrock is inconsistent with a valuation appraisal performed by Cannon-Blaylock on your behalf on this same parcel about 5 years ago. The Cannon-Blaylock appraisal established a value of \$206,000.

My personal opinion on this particular property is that Cannon-Blaylock appraisal is closer to the mark. Each appraiser, as I understand it, examined the property's value under its current R-3 zoning district. The real questions is this: if Betty Frech had been a motivated seller then what sales price could she have achieved if this property were placed on the open market and properly promoted for sale? In my opinion such an offering at \$185,000 would have compelled a sale within a six month period, while any value over \$200,000 would have delayed it beyond that timetable. No question about the fact that \$155,000 would have spurred a more immediate response.

I hold a great deal of respect for each of these appraiser's. However in current market conditions, my estimate of value is \$185,000. And if you can reach agreement with City of Columbia on that amount, then I would suggest that you swallow hard and accept it, even though the sale of this property defeats your goals of developing such parcel as an investment property.

Sincerely,

Paul Land, SIOR
 Principal/Owner
 CC: Mike Grellner



Windy - This is a copy of the letter I received from Paul Land. What's next?

Betty Frech

PAUL LAND, SIOR
 Principal/Owner
 LandReal10@aol.com

www.Paul



Indivi
 Societ
 Off

GRELLNER
 ce President
 alestate.com

COPY

Source:

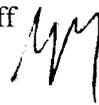
John Glascock



Agenda Item No. REP 108-11

FISCAL and VISION NOTES:

City Fiscal Impact Enter all that apply:	
\$285,460	City's current net FY cost.
\$285,460	Amount of Funds Already appropriated
\$0	Amount of budget amendment needed
Estimated 2 yr net costs:	
\$0	One-time
\$0	Operating / On-going
Program Impact:	
N	New program/ agency (Y/N)
N	Duplicates/expands an existing program (Y/N)
N	Fiscal impact on any local political subdivision (Y/N)
Resources Required:	
N	Requires add'l FTE personnel? (Y/N)
N	Requires additional facilities? (Y/N)
N	Requires additional capital equipment? (Y/N)
Mandates:	
N	Federal or state mandated? (Y/N)
Vision Implementation Impact Enter Below All That Applies: Refer to Website:	
Y	Vision Impact? (Y/N or if N, go no further)
12	Primary Vision, Strategy and/or Goal Item#
12.4.1 12.4.2	Secondary Vision, Strategy and/or Goal Item#
Task #	FY10/FY11 Implementation Task#

TO: City Council
FROM: City Manager and Staff 
DATE: June 22, 2011
RE: Hominy Creek Trail Phase 2: Trail Alignment on Three Parcels at the East End of the Project

EXECUTIVE SUMMARY:

Staff has prepared for Council consideration a report discussing the Hominy Creek Trail alignment through the parcels shown on the attached Diagram 1.

DISCUSSION:

At the January 18, 2011 Council meeting, three parcels were removed from the Ordinance to acquire easements for the Hominy Creek Trail project to allow staff additional time to discuss possible trail alignment options with the adjacent property owners with the goal of reaching a consensus on the trail alignment.

Two alignments have been considered for this portion of Hominy Trail. The attached Diagram 2 shows the two possible trail alignments referred to as the Creek-side Trail Alignment and the Road-side Trail Alignment. The primary difference in the two alignments is how the trail goes beyond the Columbia Canine Sports Center property, which is owned by K-9 Venture Associates LLC, and 3 Chix LLC (K-9 / 3 Chix). Both trail alignments pass under the outer road and I-70 to connect with the existing Hominy Creek Trail which was constructed by The Links development north of I-70.

The Creek-side Trail Alignment is the original concept that was presented at the May 7, 2009 IP meeting. This alignment was originally shown since it followed the creek and provided the most scenic alignment and user facility for the Hominy Creek Trail. At the IP meeting, the K-9 / 3 Chix property managing partner was strongly opposed to the Creek-side Trail Alignment. The owners' concerns were that the trail location on the back side of their property would negatively affect their business of training dogs in the open area of their property between the parking lot and the creek. There are also concerns about dogs-in-training negatively interacting with trail users.

