



MEETING OF THE CITY COUNCIL  
CITY HALL, Fifth Floor  
6801 Delmar Blvd.  
University City, Missouri 63130  
**November 14, 2016**  
**6:30 p.m.**

**A. MEETING CALLED TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

**D. PROCLAMATIONS**

**E. APPROVAL OF MINUTES**

1. October 24, 2016 Regular session minutes

**F. APPOINTMENTS to BOARDS & COMMISSIONS**

1. Sue Slater, Margaret Diekemper and Elaine Henton are nominated for reappointments to the Senior Commission by Councilmember Carr.
2. James Stutz is nominated for reappointment to the Board of Trustees Retirement Board by Councilmember Crow.
3. Linda Fried is nominated for appointment to the Board of Appeals by Mayor Welsch.

**G. SWEARING IN to BOARDS & COMMISSIONS**

1. Peggy Shamleffer was sworn in to the Board of Trustee's Retirement Board at the City Clerk's office.
2. Jonathan Stitelman will be sworn in to the Green Practices Commission.
4. David Plair, Sr. will be sworn in to the Green Practices Commission

**H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)**

**I. PUBLIC HEARINGS**

**J. CONSENT AGENDA**

**K. CITY MANAGER'S REPORT**

1. Approval to award contract to STF LLC DBA Traffic Control Company for the bicycle facilities phase II and shared lane markings project for the amount of \$139,688.90.  
*VOTE REQUIRED*
2. Approval to award contract Spencer Contracting Company for the Fogerty Park Phase I improvements for \$695,373.35  
*VOTE REQUIRED*
3. Approval to award contract to Vee-Jay Cement Contracting Co. for the Kaufman Park tennis courts for the amount of \$280,274.00.  
*VOTE REQUIRED*

4. Approval to authorized the City Manager to engage special legal counsel to advise on ordinance changes relating to the regulation and permitting of wireless telecommunications facilities.  
VOTE REQUIRED

**L. UNFINISHED BUSINESS**

1. **Bill 9296** – An ordinance approving a final plat for a minor subdivision of a tract of land to be known as 7470 – 7470-A Delmar Boulevard Condominium, a survey and condominium plat of Lot 6 in Block 2 of West Delmar No. 2.
2. **BILL 9297** – An ordinance amending schedule VII, Table VII-A – Stop Intersections, Chapter 300 Traffic Code, of the University City Municipal Code, to revise traffic regulation as provided herein.
3. **BILL 9298** – An ordinance amending Chapter 223, Section 223.010 of the City of University City Municipal Code, to add source of income as a protected class for housing discrimination.

**M. NEW BUSINESS  
RESOLUTIONS**

*BILLS*

1. **BILL 9299** – An ordinance amending certain provisions of the University City Municipal Code, to comply with Missouri Senate Bill No. 572 relating to nuisance, municipal ordinance violations and municipal court fines.
2. **BILL 9300** – An ordinance to authorize the City Manager to execute a contract between the City of University City and the Missouri Highway and Transportation Commission providing for the installation of bicycle facilities along Braddock Ave., Kempland Pl., Mt. Olive, Groby Rd., Gay Ave., Warder Ave., Burr Oak Ln., Wild Cherry, Balson Ave., Pershing Ave., Ferguson Ave. and Etzel Ave.

**N. CITIZEN PARTICIPATION (continued if needed)**

**O. COUNCIL REPORTS/BUSINESS**

1. Boards and Commission appointments needed
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions and Task Force minutes
4. Other Discussions/Business

**P. COUNCIL COMMENTS**

**Q. ADJOURNMENT**

MEETING OF THE CITY COUNCIL  
CITY HALL, Fifth Floor  
6801 Delmar Blvd.  
University City, Missouri 63130  
**October 24, 2016**  
**6:30 p.m.**

**A. MEETING CALLED TO ORDER**

At the Regular Session of the City Council of University City held on the fifth floor of City Hall, on Monday, October 24, 2016, Mayor Shelley Welsch, called the meeting to order at 6:30 p.m.

**B. ROLL CALL**

In addition to the Mayor, the following members of Council were present:

Councilmember Rod Jennings  
Councilmember Paulette Carr  
Councilmember Terry Crow  
Councilmember Michael Glickert (*Excused*)  
Councilmember Bwayne Smotherson

Also in attendance was the City Manager, Lehman Walker.

**C. APPROVAL OF AGENDA**

Mayor Welsch requested that the swearing in of Ms. Peggy Shamleffer to the Board of Trustees Retirement Board, be added to the agenda.

Councilmember Crow moved to approve the agenda as amended, was seconded by Councilmember Carr and the motion carried unanimously.

**D. PROCLAMATIONS**

**E. APPROVAL OF MINUTES**

1. October 10, 2016 Study session minutes were moved for approval by Councilmember Jennings, seconded by Councilmember Smotherson and the motion carried unanimously.
2. October 10, 2016 Regular session minutes were moved for approval by Councilmember Jennings, seconded by Councilmember Crow and the motion carried unanimously.

**F. APPOINTMENTS to BOARDS & COMMISSIONS**

1. David Plair, Sr., was nominated for appointment to the Green Practices Commission by Councilmember Jennings, seconded by Councilmember Carr and the motion carried unanimously.
2. Jonathan Stitelman was nominated for appointment to the Green Practices Commission by Mayor Welsch, seconded by Councilmember Carr and the motion carried unanimously.
3. Christopher Arps was nominated for appointment to the CALOP Commission by Mayor Welsch, seconded by Ms. Carr and the motion carried unanimously.
4. Jacklyn Fram was nominated for reappointment to the Human Relations Commission by Mayor Welsch, seconded by Councilmember Carr and the motion carried unanimously.

**G. SWEARING IN to BOARDS & COMMISSIONS**

1. Lisa Greening was sworn in to the Land Clearance Redevelopment Authority in the City Clerk's office.
2. Peggy Shamleffer was not present to be sworn in to the Board of Trustees Retirement Board.

**H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)**

**Margaret Johnson, 7509 Gannon Avenue, University City, MO**

Ms. Johnson stated that she met with Mr. Walker regarding her desire to have a public forum to discuss the selection of a new police chief and the kind of progressive police department residents would like to see continued in University City. That meeting has now been set for Tuesday, November 1st, from 7 p.m. to 9 p.m. at the Heman Park Community Center. She stated that she had also sent an email to Council advising them of this meeting, with the hope that each member would share this information with all of their constituents.

**Thomas Jennings, 7055 Forsyth, University City, MO**

Mr. Jennings agreed that the selection of a new police chief should be brought to the attention of all residents for discussion in order to garner their input. This selection represents one of the most important assets residents have in U City and it deserves careful consideration. The City's ambulance service; another vital asset, has been destroyed, therefore he would strongly encourage Council to take their time and get this selection right, so as not to destroy the police department.

**Thomas Sullivan, 751 Syracuse, University City, MO**

Mr. Sullivan stated that there is a possibility that Long Acres Farms, which has been in the Loop for over 40 years, will have to move from their current location, which in his opinion, would be a terrible loss for the City. He stated that the Trolley construction has resulted in the loss of several Loop businesses, and recently, three more of its restaurants have closed. His hope is that all of the City's entities would combine their efforts to do whatever they can to keep this market in the Loop.

**Debbie Schneider, 1643 Carrie Court, Hazelwood, MO**

Ms. Schneider stated that her parents started Long Acres Farms in the Loop 43 years ago. In spite of the fact that they are not very profitable, they have wonderful customers who have been very loyal throughout the years, and she and her family love being in University City. Ms. Schneider stated they had been trying to obtain permission to operate on the corner of Loop North and Leland Avenue, which is an appealing location that would be convenient for their customers however they encountered some zoning issues associated with this property. The bottom line is that Long Acres simply needs to find a place to relocate and she is here tonight to solicit the support of Council to help them find a new location within the City.

**I. PUBLIC HEARINGS**

**J. CONSENT AGENDA**

**K. CITY MANAGER'S REPORT**

1. Presentation by the University City High School JROTC cadets, facilitated by MSgt. Dar'el Stewart.

Master Sgt. Dar'el Stewart thanked Councilmember Rod Jennings for the opportunity to address Council and hopefully garner Councilmembers' support and sponsorship of this program. University City is the only municipality within the state that has an inclusive JROTC program designed to reenergize University City by teaching leadership, management, and life



skills to its high school students. Projects include tutoring elementary and middle school students in the areas of reading and writing; removal of litter and debris on school campuses and city parks; food and clothing drives; blood drives; field trips, and an annual Military Ball. Master Sgt. Stewart provided Council with informational pamphlets detailing the program and their GoFundMe fundraising website.

2. Approval to award contract for Jackson Avenue – Balson Ave pedestrian improvements project to low bidder, E. Meier Contracting for \$221,575.00.

Councilmember Jennings moved to approve, seconded by Councilmember Carr and the motion carried unanimously.

3. Approval to purchase one 2017 Freightliner Road Tractor from Trucks Center, Inc. for \$108,677.

Councilmember Smotherson moved to approve, seconded by Councilmember Carr and the motion carried unanimously.

#### **L. UNFINISHED BUSINESS**

1. **Bill 9295** – An ordinance amending Chapter 2.52 of the University City Municipal code relating the Committee for Access and Local Origination Programming, by repealing Section 2.52.050 thereof, relating to membership and appointment, and enacting in lieu thereof a new section to be known as “Section 2.52.050 membership and appointment,” thereby amending said section so as to remove Charter Communications; referred to as the “The Company”. Bill 9295 was read for the second and third time.

Councilmember Carr moved to approve and was seconded by Councilmember Jennings.

Roll Call Vote Was:

**Ayes:** Councilmembers Jennings, Carr, Crow, Smotherson and Mayor Welsch.

**Nays:** None.

#### **M. NEW BUSINESS RESOLUTIONS**

##### *BILLS*

*Introduced by Councilmember Jennings*

1. **BILL 9296** - An ordinance approving a final plat for a minor subdivision of a tract of land to be known as 7470 – 7470-A Delmar Boulevard Condominium, a survey and condominium plat of Lot 6 in Block 2 of West Delmar No. 2. Bill 9296 was read for the first time.

*Introduced by Councilmember Smotherson*

2. **BILL 9297** – An ordinance amending schedule VII, Table VII-A – Stop Intersections, Chapter 300 Traffic Code, of the University City Municipal Code, to revise traffic regulation as provided herein. Bill 9297 was read for the first time.

*Introduced by Councilmember Jennings*

3. **BILL 9298** – An ordinance amending Chapter 223, Section 223.010 of the City of University City Municipal Code, to add source of income as a protected class for housing discrimination. Bill 9298 was read for the first time.

Ms. Fram, member of the University City Commission on Human Relations, stated that one of the focus areas for this commission over the last three years has been equal opportunity and housing access. Several members have attended conferences sponsored by the Missouri Housing Development Commission, followed developments within this area, and identified concerns associated with this issue through their review of a map of U City's housing vouchers. This map reveals that Section 8 vouchers are dramatically concentrated in the 3rd Ward. A search of University City's "No Section 8 listings" on Craig's List determined that on any given day you will find between three to ten properties that explicitly state "No Section 8" in their ad copy. These facts solidified the Commission's undertaking to determine whether families who have secured these housing vouchers were being denied the opportunity to even be considered as tenants, except in neighborhoods that already have high concentrations of low income residents. The premise and promise of the Housing Voucher Program is to allow people to move from resource-poor neighborhoods to opportunity-rich neighborhoods. So when the City of St. Louis passed a similar amendment in 2015, prohibiting discrimination based on source of income, this commission saw an opportunity to make University City the second municipality in the state to take a stance in favor of families who are striving to get out of poverty. Although Section 8 is the most visible of these classes, this provision would also prohibit discrimination against people and families who use Social Security, child support, pension, disability or veteran's benefits to pay for all or a portion of their rent each month. To this end, the Commission has proposed that Council consider amending a portion of the Municipal Code to ensure that landlords and property owners in University City no longer discriminate against tenants based on their lawful source of income. It is the committee's belief that this change reflects this City's historical and intentional diversity of neighborhoods.

**N. CITIZEN PARTICIPATION (continued if needed)**

**O. COUNCIL REPORTS/BUSINESS**

1. Boards and Commission appointments needed  
Mayor Welsh made the appointments were needed.
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions and Task Force minutes  
Mayor Welsh thanked Mr. Walker for providing Council with several copies of minutes in this week's packet.
4. Other Discussions/Business

**P. COUNCIL COMMENTS**

Councilmember Jennings stated he would like to link this comment to the Black Lives Matter Initiative based on his belief that this is yet another example of why this movement is so important. George Allen, a member of this community, died last week, and his funeral will be held this Wednesday at the William C. Harris Funeral Home. Mr. Allen was a bright, but timid student at U City High School, who got caught up in the system. His family did not have the money to pay for his defense and he ended up spending 30 years in prison for a rape and murder that he did not commit. With the help of the Innocence Project, he was exonerated in 2014, but never received any compensation from the State for losing his eye, and all of his productive years while in prison.

Councilmember Jennings stated that the Facility Analysis Report for the police station has been released to the public and he would like the community to take note of the fact that the City's seven-month delay will now cost the City an additional \$5 million dollars in construction costs. He asked the City Manager to give serious consideration to the issuance of an RFP for the hiring of a construction manager in order to expedite this process.

Mayor Welsch announced that the Citizen's Volunteer Corps will meet next Tuesday at 6 p.m., prior to the public forum on the hiring of a police chief. Both events will be held at the Heman Park Community Center.

**Q. ADJOURNMENT**

Mayor Welsch adjourned the meeting at 6:56 p.m.

Respectfully submitted,

Joyce Pumm  
City Clerk, MRCC/CMC

## **UCity Public Forum**

### **Hiring of a New Police Chief**

On October 14<sup>th</sup> Chief Charles Adams retired. He is a 42 year veteran of the University City Police Department and served as the Chief for 10 years. A search for his successor has begun. This critical decision will affect the future of the city for years to come, and it is important that the citizens of University City have an opportunity to express our hopes and expectations of both the new Police Chief and the Police Department.

**WHEN: Tuesday, Nov 1**

**7:00-9:00 pm**

**WHERE: Heman Park Community Center**

**Forum Sponsored by:**

**The City of University City and the UCity Action Network**

**UCity Action Network:**

Margaret Johnson

Karin McElwain-West

Marcia Levin

Rhonda wren

Ben Senturia

Mary Ann Zaggy

Bronwen Zwirner



## SOURCE OF INCOME PROTECTION FOR UNIVERSITY CITY

### **WHAT IS SOURCE OF INCOME PROTECTION?**

Source of Income Protection laws protect individuals and families that receive financial assistance from local, state, or federal agencies, or other nontraditional sources, from being discriminated against due to their source of their income through practices limiting their ability to find and maintain housing. This includes Section 8 voucher holders as well as other families with non-employment income such as pensions, alimony, child support, or social security from discrimination.

### **HOW DOES THE SECTION 8/HOUSING CHOICE VOUCHER PROGRAM WORK?**

The Housing Choice Voucher Program (sometimes called Section 8) is a housing subsidy program administered by the federal Department of Housing and Urban Development and run by local public housing authorities. The goal of the program is to allow persons receiving subsidies to have housing choice by using their subsidy to obtain housing from private landlords on the market and avoid the concentration of poverty in places like the infamous Pruitt-Igoe Towers.

Vouchers work by capping the amount that a tenant pays (generally at 30% of the tenant's income) and using the government subsidy to cover the balance. E.g. if a tenant rented an apartment for \$1,000 per month but only made \$600/month, the tenant would owe \$180/month and the housing authority would pay the remaining \$820. If the tenant's income changes, they may pay more or less for the same property (which would also change the housing authority portion), but the rent received each month by the landlord would remain the same.

### **ARE THERE INSTANCES WHERE LANDLORDS HAVE REFUSED TO ALLOW HOLDERS OF HOUSING VOUCHERS TO APPLY FOR RENTAL PROPERTY?**

Although the recent nature of many source of income protection statutes has prevented any large-scale longitudinal studies, there is ample anecdotal evidence that the practice is widespread. In University City and across the region it is a widespread practice to advertise units on websites such as Craigslist with tags stating "no section 8." A sampling of recent advertisements are attached as Appendix A. Since the City of St. Louis passed its source of income protection, EHOCC has fielded a number of calls alleging complaints, including the case highlighted by St. Louis NPR at <http://news.stlpublicradio.org/post/housing-council-says-local-landlord-discriminated-against-section-8-voucher-holders-st-louis>.

*NOTE: This document is for informational purposes only and does not constitute legal advice. For legal advice, contact an attorney.*

1027 S. Vandeventer Ave., 6<sup>th</sup> FL ♦ St. Louis, MO 63110 ♦ 314-534-5800 ♦ 800-555-3951 ♦ [www.ehocstl.org](http://www.ehocstl.org)

**WHAT OTHER CITIES HAVE MADE THIS UPDATE?**

To date, 13 states and over 50 local governments have passed ordinances. Currently, St. Louis City is the only locality in Missouri that has enacted the protection, although a number of Illinois municipalities have done so. The Poverty & Race Research Action Council keeps an updated list that identifies the states and municipalities that have passed a Source of Income protection at <http://www.prrac.org/pdf/AppendixB.pdf>. (See Appendix B).

