

# **Exhibit 1**

to the Motion for Preliminary Approval of  
Consent Decree and for Entry of an  
Order for Notice and Hearing

**Proposed Consent Decree**



violations of the Pagedale Municipal Code (the “Code”) should receive constitutionally sufficient process and that such individuals should not be subject to excessive fines.

4. The Parties desire to avoid expending further time and expense and resolve all matters raised by this litigation.

5. The Parties recognize, and this Court, by entering this Consent Decree, finds that this Consent Decree has been negotiated by the Parties in good faith and that it is fair, reasonable, adequate, and in the public interest.

**B. Jurisdiction and Venue**

6. This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331, 1343, and 2201(a).

7. Venue lies in this judicial district pursuant to 28 U.S.C. § 1391.

**C. Effective Date**

8. This Consent Decree shall be effective the date this Court enters it, or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on this Court’s docket (the “Effective Date”).

9. This Consent Decree shall not take effect until this Court, pursuant to Federal Rule of Civil Procedure 23(e), approves this Consent Decree as full settlement and release of each and every claim against the City alleged by Plaintiffs, enters a judgment, and “So Orders” this Consent Decree.

**D. Class Definition—Settlement Class**

10. This action shall be certified as a class action only with respect to Count One of the Complaint pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2).

11. The plaintiff class shall be defined as “all persons who, at any time since January 1, 2010, have received warnings that they may receive tickets, have been ticketed, or will be ticketed by the City of Pagedale.”

**E. Reform of the Municipal Court Practices and City Prosecutions**

12. Within ninety (90) days of the Effective Date, the City shall develop and implement all necessary ordinances and policies as described herein to ensure that any individual ticketed by the City and appearing before the Pagedale Municipal Court (a “defendant”) is afforded constitutionally sufficient process pursuant to the Fourteenth Amendment. Such ordinances and policies shall incorporate the following provisions and requirements set forth below.

13. For any case initiated after January 1, 2010, in which a defendant has made payments to the City or the Pagedale Municipal Court that exceed the initial amount of the fine for the alleged violation, including any payments for associated fines resulting from a failure to appear, the City shall dismiss all such fines and fees in excess of the initial fine and close the case without further collections. This dismissal shall include all cases dismissed “on payment of costs” where fines and fees remain outstanding. The City shall do so unilaterally and without requiring the defendant to appear in court or take any other action whatsoever. The City shall inform, via first-class mail, all defendants in such cases that they are no longer required to pay the City or the Pagedale Municipal Court any amount for those past violations.

14. For all cases initiated by the City after January 1, 2010, the City shall decline to prosecute all unresolved or open cases not yet adjudicated and all warrants associated with those cases shall be withdrawn. However, the Pagedale Municipal Prosecutor may continue a case and

maintain a municipal arrest warrant in a manner consistent with the terms of this Consent Decree if he or she finds good cause to continue prosecution. As used in this paragraph, “good cause” means that the Pagedale Municipal Prosecutor has a legally sufficient or substantial reason to continue prosecution.

15. The City shall eliminate, on its own volition and unilaterally, all pending charges, fines, and fees associated with any citation for Failure to Appear in Municipal Court (Pagedale, Mo., Code § 125.260) without requiring a defendant to make any payment, appear in court, or take any other action. The City shall inform, via first-class mail, all defendants in such cases of the elimination of such charges, fines, and fees. The City shall also inform any collection or credit agency with whom the City communicates regarding collections that it has eliminated such charges, fines, and fees.

16. The City shall maintain a list, which it shall publicly post, of the amount of each fine for any municipal ordinance violations for which a fine is allowed under Missouri law. The City shall post this list on its website and make a hard copy available to each defendant appearing before the Pagedale Municipal Court.

