AN ORDINANCE

AUTHORIZED the City Manager, or his designee, to enter into a license agreement with Environmental Works, Inc., to install and maintain two monitoring wells on public right-of-way to monitor groundwater conditions at no cost to the City.

WHEREAS, the monitoring wells are part of an ongoing environmental investigation that is taking place at the former Morris Oil Co., Inc., fueling station located at 1357 South Glenstone Avenue; and

WHEREAS, this investigation is being conducted with oversight from the Missouri Department of Natural Resources; and

WHEREAS, Environmental Works, Inc., requires the permission of the City to install monitoring wells in the City right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows, that:

Section 1 – The City Manager, or his designee, is hereby authorized to enter into a license agreement with Environmental Works, Inc., said agreement to be in substantially the same form as that document attached hereto and incorporated herein by this reference as "Exhibit 1."

Section 2 – This Ordinance shall be in full force and effect from and after passage.

Passed at meeting: ________________________

______________________________ Mayor
Attest: ____________________________, City Clerk

Filed as Ordinance: __________________________

Approved as to form: ____________________________, Assistant City Attorney

Approved for Council action: ____________________________, City Manager
EXPLANATION TO COUNCIL BILL 2018-030

FILED: 01-09-18

ORIGINATING DEPARTMENT: Public Works

PURPOSE: To authorize the City Manager, or his designee, to enter into a license agreement with Environmental Works, Inc., to install and maintain two monitoring wells on public right-of-way to monitor groundwater conditions at no cost to the City.

BACKGROUND INFORMATION: The proposed monitoring wells are part of an environmental investigation that is taking place at the former Morris Oil Co., Inc., fueling station at 1357 South Glenstone Avenue. This investigation is conducted with the oversight and approval of Missouri Department of Natural Resources. The proposed monitoring wells will be completed to an approximate depth of 20 feet, depending on field conditions. The wells are to be installed flush with the ground and approximately two feet from the north curb-line of Bennett Street within the public right-of-way.

The license agreement permits the consultant to install and maintain two monitoring wells in the public right-of-way, in a location and manner approved by a designated representative of the Director of Public Works. The City has previously granted permission to install similar wells in other locations. Proof of insurance has been submitted. Environmental Works, Inc., will pay for installation and maintenance of the monitoring wells.

This Ordinance supports the following Field Guide 2013 goals: Chapter 8, Natural Environment; Major Goal 16, Watershed Protection – Maintain or restore the pre-development hydrology of our watersheds and protect our waterways from pollution; Objective 16c, Support State Water Pollution Control Regulations - Support legislation to adequately fund the Missouri Department of Natural Resources to ensure they have the resources necessary to enforce the state’s land disturbance program and other water pollution control regulations in areas that are not under the jurisdiction of an effective local program.

RECOMMENDATION: Public Works recommends passage of this council bill.

Submitted by:

[Signature]
Martin Gugel, Director of Public Works

Recommended by:

[Signature]
Dan Smith, Director of Public Works

Approved by:

[Signature]
Greg Burriss, City Manager
LICENSE AGREEMENT
FOR MONITORING WELLS

This License Agreement, made and entered into this ____ day of __________________, 20___, by and between Environmental Works, Inc., a Missouri corporation (hereinafter “Licensee”) and the City of Springfield, Missouri, a municipal corporation, (hereinafter “City”).

WITNESSETH:

Whereas, the City of Springfield, Missouri, is the owner of certain street right-of-way located near 1357 E Glenstone Avenue, on Bennett Street in Springfield, Missouri, and

Whereas, Licensee. is a Missouri corporation is good standing, with its principal offices at 1455 E. Chestnut Expressway, Springfield, Missouri, 65802, and

Whereas, Licensee is an environmental consulting firm which provides sampling and analysis services in connection with hazardous releases from underground storage tanks and other sources, and

Whereas, Licensee has been retained for the purpose of performing site characterization studies, and

Whereas, the Missouri Department of Natural Resources has requested a system of monitoring wells be installed in an area which includes the City property,

NOW, THEREFORE, for and in consideration of the mutual promises and agreements herein contained, it is agreed by the City and Licensee, as follows:

1. License to Install and Maintain Groundwater Monitor Wells: City hereby grants to Licensee, its subcontractors, employees and agents, a license to enter upon City property for the purpose of installing, testing, repair and maintenance of two groundwater monitor wells in connection with its environmental site characterization study, said monitoring wells to be installed as near as feasible to the location shown on Exhibit A, which is attached hereto and incorporated by reference. This license shall commence on the date of the execution of this agreement and shall continue until terminated by either party. Upon termination, all well equipment shall be removed, the wells properly capped and covered by Licensee and the right-of-way premises restored to the satisfaction of City upon termination of this license.