**WHO WILL BE IMPACTED?**

The primary parties affected will be landlords who rent properties that fall at or below HUD's fair market rental rates and tenants receiving section 8 vouchers. Fair housing protections (including protections based on source of income) cannot force a landlord to lower the amount of rent he or she charges, so properties that rent for more than the HUD-determined fair market value (which sets the amount that can be paid by a housing authority towards a housing voucher) would not be required to lower their rents. Currently, the fair market rent (FMR) in the St. Louis area is \$558 for an efficiency, \$645 for a one-bedroom, \$840 for a two-bedroom, \$1109 for a three-bedroom, and \$1284 for a four-bedroom apartment.

**WILL LANDLORDS RAISE THEIR RENTS IN RESPONSE TO THIS ORDINANCE?**

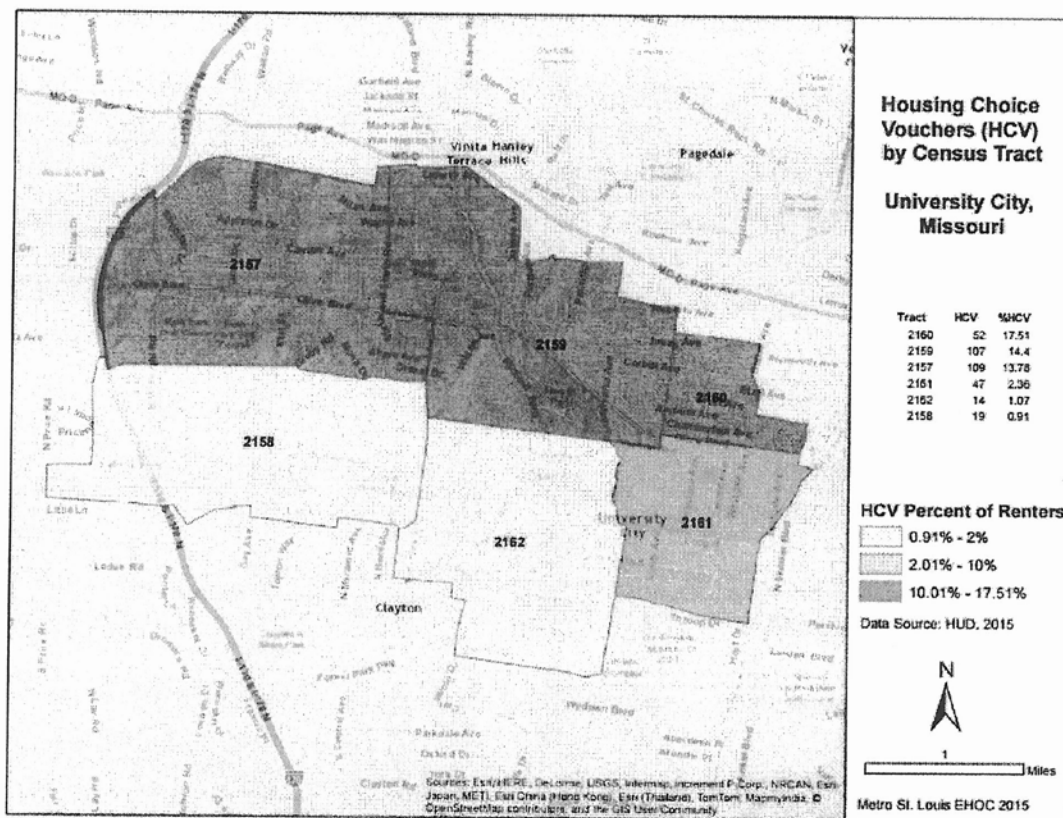
In some cases, it is possible that a landlord may respond to the additional protection for Source of Income by raising rental rates above the FMR. This would presumably be most likely for landlords who are close to the FMR anyway (e.g. a 2-bedroom property might go from \$825 a month to \$850/month), as landlords who can obtain rents substantially higher than the FMR are likely already doing so.

Such a strategy would not actually prevent rental by voucher holders, though, because a voucher holder can rent a property above the FMR, provided that they would be able to afford the difference between the rental rate and the FMR without spending more than 40 percent of their income on housing. (E.g. A voucher tenant who makes \$1,200 per month would typically be expected to pay 30 percent, or \$360, towards their rent, but would be permitted to spend as much as \$480. If that tenant wanted to rent a two bedroom for \$950/month, and the housing authority was only willing to pay the FMR, the tenant would be obligated to pay the difference between the FMR and the rent, or \$110, plus 30 percent of his income. In that situation, the tenant would pay \$470/month, which would be below 40 percent of his income, and the housing authority would pay the remaining \$470). In addition, a housing authority can approve a payment up to 110 percent of the FMR, and even higher in some cases.

**WHAT ARE THE EFFECTS OF ADDING SOURCE OF INCOME PROTECTION?**

Adding source of income protection increases the opportunity of individuals to have true housing choice and move to areas of high opportunity. The goal of the Housing Choice Voucher Program is to discourage concentration of poverty and encourage families receiving benefits to seek out areas of high opportunity. Unfortunately, in practice, only landlords in certain areas are likely to accept vouchers, and these areas tend not to be high opportunity. Instead of allowing voucher holders to take advantage of areas with job opportunities, transit, or good schools; families receiving Section 8 vouchers are typically stuck in areas of concentrated poverty.

In University City, that means that voucher holders are concentrated in areas of the city that border Wellston, Pagedale, and other lower income cities and are nearly nonexistent in the areas bordering Clayton. The map below shows the concentration of voucher holders throughout the city. Prohibiting discrimination on this basis would allow the housing voucher program to meet its intended goal of allowing tenants to use a voucher to move to a community that they choose.



# PRRAC

*Poverty & Race Research Action Council*

1200 18<sup>th</sup> St. NW<sup>™</sup> Suite 200<sup>™</sup> Washington, DC 20036<sup>™</sup> 202/906-8023<sup>™</sup> Fax 202/842-2885  
www.prrac.org

## ***Expanding Choice: Practical Strategies For Building A Successful Housing Mobility Program*** ([www.prrac.org/projects/expandingchoice.php](http://www.prrac.org/projects/expandingchoice.php))

### **APPENDIX B: State, Local, and Federal Laws Barring Source-of-Income Discrimination**

*Updated May 2016*

Set out below is a compilation of state, local, and federal statutes prohibiting discrimination in the housing market based on source of income. Please use the hyperlinks on this page to navigate through the document. This compilation updates research originally compiled by PRRAC in 2009 and also drawing on earlier documents prepared by the National Housing Law Project and the Center for Policy Alternatives. The list was updated for the Fourth National Housing Mobility Conference in 2012 and has been regularly updated since then, most recently by LaKeeshia Fox, Law & Policy Associate at PRRAC. We are grateful for the contributions and corrections of many of our legal services colleagues in the Housing Justice Network - see our full list of acknowledgements [here](#). If you discover any errors in this document or have additional materials to add (new ordinances, caselaw developments, law review articles, etc.), please contact Phil Tegeler ([ptegeler@prrac.org](mailto:ptegeler@prrac.org)).

#### **Outline**

##### **I. STATE STATUTES**

- A. [California](#)
- B. [Connecticut](#)
- C. [District of Columbia](#)
- D. [Maine](#)
- E. [Massachusetts](#)
- F. [Minnesota](#)
- G. [New Jersey](#)
- H. [North Dakota](#)
- I. [Oklahoma](#)
- J. [Oregon](#)
- K. [Utah](#)
- L. [Vermont](#)
- M. [Wisconsin](#)



## II. LOCAL ORDINANCES

- A. Cities in California
  - A1. Corte Madera
  - A2. East Palo Alto
  - A3. San Francisco
  - A4. Santa Monica
- B. Counties/Cities in Illinois
  - B1. Chicago
  - B2. Cook County
  - B3. Harwood Heights
  - B4. Naperville
  - B5. Urbana
  - B6. Wheeling
- C. Iowa City, Iowa
- D. Counties/Cities in Maryland
  - D1. Annapolis
  - D2. Baltimore
  - D3. Frederick
  - D4. Frederick County
  - D5. Howard County
  - D6. Montgomery County
- E. Cities in Michigan
  - E1. Ann Arbor
  - E2. Hamburg
  - E3. Grand Rapids
- F. Saint Louis, Missouri
- G. Counties/Cities in New York
  - G1. Buffalo
  - G2. Hamburg
  - G3. Nassau Co
  - G4. New York City
  - G5. Suffolk County
  - G6. Westchester
  - G7. West Seneca
- H. Cities in Ohio
  - H1. Linndale
  - H2. South Euclid
  - H3. University Heights
  - H4. Warrensville Heights
  - H5. Wickliffe
- I. Cities in Pennsylvania
  - I1. Borough of State College
  - I2. Philadelphia
- J. Memphis, Tennessee
- K. Austin, Texas
- L. Counties/Cities in Washington
  - L1. Bellevue

- L2. King County
- L3. Kirkland
- L4. Redmond
- L5. Seattle
- L6. Tumwater
- L7. Vancouver
- M. Cities in Wisconsin
  - M1. Cambridge
  - M2. Dane County
  - M3. Madison
  - M4. Ripon
  - M5. Sun Prairie
  - M6. Wauwatosa
- N. Miami-Dade County

### III. PROPOSED LEGISLATION

- A. Hawaii
- B. Maryland
- C. New York

### IV. FEDERAL LAWS

- A. HOME Program
- B. Low-Income Housing Tax Credit Program
- C. Mark to Market
- D. Multifamily Units Purchased from HUD
- E. HUD Regulations and Notices
- F. Neighborhood Stabilization Act of 2008
- G. Capital Magnet Fund

### V. ADDITIONAL RESOURCES

Law Review Articles on Source-of-Income Discrimination

Recent Studies of Source-of-Income Discrimination



**Council Agenda Item Cover**

**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** Bicycle Facilities Phase II - Shared Lane Markings Project  
Project TAP-5402(614) - Construction

**AGENDA SECTION:** City Manager's Report

**CAN THIS ITEM BE RESCHEDULED? :** YES

**BACKGROUND REVIEW:**

The Bicycle Facilities Phase II - Shared Lane Markings Project includes the installation of Bicycle Facilities - shared lane markings along five different streets within University City, in accordance with the City of University City Bicycle and Pedestrian Master Plan.

This project was advertised on September 29, 2016 in the St. Louis American and on the Missouri Department of Transportation's website. On October 14th 2016 at 10:00am, the City received and opened two (2) bids for this project. The lowest bid was submitted by STF LLC DBA Traffic Control Company in the amount of \$139,688.90 and the other bid was submitted by Tramar Contracting in the amount of \$145,800.00. All bidders were determined to be responsible.

<b>Company</b>	<b>Bid Amount</b>
STF LLC DBA Traffic Control Co	\$ 139,688.90
Tramar Contracting	\$ 145,800.00

This Project is funded by a grant administered by East-West Gateway Council of Governments to cover \$108,675.29, with the City responsible for the remaining balance. The City has budgeted from the Capital Improvement Sales Tax Fund a total of \$133,578.00 for the construction of this project and it is the staff's recommendation to utilize that funding and \$6,110.90 supplemental funding from the same fund to execute the construction of the project.

The Disadvantage Business Enterprise participation requirement for this project is ten percent (10%). The firm committed to achieve 10% and has been submitted for approval to the MoDOT's External Civil Rights. Traffic Control Company has completed similar projects with satisfactory results within University City.

**RECOMMENDATION:**

Staff recommends that the contract be awarded to lowest responsible bidder STF LLC DBA Traffic Control Company.



**Council Agenda Item Cover**

**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** Fogerty Park Phase 1 Improvements

**AGENDA SECTION:** City Manager's Report

**CAN THIS ITEM BE RESCHEDULED? :** YES

**BACKGROUND REVIEW:**

Fogerty Park Phase 1 Improvements include the construction and/or installation of a pre-fabricated masonry restroom building, pre-engineered open steel pavilion, playground equipment and safety surfacing, concrete & asphalt paving, concrete curbs, general site grading, drainage and installation of landscape .

This project was advertised on September 29, 2016 in the St. Louis American, Drexel Technologies, and the City website. On October 21, 2016 at 10:00AM, the city received and opened six (6) bids for this project. The lowest, responsible bid was submitted by Spencer Contracting Company in the amount of \$695,373.35 and the highest bid was submitted by KAI in the amount of \$925,559.00. KAI was non-responsive, because they did not provide acknowledgement of addendum #1 and they did not fill out the price sheet.

<b>Company</b>	<b>Bid Amount</b>
Ideal Landscape Group	\$709,952.07
Infrastructure Management, Inc.	\$817,602.10
KAI Design & Build	\$925,559.00
Raineri Construction	\$716,038.00
R.V. Wagner Inc.	\$827,018.10
Spencer Contracting Co.	\$695,373.35

This Project is funded by a grant administered by the Municipal Park Grant Commission with a grant contribution of \$525,000.00 and the City's contribution of \$247,473.35 proposed to be expended from the Fiscal Year 2017 by Parks and Stormwater Tax Fund. The total budget for the project is broken down as follows:

	<b>Design</b>	<b>Construction</b>	<b>Total</b>
Municipal Park Grant Commission	\$61,920.00	\$463,080.00	\$525,000.00
City	\$15,180.00	\$232,293.35	\$247,473.35
<b>Total</b>	<b>\$77,100.00</b>	<b>\$695,373.35</b>	<b>\$772,473.35</b>

This project is pursuant to the Fogerty Park Master Plan developed by staff and citizen feedback, Park Commission reviews and recommendations and approval by City Council. The work will include:

1. New Pavilion
2. New Playground with a poured-in-place safety surface.
3. New Restroom
4. New Trail section

## 5. New Landscaping

The City of Olivette, who contracted with Spencer Contracting Co. to complete a similar project, provided a favorable recommendation for a contract award. Spencer Contracting also worked for University City on the Millar Park Project Phases II and III. This contractor delivered the work product as contracted, but ran into issues with time management.

### **RECOMMENDATION:**

It is the recommendation of staff that Spencer Contracting Company be awarded the Fogerty Park Phase I Improvements contract as the lowest and responsible bidder for their bid of \$695,373.35



## Council Agenda Item Cover

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**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** Kaufman Park Tennis Courts

**AGENDA SECTION:** City Manager's Report

**CAN THIS ITEM BE RESCHEDULED? :** YES

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### BACKGROUND REVIEW:

The Kaufman Park Tennis Courts project includes all of the labor and materials for the construction of a Post-Tensioned Concrete Overlay of Four (4) Existing Tennis courts. Additionally, the project will replace the fencing, practice boards, and a side walk on the western side of the courts.

This project was advertised on September 29, 2016 in the St. Louis American, Drexel Technologies, and the City website. On October 13, 2016 at 2:00PM, the city received and opened one (1) bid for this project. The only, responsible bid was submitted by Vee-Jay Cement Contracting Co., Inc. in the amount of \$280,274.00.

Company	Bid Amount
Vee-Jay Cement Contracting Co., Inc.	\$280,274.00

This Project is budgeted as part of the Fiscal Year 2017 by Parks and Stormwater Tax Fund. Total Budget for this project is \$300,000.00. According to the City of Town and Country Vee-Jay Cement completed a similar project with satisfactory results.

### RECOMMENDATION:

Staff recommends that the contract be awarded to Vee-Jay Cement Contracting Co., Inc. This firm is a responsible bidder within budget.



## City Council Agenda Item Cover

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**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** Authorization for the City Manager to engage special legal counsel to advise on ordinance changes relating to the regulation and permitting of wireless telecommunications facilities

**AGENDA SECTION:** City Manager's Report

**CAN THIS ITEM BE RESCHEDULED? :** Yes

### **BACKGROUND REVIEW:**

Recently, changes to the Missouri State Statutes relating to wireless communication facilities were adopted. These changes established uniform standards by which authorities must consider an application for wireless facilities, establish fees, manage facilities proposed for rights of way (ROW), and more. As a result, the City's municipal code sections (zoning code, right of way management) applicable to telecommunication facilities need to be updated to comply with State Statutes.

To ensure the City is compliant with the statutory changes and establishes regulations and procedures that are sound and legally defensible precedents, consultation with special legal counsel is warranted. The City is proposing to engage the firm of Cunningham, Vogel and Rost, P.C. for work relating to ROW and telecommunications, to be billed at an hourly rate as per the attached proposed engagement letter. The services are not expected to exceed \$12,000. The firm's background, expertise and attorney biographies are attached.

The City has been approached by several entities seeking to install telecommunications facilities in the City's ROW or on private property. It is important that a review of the City's ordinances occur as soon as possible and revisions also be made expeditiously.

### **ATTACHMENT:**

- A. Draft Engagement Letter
- B. Cunningham, Vogel and Rost, PC background

CUNNINGHAM, VOGEL & ROST, P.C.  
*legal counselors to local government*



# CUNNINGHAM, VOGEL & ROST, P.C.

*legal counselors to local government*

## HISTORY OF THE FIRM

### Missouri's First Municipal Law Firm

Cunningham, Vogel & Rost, P.C. was founded in 2002 by Tom Cunningham, Dan Vogel, and Paul Rost as the first law firm in Missouri and the region formed to represent only municipalities and related public-sector interests. In the years since, CVR has grown to represent over 100 local governments and related financing districts and entities throughout Missouri, Illinois, and elsewhere. The firm now includes nearly a dozen attorneys, along with paralegal and support staff, exclusively practicing municipal law to provide legal representation and public official training in all aspects of municipal law. CVR remains the only firm in Missouri listed in the nationally-recognized "Red Book" of Bond and Finance attorneys that serves only public-sector municipal clients.

