

AGENDA ITEM
February 21, 2017

Subject: Nevada Country Club Release Agreement

Department: Administration

The attached ordinance will authorize an agreement between the City of Nevada, the Nevada Country Club, and Rosetta Construction, LLC, for the mutual release of obligations for repairs to Country Club property, in exchange for a \$12,000 payment from the City and concessions from Rosetta Construction. Rosetta agrees to concede \$6,500 in expenses from the SRF construction agreement, bringing the City's net cost of this agreement to \$5,500.

A SPECIAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI AUTHORIZING THE EXECUTION OF A MUTUAL AGREEMENT WITH THE NEVADA COUNTRY CLUB AND ROSETTA CONSTRUCTION, LLC, OF SPRINGFIELD, MO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI, THAT:

Section 1. The mutual release agreement between the City of Nevada, Missouri, the Nevada Country Club, and Rosetta Construction, LLC, attached hereto and incorporated herein by reference is hereby approved.

Section 2. The City Manager is authorized and directed to execute the same in behalf of the City of Nevada, Missouri, and is authorized to take all steps reasonable necessary to fully conclude the settlement and pay the compensation recited therein.

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

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada, Missouri, this 7th day of March, 2017.

(seal)
ATTEST:

Brian L. Leonard, Mayor

Johnna Williams, Deputy City Clerk

MUTUAL RELEASE

Effective February 17, 2017

This release is concluded by and between the City of Nevada, Missouri, (City) the Nevada Country Club Inc., (Country Club) and Rosetta Construction, LLC, (Rosetta);

Witnesseth:

In consideration of the mutual releases herein granted, and

- a. the payment of \$12,000 by the City to the Country Club; and
- b. the withdrawal by Rosetta of its pending \$2,500 change order and its proposed change order for \$4,000 for work on other parts of the project; and
- c. the agreement of the Country Club to complete any further repairs with their own resources,

the parties mutual release each other from all claims, all causes of action, and all demands either has or might have against each other arising out of the construction work on the Country Club property to repair and replace the City wastewater collector during 2016 and 2017. It is understood that the parties deny all liability to each other and conclude this mutual release to the end that the uncertainties and expenses of litigation might be avoided. This release is intended to conclude all claims between the City and Rosetta, on the one hand and the Country Club on the other, based on "clean up" issues pointed out by Country Club Board of Directors and does not impact or modify the obligations of the contractor on other properties under the Construction Agreement.

Executed this _____ day of February, 2017.

(SEAL)

Rosetta Construction, LLC

By: _____
Victor Rosetta, Managing Member

ATTEST:

Secretary

City of Nevada, Missouri

(SEAL)

By: _____
JD Kehrman, City Manager

ATTEST:

Johnna Williams, City Clerk

Nevada Country Club, Inc.

By: _____
Joe Hardin, President

ATTEST:

Secretary