Following the IP meeting, staff worked with the K-9/3 Chix managing partner to address issues and concerns with the project. As a result, the original trail alignment was modified and is shown on Diagram 2 as the Road-side Trail Alignment. This alignment avoids the back area of the K-9 / 3 Chix property by heading north between the Frech property and the K-9 / 3 Chix property up to the outer road

where the trail follows the outer road eastward to the Hominy Creek. While the Road-side Trail Alignment is not as desirable from a trail users viewpoint, the alignment provided a viable option to get the trail connected to the north side of I-70 while working with the adjacent owners to address their concerns. The project presented by staff at the September 7, 2010 public hearing included the Road-side Trail Alignment. Following the public hearing, council directed staff to proceed with the project. The project design and Right of Way descriptions proceeded using the approved Road-side Trail Alignment. Staff prepared the Ordinance to acquire easements for first reading at the January 3, 2011 Council meeting.

Prior to the approval of the Ordinance to acquire, staff was notified that the Frechs were strongly opposed to the Road-side Trail Alignment since it required bringing the trail northward along their eastern property line to get to the outer road. They asked that the trail not be brought to the outer road but rather stay along the creek, and that the trail be located as close as possible to the creek in order to minimize the impact to their property. The easements for the Frech property and the K-9 / 3 Chix property were removed from the Ordinance to acquire to allow staff time to discuss possible trail alignment options with these two adjacent property owners with the goal of reaching a consensus on the trail alignment.

Staff contacted the managing partner for K-9 / 3 Chix properties and flagged a proposed Creek-side Trail Alignment across the property. In discussions with the managing partner it is apparent the owners are still strongly opposed to a trail in this area between their parking lot and the creek, and they believe there will be negative impacts to their business and the trail users with a trail at the back of the property. In consideration of the impasse in reaching a consensus, staff has further studied the trail corridor and future roadway needs in the vicinity in an effort to bring additional considerations into the factors leading to a recommended trail alignment.

The future Ballenger Lane extension from Clark Lane southward to St. Charles Road and Richland Road is shown on the City of Columbia Major Roadway Plan. The future Ballenger Lane extension will include an overpass bridge spanning I-70, the south outer road and the Hominy Creek. There will not be an interchange with I-70 or an intersection with the south outer-road. The Ballenger Lane overpass was originally not a critical factor in determining the Hominy Creek Trail alignment. This is due to the fact that the future Ballenger Lane overpass will be spanning the outer road and creek, and also the trail. If the trail location needs to be adjusted slightly in the future with the bridge construction, that will be an easy matter.

The Missouri Department of Transportation (MoDOT) performed the East Columbia Environmental Impact Study (EC-EIS) to identify east Columbia's current and future transportation needs. The EC-EIS recently received approval by the Federal Highway Administration by the issuance of a Record of Decision (ROD) for the EC-EIS on June 24, 2010. The EC-EIS identifies the preferred alternatives for major roadways in the area as the eastward extension of Stadium Boulevard to Lake of the Woods interchange at I-70, the Ballenger Lane extension and the future improvement of Route WW. While the Stadium Extension and Route WW improvements will be MoDOT projects, the Ballenger Lane extension will be a City of Columbia project. The EC-EIS approved corridor for the Ballenger Lane extension is shown on the attached Diagram 3. The approved corridor shown for Ballenger Lane is 300 ft wide.

Diagram 4 shows the Ballenger Lane extension corridor and trail area in more detail. Since the future Ballenger overpass will be bridging over this area, the future overpass width will likely not be 300 ft wide and the future alignment will be determined to stay within the EC-EIS corridor while also considering financial issues such as avoiding structures as much as possible. At this time, it appears the future extension of Ballenger Lane Extension will likely be within the western portion of the approved

corridor. The Frech tract is approximately 300 ft wide with the eastern approximately 180 ft of the tract affected by the Ballenger Lane extension corridor. At this time, it appears as though the future Ballenger Lane extension will likely require acquisition of the entire Frech property.

Staff is proposing to negotiate with the Frechs for the purchase of their property using roadway corridor preservation funds, similar to the acquisition of property that was done for the future Creasy Springs Road re-alignment. Negotiations will be based on a real estate appraisal. Following negotiation, once a price is agreed upon, staff will bring forth an ordinance authorizing a contract for the purchase of the property. If negotiations are unsuccessful, staff would recommend proceeding with acquisition of the trail easements only. Staff met with the Frechs to inform them of this proposal to acquire their entire property and they are receptive to the negotiation process proceeding.