### Genesis of Firm

This unique public-sector law firm began in part with Mr. Vogel's role in community efforts leading to the formation of the City of Wildwood. After years of litigation and citizen involvement, this effort and legal work led to the 1994 Missouri Supreme Court ruling, *City of Ellisville v. Board of Election Commissioners*, 877 S.W.2d 620 (Mo. 1994), striking down the Missouri law blocking new municipal incorporations and allowing for the Incorporation of the City of Wildwood. After being appointed as City Attorney for the new City of Wildwood in 1995, Mr. Vogel focused his practice on municipal law at Gallop, Johnson & Neuman, L.C., where he and Mr. Rost led that firm's first concerted municipal practice. Meanwhile, Mr. Cunningham had since 1990 served as the City Attorney of Olivette as a lawyer with Husch & Eppenberger, L.L.C. where he represented private and public entities relating to redevelopment, bond, and finance law and served as a member of that firm's Municipal and Real Estate department.

In 1998 and 1999, all three lawyers came together to form the Public Law Group of the St. Louis office of Stinson, Mag & Fizzell, P.C., a large Kansas City-based law firm. There the practice expanded both in size and geographic reach. However, like all area law firms existing at the time, the Public Law Group continued to face the inherent conflicts of interests of such multi-focus law firms in that many other clients of the firm were private sector entities either adverse to local government, litigating against local governments, or seeking approvals from municipalities as to zoning, economic development requests, and other matters. While a large law firm had vast resources in many areas of the law, those resources were not committed (or priced) to address the unique problems and issues of local governments. In short, the founding lawyers struggled to resolve two problems inherent with law firms existing at the time: (1) conflicts of interests between municipal clients and a firm's representation of private clients and (2) insufficient legal staffing and resources committed to municipal needs.

### Mission and Formation of Firm

Necessity being the mother of invention, these two fundamental issues led to the formation of CVR - a firm believed to be the first to represent only local governments and related interests so as to eliminate or greatly reduce the conflicts of interests faced by attorneys in existing firms and—by necessity—create a resource of cost-effective municipal experience in one firm committed exclusively to representation of municipalities.

With this mission in mind, Cunningham, Vogel & Rost, P.C. was established in 2002, with its first offices located in Historic Downtown Webster Groves. The firm began with its three founding shareholders and part-time associate attorneys and staff, serving approximately 25+ initial municipal clients. Among the original clients were the Cities of Green Park, Pacific, Wildwood, Olivette, and Warson Woods, for whom CVR served as City Attorney, along with numerous other cities in Missouri, Illinois, and Kansas represented in "special counsel" roles. From its inception, the firm has also provided counsel to the Missouri Municipal League and Municipal League of Metro St. Louis and has taken an active role in public official training throughout Missouri and Illinois for the benefit of other public officials of all kinds.



*First CVR Offices in Downtown Webster Groves, Missouri*



*Current CVR Offices in Downtown Kirkwood, Missouri*

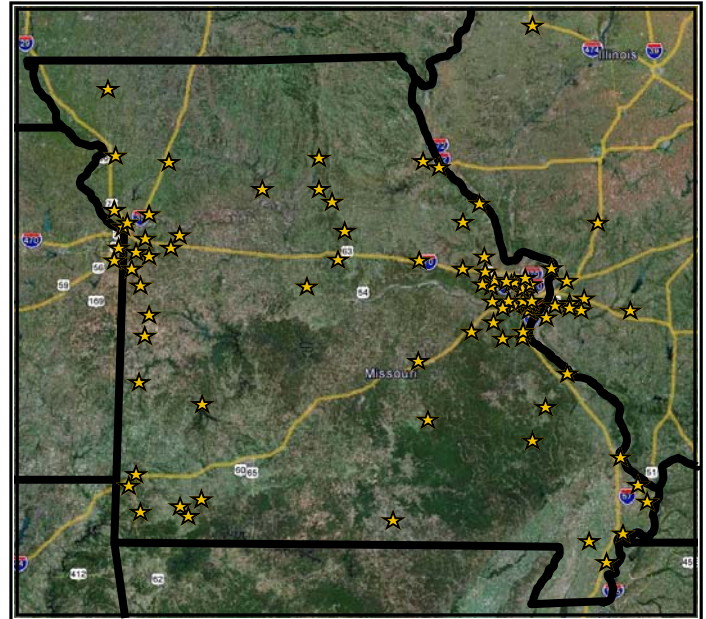
### Today

The firm's unique practice was immediately well-received as a new type of resource for municipalities and the firm's founding adherence to its public mission has resulted in its continued growth and success. By 2011, the firm had outgrown its initial offices and moved into its present location in Historic Downtown Kirkwood, Missouri. CVR is now believed to be the largest full-service municipal law firm in Missouri representing local governments in both traditional municipal law matters and municipal bond and finance, and remains the only such firm committed to representing municipal clients. We now can point to at least two other firms in the Kansas City area that have adopted aspects of CVR's exclusive commitment to municipal sector representation and we are proud to have paved the way and supported adoption of this new public-sector approach. Consistent with our founding principles, we continue to work with lawyers and other professionals throughout the Midwest to encourage and promote new resources that put loyalty and responsiveness to local governments and municipal public policy before the financial benefits inherent in also serving private clients.

FIRM RÉSUMÉ

Cunningham, Vogel & Rost, P.C. (“CVR”) is a regional law firm formed in 2002 to provide quality legal representation *exclusively* to local governments and related public-oriented interests. As the first law firm in the region established to fulfill this important function, CVR remains the only full-service and municipal bond counsel law firm in Missouri exclusively representing municipalities and their public interests. With more than a dozen attorneys and support personnel committed solely to public sector municipal interests, CVR provides a depth of municipal experience and a unique approach that avoids the inherent conflicts-of-interest arising from representation of municipal clients along with private clients that are adverse or potentially adverse to the municipal interests. In short, CVR’s approach is fundamental to its core mission – to provide the highest quality experienced legal representation and educational resources to local governments while aggressively maintaining loyalty to such municipal interests.

The firm currently represents more than 100 local governments including cities, villages, counties, and related municipal taxing districts in Missouri, Illinois and Kansas as City Attorney or special legal counsel. Lawyers in the firm have also served the interests of our municipal clients through pro-bono and other special counsel representation of public-oriented organizations such as the Missouri Municipal League, Municipal League of Metro St. Louis, St. Louis Regional Arts Commission, National Association of Telecommunications Officers and Advisors, Mid-America Regional Council, and numerous other local public entities and organizations.



*Illustration of CVR’s regional municipal representations*

Consistent with the firm’s mission, CVR also commits substantial resources to providing free or low-cost training and education resources for elected and appointed officials and municipal employees through seminars, educational materials, and individual training programs. For example, in 2012 CVR co-founded the Missouri Municipal Officials’ Training Academy which has been attended by officials and staff from more than 100 municipalities.

As a full-service municipal law firm, CVR has represented local governments in virtually every area of municipal law, this includes:

- General municipal / City Attorney representation
- Local government litigation, condemnation and arbitrations
- Municipal bonds, taxation, and economic development financing
- Zoning, land use, and code drafting
- Utilities, telecommunications, franchises, and right-of way
- Police Department and public employment matters
- Public official training and seminars

CVR is committed to providing creative and professional solutions to the complex issues that confront public officials and local governments. Like the public officials and local governments that we represent, we take great pride in working directly for our communities and have therefore established our law firm to provide a legal resource that is committed to the interests of the public sector.

**PUBLIC SECTOR SUPPLEMENTAL ETHICAL POLICIES**

Cunningham, Vogel & Rost, P.C. has implemented its own supplemental ethical policies for its lawyers – in addition to the general disciplinary rules applicable to all attorneys – to address the special duties involved in representing the public and/or serving as public officials for local governments as its appointed attorney. These policies fundamental to our core mission in representing local governments include:

**Exclusively Municipal Clients** – CVR is believed to be the only full-service law firm in the region that accepts only municipal government clients and related interests to ensure unambiguous loyalty to municipalities free of typical law firm conflicts of interests. The firm declines all other proposed engagements.

**Advertising Prohibited** – firm policy prohibits paid advertisements and all use of the firms’ name and its attorneys are cautiously monitored to avoid any appearance of payment for advertising name or services (i.e. MML ads, yellow pages, Martindale-Hubbell, etc.) other than paid directory listings required for effective client representation (e.g., Bond Attorney “Red Book” listing; MML membership, etc.).

**Strict Avoidance of “Pay to Play”** – donations to political office holders or candidates of any current or prospective municipal client are prohibited; any donation or payment that could even appear to be an effort to secure legal services work is strictly prohibited by firm policy. Donations or pro-bono work for purely public or charitable causes is encouraged and not prohibited provided that decisions are carefully reviewed to ensure no appearance of financial motive could be reasonably suggested.

**Pro Bono/Educational Efforts** – educational and speaking efforts are directed to non-profit and public entities only and not for-profit educational services; honoraria and/or fees for speaking are declined or donated if not part of a professional teaching position. Pro bono efforts should be consistent with firm mission to promote local government interests. The firm’s mission includes annual commitment of substantial resources and subsidies to its local public official education efforts including the co-founding of the Municipal Officials Training Academy, various law school and university program teaching, authorship of local government CLE materials and articles, and various other seminar programs.

**No “Contingent Fees”** – contingent fees are strictly prohibited given the concern that they create an appearance of attorney financial gain that could affect client advice. This policy is consistent with public-sector rules, such as the GFOA Best Practices applicable to local governments, discouraging contingent fees in bond transactions.

**Ethical Standards** – ethical standards observed by each attorney must exceed the minimum set by attorney applicable Rules of Professional Responsibility, must incorporate the firm's supplemental requirements, and must reflect the special context of representation of the public sector.

**Municipal Court Integrity** – firm attorneys are generally prohibited from entry of appearance in any municipal court on behalf of any defendant in a municipal court, or assuming a prosecutor, city attorney or municipal judge positions in any geographic, jurisdictional or other context that may create an appearance of conflict, irrespective of whether the ethical rules permit holding of such dual or simultaneous positions.



# CUNNINGHAM, VOGEL & ROST, P.C.

*legal counselors to local government*

## UTILITIES, TELECOMMUNICATIONS, AND FRANCHISES

Changes in federal and state law have made dealing with cable, telecommunications, and utilities an increasingly complicated task. Preserving revenue sources and protecting rights-of-way require new and creative approaches to franchising and regulation.

Our attorneys have represented cities, counties, public authorities, and a large consortia of cities sponsored by the St. Louis County Municipal League, the Mid-America Regional Council, and others, relating to telecommunications, cable and right-of-way issues. We have assisted our clients in the drafting of model cable and telecommunications codes, wireless antenna siting regulations, and forms and procedures for telecommunications and cable franchises and right-of-way management. Current and recent projects in those areas include:

### RIGHT-OF-WAY REGULATION

- Development of right-of-way forms, applications, and procedures
- Drafting of right-of-way codes
- Negotiations of right-of-way use agreements
- Representation relating to right-of-way disputes

### TAXATION AND REVENUE

- Consultation regarding franchise, utility, and gross receipts taxes
- Development of revenue sources relating to public or other property
- Drafting and implementing telecommunications and antenna taxes
- Litigation regarding tax enforcement

### MUNICIPAL UTILITIES

- Franchise negotiation and regulation
- Municipal rate setting
- Municipal utility financing and acquisition
- Municipal utility territorial issues
- Pole attachment regulation and agreements
- Sewer and storm water utility regulation

### WIRELESS TELECOMMUNICATIONS

- Drafting of model tower-siting codes
- Consultation regarding development of municipal broadband and wireless services
- Consultation regarding telecommunication tower sites and regulations
- Negotiation of telecommunication leases

### CABLE FRANCHISES

- Drafting of cable codes
- Negotiation of cable franchises
- Negotiation of electric, gas, water, sign, and other utility franchises

### LITIGATION

Utilities and Rights-of-way litigation has included:

- Successful invalidation of state statutes restricting city rights
- Enforcement of franchise and compensation to cities
- Defense of permit denials
- Enforcement of pole attachment requirements
- Gross receipts tax enforcement

8.1.2015

# CUNNINGHAM, VOGEL & ROST, P.C.

*legal counselors to local government*

## PLANNING AND ZONING — SIMILAR WORK EXPERIENCE

*The following is representative of the firm's numerous projects involving the preparation and implementation of development codes, master plans, green space and corridor plans, and similar work for local governments:*



### **O'Fallon, Illinois** *Zoning Code Development; Land Use Counsel*

Revised zoning regulations for the City and provided ongoing consultation related to new development, annexation, finance, and telecommunication land uses. Code projects have included school and green space impact fee implementation, subdivision and zoning regulations, and specialized provisions relating to riparian preservation corridors and Planned District Regulations. Ongoing land use consultation includes land use litigation representation, annexations, and representation relating to subdivision and development approvals. Contact: Ted Shekell, Community Development Director; 618.624.4500



WILDWOOD

### **Wildwood, Missouri** *Land Use Counsel; Town Center Development*

Provided legal consultation relating to land use litigation, planning and zoning and specific zoning projects. Special projects included legal work relating to creation and implementation of a 700-acre mixed-use Town Center area for the City of Wildwood, including individual site ordinances, implementation of financing and infrastructure and review of a development manual and regulations. The Town Center project adapted the Master Plan for this area prepared in conjunction with Andres Duany and Elizabeth Plater-Zyberk, Architects, Inc. Land use counsel work included all aspects of code drafting and advice on litigation matters relating to zoning density, environmental regulations, subdivision escrows, among others. Contact: Joe Vujnich, Director of Planning and Parks; 636.458.0440



### **Leawood, Kansas** *Development Code and Plan Implementation*

Drafted new development code for the City, including detailed corridor and green space implementation. Code included substantial graphics, design requirements, and easily-understood regulations based on the City's Master Plan and 135<sup>th</sup> Street Mixed-Use Corridor Plan, with density bonus regulation to encourage neo-traditional quality development. Contact: Patty Bennett, City Attorney; 913.339.6700



### **Green Park, Missouri** *Zoning Code Revisions and Master Plan Implementation*

Revised and drafted new sections of the City's zoning and subdivision code and implemented City Master Plan amendments under Planned Development District Regulations for commercial areas.



### **Wood River, Illinois** *Zoning Code Revisions; Land Use Counsel*

Revised the City's Zoning Code in conjunction with the implementation of a new Highway Corridor Plan project; regulation changes included issues relating to existing neighborhoods and new development, as well as distribution of authority between boards and commissions. Provide ongoing land use consultation.



### **Twin Oaks, Missouri** *Zoning and Land Use Codes; Master Plan Revision*

Provided land use consultation relating to the comprehensive review and revision of the Village's Zoning and Land Use Codes and update of its Master Plan.



### **St. Clair County, Illinois and Lebanon, O'Fallon, Mascoutah, and Shiloh, Illinois** *Joint Land Use Study; Uniform Airport Zoning Code*

Drafted new uniform Zoning Codes for special airport overlay zoning district adopted in five jurisdictions surrounding joint military/civilian airport to protect aviation uses and safety issues.

8.1.2015

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## PUBLIC FINANCE AND BOND COUNSEL SERVICES

Cunningham, Vogel & Rost, P.C. has served as bond and finance counsel since the firm's inception and remains the only Missouri firm listed in the nationally-recognized Bond Buyer's Municipal Marketplace (the "Red Book") directory of Bond and finance attorneys that represents only public-sector municipal clients. Our attorneys have decades of combined experience in municipal and public finance law. We have served cities, counties, public authorities, special taxing districts and other public entities as special public finance counsel, bond counsel and issuer's counsel in numerous public offerings, private placements, and short-term and interim financings. We also have experience in preparation of capital improvements programs, facilities expansions, and comprehensive public infrastructure financing strategies for cities and counties. We have assisted client communities in the evaluation and use of public incentive mechanisms, economic development programs, and strategic plans. This experience is enhanced by our acknowledged expertise in land use, development and local government law, real estate law, and state and local taxation.

Because we limit our engagements to representation of public entities exclusively, we avoid conflicts of interest inherent with counsel that also represent underwriters, developers, lenders or bond purchasers, allowing us to offer advice uniquely tailored to local government concerns. As such, we counsel public sector clients in all phases of financing transactions from initial structuring consultations through final offerings and closings. We are recognized for the creativity of our approaches which frequently involve combinations of innovative financing techniques. Since our firm's founding, our attorneys have participated in financings totaling over one-half billion dollars. Additionally, our attorneys have assisted in numerous short-term borrowings for operating funds for cities and special purpose taxing districts.