17. All citations, summonses, arrest notification forms, and other charging documents used or issued by the City shall provide all defendants with the following information: (i) the charges brought against them, including the specific ordinance the City alleges the defendant has violated, (ii) the potential penalty for conviction (including the amount of any fine), (iii) options for resolving the charge, (iv) all pending deadlines, (v) the date and time of any court session at which the defendant must appear, and (vi) the procedure for seeking a continuance. Any defendant who receives a citation, summons, arrest notification, or other charging document from

the City shall have the right to inspect and receive a copy, free of charge, of any ordinance the City alleges the defendant has violated. The defendant may only request such ordinance from the City at the Pagedale City Hall during its normal hours of operation.

18. At the beginning of every session of the Pagedale Municipal Court, the City shall provide to each defendant a handout substantially in the form of the document entitled “Your Municipal Court,” attached to this Consent Decree as Exhibit A.

19. Upon conviction or entry of a guilty plea, the City shall provide to each defendant a handout explaining how to sign up to pay, in installments, any fine or fee imposed by the Pagedale Municipal Court. This handout may be combined into one document with the “Your Municipal Court” handout referred to in Section E.18 above, so long as the content of both documents remains substantially the same in the combined version.

20. The City shall issue a receipt for every payment it receives for any fine or fee imposed by the Pagedale Municipal Court. Each receipt shall contain, at a minimum, (i) the amount of the payment received, (ii) the specific violation to which the payment is to be applied, identified by the date of the offense and the specific ordinance violation (as well as any other information, such as the case number associated with the violation, which the City, in its discretion, may include), and (iii) the amount the defendant still owes for that violation.

21. At a minimum, the City shall hold court sessions on the following schedule each month: One session to begin and end between 9:00 a.m. to 5:00 p.m., Central Prevailing Time, Monday through Friday, and one session to occur in the evening, to begin at or around 6 p.m., Central Prevailing Time, Monday through Friday.

22. Any individual cited by the City shall be given, at the time the City issues the

citation, the option to choose whether to appear at a day or evening session of the Pagedale Municipal Court. In the event that such practice results in a large disparity in the number of cases on one of the dockets, the City may, when reasonably necessary to balance to load of the dockets, assign cases to a docket regardless of the choice of the individual cited. Similarly, and also subject to the City's ability to make docket assignments when reasonably necessary to balance the number of cases on the dockets in the event of a large disparity in the number of cases on the dockets, any defendant requesting a continuance shall be given the option to continue the hearing either at a day or evening session of the court.

23. The City shall not use municipal arrest warrants as a means of collecting civil court debt. The City denies that this is currently its policy or practice.

24. Before it imposes any penalty on any defendant for failure to pay any fine or fee imposed by the Pagedale Municipal Court, the Pagedale Municipal Court shall hold a contempt hearing. This contempt hearing shall include a determination by the Pagedale Municipal Court of the defendant's ability to pay any fine or fee. As part of the ability to pay determination, the Pagedale Municipal Court shall affirmatively inquire as to a defendant's capacity to pay prior to imposing a penalty for failure to pay. A defendant may demonstrate an inability to pay by completing a standard affidavit under penalty of perjury. Such an affidavit shall be prima facie evidence of the defendant's inability to pay and any defendant submitting such an affidavit shall be adjudicated unable to pay. Upon such a determination, the Pagedale Municipal Court shall proportion all penalties to the financial resources of the defendant. Included in the ability to pay determination shall be an express inquiry by the Pagedale Municipal Court into any documented fines and fees owed by the defendant to other municipal courts.

25. The Pagedale Municipal Court shall not sentence any defendant to incarceration or confinement unless that defendant is either (i) represented by counsel, or (ii) knowingly, intelligently, voluntarily, and on the record waived the right to counsel. All defendants facing a sentence of incarceration or confinement shall be informed orally by the Pagedale Municipal Court, as well as in the “Your Municipal Court” sheet referred to in Section E.18 above, that they are entitled to the appointment of counsel at no cost. The “Your Municipal Court” sheet shall explain the process by which counsel shall be appointed for any defendant entitled to an attorney.

26. The City shall not penalize defendants for failure to appear for either minor traffic violations or municipal ordinance violations, as those terms are defined in Mo. Rev. Stat. § 479.350 (as that statute may be amended from time to time).