The successful purchase of the Frech property will provide needed Right of Way for the future extension of Ballenger Lane and will also facilitate construction of the Hominy Creek Trail project along the Road-side Trail Alignment. The portion of the Frech property needed for the trail alignment is proposed to be paid for from Non-Motorized grant funds. Staff is recommending proceeding in the manner outlined above with the Hominy Creek Trail Phase 2 following the Road-side Trail Alignment as approved at the public hearing.

FISCAL IMPACT:

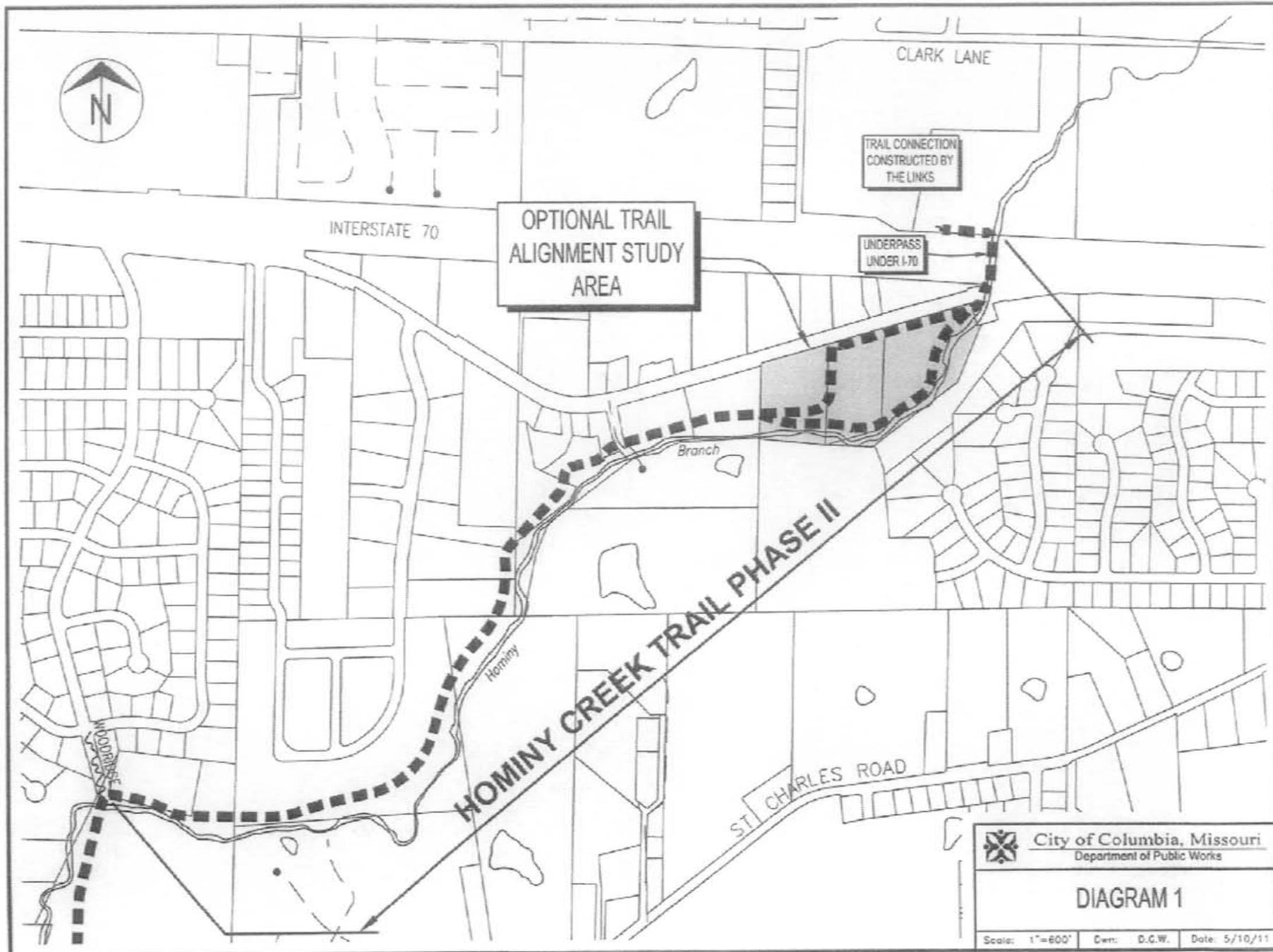
The estimated total cost for Phase II of the Hominy Creek Trail project is \$1,151,544 (\$115,098 for design, \$148,000 for easements and \$886,857 for construction) with \$285,640 appropriated to date. The project will be paid from the GetAbout Non-Motorized Transportation Pilot Program.