### BOND COUNSEL SERVICES

- General obligation bonds
- Municipal refinancings
- Public offerings/private placements
- Revenue bonds
- Tax anticipation notes and short-term borrowings

### PUBLIC INFRASTRUCTURE FINANCING

- Public buildings, streets, utilities, and other infrastructure financing
- Special assessments
- State and local taxation
- Strategic plans and infrastructure and financing strategies

### ECONOMIC DEVELOPMENT FINANCING

- Chapter 100 bonds
- Enterprise zones
- Municipal leasing
- Neighborhood / community improvement districts
- Public-private partnerships
- Sales tax rebates
- State tax credits
- Special business districts
- Special services areas (Illinois)
- Tax abatement (Ch 353, 99, 100 RSMo.)
- Transportation corporation financings
- Transportation development districts
- Tax increment financing

8.1.2015

# CUNNINGHAM, VOGEL & ROST, P.C.

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## REPRESENTATIVE MUNICIPAL LITIGATION EXPERIENCE

**Moberly Area Economic Development Corporation v. Philadelphia Indemnity Insurance Co.**, Case No. 4:15-cv-1037 (E.D.Mo. 2015) - Obtained settlement of claims that insurer owed costs of defense, including payment for past costs and agreement to pay future defense costs.

**City of Webster Groves v. New Cingular Wireless PCS, LLC**, Case No. 14SL-CC03646 (St. Louis County Cir. Ct. 2014) - Represented City in filing suit against wireless carrier for breach of lease; obtained \$375,000.00 settlement payment to the City for unpaid rent, interest and attorney fees relating to tower lease with the City.

**Gillette v. City of Lee's Summit**, Case No. 1316-CV29175 (Jackson County Cir. Ct. 2014) - Obtained voluntary dismissal of petition alleging Sunshine Law violations against City.

**City of Aurora, et al. v. CenturyLink, et al.**, Case No. 12SL-CC02896 (St. L. County Cir. Ct. 2014) - Obtained partial summary judgments against telecommunications companies for "willful" violation of city license tax and rights-of-way management ordinances, including award of delinquent taxes, attorneys fees, and interest; litigation pending.

**City of Columbia, et al. v. Spectra Communications Group, LLC, et al.**, Case No. 14SL-CC04026 (St. L. County Cir. Ct. 2014) - Represented Cities against telecommunications companies for "willful" violation of city license tax and rights-of-way management ordinances; litigation pending.

**James Fencing LLC v. City of Moberly, et al.**, Case No. 13RA-CV00870 (Randolph County Cir. Ct. 2014) - Obtained dismissal of conversion and bailment claims against City.

**Kenneth R. Midkiff, et al. v. City of Columbia**, Case No. 14BA-CV01839 (Boone County Cir. Ct. 2014) - Defended City in obtaining voluntary dismissal of petition for declaratory and injunctive relief and application for temporary restraining order, alleging City approved an illegal ordinance that granted construction of development.

**Spectra Communications Group, LLC v. City of Cameron**, Case No. 5:13-cv-6008 (W.D.Mo. 2013), *affirmed*, 806 F.3d 1113. (8th Cir. 2015) - Obtained dismissal of claims under Federal Telecommunications Act of 1996 relating to City rights-of-way requirements; first decision in 8th Circuit holding that damages claim against City is unavailable.

**City of Liberty, et al. v. State of Missouri**, Case No. 13AC-CC00505 (Cole County Cir. Ct. 2013) - Obtained final judgment enjoining and striking down HB 331 and HB 345 (statutes limiting municipal authority) due to violations of the Missouri Constitution; State's appeal dismissed by Missouri Supreme Court as moot (2014).

**Engelage v. City of Warrenton**, 378 S.W.3d 410 (Mo. App. E.D. 2012) - Obtained trial and appellate judgments for the City in an action brought by a County seeking exemption from compliance with city building and construction codes and fees.

**Septagon Construction Co., Inc.—Columbia, et al. v. Mamtek U.S., Inc., et al.**, Case No. 11RA-CV01520 (Randolph County Cir. Ct. 2011) - Obtained summary judgment in 2015 on multimillion dollar claims by contractors that city and its officials failed to obtain payment bond for construction project; now on appeal.

**City of Cape Girardeau, Missouri v. CPAC, Inc.**, Case No. SD31684 (Mo. App. S.D. 2011) - Represented the City in obtaining unlawful detainer judgment and eviction from public property; appeal dismissed.

**New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility v. City of Liberty**, Case No. 04:10-CV-00533 (W.D.Mo. 2010) - Represented City in action defending City's denial of application for Special Use Permit; all claims voluntarily dismissed.

**Double Six Saloon v. City of Pacific**, Case No. 4:10-CV-00556 (E.D.Mo. 2010) - Represented City in obtaining federal court dismissal of action alleging constitutional violations and seeking injunctive relief and damages relating to Plaintiffs' liquor license.

**State ex rel. Jackson v. City of Joplin**, 300 S.W.3d 531 (Mo. App. S.D. 2009) - Represented City in obtaining judgment and appellate ruling in favor of the City in a challenge to the City's application of zoning ordinance and grant of a special use permit.

**Friedrich v. City of Joplin**, Case No. 09AO-CC00267 (Jasper County Cir. Ct. 2009), *et al.* - Represented various cities in separate but related lawsuits challenging the cities' general city sales taxes under federal civil rights statute; all cases dismissed.

**O'Neil's Markets Inc., v. Jefferson County**, Case No. 06JE-CC00681 (Jefferson County Cir. Ct. 2009) - Represented Jefferson County, Missouri in a jury trial against claim of inverse condemnation by a grocery store related to road construction project.

**USCOC of Greater Missouri, L.L.C. v. Village of Marlborough**, 618 F.Supp.2d 1055 (E.D.Mo. 2009) - Defended Village in suit under Federal Telecommunications Act of 1996 and Civil Rights Act by national telephone company for denial of a cell tower application; obtained dismissal of all counts by court ruling and Plaintiff dismissal.

**Essex Contracting, et al. v. Jefferson County, Missouri, et al.**, 277 S.W.3d 647 (Mo. 2009) - Obtained judgment in favor of County and homeowners in action on subdivision improvement bonds; Missouri Supreme Court, ruling resulted in forfeiture of bonds to County and homeowners and payment of attorney's fees.

**United States of America, et al. v. J.H. Berra Construction Co., Inc., et al.**, Case No. 4:07-CV-01268 (E.D.Mo. 2007) - Represented City in State and U.S. Justice Dept. Clean Water Act action enforcing grading regulations; obtained Consent Decree constituting the largest penalty for land disturbance violations in Missouri history.

**Home Builders Association of Greater St. Louis v. City of Wildwood**, 107 S.W.3d 235 (Mo. 2003) - Represented City in establishing the right of cities to require (1) subdivision maintenance bonds, and (2) subdivision construction escrows that account for inflation, prevailing wage and any unexpected conditions.

**Illinois ex rel. Demond Signs, Inc. v. City of O'Fallon**, Case No. 01-CH-929 (St. Clair County, Illinois Cir. Ct. 2003) - Obtained summary judgment in favor of City on challenge to involuntary annexation; appeal dismissed in favor of the City.

### Representative Amici Curiae Matters

**Arbor Investment, Co., LLC, v. City of Hermann**, 341 S.W.3d 673 (Mo. 2010) - Represented Missouri Municipal League as *Amicus Curiae* before the Missouri Supreme Court in support of City's successful reversal of Court of Appeals' ruling that the Hancock Amendment prohibited generation of revenue from utility user charges.

**City of Springfield v. Board of Education of the School District of Springfield**, 174 S.W.3d 653 (Mo. App. S.D. 2005) - Represented *Amicus Curiae* Missouri Municipal League in supporting application of planning statute to other governmental entities.

**Missouri Municipal League v. FCC**, 299 F.3d 949 (8<sup>th</sup> Cir. 2002), *rev'd* 541 U.S. 125 (2004) - Represented NATOA in filing its brief as *Amicus Curiae* in support of the Missouri Municipal League's successful request for reversal of *In re Missouri Municipal League, et al.*, FCC 00-443, 2001 WL 28068 (rel. January 12, 2001).

**Chesterfield Village, Inc. v. City of Chesterfield**, 64 S.W.3d 315 (Mo. 2002) - Represented Missouri and St. Louis County Municipal League seeking reversal of the Court of Appeals' ruling authorizing zoning damages against the City of Chesterfield. Missouri Supreme Court ruled in favor of City based on *Amici Curiae* arguments.

4.14.2016



# CUNNINGHAM, VOGEL & ROST, P.C.

*legal counselors to local government*



**DANIEL G. VOGEL**  
*Founding Principal*

**PRACTICE AREAS**  
Municipal Law  
Land Use and Zoning  
Utility and Franchise Law  
Governmental Litigation

**BAR ADMISSIONS**  
Missouri  
Illinois

**EDUCATION**  
University of Missouri—Columbia  
B.A., *summa cum laude*, 1986  
  
University of Virginia  
J.D., Order of the Coif, 1989

#### LOCATION

333 S. Kirkwood Road, #300  
St. Louis, Missouri 63122  
[www.municipalfirm.com](http://www.municipalfirm.com)

#### CONTACT INFORMATION

314.446.0800 (phone) 314.446.0801 (fax)  
[www.municipalfirm.com](http://www.municipalfirm.com)

Daniel G. Vogel is a founding principal of Cunningham, Vogel & Rost, P.C. He represents municipalities and local government interests throughout the Midwest relating to municipal land use, franchises and telecommunications, litigation, and general municipal issues.

Dan has represented dozens of municipalities in Missouri, Illinois and elsewhere relating to zoning and development code drafting, specialized development ordinances, land use litigation, condemnation, and related issues. He has served as special counsel on behalf of municipal associations such as the Missouri, St. Louis County, and St. Charles County Municipal Leagues and the National Association of Telecommunications Officers and Advisors. He has served as the appointed City Attorney for Wildwood, Green Park, and Pacific, Missouri. Dan is also a founder and organizer of the *Municipal Officials Training Academy* providing statewide training to hundreds of municipal officials.

Dan received his B.A. degree, *summa cum laude*, from the University of Missouri-Columbia, and was awarded membership in Phi Beta Kappa. He received his J.D. degree from the University of Virginia, where he was elected to the Order of the Coif and served on the Editorial and Article Review Boards of the *University of Virginia Law Review*. After earning his law degree, he clerked for the Honorable Jerome Farris, U.S. Court of Appeals for the Ninth Circuit in Seattle, Washington.

#### **PROFESSIONAL AFFILIATIONS**

The Missouri Bar  
Illinois State Bar Association  
Missouri Municipal Attorneys Association  
American Planning Association, Missouri and St. Louis Chapters

#### **COURT ADMISSIONS**

United States Supreme Court  
United States Court of Appeals for the Eighth and Ninth Circuits  
United States District Court for the Eastern and Western Districts of Missouri

#### **AWARDS**

Recipient of the 2007 Lou Czech Award, Missouri Municipal Attorneys Association

#### **SELECTED LECTURES AND PRESENTATIONS**

- *Wireless Telecommunications Facilities & New Mandates on Cities*, Missouri Municipal Attorneys Association, 2015
- Municipal Officials Training Academy, co-founder and presenter of Academy, *Planning and Zoning*, 2014; *Municipal Contracts and Purchasing*, 2013
- *Urban Development, Zoning and Planning, Subdivisions & Annexations*, MoBar CLE Guidebook, 2012
- *New Developments in Wireless Communications Facilities Siting and Leases*, MMAA, 2012
- *Intergovernmental Conflicts; Zoning Disputes & Beyond*, Missouri Municipal Attorneys Association, 2012
- *Legal Aspects of Planning and Zoning*, Southern Illinois University's Masters Program, 2010 - 2011
- *Legal Aspects of Planning and Zoning*, Chancellor's Certificate Program, 2004-2014
- APA, National Conference - *Practical Application of Takings Law in Local Land Use Decisions*, 2009-10
- *Legal Aspects of City and County Planning & Zoning*, Mid-Missouri APA, 2008
- *Citizen Planner Workshop*, Metropolitan Planning Commission (Illinois Chapter), 2006
- *Legal Aspects of Updating your Master Plan*, St. Louis County Municipal League, 2006
- *Planning, Zoning & Subdivisions*, American Planning Association (Illinois Chapter), 2005
- *Everything You Always Wanted to Know from Your City Attorney, but Were Afraid to Ask*, Missouri City Clerks and Finance Officers Association, Spring Institute, 2005
- *Emerging Right-of-Way Issues*, Missouri Municipal Attorneys Association, 2004
- *Subdivision Escrow Ordinances*, Missouri Municipal Attorneys Association, 2003
- *Res Judicata and Temporary Takings in Zoning Cases*, Missouri Municipal Attorneys Association, 2002
- *Traditional Neighborhood Development*, APA Four-State Conference, St. Louis, Missouri, 2001
- *Telecommunications & Land Use Law Seminar*, The Seminar Group, St. Louis, Missouri, 2001
- *Telecommunications & The Rights of Way*, Land Use Law Seminar, 2001
- *Telecommunications Franchising*, NATOA Conference, Seattle, Washington, 2001
- *Rights-of-Way Management*, American Public Works Association (APWA), Missouri Chapter, 2000

#### **ARTICLES AND PUBLICATIONS**

- *Urban Dev., Zoning and Planning, Subdivision and Annexation Guidebook*, Co-Author, MoBar CLE, 2011
- *Conservation Subdivision Design Handbook*, Southwestern Ill. Resource Cons.& Dev., Inc., 2006.
- *How Cities Deal with New Telecommunications*, Intl. Mun. Law. Association. ("IMLA") 65<sup>th</sup> Annual Conf., 2000.
- *Holding Your Ground: The Role of Environmentally Friendly Redevelopment Regulations*, D. Vogel & P. Rost, Missouri Municipal Review, February/March 1999.



# CUNNINGHAM, VOGEL & ROST, P.C.

*legal counselors to local government*



**ERIN P. SEELE**  
*Principal*

#### **PRACTICE AREAS**

Municipal Law  
Land Use and Zoning  
Public Utility  
Governmental Litigation  
Environmental Law  
Employment Law

#### **BAR ADMISSIONS**

Missouri  
Illinois

#### **EDUCATION**

Missouri State University  
B.S., *summa cum laude*, 2005  
M.P.A. 2007

University of Missouri—Columbia  
J.D., *cum laude*, 2010

#### **LOCATION**

333 S. Kirkwood Road, #300  
St. Louis, Missouri 63122  
[www.municipalfirm.com](http://www.municipalfirm.com)

#### **CONTACT INFORMATION**

314.446.0800 (phone) 314.446.0801 (fax)  
[www.municipalfirm.com](http://www.municipalfirm.com)

Erin P. Seele is a principal attorney with Cunningham, Vogel & Rost, P.C. She represents the firm's clients in general municipal law matters, land use and zoning, public utility issues, employment law, environmental law, and governmental litigation, among other areas of municipal practice. Erin serves as the City Attorney for the cities of Fenton and Ladue, Missouri. Erin also serves as the coordinator for the Municipal Officials Training Academy and as counsel for the St. Louis—Jefferson Waste Management District.

Erin received her B.S. degree, *summa cum laude*, and her Master of Public Administration (M.P.A.) from Missouri State University in Springfield, Missouri. As a graduate student, Erin worked within the Missouri Local Government Program, in conjunction with the Missouri City Clerks and Finance Officers Association, administering educational conferences and certifications for Missouri city clerks. Erin received her M.P.A. with an emphasis on local government management and interned with the City Administrator of the City of Maryland Heights working on projections of the City's general fund and creating an economic development website.

Erin received her J.D. degree with honors from the University of Missouri—Columbia, having received numerous awards, including the Order of Barristers, the 2008 Shughart Thomson & Kilroy Best 2L Oral Advocate, and the Fred L. Howard Prize for Excellence in the advancement of advocacy. Erin also served as the Editor-in-Chief for the *Missouri Environmental Law & Policy Review* and Judging Director for the Board of Advocates.

#### **PROFESSIONAL AFFILIATIONS**

The Missouri Bar  
Illinois State Bar Association  
Missouri Municipal Attorneys Association

#### **SELECTED LECTURES AND PRESENTATIONS**

- *Selected Best Practices for Municipal Attorneys*, Missouri Municipal Attorneys Association, 2013-2015
- Planning and Zoning and Board of Adjustment Training (Meramec Regional Planning Commission at the Centre of Rolla), Jan. 2015
- *50 Ways to Stay out of Trouble: Ethics and Mandates for Public Officials*, Municipal Officials Training Academy, 2014
- *Sunshine Law: Understanding the Nuances and Developing Best Practices*, Municipal Officials Training Academy, 2013
- *A City Clerk's Life: Surviving after the End of the Mayan Calendar*, Missouri City Clerks and Finance Officers, 2013 Spring Institute
- *Intergovernmental Conflicts: Zoning Disputes and Beyond*, Missouri Municipal Attorneys Association, 2012 Summer Seminar
- *An Olympic Day in the Life of a City Clerk*, Missouri City Clerks and Finance Officers Association, 2012 Spring Institute
- *Code Enforcement*, Local Government Law Committee, MoBar, panelist, 2012
- *Another Day in the Life of a City Clerk*, Missouri City Clerks and Finance Officers Association, 2011 Spring Institute

#### **ARTICLES AND PUBLICATIONS**

- *Greater Protection: Missouri Says No to Possible Asbestos Contamination due to NESHAP Violations and RCRA Violations*, Missouri Env. Law & Policy Rev. Vol. 16:3, 2009
- *The Door Finally Opens to Challenge Agency Decisions that Affect the Environment*, Missouri Environmental Law & Policy Review, Volume 16:2, 2009

**CUNNINGHAM, VOGEL & ROST, P.C.**

*legal counselors to local government*  
333 S. KIRKWOOD ROAD, SUITE 300  
ST. LOUIS, MISSOURI 63122  
TEL: 314.446.0800  
FAX: 314.446.0801  
*www.municipalfirm.com*

October 19, 2016

City of University City  
Lehman Walker, City Manager  
6801 Delmar Boulevard  
University City, Missouri 63130

Re: Agreement to Provide Legal Services

Dear Mr. Walker:

Thank you for the opportunity to provide legal counsel to the City of University City. This letter will confirm discussions regarding our engagement and will describe the basis for providing these services.