2. Location of Monitoring Wells: The monitoring wells location selected by Licensee shall be approved by a designated representative of the City’s Department of Public Works prior to installation, who may regulate the time of the work and may
require the work to be stopped at any time, in its discretion. Licensee, however, shall have full responsibility for the location of the monitoring wells installed. Installation and removal of the wells shall be undertaken pursuant to an excavation permit from the Director of Public Works, subject to the requirements of the applicable City ordinances. Licensee shall conduct its activities so as to minimize any damage to City property and interference with the movement of motor vehicles in the areas where the monitoring wells are installed. Adequate guards and warning signs or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices will be provided by Licensee during construction. The monitoring wells shall not be installed below a depth of thirty (30) feet without express approval of the City and compliance with applicable City ordinances. The monitoring wells shall be protected by metal covers flush with grade and the wells shall be constructed below ground level upon completion. Casings shall contain a locking device to prevent unauthorized access to the wells. No subsurface water drawn from the wells shall be stored on City premises. Well equipment shall conform to the description in Exhibit B attached hereto.

3. **Indemnity:** Licensee, in consideration for the grant of this license, agrees to defend and indemnify, and save the City and its duly elected officials, employees and agents, harmless from any and all claims, demands, causes of action, damages, judgments, costs, attorney fees or expenses, of any sort or kind whatsoever, including all damages for any injuries to person or persons, including death, or to property, arising out of or in connection with the activities on the property by Licensee, its subcontractors, agents and employees, notwithstanding any possible negligence on the part of the City, its duly elected officials, agents or employees, whether sole, concurrent or otherwise.

4. **Insurance:** Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Springfield, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Springfield against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Springfield. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work.

All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Springfield - Public Works, P.O. Box 8368, Springfield, MO 65801-8368; and

Such policies shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(See, [http://insurance.mo.gov/industry/sovimmunity.php](http://insurance.mo.gov/industry/sovimmunity.php)).

As of January 1, 2015, the minimum coverage for the insurance referred to herein shall be as set out below:

a. **Workers' Compensation**, Statutory coverage per RSMo 287.010 et seq. 
   Employer's Liability .......... $1,000,000.00

b. **Commercial General Liability Insurance**, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an “Occurrence Form Basis” with limits of at least Two Million Seven Hundred Twenty-Seven Thousand Four Hundred Eighty-Nine and no/100 Dollars ($2,727,489.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Nine Thousand One Hundred Twenty-Three and no/100 Dollars ($409,123.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys’ fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.
c. **Automobile Liability Insurance** covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Seven Hundred Twenty-Seven Thousand Four Hundred Eighty-Nine and no/100 Dollars ($2,727,489.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Nine Thousand One Hundred Twenty-Three and no/100 Dollars ($409,123.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. **Subcontracts.** In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Springfield through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

5. **Conformity with Environmental Regulations:** Licensee shall not cause or create any environmental hazards on the property, nor violate any other governmental laws or regulations which may be applicable to its activities on the premises and shall obtain any and all licenses, permits or consents which may be required for its activities on the premises. Licensee shall insure that its activities do not interfere, directly or indirectly, with any City operations. Licensee shall insure that any subcontractor shall comply with the requirements of this paragraph.

6. **Restoration of Premises:** Licensee will, at its own expense, promptly upon completion of the work, restore the premises to their pre-existing condition and to the satisfaction of the Department of Public Works.

7. **Change in Grade:** If the City changes the grade of the row, or changes the location of the street surface, improvements, structures or appurtenances located thereon during the term of the license, or any extensions thereof, thereby necessitating work on or relocation of the well, such work or relocation shall be at Licensee’s sole cost and expense.

8. **Compensation:** No compensation will be payable from the City to Licensee, nor will Licensee be required to pay to City any rent or other fee for entry upon City premises, in accordance with this agreement.

9. **Conflict of Interest:** Licensee certifies that no member or officer of its corporation is an officer or employee of the City, or any of its boards or agencies, and further that no officer or employee or the City has any financial interest, direct or indirect, in this contract, nor is there any conflict of interest under state law.

10. **Discrimination:** The Licensee agrees not to discriminate on the basis of or because of the race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any person in connection with its activities under the license.

11. **Assignment:** This License may not be assigned to any other party. City must approve any subcontractor performing work under this license.

12. **Notices:** Any notices given under this agreement shall be in writing and may be delivered in person or by facsimile transmission, to City, addressed to City Attorney, City of Springfield, 840 Boonville, Springfield, Missouri 65802, FAX: (417) 864-1551, or to Licensee, addressed to Environmental Works, Inc., 1455 East Chestnut Expressway, Springfield, Missouri 65802, FAX: 417-823-9659.

13. **Entire Agreement:** This document and the attached hereto contains the entire agreement between the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

14. **Applicable Law:** This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri and in litigation pertaining hereto venue shall be proper only in the Circuit Court of Greene County, Missouri.
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year first written above.

Environmental Works, Inc.

By: ________________________________

Printed Name: ________________________________

Title: ________________________________

Date: ________________________________

CITY OF SPRINGFIELD, MISSOURI

By: ________________________________

Assistant City Manager, or their designee

Date: ________________________________