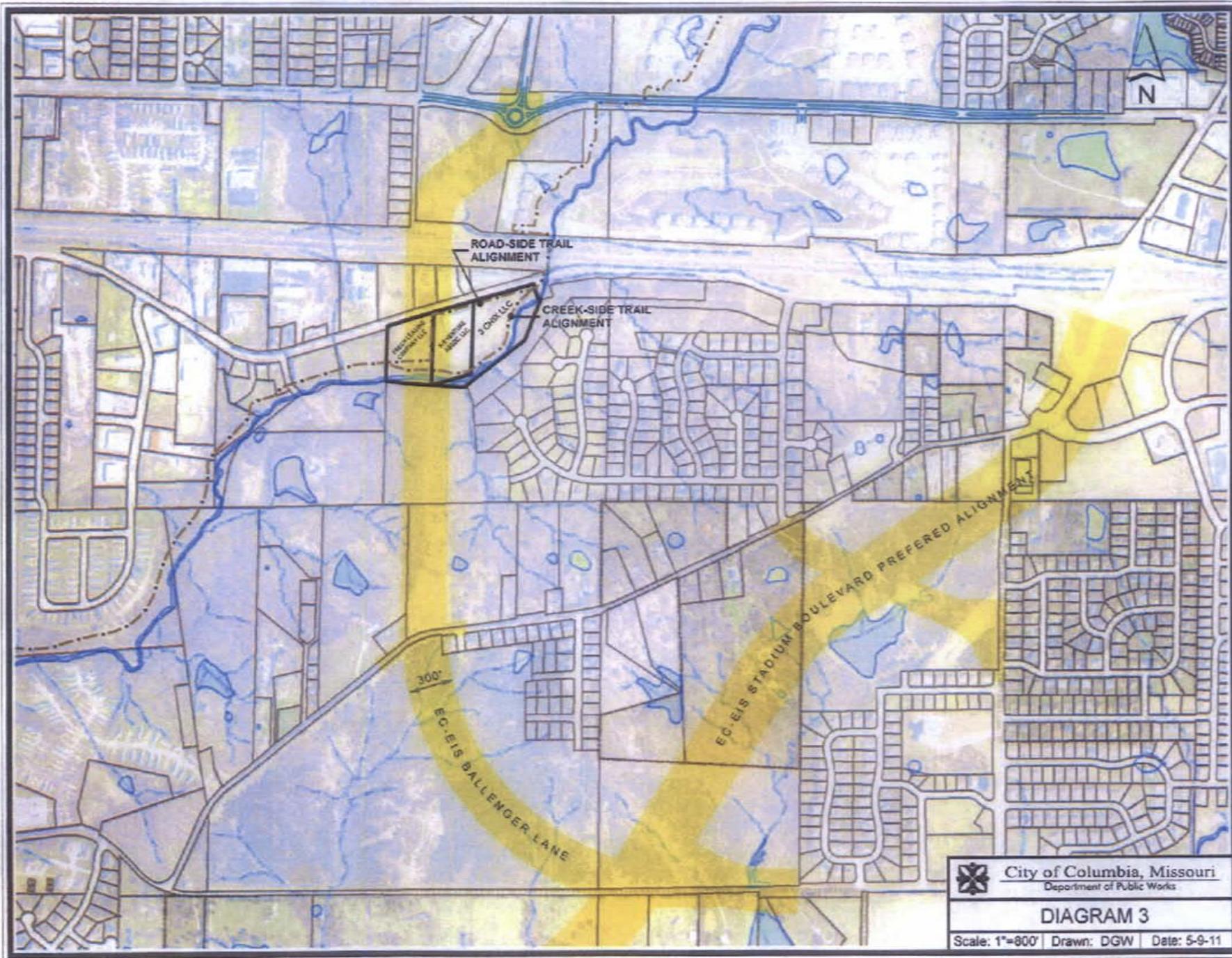
VISION IMPACT:

