

SETTLEMENT AGREEMENT

THIS MUTUAL RELEASE AND SETTLEMENT AGREEMENT (the “**Agreement**”) is entered into this 3 day of January 2024, (“**Effective Date**”) by and between the City of O’Fallon, Missouri, a charter city and political subdivision of the State of Missouri, 100 North Main Street, O’Fallon, Missouri, 63366 (“**City**”), and Runny Meade Estates MH, LLC, a Delaware Limited Liability Company, 3508 Greenville Ave., Dallas, Texas, 75206 (“**Runny Meade**”).

RECITALS

Whereas, on or about November 1, 2023, Runny Meade acquired from Runny Meade LP, and now operates, a mobile home park within the City of O’Fallon located at 13 Downing St., O’Fallon, MO 63366, and which is more particularly described below (hereinafter “**Subject Property**”); and

Whereas, by Easement Plat filed December 22, 1978, and recorded in Book 14, Page 13 of the Office of the Recorder of Deeds of St. Charles County, Missouri, a predecessor in title to Runny Meade dedicated certain utility easements to City for utility purposes, including, but not limited to, the installation, maintenance and replacement of water lines, which easements vary in width from 10 feet wide to 30 feet wide, and which easements run with the land (hereinafter “**Utility Easements**”); and

Whereas, within the Utility Easements are certain utility facilities, including water lines, sanitary sewer lines and storm sewer facilities (hereinafter the “**Utility Facilities**”); and

Whereas, City alleges mobile homes have been placed within the Utility Easements; and

Whereas, on October 10, 2023, the City filed an action against Runny Meade’s predecessor in title, Runny Meade, LP styled *City of O’Fallon v Runny Meade, L.P., Cause No. 2311-CC01049*, in the Circuit Court of St. Charles County alleging that the mobile homes placed within the City’s utility easements are interfering with the City’s easement rights and are preventing maintenance and repair of the Utility Facilities (the “**Pending Litigation**”); and

Whereas, Runny Meade denies the allegations set forth in the Pending Litigation; and

Whereas, the City and Runny Meade have engaged in settlement discussions and have determined that it is in their respective best interests to resolve the disputes between them for the purpose of avoiding future controversy, costs, legal fees, inconvenience, and any future litigation.

AGREEMENT

NOW, THEREFORE, based on mutually beneficial and valuable consideration including the commitments, obligations, and benefits of this Agreement, the value and sufficiency of which are hereby acknowledged, City and Runny Meade agree as follows:

1. Representations and Warranties. Each of the Parties severally represents, warrants, and agrees, on his or its own behalf and on behalf of their respective agents, successors, and assigns as follows:

- a. Each of the Recitals set forth above is true and correct, and incorporated herein.
- b. Each party has not sold, assigned, or otherwise transferred any interest in the claims, demands, actions, causes of action, or rights that are the subject of this Agreement to any person or entity which is not a party to this Agreement.
- c. The signature and execution of this Agreement is made and undertaken by an individual who is authorized to execute this Agreement and to consummate the transactions contemplated hereby.
- d. None of the parties have relied on any oral representations, promises, or statements made by other parties prior to or contemporaneous with the signing of this Agreement.
- e. The Subject Property consists of two parcels located in St. Charles County, Missouri, as follows: (i) 21.52 acres, more or less, described as Parcel ID 2-0141-4551-00-0001.0000000; and (ii) .54 acres, more or less, described as Parcel ID 2-0141-0055-00-0021.30000000.

2. Transfer of Utility Facilities and Vacation of Utility Easements. As settlement of the above-described lawsuit, the parties agree as follows:

a. The City hereby conveys and transfers to Runny Meade all Utility Facilities including those lines, pipes, inlets, valves, manholes, and other facilities for water, sanitary sewer and storm sewer **EXCEPT** for the following facilities:

1. The single water line extending onto the Subject Property from the City's off-site facilities at Veteran's Memorial Parkway to its connection with the water meter for the Subject Property; and
2. The City's water meter for the Subject Property just south of Veteran's Memorial Parkway; and
3. The sanitary sewer main shown in "pink" on the drawing attached hereto as Exhibit A.