27. The Pagedale Municipal Court shall not conduct more than seven (7) trials in any single session of the court. If the number of trials in a single session exceeds seven (7), the City shall schedule a third session, exclusively for conducting trials, within thirty (30) days of the date on which the surplus trials were initially scheduled.

28. The City shall revise its online payment system to allow any defendant to pay any fines and fees resulting from a minor traffic violation or a municipal ordinance violation, as those terms are defined in Mo. Rev. Stat. § 479.350 (and as those terms may be amended by statute from time to time).

#### **F. Municipal Code Revisions**

29. The City shall take the following actions:

- a. Within one hundred twenty (120) days of the Effective Date, the City shall repeal: Chapter 215 (entitled “Nuisances”), Articles I and III; and, Chapter

515, Article I (“Minimum Housing Standards”) of the Code and replace such chapters with an ordinance adopting, or ordinances substantially in the form of, the St. Louis County Property Maintenance Code, Chapter 1110 Title XI, Public Works and Building Regulations—Adoption of International Property Maintenance Code, Year 2009 Edition (Ordinance No. 24,440, Approved July 14, 2010);

- b. Within thirty (30) days of the Effective Date, the City shall repeal, and shall not reenact, the following ordinances: Pagedale, Mo., Code § 210.750 (regarding barbeques); Pagedale, Mo., Code § 210.770 (prohibiting wearing pants below the waist in public); Pagedale, Mo., Code § 345.030 (regarding walking on the left side of a crosswalk); Pagedale, Mo., Code § 345.080 (regarding walking on a roadway); Pagedale, Mo., Code § 405.080(A) (regarding basketball hoops and wading pools); and Pagedale, Mo., Code § 405.270 (prohibiting a dish antenna on the front of houses).

30. The City shall ensure that any provision of the Code repealed or modified pursuant to this Consent Decree shall remain repealed or modified and shall not be replaced with any similar ordinances or policies, whether formal or informal.

31. The City shall only issue citations for violations of specific provisions of the Code. The City shall cease ticketing, and shall cease threatening to ticket, individuals for conditions not specifically mentioned in the Code. The City shall dismiss all outstanding cases for violations of such conditions. The City shall provide written notice, via first-class mail, to all defendants in such cases of such dismissal.

32. The City shall dismiss all outstanding citations and cases for the violation of any ordinance that is modified or repealed, in whole or in part, by the terms of this Consent Decree. The City shall provide written notice, via first-class mail, to all recipients of such citations or defendants in such cases of such dismissal.

**G. Amnesty**

33. The City shall dismiss each, any, and all outstanding citations, fines, fees, and warrants for the named plaintiffs. Furthermore, the City shall take no further action on any warning or code inspection report issued to such named plaintiffs prior to the Effective Date.

**H. Enforcement**

34. In order to ensure compliance with this Consent Decree, the City shall provide Plaintiffs with the following documents and information.

35. The City shall provide Plaintiffs with the following documents and information on an annual basis within sixty days (60) of completion:

- a. An audited financial statement, compliant with Government Accounting Standards Board standards, for each fiscal year;
- b. The approved, final budget showing forecasted revenue and expenditures by fiscal year;
- c. Any reports provided by the City to the Missouri State Auditor pursuant to Senate Bill 5 or Senate Bill 572;
- d. Any reports provided by the City to the Missouri Office of State Courts Administrator, including the Municipal Division Summary Reporting Form;
- e. A municipal court statistics report including statistics on active cases and

finances and fees collected; and

- f. Any copies of issued financial or management performance audits and related corrective action plans prepared by or on behalf of the City.

36. The City shall provide the Plaintiffs with the following documents and information within sixty (60) days of the end of each fiscal quarter:

- a. Quarterly interim budget reports reflecting year-to-date revenues and expenditures as compared with budgeted amounts; and
- b. Records of collections by the Pagedale Municipal Court.