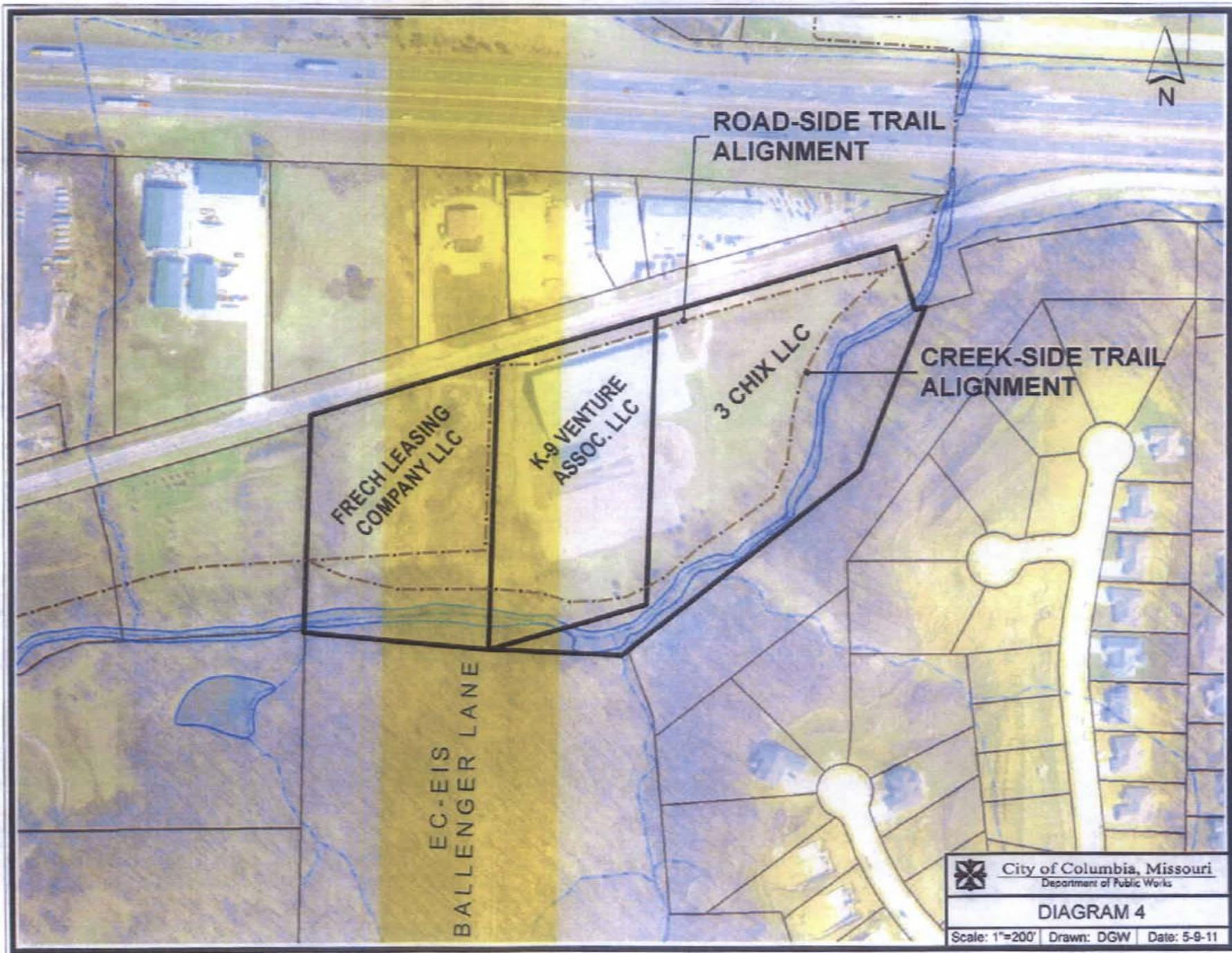
Supports 12.4 – An extensive, safe network of trails and 13.1 – a safe, interconnected, non motorized transportation network.

SUGGESTED COUNCIL ACTIONS:

Council direct staff to proceed with negotiations for the purchase of the Frech tract and to bring forward an Ordinance to acquire the K-9 / 3 Chix easements as needed for construction of the Hominy Creek Trail Phase 2 project.







 City of Columbia, Missouri
Department of Public Works

DIAGRAM 4

Scale: 1"=200' Drawn: DGW Date: 5-9-11