("Retained Utility Facilities")

b. The Utility Facilities are conveyed as-is and the parties agree that no warranty or representations have been made as to their present condition.

c. Following the execution of this Agreement, Runny Meade agrees that it will have sole responsibility to maintain, repair, reconstruction and operate the Utility Facilities conveyed in paragraph 2 (a) above. The maintenance, repair, reconstruction and operation of the Utility Facilities shall be at Runny Meade's sole cost and expense.

d. As a condition precedent to this Agreement becoming effective, the City shall vacate the Utility Easements with the exception of those utility easements described in subsection (e) directly below (the "Retained Utility Easements"). Under state law, the City Council must take action to vacate easements (the "City Council Approval"). The City agrees to obtain a recommendation from the Planning and Zoning Commission (required by Section 89.380 RSMo) at the next available Commission meeting following execution of this Agreement. The City will present a related ordinance for the City Council's consideration at the Council's next available meeting following the recommendation by the Planning and Zoning Commission. In the event the City Council Approval does not occur within ninety (90) days of the date this Agreement is executed by all parties, this Agreement shall expire, and shall be of no further force or effect, and shall not be enforceable by either party, or by any third party, and said expiration shall occur without any further notice or action by either party. In the event the City Council Approval does occur within ninety (90) days of the date this Agreement is executed by all parties, the City shall cause the City Council Approval to be recorded in the Office of the Recorder of Deeds of St. Charles County, Missouri, together with a fully executed instrument vacating the Utility Easements in full and surrendering any rights to the Utility Easements.

e. Retained Utility Easements. The parties agree that the City will retain a utility easement for the Retained Utility Facilities (water meter, the water meter line from the City's off-site facilities to the water meter for the Subject Property, and the sanitary sewer main shown in pink highlighting on "Exhibit A", attached hereto and incorporated by reference as if more fully set out herein).

3. Dismissal of Lawsuit. Within seven (7) business days of the occurrence of the City Council Approval, the City will dismiss, with prejudice, the claims in the Pending Litigation lawsuit styled *City of O'Fallon v Runny Meade, L.P., Cause No. 2311-CC01049* as they relate to all Utility Easements, excluding the Retained Utility Easements, and will dismiss, without prejudice, any claims in the Pending Litigation relating to interference with or the placement of mobile homes or other property within or over the Retained Utility Easements.

4. Repair of Water Main Break.

a. Runny Meade shall immediately commence repairs of the broken six-inch water main at 124 South Wellington at Runny Meade's own cost and expense. Runny Meade shall obtain all required permits for such work and obtain all required inspections.

b. Upon Runny Meade's repair of the broken six inch water main at 124 South Wellington, the City will disconnect and remove the temporary above-ground water pipes which currently serve the 8 mobile homes beyond the water main break.

5. Structures within Retained Utility Easements.

The City has notified Runny Meade that mobile homes or similar structures are located within the Retained Utility Easement for the sanitary sewer main highlighted on Exhibit A.

The parties agree that any mobile home or structure located within or encroaching into a Retained Utility Easement shall be allowed to remain until repairs, maintenance or replacement of the Retained Utilities Facilities is necessary.

Runny Meade shall temporarily remove any structure interfering with the City's repair, maintenance or replacement of a Retained Utility Facility (or, in the event of an emergency, shall immediately remove any structure from within the Retained Utility Easement if the emergency cannot be remedied in any other manner).

Following the temporary removal of a structure within a Retained Utility Easement, Runny Meade shall be allowed to relocate the same structure in its previous location upon completion of the City's repair, maintenance or replacement.