**1. Client; Scope of Representation.** The client in this matter will be University City, Missouri (the "City"). We will provide special legal services and consultation relating to right-of-way and telecommunications law and such other special counsel legal work as may be requested by the City from time to time. The Director of Community Development shall be authorized to provide direction and communication to special counsel to fulfill the purposes of the engagement, in coordination with the City Attorney or other officials as may be appropriate. Other supplementary terms of our engagement in this matter are set forth below and are attached to this letter as ADDITIONAL TERMS OF ENGAGEMENT.

**2. Fees and Expenses; Billing.** Actual fees for professional services are based upon the amount of time expended in accomplishing the work and the regular hourly billing rates for each attorney or legal assistant devoting time to this matter, which may be changed by the firm from time to time. Our billing rates for attorneys currently range from \$145 to \$190 for associates, \$195 to \$335 for principals, and \$80 to \$135 for legal assistants. Any bond counsel services requested will be charged based on such fee arrangement as is agreed to with the City and approved by separate City action. Consistent with our policy, we will bill the City on a monthly basis for professional fees and expenses incurred on your behalf and bills will be addressed to the City for payment. We will include in our statements separate charges for photocopying, messenger and delivery service, computerized research, travel, long distance telephone, and telecopy expenses. Other fees and expenses (such as accountants, consultants, or other professionals, if required) generally will not be paid by us, but will be billed directly to the City.

**3. Conflicts.** As you may know, Cunningham, Vogel & Rost, P.C. represents many governmental entities throughout the region, including municipalities and other governmental clients in Missouri, Illinois, and elsewhere, and you agree we may share public information among clients or others to promote municipal client interests. In the event a conflict exists that is deemed not to be subject to any waiver by applicable ethical rules, we shall withdraw as counsel for the City. Although we are not aware of any current representation in which we would be

adverse to your interests in this matter, it is possible that some of our present or future clients may have disputes with you during the time we are representing you. We ask, then, that you agree that our firm may continue to represent or undertake to represent existing or new clients in those matters which are not substantively related to our work for you, even if the interest of such clients in those matters is directly adverse to you. Except as provided herein, we agree that your prospective consent to conflicting representation as set forth above shall not apply where, as a result of our representation of you, we have obtained sensitive, proprietary or other confidential information of a non-public nature that, if known to any such other client of our firm, could be used in any such other matter by such client to your material disadvantage.

If you are in agreement with the above, please sign the enclosed copy of this letter and return an executed copy to me. Once again, we are pleased to have this opportunity to work with you. Please feel free to call me if you have any questions or concerns during the course of our representation.

Very truly yours,

CUNNINGHAM, VOGEL & ROST, P.C.

By:  \_\_\_\_\_

Attachment

AGREED TO AND ACCEPTED:  
CITY OF UNIVERSITY CITY, MISSOURI

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2016

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## ADDITIONAL TERMS OF ENGAGEMENT

**Our Client.** The person(s) or entity(ies) who are the client in this engagement are limited to those specifically stated in the accompanying engagement letter. In order to avoid misunderstandings and/or inadvertent conflicts of interest in the future, it is understood that, in the absence of written agreement to the contrary, neither this engagement nor our work in connection with this engagement shall be understood or taken to create an attorney-client relationship with other, including related or affiliated (e.g., parent, subsidiary, shareholder, partner, joint venture, etc.), persons or entities.

**Provision of Legal Services, Generally.** This engagement is for the provision of professional legal services and not for the provision of business, personal, accounting, technical, financial, or other advice not constituting legal services. It is agreed that the client is not relying upon counsel in this engagement for advice in areas other than professional legal services, even if such matters should be discussed in connection with the engagement.

**Bond Counsel Services.** If legal services involve bond/note counsel services, including the rendering of an approving opinion of bond or note counsel: except as expressly provided in the foregoing letter, such services do not include assisting in the preparation or review of an official statement, private placement memorandum or other form of offering or disclosure document to be disseminated in connection with the sale of the obligations or any other disclosure document with respect to the obligations, or performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document or rendering advice regarding the official statement or other disclosure document. Other than preparation and delivery of transcripts, such services do not include providing continuing advice to you or to or any other party after closing on the obligations. Customarily, an approving opinion is delivered on the date the obligations are exchanged for their purchase price. An approving opinion will be based on and issued subject to facts and law existing as of its date. In rendering our approving opinion, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us without undertaking to verify the same by independent investigation, and will assume continuing compliance by the issuer of the obligations with applicable laws relating to the obligations. During the course of this engagement, we will rely on you or other applicable parties to provide us with complete and timely information on all developments pertaining to any aspect of the obligations and their security. It is hereby acknowledged that the various legal opinions delivered concurrently with the delivery of bonds or notes express the professional judgment of the attorneys rendering the opinions as to the legal issues explicitly addressed therein. By rendering a legal opinion, the opinion giver does not become an insurer or guarantor of that expression of professional judgment, of the transaction opined upon, or of the future performance of parties to such transaction, nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

**Entire Agreement.** The accompanying engagement letter, together with these Additional Terms of Engagement, shall constitute the entire agreement between us concerning the engagement and shall not be modified or supplemented, except in a subsequent writing signed by the parties.

**Periodic Billings for Legal Services.** Unless other arrangements have been made, it is our policy to render periodic statements for legal services on a monthly basis. We normally base these interim statements on hourly rates of lawyers and legal assistants working on the matter. Statements will be due upon presentation and are to be paid by check, EFT or ACH transfer no later than thirty (30) days following the invoice date. Payments by wire transfer shall be subject to an additional charge equal to applicable banking fees incurred. The amounts paid on our interim billings are applied to the total final fee. If any statement amount remains unpaid sixty (60) days after the invoice date, the firm reserves the right to terminate its services, consistent with applicable Rules of Professional Conduct.

**Determining the Fee.** Generally, fees are primarily based on hourly rates for the respective lawyer or legal assistant involved. These rates vary depending on expertise and experience. We adjust these rates from time to time, as lawyers gain experience and expertise, and with economic conditions. When agreed to by engagement letter, fees are sometimes fixed irrespective of the hours involved. Circumstances, including those set out below may require departure from the application of hourly rates. Determination of the total final fee may await conclusion of each specified case or matter so that all relevant factors may be considered.

The firm has clients in multiple states. Our lawyers are subject to rules governing the professional conduct of lawyers in those states. In addition to time spent, these rules list other factors that can be considered in determining

a reasonable fee. These include: reputation, the skill and experience required to complete the services properly; the extent to which the acceptance of the particular matter will preclude other employment; the amount involved; the results obtained; the time limitations imposed by the client or by the circumstances; the nature and length of the professional relationship with the client; and whether the fee is fixed or contingent. In the absence of agreement with you, those factors will not be used to increase our billings for fees above the charge resulting from application of hourly rates.

**Paralegals/Legal Assistants/Document Clerks.** Certain work will be done by paralegals, sometimes called “legal assistants.” Such persons, although not lawyers, have undergone training to perform certain kinds of services at lower rates. In matters involving significant quantities of document management, document clerks may be used to perform tasks at lower rates than those of legal assistants. All such work is supervised by lawyers. The use of such persons allows us to deliver legal services to you at a lower cost.

**Client Disbursements.** Matters may require, from time to time, certain monetary advances to be made on your behalf by the firm. Some “client disbursements” represent out of pocket charges we advance, others represent internal costs (including costs such as fees for service of process, court filing fees, deliveries, copying charges, travel expenses, computer assisted legal research, etc.). It is understood that while acting as your lawyers, we have the authority to use our best judgment in making such expenditures on your behalf. Unless we have made prior arrangements with you, we will send you monthly billings for client disbursements incurred during the preceding month. If the nature of the matter is such that we anticipate substantial advances, we may require a separate deposit for such purpose. Substantial individual items in excess of \$250, such as expert witness fees, the costs of deposition transcripts, printing costs, etc., may be billed directly to you by the vendor of such services. In many matters when lawyers must examine legal authorities, it is more economical to accomplish the task using computer databases of legal precedents (instead of the traditional method of manual retrieval). In such instances, the special charges assessed by the provider of these services are shown on client disbursement billings as “Electronic Research.”

**Client Files.** During the course of client representation, this firm retains electronic and paper records relating to the professional legal services we provide so that we are better able to assist you with your legal needs and, in certain situations, to comply with professional guidelines. We employ physical, electronic, and procedural safeguards to preserve client confidentiality and to protect your non-public information. This firm agrees to retain and securely store your client files (which include documents generated by this firm, by the client, and by others) for a period of six (6) months after completion or termination of the representation, absent other written agreement between this firm and you regarding disposition of your files. You may request, in writing, the return of your client files at any time within such six (6) month period. Absent such a written request, your files will be deemed abandoned. In such case, you hereby authorize this firm to destroy your files at any time after expiration of such six-month period. All such client files will be destroyed unless this firm is otherwise required to retain same pursuant to the Code of Professional Responsibility or the Ethical Rules promulgated thereunder.

**E-mail Confidentiality.** This firm often communicates using e-mail. Any attorney or legal assistant e-mail could contain attorney-client, confidential, or other privileged communications. While the firm endeavors to ensure that our e-mail and server are secure, Missouri lawyers are required by the Missouri Bar Disciplinary Counsel to notify prospective recipients of e-mail that (1) e-mail communication is not a secure method of communication, (2) any e-mail that is sent to you or by you may be copied and held by various computers it passes through as it goes from the firm to you or vice versa, and (3) persons not participating in our communication may intercept our communications by improperly accessing your computer or the firm’s computer or even some computer unconnected to either you or the firm that the e-mail passes through. Unless you otherwise instruct us in writing, this firm will assume you have consented to receive communications via e-mail. If in the future you change your mind and want future communications to be sent by a different method, please contact the firm in writing immediately.

**Public Information.** The firm represents many governmental entities throughout the region and undertakes pro bono and other actions in order to protect the interests of our municipal clients. By this engagement you agree we may share public information among our municipal clients in furtherance of your interests, for educational purposes, to establish qualifications or experience, or otherwise to allow our lawyers to provide service to local governments or otherwise promote municipal interests, provided that the firm’s sharing of public information does not authorize disclosure of confidential information unless deemed impliedly or expressly authorized in furtherance of your specific representation.



## Council Agenda Item Cover

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**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** Ordinance to approve a Final Plat for a proposed Minor Subdivision at 7470 Delmar Boulevard to subdivide a two-family dwelling into two condominium units in the "MR" – Medium Density Residential District

**AGENDA SECTION:** Unfinished Business

**COUNCIL ACTION:** Passage of Ordinance required for Approval

**CAN THIS ITEM BE RESCHEDULED? :** Yes

**BACKGROUND REVIEW:** Attached are the Staff Report and documents for the above-referenced Minor Subdivision application.

The Plan Commission recommended approval at their September 28, 2016 meeting. Passage of an ordinance is needed to approve the Final Plat. A public hearing is not required. The first reading should take place on October 24, 2016 and the second and third readings could occur at the subsequent meeting on November 14, 2016.

**Attachments:**

- 1: Transmittal Letter from Plan Commission
- 2: Staff Report and Final Plat
3. Draft Ordinance and Exhibits

**RECOMMENDATION:** Approval

ATTACHMENT 1:  
Transmittal letter from Plan Commission



**Plan Commission**

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

October 10, 2016

Ms. Joyce Pumm, City Clerk  
City of University City  
6801 Delmar Boulevard  
University City, MO 63130

RE: Minor Subdivision – Final Plat  
7470 Delmar Boulevard

Dear Ms. Pumm,

At its regular meeting on September 28, 2016 at 6:30 pm in the Heman Park Community Center, 975 Pennsylvania Avenue, the Plan Commission considered an application by Spencer Toder with Rival Investments, LLC (property owner) for Final Plat approval of a Minor Subdivision, subdividing a two-family dwelling into two condominium units in the “MR” – Medium Density Residential District.

By a vote of 6 to 0, the Plan Commission recommended approval of the Final Plat.

Sincerely,

Linda Locke, Chairperson  
University City Plan Commission



**ATTACHMENT 2:  
Staff Report and Final Plat**



**Department of Community Development**

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

**STAFF REPORT**

MEETING DATE: September 28, 2016

FILE NUMBER: PC 16-05

COUNCIL DISTRICT: 1

Applicant: Spencer Toder w/ Rival Investments, LLC (property owner)

Location: 7470 Delmar Boulevard (south side of Delmar Boulevard, approximately 250 feet east of Hanley Road)

Request: Minor Subdivision – Final Plat to subdivide existing two-family dwelling into two condominium units

Existing Zoning: “MR” – Medium Density Residential District

Existing Land Use: Two-family residential building

Proposed Zoning: No change – “MR” District

Proposed Land Use: No change – two-family residential building

Surrounding Zoning and Land Use:

North: MR-Medium Density Residential District	Multi-family residential
East: MR-Medium Density Residential District	Multi-family residential
South: SR-Single Family Residential District	Single-family residential
West: MR-Medium Density Residential District	Multi-family residential

COMPREHENSIVE PLAN CONFORMANCE

Yes     No     No reference

STAFF RECOMMENDATION

Approval     Denial

ATTACHMENTS:

- A. Map
- B. Final Plat and project information

**Existing Property**

The subject property, approximately 0.17 acres in area, is occupied by a two-story, two-family dwelling built in 1928, according to St. Louis County records. Each unit is approximately 1,500 square feet in area. The basement and detached, 2-car garage are proposed to be common space. There is one curb-cut onto Delmar Boulevard providing vehicular access to the detached garage in the rear portion of the property. The existing use is a permitted use in the “MR” District.

**Applicant's Request**

The current request is to subdivide the existing two-family dwelling into two individual condominium units. No changes to the property or modifications to the building are proposed. This is just a change in the form of ownership which will result in two separate properties with common areas as shown on the Final Plat.

**Analysis**

Creation of a condominium form of ownership is considered a Subdivision; however, this is being reviewed as a Minor Subdivision because the proposal does not meet any of the characteristics of a Major Subdivision as described in Section 405.165.A of the Subdivision Regulations. It is therefore not required to go through the Preliminary Plan process but the Final Plat process. No public hearing is required.

On review, staff has determined that the request is in compliance with the requirements of the Zoning Code and Subdivision Regulations.

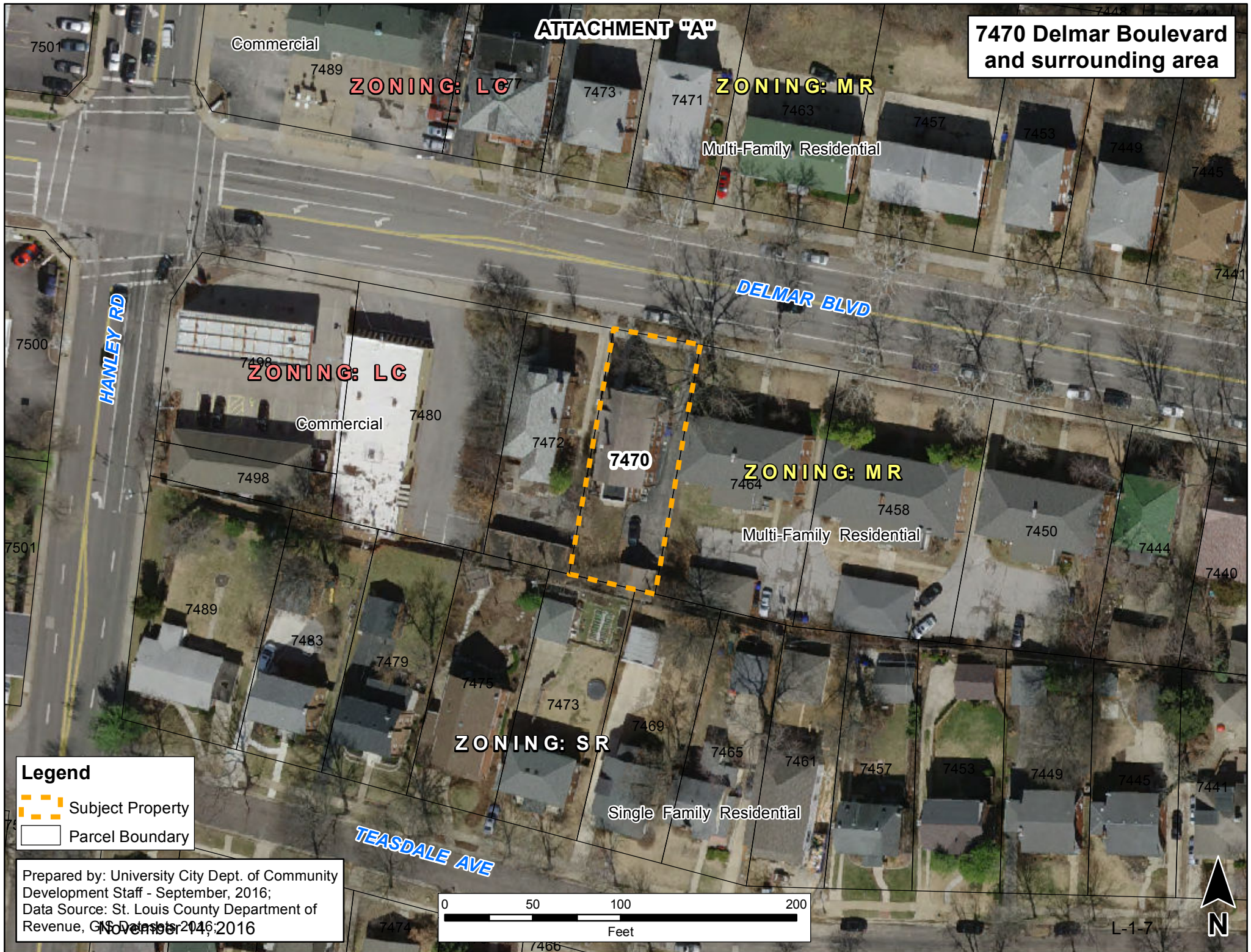
**Conclusion/Recommendation**

The proposal meets all Zoning Code and Subdivision Regulation requirements for a Final Plat. Thus, staff recommends approval of the Final Plat for the proposed Minor Subdivision.