37. The City will provide the Plaintiffs any findings or reports issued by the Missouri State Auditor concerning the City or the Pagedale Municipal Court within sixty (60) days of the City becoming aware of the same.

38. The City shall provide such reports for five (5) years following the Effective Date.

39. Within five (5) years of the Effective Date, at Plaintiffs' written request, the City shall provide Plaintiffs with information reasonably necessary to demonstrate the City's performance of its obligations under this Consent Decree. Plaintiffs' written request must be reasonable and Plaintiffs' request shall not be more frequent than once every six (6) months.

40. If Plaintiffs reasonably believe that the City is not in substantial compliance with the terms of this Consent Decree, Plaintiffs' counsel shall, by written notice, call a meeting with the City's counsel to be held at a mutually agreeable time and place within thirty (30) days of the request to discuss and attempt to resolve the dispute. The City's counsel shall attend such a meeting.

41. In the event that counsel for the City and counsel for Plaintiffs cannot come to an

agreement that resolves the claimed violations, Plaintiffs may move this Court, pursuant to Rule 70 of the Federal Rules of Civil Procedure or any other applicable rule or procedure, for an order enforcing the provisions of this Consent Decree and any other enforcement and implementation mechanisms as may be necessary or appropriate. If this Court issues such an order, this Court may, in its discretion, award Plaintiffs' counsel their reasonable attorneys' fees and costs associated with obtaining such order.

42. This Consent Decree constitutes final relief entered by this Court and is enforceable through this Court's contempt powers. This Court shall retain jurisdiction over this matter for all purposes and may issue such orders as may be necessary or appropriate to enforce this Consent Decree.

43. The Parties may jointly agree to make changes, modifications, and amendments to this Consent Decree, which shall be effective if approved by this Court.

44. The Parties agree to defend the provisions of this Consent Decree, including in collective bargaining. Each party shall notify the other of any legal challenge to this Consent Decree, whether such challenge arises in a court, a union, or an administrative proceeding or otherwise. If any provision of this Consent Decree is challenged in any state or municipal court, the Parties shall agree to consent to removal to Federal Court.

45. The City shall require compliance with this Consent Decree by its respective officers, employees, agents, agencies, assigns, or successors.

**I. FRCP 23(e) Hearing**

46. Plaintiffs' counsel shall make a motion to this Court for preliminary approval of this Consent Decree and for entry of an Order for Notice and Hearing. Such motion shall request

this Court set a date for a hearing to determine if the resolution of this matter is fair, reasonable, and adequate pursuant to Federal Rule of Civil Procedure 23(e). Such motion shall also request that this Court determine that sufficient and adequate notice of the hearing consists of (i) the City posting a Notice of Hearing at the City's City Hall and Municipal Court; (ii) the City posting a Notice of Hearing on the City's website; and (iii) publication of the Notice of Hearing by the City twice within a three-week period in each of the following publications: *The St. Louis American*; *The St. Louis Post-Dispatch*. The Notice of Hearing shall be in the form attached as Exhibit B to this Consent Decree.

**J. Release**

47. As of the Effective Date, all claims raised by the Plaintiffs against the City shall be resolved with prejudice and all remedies sought in the Complaint concerning such claims shall be replaced by the provisions of this Consent Decree.

48. The Parties shall each bear their own fees, expenses, and costs with respect to all claims raised by the Plaintiffs in the Complaint.

**K. Miscellaneous Provisions**

49. This Consent Decree shall remain in effect until this Court, upon the motion of either party, determines that the provisions are no longer necessary to ensure that the City's policies and practices are consistent with constitutional standards.

50. The Parties have both participated in the drafting of this Consent Decree. As such, any ambiguity in this Consent Decree shall not be construed against either party.