6. Indemnification by Runny Meade. Runny Meade shall indemnify, protect and hold harmless City from and against the loss, cost, claims, demands, damage or expense arising out of any demand, claim, suit or judgment for damages to property and injury to or death of persons including the officer's, agents and employees of either party herein, including payment under any workmen's compensation law or under any plan for employee's disability or death benefit which may arise out of or be caused in whole or in part by the fault, failure, negligence or alleged negligence of Runny Meade or which may relate to the lack of water or water pressure on and after November 1, 2023; the conveyance of the Utility Facilities and the future maintenance and operation of the Utility Facilities.

7. No Admission of Liability. This Agreement has been made by the undersigned parties to resolve the lawsuit. The Parties agree that nothing contained in this Agreement, any document generated by the Parties in connection with this Agreement, or action taken by any Party in connection with this Agreement, constitutes an admission of wrongdoing or liability on the part of any Party. Further, the Parties also agree that they will not use or attempt to use this Agreement as an admission of wrongdoing or liability or in any similar fashion in any litigation or proceeding anytime, anywhere.

8. Miscellaneous.

a. Counterparts. This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1)

agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party to be charged.

b. Amendment. Any future waiver, alteration, amendment or modification of any of the provisions of this Agreement shall not be valid or enforceable unless in writing and signed by all parties, it being expressly agreed that this Agreement cannot be modified orally, by course of dealing or by implied agreement.

c. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their heirs, executors, administrators, successors, legal representatives, and assigns.

d. Governing Law. This Agreement shall be governed by the laws of the State of Missouri.

e. Survival. The warranties and representations of the Parties in this Agreement shall survive the termination of this Agreement.

f. Additional Actions. The Parties hereto agree to cooperate fully with each other to effect the covenants and agreements contained herein and to execute any and all additional documents and to undertake whatever additional actions may become necessary, desirable or appropriate to effectuate the terms, conditions and intent of this Agreement.

9. Entire Agreement. THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR ORAL OR WRITTEN, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS AMONG THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.


[Remainder of this page left blank. Signature page to follow.]


[Signature page to Mutual Release and Settlement Agreement between the City of O'Fallon, Missouri and Runny Meade Estates MH, LLC, a Delaware Limited Liability Company]

IN WITNESS WHEREOF, the Parties acknowledge their understanding of all the terms of this Agreement and that they have been represented by counsel and that it is their intention to be bound hereby and have executed this Agreement as of the date and year first above indicated.

City of O'Fallon, Missouri


Runny Meade Estates MH, LLC

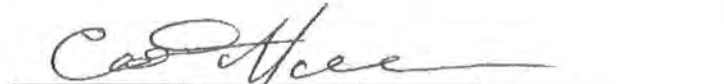

By: Michael Snowden
Title: City Administrator
Date: JAN. 3, 2024


By: Clayton Carter
Title: Authorized Signatory
Date: 1/3/2024

Attest:

Attest:


By: Bess Bacher
Title: City Clerk


By: Counsel Morrison
Title: General Counsel,
Oak Wood Ventures LLC



[Exhibit A to follow]