# ATTACHMENT "A"

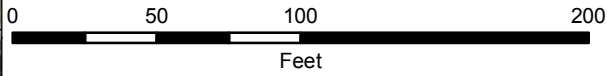
## 7470 Delmar Boulevard and surrounding area



**Legend**

- Subject Property
- Parcel Boundary

Prepared by: University City Dept. of Community Development Staff - September, 2016;  
Data Source: St. Louis County Department of Revenue, GIS Database 2016; 2016

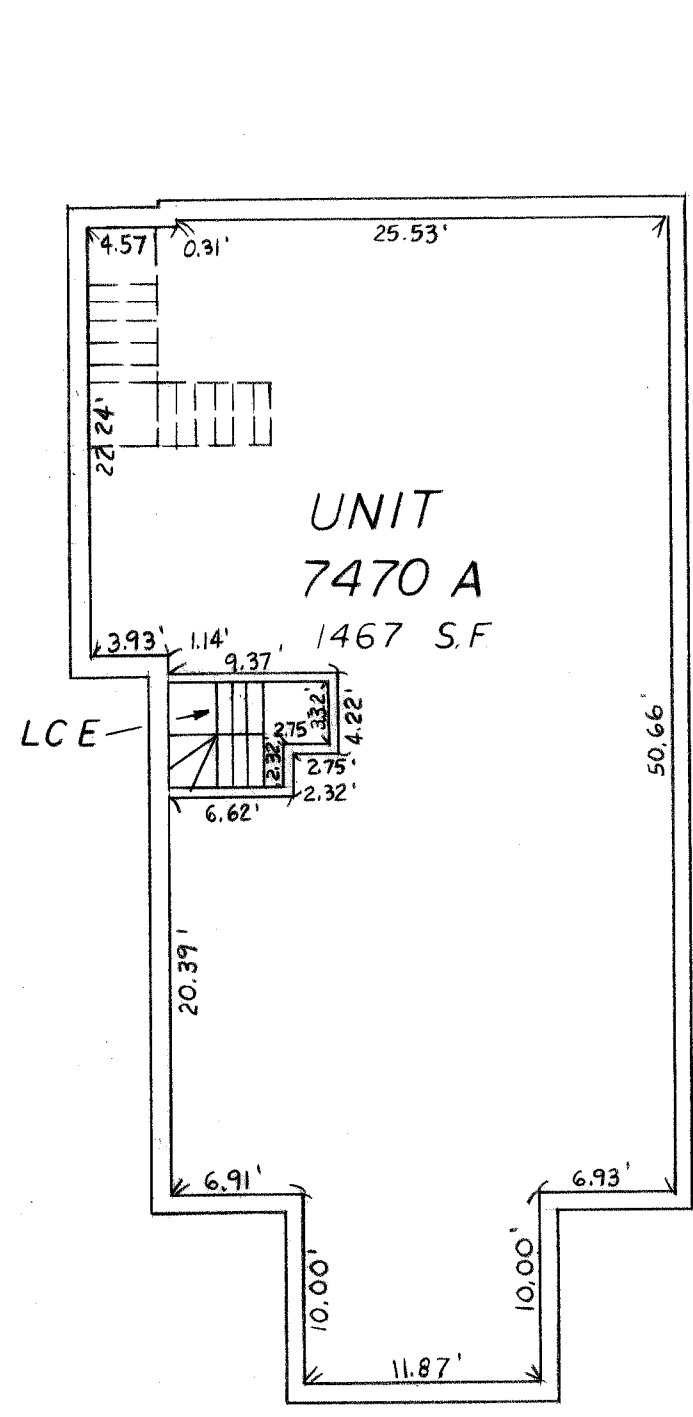
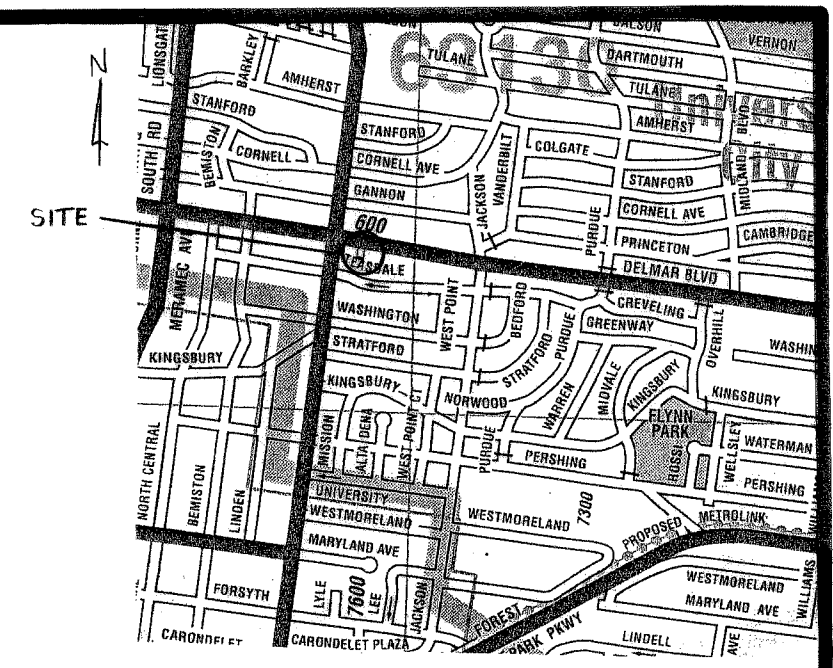


L-1-7



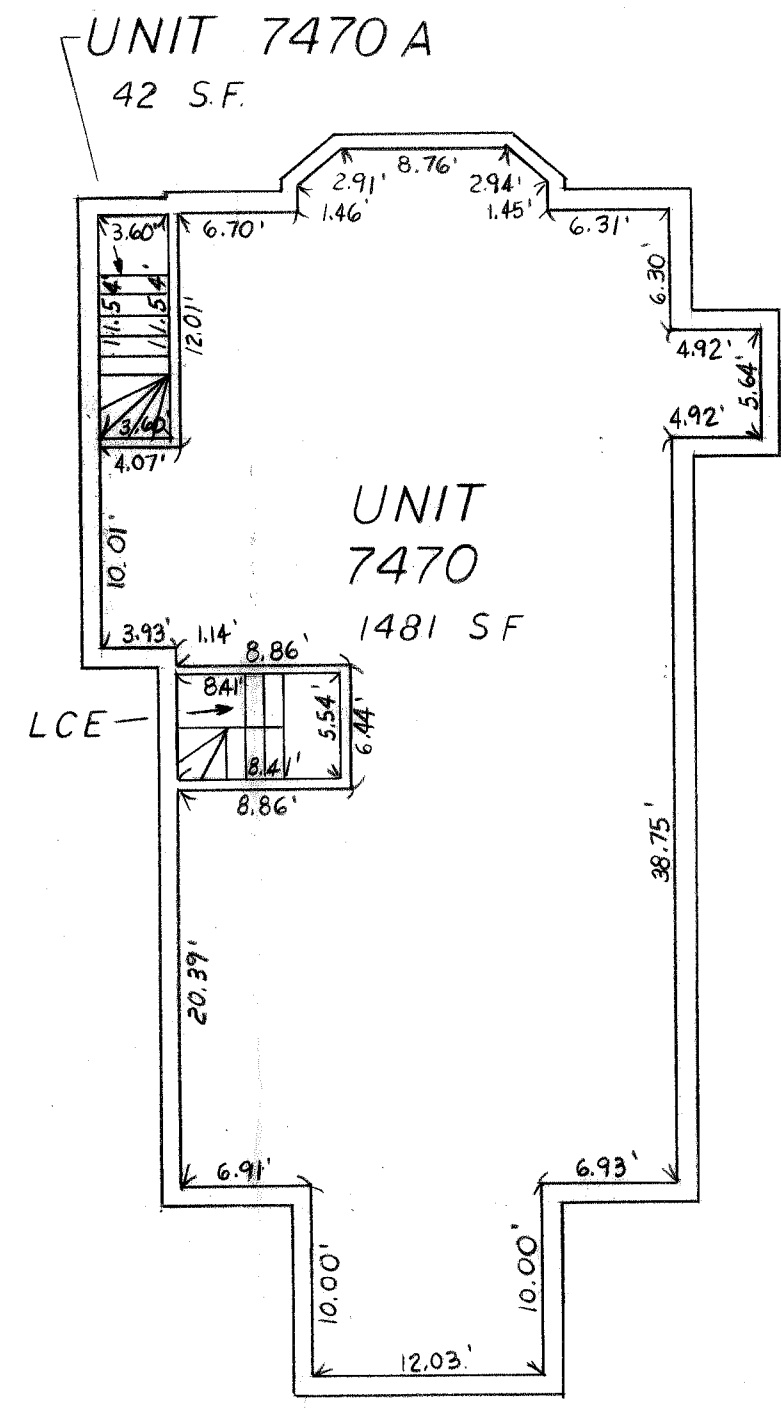
# 7470 - 7470-A DELMAR BOULEVARD CONDOMINIUM

LOT 6 IN BLOCK 2 OF WEST DELMAR NO. 2, U.S. SURVEY 2033, T. 45 N., R. 6 E.  
UNIVERSITY CITY, ST. LOUIS COUNTY, MO.



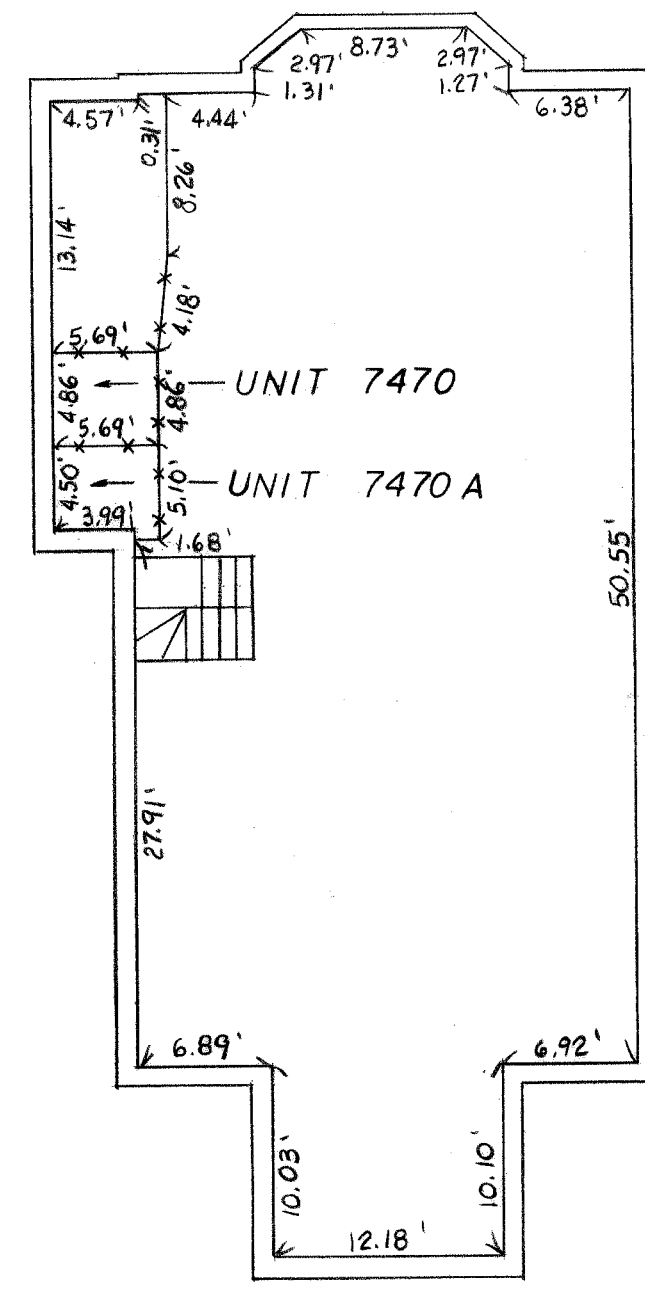
SECOND FLOOR PLAN

Ceiling Elevation = 617.46  
Floor Elevation = 608.51



FIRST FLOOR PLAN

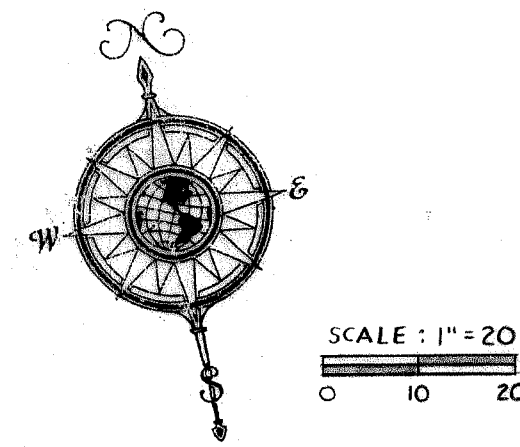
Ceiling Elevation = 607.34  
Floor Elevation = 598.42



BASEMENT FLOOR PLAN

Ceiling Elevation = 597.61  
Floor Elevation = 590.56

DELMAR 80' W. BLVD



The undersigned holder or legal owner of notes secured by a Deed of Trust recorded in Deed Book \_\_\_\_\_ page \_\_\_\_\_ of the St. Louis County Records, Missouri, does hereby join in and approve in every detail, this Condominium Plat.

IN WITNESS WHEREOF, said holder or legal owner has signed and sealed this plat this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Midwest Bank Centre

Attest \_\_\_\_\_

Title \_\_\_\_\_

STATE OF MISSOURI )  
County of St. Louis) SS  
On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did say that he is the \_\_\_\_\_ of Midwest Bank Centre a state banking association, and that the seal affixed to the foregoing instrument is the Seal of said association and that said instrument was signed and sealed in behalf of said association by authority of its Board of Directors, and said \_\_\_\_\_ acknowledged said instrument to be the free act and deed of said association.  
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.  
My Commission expires: \_\_\_\_\_

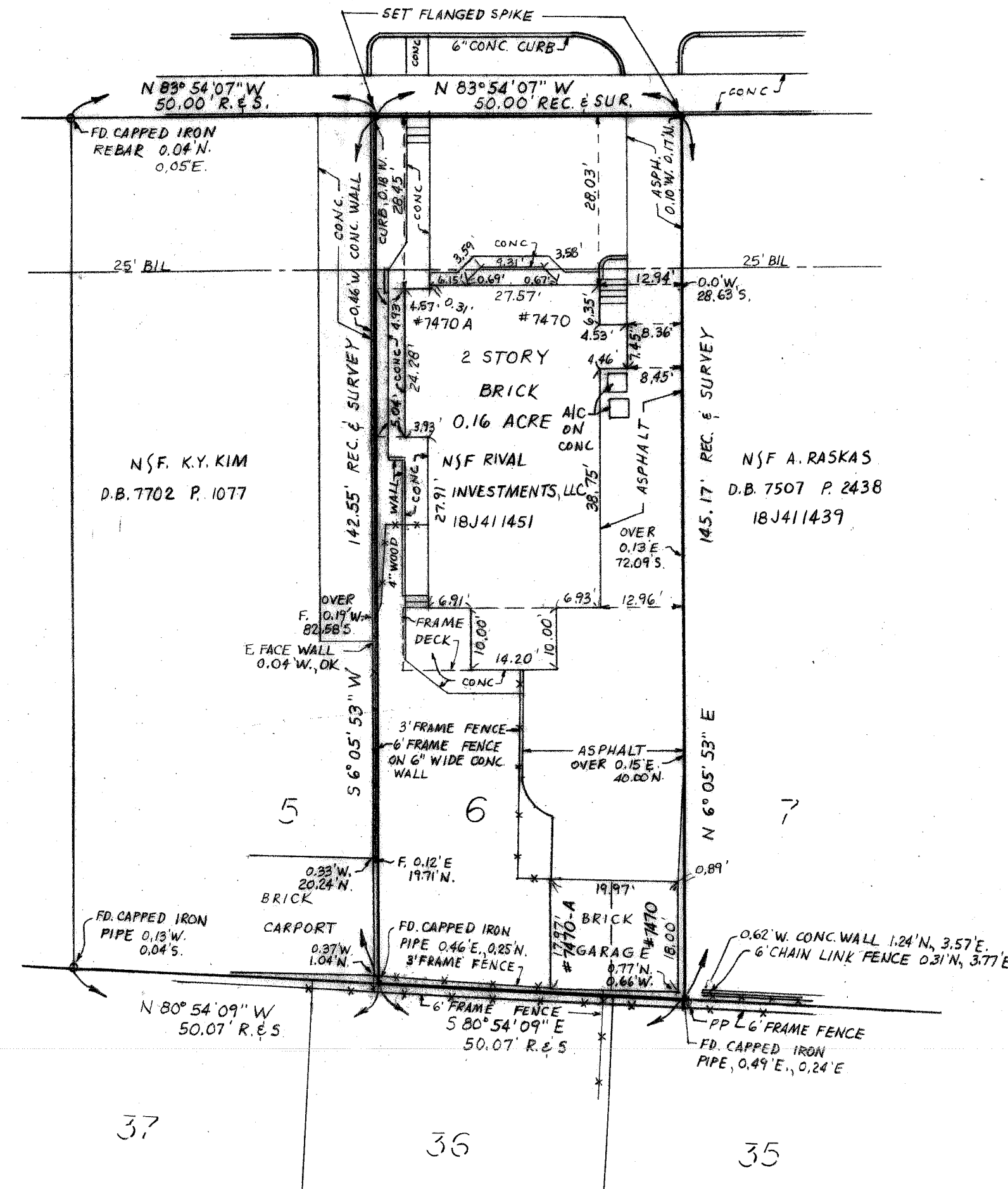
Notary Public \_\_\_\_\_

City's Certificate  
This is to certify that "7470-7470-A Delmar Boulevard Condominium" is approved by the City Plan Commission, City of University City, Missouri, on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Chairperson of the City Plan Commission,  
Executive Secretary of the City Plan Commission,  
City of University City  
City of University City

City Clerk for the City of University City, Council of the City of University City, Missouri, under Ordinance No. \_\_\_\_\_ passed and approved on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

City Clerk, City of University, Mo.