51. Any notice or reporting required by or made pursuant to the terms of this Consent Decree shall be sent by both first-class mail, postage prepaid, and electronic mail to:

**FOR PLAINTIFFS:**

INSTITUTE FOR JUSTICE  
Attn: William R. Maurer  
10500 NE 8th Street, Suite 1760  
Bellevue, WA 98004  
Email: [wmaurer@ij.org](mailto:wmaurer@ij.org)

INSTITUTE FOR JUSTICE  
Attn: Joshua House  
901 N. Glebe Road, Suite 900  
Arlington, VA 22203  
Email: [jhouse@ij.org](mailto:jhouse@ij.org)

BRYAN CAVE LLP  
Attn: Barbara Smith  
One Metropolitan Square  
211 North Broadway, Suite 3600  
St. Louis, MO 63102-2750  
Email: [Barbara.Smith@bryancave.com](mailto:Barbara.Smith@bryancave.com)

**FOR THE CITY:**

BEHR, McCARTER & POTTER, P.C.  
Attn: Timothy Reichardt  
7777 Bonhomme Avenue, Suite 1400  
St. Louis, Missouri 63105  
Email: [treichardt@bmplaw.com](mailto:treichardt@bmplaw.com)

SJALTON LAW, LLC  
Attn: Sam J. Alton  
7582 Big Bend Blvd.  
St. Louis, Missouri 63119  
Email: [sam@stlinjured.com](mailto:sam@stlinjured.com)

Any party may change the above-designated addressee or address by written notice to the other party.

IT IS SO STIPULATED AND AGREED:

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William R. Maurer\*, WSBA No. 25451      Date  
Institute for Justice  
10500 NE 8th Street, Suite 1760  
Bellevue, WA 98004  
Telephone: (425) 646-9300  
Fax: (425) 990-6500  
Email: wmaurer@ij.org  
*\*Admitted Pro Hac Vice*

*Counsel for Plaintiffs*

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Timothy J. Reichardt, No. 57684MO      Date  
Behr, McCarter & Potter, P.C.  
7777 Bonhomme Avenue, Suite 1400  
St. Louis, MO 63105  
Telephone: (314) 862-3800  
Fax: (314) 862-3953  
Email: treichardt@bmplaw.com

*Counsel for Defendant City of Pagedale*

SO ORDERED:

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Rodney W. Sippel  
United States District Judge

Date: \_\_\_\_\_

**Exhibit A**  
to the Consent Decree

*"Your Municipal Court"*

## YOUR MUNICIPAL COURT

The Municipal Courts of Missouri are a division of the Circuit Courts of the State of Missouri and are open to the public. These courts are authorized by the Missouri Constitution and created by charter. The purpose of these courts is to provide you with a place to obtain a fair and impartial trial on any citation alleging a violation of a city ordinance. The municipal courts have jurisdiction over all cases arising under their city charter or any ordinance of the city and all other such jurisdictions as are or may be hereafter conferred by law. The range of punishment on municipal violations is up to a \_\_\_\_\_ fine and up to \_\_\_\_\_ days in jail, or both.

**More information, include the courts hours of operation and court contact information can be found on the City's website at [www.\\_\\_\\_\\_\\_.com](http://www._____.com) or by calling \_\_\_\_\_.**

Municipal courts are a court of law established to protect the rights of all citizens. If there is anything you do not understand, do not hesitate to ask the Judge any questions.

**While In The Courtroom, You Are Expected To:** remain seated until your case is called, not smoke or consume food or drink, not talk, or make noise; not sleep or otherwise disrupt the Court proceedings.

You have a right to plead (1) guilty, (2) guilty with an explanation or (3) not guilty. You are presumed to be innocent unless and until the City's prosecution proves your guilt beyond a reasonable doubt. When reasonable doubt exists, the case will be decided in your favor. If, after the charge is read and you understand it, you feel you have violated the law, you may enter a plea of guilty. If you believe you have not violated the law, or have a defense to the alleged violation, you should plead not guilty. If in doubt, plead not guilty. You will not be given a heavier penalty because of a not guilty plea.

### **Right to an attorney:**

You have the right to be represented by an attorney and may employ one to represent you at any time. At the first setting of your case, you have the right to obtain a continuance in order to obtain a lawyer or to prepare your defense. If you desire a continuance, you should request it after your case is called and before entering your plea of guilty or not guilty. However, you may represent yourself at trial. If you establish that you cannot afford an attorney, **and** the City is seeking jail time for the offense charged, the Court will appoint an attorney to represent you.