Legend

- Master Meter
- ▲ Valves
- ✱ Hydrants
- Water Lines

- City
- Private

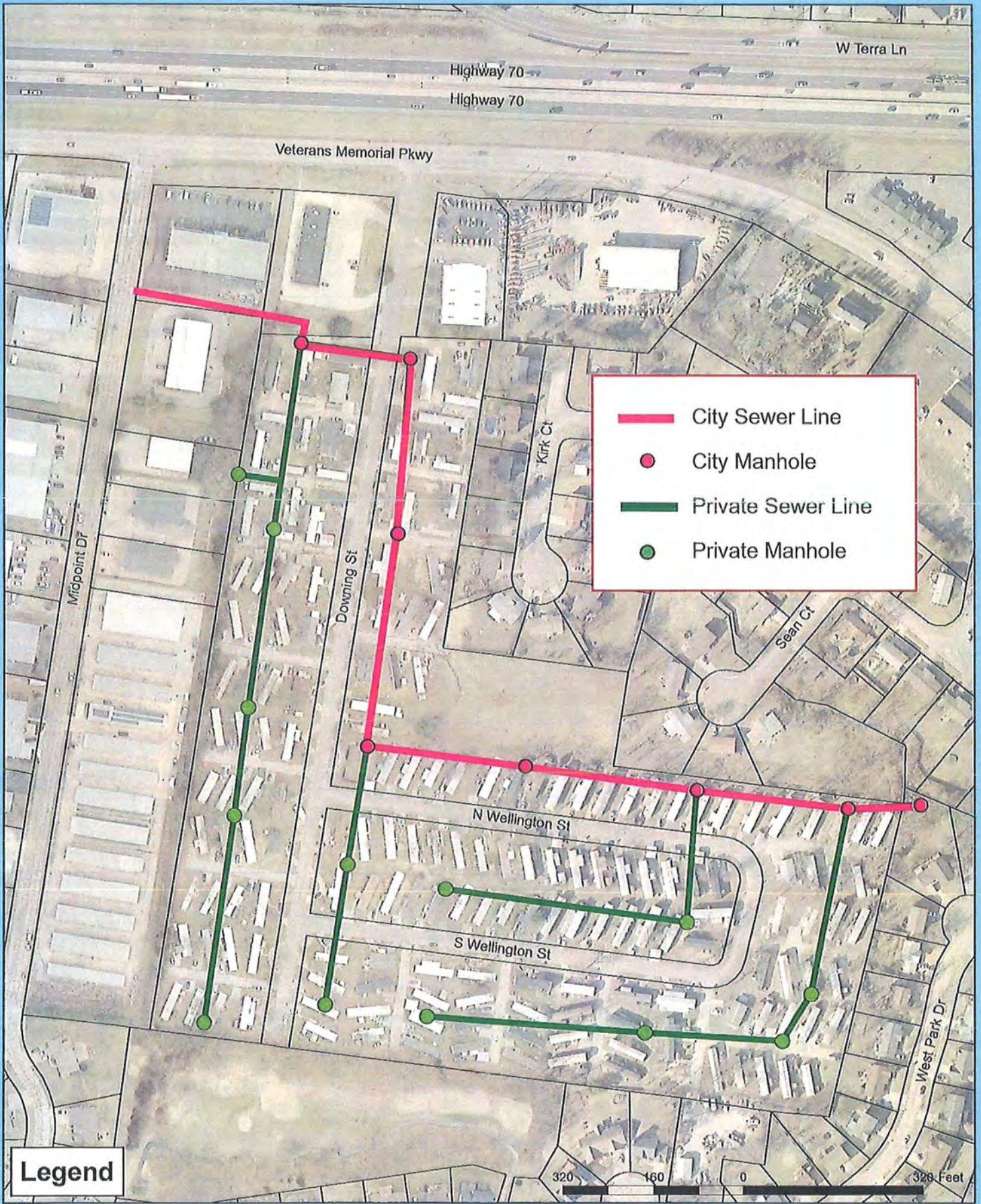


Planning & Development
 Geographic Information Systems
 O'Fallon, Missouri

Runnymede Water Utilities

Printed: 11/1/2023





Legend

- City Sewer Line
- City Manhole
- Private Sewer Line
- Private Manhole



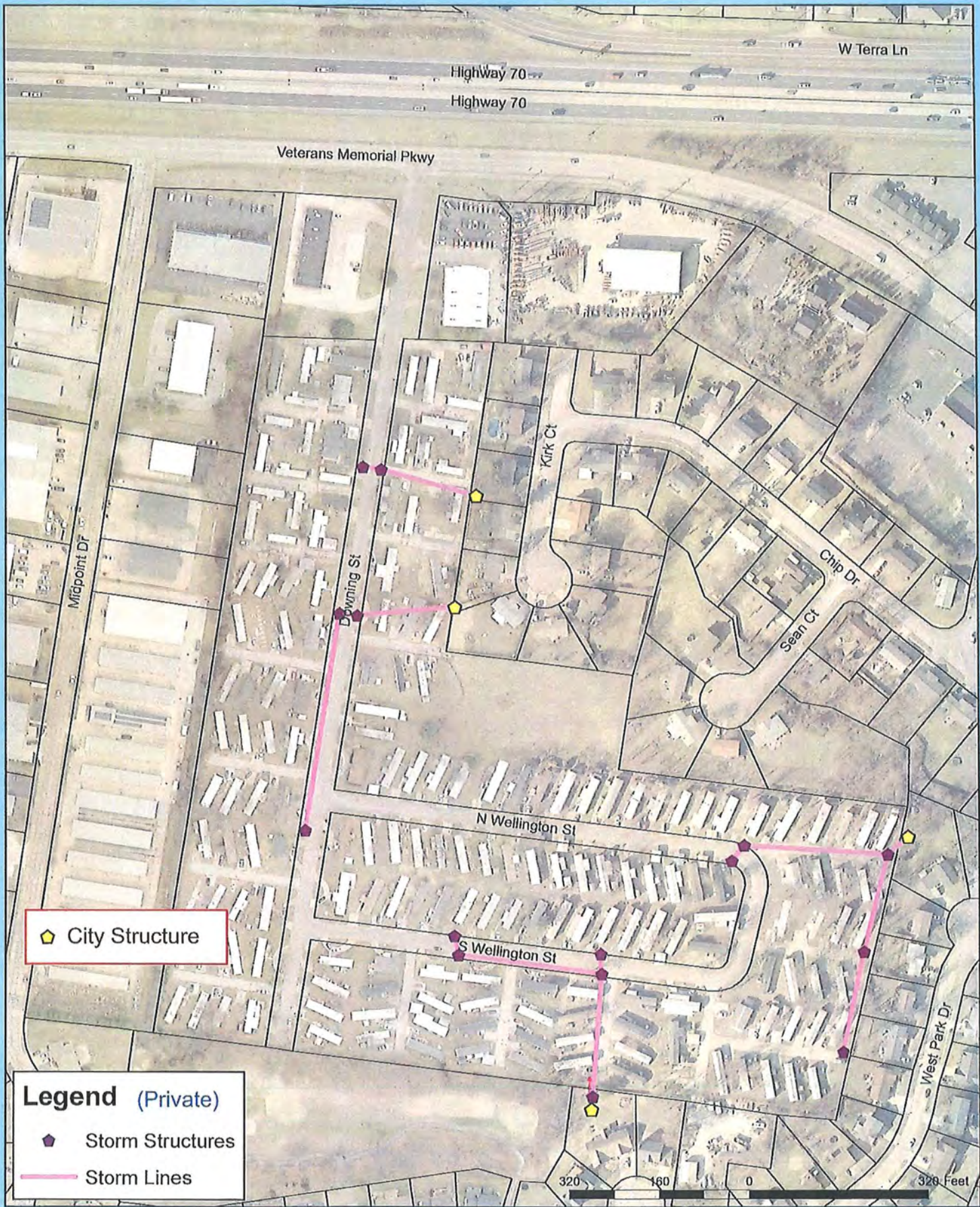
Planning & Development
 Geographic Information Systems
 O'Fallon, Missouri

Runnymede Sewer Utilities

Printed: 10/31/2023



Map data from Esri, DeLorme, Garmin, and other sources.



City Structure

Legend (Private)

- Storm Structures
- Storm Lines



Planning & Development
 Geographic Information Systems
 O'Fallon, Missouri

Runnymede Storm Sewer Utilities

Printed: 10/31/2023



Map data from www.esri.com/arcgis/info/what-is-arcgis/index.html