The undersigned owner of the tract of land herein platted and further described in the foregoing surveyors certificate has caused the same to be surveyed and has caused a Condominium Plat to be prepared thereof in the manner shown on this plat. Which Condominium shall hereafter be known as:  
7470-7470-A Delmar Boulevard Condominium

This condominium plat is part of an attachment to a declaration recorded pursuant to "Condominium Property Act: Chapter 448, of the Missouri statutes, which declaration has been recorded simultaneously with this plat.

In Witness Whereof, I have hereunto set my hand on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
Spencer Toder  
Rival Investments, LLC

Spencer Toder

STATE OF MISSOURI )  
COUNTY OF ST. LOUIS) SS

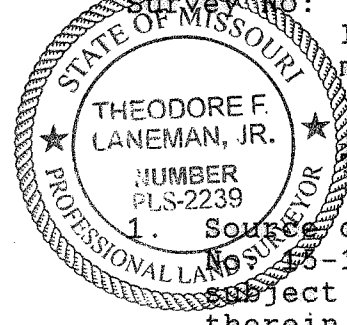
On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me appeared Spencer Toder, to me personally known, who, being by me duly sworn, did say that he is the Member/Manager of Rival Investments, LLC, and that the seal affixed to the foregoing instrument is the seal of said Rival Investments, LLC, and that said instrument was signed and sealed in behalf of Rival Investments, LLC by authority of its Board of Directors and said Spencer Toder acknowledged said instrument to be the free act and deed of said Limited Liability Corporation.  
In Testimony Whereof, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.  
My Commission expires: \_\_\_\_\_

Notary Public \_\_\_\_\_

This is to certify that at the request of Rival Investments LLC, we have during the month of June, 2016, made a Survey and Condominium Plat of a tract of land being Lot 6 in Block 2 of West Delmar No. 2, as recorded in Plat Book 10 page 81 of the St. Louis County Records, and also in U.S. Survey 2033, T. 45 N., R. 6 E., in St. Louis County, Missouri, and also in accordance with the current Minimum Standards for Property Boundary Surveys of the Missouri Department of Natural Resources. This survey was executed in accordance with the standards for an Urban Property. This plat contains all the information required by Section 448.2-109, RSMo (2008) Missouri Statutes for the Uniform Condominium Act.

Surveyed by: T. Laneman Jr. T.L. CONSULTANTS  
Survey No: 2517

In Witness Whereof, I have hereunto set my hand this \_\_\_\_\_ day of August, 2016.



THEODORE F. LANEMAN, JR. L.S. 2239  
SURVEY NOTES

- Source of Title: U.S. Title Guaranty Company, File # 25-14641, dated November 10, 2015, and is subject to any errors or omissions contained therein.
- Source of Bearing System: Solar observation on August 8, 2016, using the Local Hour Angle Method.
- All interior Condominium measurements represent the unit boundaries, which may project through existing columns or walls.
- Benchmark Used: St. Louis County BM No.14517; An "I" on the southeast corner of the concrete base of a parking area light post situated southeast of a Sinclair sign in a landscaped island in the north east quadrant of Delmar Boulevard and Hanley Road, near the southwest corner of the Sinclair gas station at #7489 Delmar Boulevard, roughly 40' west of a sanitary manhole in the sidewalk on the north side of Delmar Boulevard and 23' southeast of a communications manhole in the sidewalk on the east side of Hanley Road. Elevation = 595.47' USGS NAVD88.
- School District: University City School District  
Fire District: University City District  
Sewer District: MSD  
Watershed District: River Des Peres  
Water District: Missouri American Water Company  
Zoning District: \_\_\_\_\_
- Unit Area Summary
 

a. 2nd Floor:	Unit 7470-A	= 1467 S.F.
b. 1st Floor:	Unit 7470-A	= 42 S.F.
	Unit 7470	= 1480 S.F.
c. Basement Floor:	Unit 7470-A	= S.F.
	Unit 7470	= S.F.
	Unit 7470-A Total Area	= S.F.
	Unit 7470 Total Area	= S.F.
- C.E. denotes Common Element  
L.C.E. denotes Limited Common Element

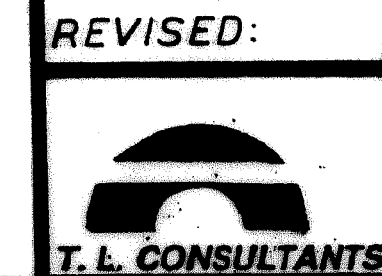
## 7470-7470-A DELMAR BLVD. CONDOMINIUM PLAT

FOR: Rival Investments LLC c/o #7830 Delmar Boulevard University City, Missouri, 63130 Attn: Spencer Toder 314-537-1537

PROJECT NO 2517  
DATE 6-25-2016  
DRAWN BY T.L.

PREPARED BY: T. L. CONSULTANTS  
3109 S. GRAND AVENUE  
SUITE 200, 314-772-4346  
ST. LOUIS, MISSOURI, 63118

SHEET NO / OF /



## 7470 Delmar Boulevard – Condominium Plat project summary

There are multiple goals of converting the duplex into condos:

- 1) There are so many apartments being developed in Clayton that we have concerns about our ability to rent the units out for the same price in the future.
- 2) Generally speaking, if we sold each unit as a condo, they will sell for more than the price of a duplex rental property, as people are willing to pay more for somewhere they live that own a rental property, especially if rental rates are driven down by future development.
- 3) As residents of the area, we have found that people take better care of condos than apartments and when we sell, we would prefer to sell to people who will have strong upkeep to the property, as we live down the street, and if they do, it will look better as well as add value to our home.
- 4) We like the flexibility of being able to sell the units one at a time or both at once, which condos will allow.

### Other Information

The garage, backyard, and basement will be common areas.

The following improvements have been made since purchasing the property: plaster repaired, painted, updated appliances that had not been updated, new 50k roof and gutters being put on garage and house currently (partially subsidized by insurance). Fully landscaping front and back of property. Tuck pointing as needed. New fence in backyard upon completion of landscaping. New garage system.

May or may not sell the property. Depends on the market, soonest we would sell is June, but may hold long term.

Utilities are separate.

I have done this with two other properties and it has gone well.

Spencer Toder

**ATTACHMENT 3:  
Draft Ordinance and Exhibits**

INTRODUCED BY: \_\_\_\_\_

DATE: October 13, 2016

BILL NO. **9296**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING A FINAL PLAT FOR A MINOR  
SUBDIVISION OF A TRACT OF LAND TO BE KNOWN AS 7470 – 7470-A  
DELMAR BOULEVARD CONDOMINIUM, A SURVEY AND  
CONDOMINIUM PLAT OF LOT 6 IN BLOCK 2 OF WEST DELMAR NO. 2.**

WHEREAS, on August 31, 2016, Spencer Toder with Rival Investments, LLC, property owner, submitted for approval a final subdivision plat of a tract of land to be known as 7470 – 7470-A Delmar Boulevard Condominium, a Survey and Condominium Plat of Lot 6 in Block 2 of West Delmar No. 2, University City, Missouri; and

WHEREAS, at its meeting on September 28, 2016, the University City Plan Commission reviewed the final plat for the minor subdivision, determined that the final plat is in full compliance with the requirements of the University City Municipal Code, and recommended to the City Council of University City approval of the final plat; and

WHEREAS, the final plat for the minor subdivision application, including all required documents and information submitted therewith, is before the City Council for its consideration;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. Attached, marked Exhibit “A” and made a part hereof is a final subdivision plat of a tract of land to be known as 7470 – 7470-A Delmar Boulevard Condominium, a Survey and Condominium Plat of Lot 6 in Block 2 of West Delmar No. 2, located at 7470 – 7470-A Delmar Boulevard, University City, St. Louis County, Missouri. The final plat for the minor subdivision subdivides the two-family dwelling, thereby converting it into two condominium units, zoned “MR” – Medium Density Residential District.

Section 2. It is hereby found and determined that the final plat for the minor subdivision is in full compliance with the University City Municipal Code, including Section 405.390 thereof. Accordingly, the final plat for the minor subdivision marked Exhibit “A” is hereby approved.

Section 3. The City Clerk is hereby directed to endorse upon the final plat for the minor subdivision the approval of the City Council under the hand of the City Clerk and the seal of University City.

Section 4. This ordinance shall take effect and be in force from and after its passage as provided by law.



PASSED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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MAYOR

ATTEST:

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CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

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CITY ATTORNEY





## Council Agenda Item Cover

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**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** Stop sign Groby Rd and Glenside Place

intersection **AGENDA SECTION:** Unfinished Business

**CAN THIS ITEM BE RESCHEDULED? :** Yes

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### **BACKGROUND REVIEW:**

The Traffic Commission reviewed a request to approve permanent installation of stop signs at Groby Rd and Glenside Place intersection to improve safe access of vehicles at the intersection.

The installation of the stop sign on Glenside Place is warranted by the Manual of Uniform Traffic Control Devices. However the installation of Stop Signs on Groby Rd was not met, but the Traffic Commission recommended approval of the additional Stop Signs on Groby Rd.

At the September 2016 Traffic Commission meeting, the Traffic Commissioners reviewed the request and recommended approval by the City Council.

The Traffic Code will have to be amended at Schedule VII, Stop Intersections, Table VII-A Stop Intersections to include this location.

### **RECOMMENDATION:**

Staff recommends approval of the installation of the Stop Sign on Glenside Place only. Traffic Commission recommends installation of the Stop Signs on Glenside Place and Groby Road.

After City Council's approval the Traffic Code Chapter 300 – Schedule VII Stop Intersections, Table VII-A Stop Intersections will be amended accordingly.

### **ATTACHMENTS:**

- Bill amending Chapter 300 – Schedule VII Stop Intersections
- Staff Report
- September 14, 2016 Traffic Commission meeting minutes

## STAFF REPORT

MEETING DATE: September 14, 2016  
APPLICANT: Richa Rathore, 7920 Glenside Place  
Location: Groby Rd and Glenside Place intersection  
Request: All-way Stop Intersection  
Attachments: Traffic Request Form

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### Existing Conditions:

#### Groby Rd and Glenside Place intersection – Stop signs location request



Currently there is a stop sign on the Mona Trail at Groby Rd, and no stop signs on Groby Rd. There is a Yield Sign installed on Glenside Place at Groby Rd.

Per the University City Police Department, there have been no accidents reported for the last 3 years. Groby Rd and Glenside Place speed limits are 25 MPH.

Groby Rd is considered a major collector and carries more vehicles than Glenside Place.

**Request:**

Install an all-way stop intersection signs on Groby Rd and Glenside Place.

**Conclusion/Recommendation:**

Due to the geometry of the intersection, it is recommended to install a Stop sign on Glenside Pl at Groby Road. An additional plaque "Cross traffic does not stop" should be added. It is not recommended to install stop signs on Groby Rd, as these are not warranted, instead speed limit signs can be upgraded and installed in advance of both approaches to the intersection.



**Department of Public Works and Parks**

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

**TRAFFIC REQUEST FORM**

**LOCATION OF REQUEST:**

**Three-way intersection between Groby Road and Glenside Place/Mona Trail (see attached map)**

**STATE THE NATURE OF YOUR REQUEST:**

**This intersection is the location of many accidents and near-accidents in our neighborhood. Due to the downhill slope of Groby Road, cars often approach Glenside Place/Mona Trail at high speeds, and do not stop to see if another car is turning onto Groby Road. Additionally, the foliage from the creek blocks visibility of oncoming traffic from Groby Road for cars on Glenside Place. The safety of our neighborhood is of the utmost concern, so I am requesting stop signs to be put up at this intersection.**

**WHAT ACTION ARE YOU REQUESTING THAT THE CITY TAKE CONCERNING YOUR REQUEST?**

1. Install a one-way stop sign on Groby Road (going away from Olive, towards Glenside Place/Mona Trail)
2. Clear vegetation on and around the corner and the bridge on the intersection of Glenside Place and Groby Road to increase visibility in both directions
3. Install a three-way stop sign on Groby Road (stopping traffic going away from Olive, traffic going toward Olive, and traffic on Glenside Place going toward Groby)
4. Take any further measures necessary to improve safety in this neighborhood

**WHAT IMPACT WOULD THE ACTION HAVE ON ANY ADJACENT RESIDENTS OR STREETS?**

**These actions will greatly improve the safety of all residents on these streets, dramatically decrease vehicle accidents in our neighborhood, and improve the security of all University City residents who walk or drive around this dangerous intersection.**

**NOTE: The Public Works Department staff will review this request and, if warranted, this matter will appear as an agenda item for a traffic commission meeting. If a meeting is held, you will be encouraged to attend so that you may state your concerns.**

**NAME:** Richa Rathore

**ADDRESS:** 7920 Glenside Place, University City, MO 63130

**PHONE (HOME):** (414) 699-7552 **PHONE (WORK):** \_\_\_\_\_

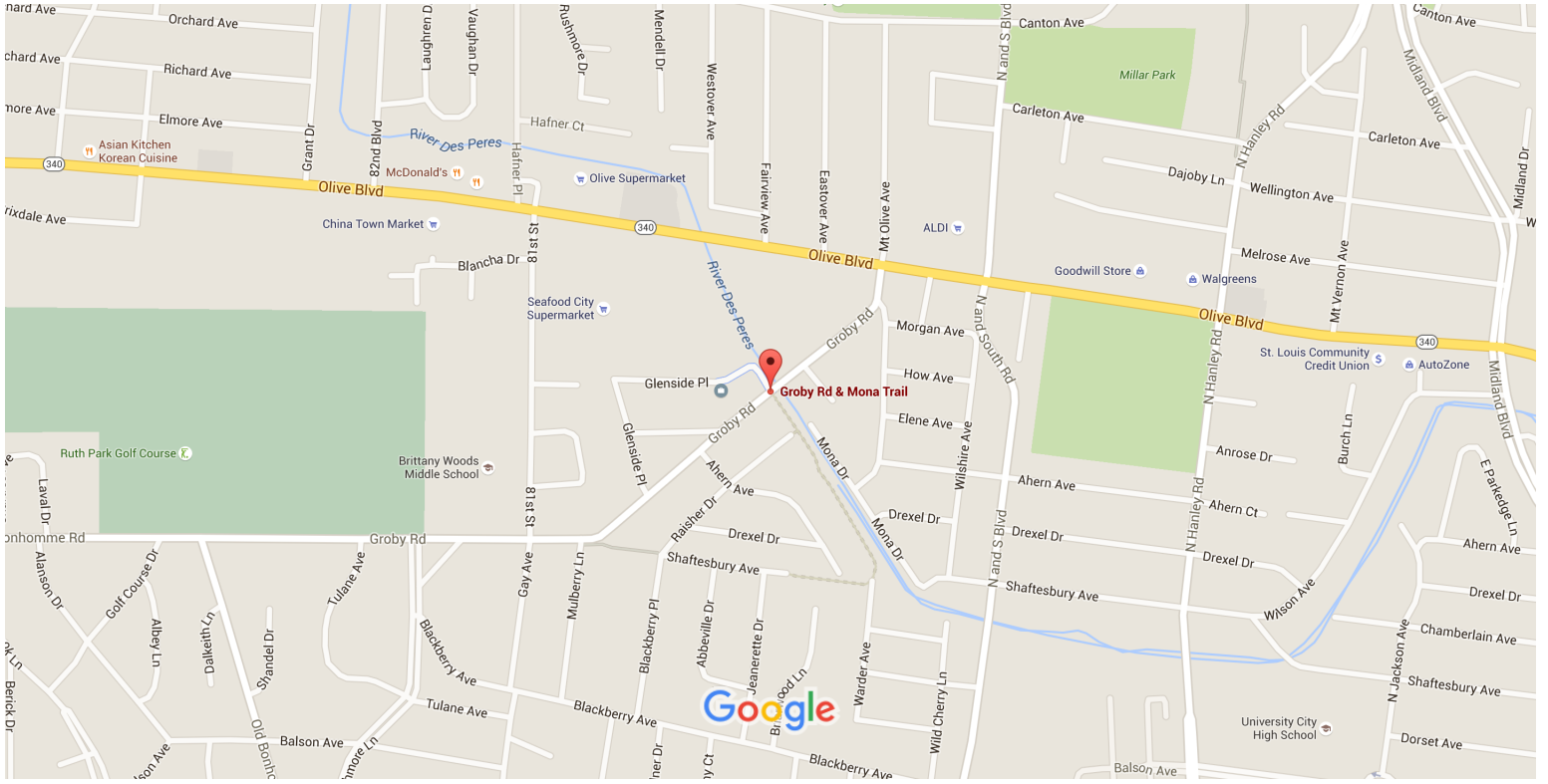
**Email:** richarathore@hotmail.com

**Date:** June 29, 2016

Please return the completed form to the Public Works and Parks Department, 3<sup>rd</sup> floor of the City Hall, attention Angelica Gutierrez, Public Works Liaison of the Traffic Commission, via email at [agutierrez@ucitymo.org](mailto:agutierrez@ucitymo.org).