### **If You Plead Guilty:**

1. You will be sentenced this evening.
2. A guilty plea associated with moving violations may result in points on your driving record.
3. A guilty plea associated with criminal charges will be on your arrest record as a conviction.
4. The court will allow you time to pay your fine. The court will consider installment payments if you establish the need for additional time to pay the fine. If you establish that you cannot pay the fine, the court will also consider community service to satisfy payment. If you are given an extension to pay your fine, you will receive a sheet explaining payment. **READ THE SHEET CAREFULLY.** Make sure you appear on the court date noted on the sheet if you have not paid your court fine and/or costs as instructed. **YOU WILL NOT BE ARRESTED FOR INABILITY TO PAY A FINE. HOWEVER, FAILURE TO APPEAR IN COURT ON THE DATE REQUIRED WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.**

**If You Plead Guilty with an Explanation:**

This plea has the same effect as a plea of guilty, but says that you would like to explain to the Judge mitigating circumstances with respect to your charge/s. This also gives the Judge the opportunity to consider any unusual circumstances which you believe may be in your favor before you are sentenced.

**If You Plead Not Guilty:**

Because of the number of cases before the Court each month and the need to have the officer and any witnesses present, your case cannot be heard tonight. You will be given a future court date for trial.

**At trial:**

You have a right to testify or remain silent. If you remain silent, it is not considered an admission of guilt. If you testify, the Judge may consider any statement you make in determining your guilt or innocence.

You have the right to ask questions of witnesses testifying against you.

You have a right to have subpoenas issued and served for witnesses on your behalf to appear at the trial and to question all witnesses who testify against you at trial.

Your case is tried. If you are found not guilty, the case ends.

You may, if found guilty, accept the decision of the Municipal Court or appeal your case to the Circuit Court of St. Louis County, where you may have a new trial before a different Judge. The request for appeal must be made within 10 (ten) days of entry of the court's decision and cannot be extended for any reason. Complete details of the appeal procedure will be explained to you by Court personnel upon request.

**The Order of Trial Is As Follows:**

The case is called.

Witnesses are sworn.

The City's witnesses testify to explain their version of what happened.

You or your attorney can question City's witnesses.

You may testify and/or call witnesses to testify in your behalf to explain your version of what happened.

The City Prosecutor may question you and your witnesses, if you and your witnesses testify.

The Judge renders the Court's Decision.

**Right to release pending hearing**

If you are confined on a municipal court charge you have the right to release from custody unless the Court makes a determination that you need to be held for the protection of the community. If the Court orders your release, there may be conditions placed upon your release.

**Right to access court records**

If you have a case pending in municipal court, you have the right to access court records regarding your case.

This includes records which show charges, court rulings, fines owed, and other information related to your case.

**Right to change of judge or recusal of judge**

You may request a change of judge without cause no later than ten (10) days after you entered your initial plea. If it is past the ten (10) days, then you must show cause as to why the judge should be removed.

In addition a judge may recuse him or herself upon a determination that he or she has an interest in the case or that the judge will appear as the prosecuting attorney in a neighboring county where the prosecuting attorney will serve as judge.

In traffic cases, the objective of this court is to reduce the number of accidents and injuries and to make our streets safer. Careful driving is the daily responsibility of each and every one of us.

