

Introduced by: Council Members Present  
of the City of Berkeley, MO

**A RESOLUTION AUTHORIZING APRIL GIESMANN, PE, CFM, C/O HORNER & SHIFRIN, INC. ON BEHALF OF CLIENT MISSOURI AMERICAN WATER COMPANY, A SPECIAL USE PERMIT TO SET THREE (3) MODULAR BUILDINGS FOR USE AS TEMPORARY WATER COMPANY SERVICE FACILITY, LOCATED AT 9040 AND 9080 FROST AVENUE, IN THE CITY OF BERKELEY, ST. LOUIS COUNTY, MISSOURI**

**WHEREAS,** April Giesmann, PE, CFM, c/o Horner & Shifrin, Inc. on behalf of client Missouri American Water Company, has applied to such City for the issuance of a Special Use Permit to set three (3) modular buildings for use as temporary water company service facility; and

**WHEREAS,** in accordance with the applicable Ordinance of the City of Berkeley, such application was submitted to the City Plan Commission for its investigation and reports, and further, that such City Plan Commission has returned its final report and recommendation wherein it recommended the issuance of a Special Use Permit to April Giesmann, PE, CFM, c/o Horner & Shifrin, Inc. on behalf of client Missouri American Water Company, to set three (3) modular buildings for use as temporary water company service facility located at 9040 and 9080 Frost Avenue; and

**WHEREAS,** due notice of the time, place and purpose of a public hearing was published in two (2) consecutive issues of a newspaper of general circulation in the City or posted on the city's website, the first notice being published at least ten (10) days prior to the date of the hearing, and written notices of said hearing were mailed to the last known places of abode of the owners of all property lying within one hundred eighty five (185) feet of all boundaries of the property under consideration for a Special Use Permit; and

**WHEREAS,** such public hearing was duly held by the Council, on December 2, 2019, in the City Hall of the City of Berkeley, Missouri, in conformity with said public notice at which hearing the parties of interest were given an opportunity to be heard.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BERKELEY, MISSOURI AS FOLLOWS:**

**SECTION 1.** The City Council determines that the public health, welfare, and safety are adequately protected in view of the foregoing criteria, and the Special Use Permit shall be granted as the Council affirmatively finds as to the required criteria.

**SECTION 2.** The use of said tracts for the aforesaid purpose is granted subject to the following conditions:

- a) This application must comply with all building and premise requirements under the Section 400.160: M-1 Industrial District (C), (E) and (I) as set by the City of Berkeley through its municipal code and specifically those mentioned under zoning code, Section 400.300 Temporary Buildings, Section 270.020 Annual Inspection, and Section 400.360 Area of Building in Group.
- b) The project must have prior MSD storm water approval.
- c) Established hours of operations: 7am-5pm 5-days a week, Emergency Calls 24 Hours.
- d) The applicant must complete all placement of modular buildings, grading, and construction requirements for the lot and the building exterior and interior under the auspices of the Building Commissioner and Department of Public Works.
- e) Owner shall comply with Ordinance 4373 and install and maintain a commercial trash enclosure with dumpster.
- f) The building, lot, landscaping, and yard areas shall be maintained and kept free and clear of any debris, trash, or weeds including maintenance of all landscaped areas.
- g) Only 10% of windows space shall be used for window signage.

- h) The premise shall be subject to adherence to City of Berkeley annual fire inspections and life safety plans.
- i) All required inspections by the city are required before issuance of occupancy permit or business license.
- j) The buildings will be thoroughly inspected by City's Building Commissioner and Fire Department, and any and all other jurisdictions, if applicable. All permits that are required by any of said mention must be received. Once, all required inspections are completed; apply for all necessary building/occupancy & fire safety permits from the City of Berkeley, and other jurisdictions, after obtaining City Council's approval on this Special Use Permit. Commercial Occupancy permit and Business License is required and shall be posted at all times.
- k) In granting such special use permits, the City Council may provide that the permit be valid for a limited period of time not to exceed ten (10) years. Upon expiration of the time limit specified in the permit, the holder of the permit may request the permit be reviewed by the City Council, and the City Council may extend it for another limited period of time not to exceed ten (10) years. The City Council shall provide that the permit be exclusive only for the holder and non-transferable.
- l) The Special Use Permit will be revoked if for any reason the applicant ceases operations and closes its doors to the public for a period of six (6) months or more, not complying with the City's Special Use Permit. The Special Use Permit shall not be assigned, or sold, or conveyed, or operated by another without prior approval by the City Council and occupancy permit, building permit or business license shall be issued to such assignee until such approves is secured.
- m) Any violations can be a reason for the City to revoke this permit, according to the City's current regulations. To continue occupying the building and facilities the applicant must comply with all the applicable rules and regulations of the City of Berkeley, St. Louis County, State of Missouri, and Federal rules and regulations.
- n) Prior to issuance of an Occupancy Inspection and Permit, the above noted conditions, the conditions as described in the attached Report, the inspections as part of the normal occupancy permit process shall be met, and as approved by the City Council. This Special Use Permit takes effect upon the approval by City Council.
- o) The City Council may, in accordance with Section 400.580, institute a rezoning. The City Council, after a public hearing, may revoke a special use permit for failure of compliance with regulations and restrictions of this Chapter or the requirements of the special use permit.
- p) If the City Council determines that the public health, welfare and safety are adequately protected in view of the foregoing criteria, then the special use permit shall be granted; but if it is negative as to any of such paragraphs, then the special use permit shall be denied.

**SECTION 3.** The Department of Public Works shall be charged with responsibility for the enforcement of this Resolution and incorporated therein all necessary reports.

**SECTION 4.** This Resolution shall be in full force and effect from and after the date of its passage.

PASSED this        day of        2019

ATTEST:

\_\_\_\_\_  
Theodore Hoskins, Mayor

\_\_\_\_\_  
Deanna Jones, City Clerk

Final Roll Call:

Mayor Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Hoskins	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Mitchell	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Williams	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman-At-Large Greene	Aye ___	Nay ___	Absent ___	Abstain ___
Councilman Hindeleh	Aye ___	Nay ___	Absent ___	Abstain ___
Councilwoman Anthony	Aye ___	Nay ___	Absent ___	Abstain ___

\_\_\_\_\_  
Approved As To Form:  
Donnell Smith, City Attorney