**Exhibit B**  
to the Consent Decree

*Form of Notice*

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI**  
**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND CONSENT DECREE**

*Whitner et al. v. City of Pagedale*

Case No. 4:15-cv-01655-RWS

**TO ALL PERSONS WHO, AT ANY TIME SINCE JANUARY 1, 2010, HAVE RECEIVED WARNINGS THAT THEY MAY RECEIVE TICKETS, HAVE BEEN TICKETED, OR WILL BE TICKETED BY THE CITY OF PAGEDALE:**

**PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION.**

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**SUMMARY OF THE LITIGATION AND SETTLEMENT NEGOTIATIONS**

1. Plaintiffs Valarie Whitner, Vincent Blount, and Mildred Bryant (the “Named Plaintiffs”) filed a class action lawsuit in the Eastern District of United States District Court for the Eastern District of Missouri entitled *Whitner et al. v. City of Pagedale*, Case No. 4:15-cv-01655 (the “Action”). The Named Plaintiffs alleged in Count One of the Action (“Count One”) that the city of Pagedale’s (the “City”) policies and practices regarding the enforcement and adjudication of the City’s municipal code violated the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. In particular, Count One alleged that the City financed itself by identifying, ticketing, prosecuting, convicting, and fining individuals to raise money for the City’s treasury. The Named Plaintiffs requested declaratory and injunctive relief on behalf of the class for this alleged violation.

2. The City denied and continues to deny the allegations and claims in the Action.

3. The Named Plaintiffs and the City (together, the “Parties”) participated in extensive arms-length negotiations to resolve the Action, including written, telephonic, and in-person negotiations. As a result of these negotiations, the Parties have proposed a written consent decree (the “Consent Decree”) that settles and resolves on a class-wide basis any and all claims in the Action, that occurred after January 1, 2010, and up to upon the date the United States District Court for the Eastern District of Missouri (the “District Court”) enters the Consent Decree, or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the District Court’s docket (the “Effective Date”).

4. On or about February 2, 2018, the District Court provisionally approved all terms of the Consent Decree, finding them to be sufficiently fair, reasonable, and adequate to warrant issuance of this Notice of Proposed Class Action Settlement and Consent Decree.

**TERMS OF THE CONSENT DECREE**

5. The Class. The Named Plaintiffs propose to settle the Action pursuant to the terms of the Consent Decree that will be binding upon all class members, which the Consent Decree

defines as “all persons who, at any time since January 1, 2010, have received warnings that they may receive tickets, have been ticketed, or will be ticketed by the City of Pagedale” (the “Class”).

6. Provisions of the Consent Decree. The Consent Decree implements changes that will ensure that defendants in the Pagedale Municipal Court (the “Municipal Court”) receive constitutionally sufficient process. The Consent Decree also provides for the repeal of certain provisions of the Code and, in some cases, replacement by provisions of the St. Louis County Property Maintenance Code. The details are contained in the Consent Decree, which is available at the following website: [www.cityofpagedale.com/\\_\\_\\_\\_\\_](http://www.cityofpagedale.com/_____). In general, the Consent Decree requires the City to take certain actions with respect to the following, as all set forth in greater detail in the Consent Decree:

- With respect to the Pagedale Municipal Court, the City will: dismiss and close cases (and related fines and fees) in which a defendant has already made payments to the Municipal Court which exceed the amount of the original fine (including amounts resulting from an associated failure to appear); decline to prosecute all unresolved or open cases unless the Pagedale Municipal Prosecutor finds good cause to continue prosecution; eliminate all pending charges, fines, and fees associated with any citation for failure to appear; publicly post and distribute to all defendants a list of all fines for municipal code violations for which a fine is permitted under Missouri law; ensure that citations issued provide certain specific information concerning the citation and resulting municipal Court case; provide specific information at each Municipal Court session explaining the defendant’s rights and the procedures of the Court and payment methods; issue receipts for payment of fines and fees that indicates the amount paid, the specific violation to which the payment is to be applied, and the amount the defendant still owes for that violation; ensure that a hearing is conducted before a defendant is penalized for failing to pay a fine or fee; establish an additional monthly Municipal Court session (one day, one night), limit the number of trials per session, and provide a third monthly session for trials if necessary; attempt to accommodate a defendant’s preference for attending either a day or night session of Municipal Court; ensure that no defendant will be sentenced to confinement unless that defendant is represented by counsel or has waived the right to counsel; not penalize defendants for failure to appear for minor traffic violations or municipal code violations; and provide online payment options for minor traffic and/or municipal ordinance violations.
- With respect to its Municipal Code, the City will: repeal certain sections of its municipal code dealing with nuisances and housing standards and replace these sections with corresponding sections of the St. Louis County Property Maintenance Code; repeal several ordinances in addition to these provisions; and not issue tickets for conditions not specifically mentioned in the Pagedale

Municipal Code and dismiss all outstanding cases for violations of such conditions.

7. Monitoring Requirements. The parties have agreed that compliance with the Consent Decree will be monitored for five (5) years after the Effective Date by providing certain information, as set forth in greater detail in the Consent Decree, to Named Plaintiffs concerning the City's budgeting, financial statements, and collections of the Pagedale Municipal Court.

8. Attorneys' Fees, Costs, and Damages. Pursuant to the Consent Decree, each party will be responsible for its attorneys' fees and costs. The Consent Decree does not award damages to the Named Plaintiffs or the Class.

9. Continued Jurisdiction of the District Court. The District Court may enforce the Consent Decree through its contempt powers. The District Court will maintain jurisdiction over the Action and may issue such orders as may be necessary or appropriate to enforce the Consent Decree.

### **EFFECT OF THE CONSENT DECREE**

10. If it is finally approved by the District Court, the Class will be bound by the terms and conditions of the Consent Decree, and shall be bound by any order issued by the District Court that enjoins all in the Class from asserting against the City and its respective affiliates, trustees, directors, officers, employees, representatives, consultants, insurance carriers, attorneys, assigns, executors, administrators, and agents, past and present, any and all rights, claims, demands, liabilities, actions and causes of action for injunctive, declaratory, or equitable relief, as well as associated attorneys' fees, costs, and expenses, of whatever nature whatsoever, known or unknown, fixed or contingent, suspected or unsuspected, that all or any members of the Class now have, or may ever have, against the City, that occurred between January 1, 2010, and the Effective Date and that arise out of or in any way relate to the claims and allegations asserted in the Action.

### **FINAL CONSENT DECREE APPROVAL HEARING**

11. On \_\_, 2018, at \_\_, the District Court will conduct a final approval hearing (the "Final Hearing") to determine whether to certify the Class for purposes of settlement and grant final approval of the Consent Decree. The Final Hearing shall be conducted in Courtroom 16 South, Thomas F. Eagleton U.S. Courthouse, 111 South 10th Street, St. Louis, MO 63102.

### **OBJECTIONS OR COMMENTS TO PROPOSED CONSENT DECREE**

12. Class members have a right to object to the terms of the Consent Decree. To be considered by the District Court, Class member objections can be made via telephone or in writing at the phone number and address for counsel for the proposed class ("Class Counsel") listed below, but must be made to Class Counsel no later than \_\_\_\_\_.

13. Objections must include the following information: (i) the objector's contact information (name, address, phone number, and email), (ii) an explanation of the objector's objection to the Consent Decree; and (iii) whether the objector intends to appear at the Final

Hearing on \_\_\_\_\_. All information submitted to Class Counsel will be provided to the City and the District Court.

14. It not necessary for Class members to appear at the Final Hearing. An objector who wishes to appear at the Final Hearing must give notice, either in writing or by phone, to all Parties of his or her objection and his or her intention to appear at the Final Hearing. Objectors may withdraw their objections at any time.

**HOW TO GET MORE INFORMATION**

15. Class members may request a complete copy of the Consent Decree by contacting Class Counsel at the address or numbers below, or view it on the internet at [www.cityofpagedale.com/\\_\\_\\_\\_\\_](http://www.cityofpagedale.com/_____).

16. Class members who have questions about the Consent Decree should contact Class Counsel at:

Institute for Justice  
901 N. Glebe Road, Suite 900  
Arlington, VA 22203  
ph: (703) 682-9320.

Class members may also inspect the District Court's file regarding this case during business hours at the office of the Clerk of Court, Thomas F. Eagleton U.S. Courthouse, 111 South 10th Street, St. Louis, MO 63102. **Please do not direct questions to the District Court.**