Or, by mail/fax:      Traffic Commission  
                                  C/O Public Works Department  
                                  6801 Delmar Blvd. 3<sup>rd</sup> Floor  
                                  University City, MO 63130  
                                  (314) 505-8560  
                                  (314) 862-0694 (fax)





Map data ©2016 Google 500 ft



Groby Rd & Mona Trail  
University City, MO 63130





## Traffic Commission

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

### CITY OF UNIVERSITY CITY MINUTES OF THE TRAFFIC COMMISSION September 14, 2016

At the Traffic Commission meeting of University City held in the Heman Park Community Center, on Wednesday, July September 14, 2016, Vice Chairman Curtis Tunstall called the meeting to order at 6:30 p.m. In addition to Vice Chairman Tusntall, the following members of the commission were present:

- Jeffrey Mishkin
- Eva Creer
- Mark Barnes
- Bob Warbin
- Jeff Hales
- Derek Helderman

Also in attendance:

- Angelica Gutierrez (non-voting commission member – Public Works Liaison)
- Sinan Alpaslan, Director of Public Works and Parks
- Police Department Sergeant Shawn Whitley (non-voting commission member – Police Department Liaison)
- Councilmember Bwayne Smotherson (non-voting commission member—Council Liaison)

Absent:

- None

#### 4. Approval of Agenda

Mr. Hales made a motion to move item 3, the Election of the Chair, Vice Chair, and Secretary to the bottom of the agenda to accommodate all those in attendance for other agenda items. The motion was seconded by Mr. Barnes and unanimously approved.

Mr. Tunstall asked for a motion to approve the agenda as amended. Mr. Hales moved to approve the agenda as amended and was seconded by Mr. Barnes. The amended agenda was unanimously approved.

#### 5. Approval of the Minutes

##### A. July 13, 2016 Minutes

Mr. Barnes made a motion to approve the minutes of the July 13, 2016 minutes, and was seconded by Mr. Helderman. The motion was unanimously approved.

#### 6. Agenda Items

##### a. Centene Corporation Development Project – Forsyth Blvd.

Ms. Gutierrez presented two traffic request forms from George Stock on behalf of Centene Corporation, requesting that the commission review and





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comment on the Traffic Impact Study and the Parking Impact Study prepared by the CBB dated 7/26/2016.

Larry Chapman addressed the commission on behalf of Centene Corporation. Mr. Chapman presented the scope of the Centene project. He presented visual representations showing that the eastern end of the project in "tract 3" is partially in University City. Mr. Chapman explained that tract 3 was designed to provide parking for all of the proposed office space, provide 1.5 spaces for the residential units with overflow space from the office parking spaces and hotel parking spaces as well as 500 parking spaces for a 1000 seat auditorium. He indicated that the project accommodates auditorium use while other facilities are also in use. Mr. Tunstall then asked for questions from the commissioners and citizens.

Commissioner Hales asked if the proposed design as presented had changed since the University City Plan Commission meeting in July to include additional parking garage access to and from Carondelet Plaza as recommended in the Clayton Traffic Study. Mr. Chapman confirmed that an additional entrance and exit was added to the design accessing Carondelet Plaza. Mr. Hales asked if it was still being requested that a signalized intersection be installed at Forsyth and the Ritz Carlton service drive. Mr. Chapman confirmed that request is unchanged and they have agreed to widening the exit from Forest Parkway to Forsyth.

Ms. Gutierrez introduced Mr. Srinivas Yanamanamanda from CBB Transportation Engineers and Planners to present the traffic and parking study.

Mr. Yanamanamanda presented a summary of the CBB's findings. He noted that the CBB is also performing the traffic studies for the City of Clayton. Mr. Yanamanamanda stated that the estimated parking demand for the entire project will be anywhere between 4800 and 5500 spaces. The proposed parking structures provide a bit more than the projected need and the CBB believes the plan provides for adequate parking.

Ms. Gutierrez asked if there would be any on street parking changes on Forsyth where parking is currently restricted on the south side. Mr. Yanamanamanda indicated there would not be any changes. Ms. Gutierrez asked if there was available parking overflow during times of high demand to ensure that nearby neighborhoods would not be affected by excess parking. Mr. Yanamanamanda explained that when they calculated the parking demand, they add between 5 and 10 percent to that calculation and that from his perspective the available parking exceeds projected demand.

Ms. Gutierrez asked if parking would be open to the public for use by Metrolink users, Washington University, and members of the public. Mr.



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Chapman responded that the garage would be paid parking and open to the public and noted that the garage was designed to have one space for every two seats in the auditorium which is more than usually recommended. He indicated that they have made a conscious effort to provide ample parking.

Mr. Hales said that he recalled from the University City Plan Commission meeting or Clayton Plan Commission meeting that the parking garage in subsector 3 would not have enough parking to accommodate demand during peak times and that during those peak times, overflow parking would be required to go to the subsector two garage and asked if that was still the case. Mr. Yanamanamanda indicated that the office building in subsector 3 would be served by the parking structures in both subsector 2 and subsector 3. Mr. Chapman said that the parking garage can only be so big that it becomes unusable. He indicated that the employees in the office tower in subsector 1 would be parking in the garage in subsector 1.

Mr. Hales asked Mr. Chapman if when the sub district 3 garage is full that they are confident that the overflow will park in the sub district 2 garage and not on Forsyth, or Del Lin or Northmoor or other nearby neighborhoods. Mr. Chapman said there would be two types of parkers, those attending an event and those working in the office tower and that those working in the office towers would park in their assigned garage. Mr. Hales stated that he had no doubt that the employees of the office tower with assigned parking spaces in that garage would be parking in that garage, but it was previously presented that the when sub district 3 was at full capacity, the sub district 3 garage would not have enough spaces and would require overflow parking in the sub district 2 garage. Mr. Hales asked if he was misunderstanding that. Mr. Chapman stated that sub district 3 does not have enough parking for all of the office building, all of the hotel and all of the auditorium but that the office parking would be split between two garages.

Mr. Yanamanamanda stated that they calculated the worst case scenario for demand.

Ms. Gutierrez asked if there is any proposed bicycle parking for the structures. Mr. Chapman said there would be 46 spaces for bicycle parking for the entire campus.

Citizen Katie Sprung (7358 Stanford Ave.) expressed concern about the number of bike spaces and pedestrian focus as well as overflow parking and traffic going onto narrow neighborhood streets nearby.

Dr. Warbin stated he had a question more about flow rather than the number of spaces. He said he hadn't seen any models related to traffic flow in and out of the campus with regard to Forsyth, with regard to the exit from the Forest Park parkway modeled on the activities that are going on throughout



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the entire day and that impact should be considered. Dr. Warbin stated the reason he brought this up was that in the beginning of the summer, the Traffic Commission was asked to consider prohibiting left turns from the gas station on to Forsyth at Bland because it posed a potentially dangerous traffic problem. He indicated that the intersection is a chaotic mess at times. Dr. Warbin asked how the projected flow has been modeled in the interest of safety and traffic capacity.

Mr. Yanamanamanda stated that their focus for University City included the area east of Jackson on Pershing to the Forest Park Parkway and Forsyth to Big Bend Blvd. He stated that the exit to the Forest Park Parkway to Forsyth would have an additional 350 vehicles per hour during the morning rush hour and that represents the biggest increase projected in the study. The projections for traffic from westbound Forest Park Parkway to Pershing and Jackson is estimated to be 125 additional cars per hour during the morning rush hour. He stated an anticipated 65 additional vehicles coming to the Centene Campus via westbound Forsyth during the morning rush hour. He indicated that most of the traffic would be in the morning and evening. Mr. Yanamanamanda indicated that Bland at Forsyth would require being widened with a second left turn lane to accommodate the additional traffic. At eastbound Forsyth at Big Bend, he indicated they were recommending implementing a second right turn lane onto southbound Big Bend.

Citizen Eleanor Jennings (7055 Forsyth) expressed concern about the number of children in the neighborhood who regularly cross Forsyth and many of whom attend Lourdes. She also expressed her concern and observation that it is very difficult for cars to exit the gas station at Bland and Forsyth during the morning hours because of the existing traffic volume. She also expressed concerns about the difficulty pulling out of her driveway on Forsyth during the morning rush as well as the weekly trash pickup where trash cans are placed in street for pickup. She also noted that during the morning rush, Forsyth has a lot of parents dropping off children at Lourdes. Mrs. Jennings stated that 65 extra cars added to the existing rush hour traffic is a lot.

Mr. Hales asked how far back the two left turn lanes from the parkway extend and would they both be dedicated turn lanes. Mr. Yanamanamanda stated there would be two dedicated left turn lanes and one dedicated right turn lane.

Citizen Katie Sprung (7358 Stanford Ave.) asked what was being done to accommodate bicycle and pedestrian safety. Ms. Gutierrez explained that the plan presented is presented for comments, question and feedback and many of the concerns raised at the public hearing would be addressed by city staff and the Traffic Commission as the project progresses and included in the final design.



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Dr. Warbin asked if the curve of Forsyth west of the parkway has a limited line of sight from the exit ramp and coming down Forsyth and that traffic eastbound on Forsyth has a difficult time seeing traffic at the Parkway/Bland exit which raises a safety concern that Dr. Warbin asked be considered. Mr. Yanamanamanda explained that the exit would be reconfigured to include another set of signals west of the Ritz Carlton service drive that would be coordinated with the signals at Bland creating a new much larger intersection area that would more or less function as one intersection. He indicated that would result in minimal traffic queueing. He expressed that he had no concern of making no right turn on red at that intersection.

Ms. Gutierrez asked Mr. Yanamanamanda to further explain how the traffic signal at the service drive would be coordinated with the Bland/Parkway exit signal. Mr. Yanamanamanda explained that when the light turned green to turn left from the parkway, it would be timed in such a way to allow for all traffic turning left to clear the intersection and turn left onto the service drive or clear the intersection. Ms. Gutierrez asked if the signals would be timed to allow adequate time for pedestrian crossings. Mr. Yanamanamanda confirmed that they would be timed for adequate pedestrian crossings.

Dr. Warbin gave the example that the yellow warning light that flashes for eastbound traffic on the Forest Park Parkway is helpful as to give a warning to oncoming traffic that the oncoming traffic signal which cannot be fully seen is either red, or about to change to red. He thought there would be insufficient space to provide a warning to eastbound traffic that the light is going to change on Forsyth at Bland/Forest Park Parkway. Dr. Warbin also expressed concern over the intersection of Pershing and Pershing where the old Pershing Ave. meets the larger Pershing with the median. He stated that traffic heading west from the neighborhood on Pershing connecting to the two land Pershing has a very awkward angle which requires a driver to turn almost completely around to see oncoming traffic and believes that presents a dangerous problem, particularly with additional traffic coming off the Parkway.

Mr. Hales agreed with Mr. Warbin that the intersection of Pershing and Pershing is a problem and he has observed on several occasions traffic from old Pershing westbound from the neighborhood failing to yield at the yield sign and asked staff if yield markers could be painted on the pavement.

Mr. Hales asked about the accuracy of the predictability of additional traffic on Jackson in particular, but the accuracy of their projections for additional traffic in general. Mr. Hales noted that he recently visited a woman who lived in Northmoor and noticed that traffic on Forsyth eastbound at 4:40 pm was backed up to Lee Avenue. When speaking with the resident on Northmoor she brought up the Centene project and he told her that after travelling on Forsyth, he understood why Northmoor closed the two eastern exits to the neighborhood and that they must have had a lot of traffic trying to cut through.



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He stated that the Northmoor resident said that traffic continues to cut through Northmoor to Big Bend regularly, making illegal right turns onto southbound Big Bend. Mr. Hales stated that the reason he's asking about the accuracy of the CBB projections is that people will find the easiest way to where they are trying to go and the project will change the southern end of Clayton with office buildings and garages where there has never been that kind of density. He noted that while Famous Barr used to have considerable traffic at times, it wasn't the kind of peak-hour traffic that offices bring and asked how accurately the CBB can project these increases given the nature and location of this development. He asked how much traffic would decide not to use Hanley from the north to access Clayton and instead use Jackson between Delmar and Forsyth in the mornings and evenings and noted the residential character of Jackson Ave.

Mr. Yanamanamanda stated that they used the square footage of the offices, with the percentage of vehicles per person, and demographics and stated that he is very comfortable with the numbers provided in their projections.

Mr. Hales cited another example where Kingsbury Blvd. used to connect Hanley Road to Brentwood Blvd and it was a huge cut through which the City of Clayton ultimately closed at Meramec. He expressed concerns that the with all of the traffic volume to all of the other office buildings that Jackson may become an easier route not just for those headed to the Centene Campus but for other vehicles headed to other office buildings on the east end of the business district and that could change the character of what is a neighborhood street.

Mr. Yanamanamanda informed the commission that the projection for Jackson currently is 125 cars per hour during peak hours. He thought the intersection of Jackson and Pershing could operate with a 4 way stop up through about 200 cars per hour during rush.

Ms. Gutierrez asked Mr. Yanamanamanda to explain why they are recommending an additional lane on Forsyth near Bland. Mr. Yanamanamanda explained that the additional eastbound through lane would be proposed from Clayton east to Del Lin, where it would terminate as a right turn lane to Del Lin. He indicated this would help move traffic through the intersection at Forsyth and the Forest Park Parkway.

Ms. Gutierrez asked about a need to eliminate parking on Forsyth. Mr. Yanamanamanda indicated that there is not a request and the CBB feels that eliminating all parking on Forsyth is not practical and does not recommend the removal of parking east of Del Lin. Ms. Gutierrez stated that the city has an upcoming project to stripe Forsyth for bicycle lanes and asked if the increased traffic would pose a safety concern. Mr. Yanamanamanda indicated that it would not pose a greater safety concern.





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Mr. Hales stated that he had recently been in a line of eastbound traffic on Forsyth that was travelling at a crawling speed that backed up single file all the way to Lee Avenue. He stated that he understands that CBB does not feel 65 additional cars would be a significant impact, but explained for the citizens who live on and near Forsyth and those in nearby neighborhoods who regularly travel on Forsyth, it seems hard to understand how 65 additional cars during peak hours would not make the traffic situation worse, or significantly worse and asked Mr. Yanamanamanda if he could explain that for those who don't understand how 65 more cars would not be a significant change. Mr. Yanamanamanda stated that most people associate traffic performance with queuing. He indicated in the case of Forsyth, there would definitely be queuing. In this case he said, their evaluation uses the average delay to evaluate traffic performance. Mr. Hales followed up to explain that the previous week when he travelled Forsyth at 4:40pm, traffic was backed up eastbound through the intersection of Bland/Forest Park Parkway. He stated the traffic trying to exit the Bland onto Forsyth was blocked by traffic stacked up through the intersection blocking traffic that was trying to turn left on to westbound Forsyth and noted that there is a lot of traffic exiting east bound from the Parkway at that time that is unable to turn due to backups. Mr. Yanamanamanda stated that they would be evaluating the traffic for six months after the project is completed and would coordinate the traffic signals accordingly.

Ms. Gutierrez pointed out that the report indicates the deteriorating traffic conditions on Forsyth is why the CBB is recommending an additional right turn lane from eastbound Forsyth to southbound Big Bend. Mr. Yanamanamanda stated the changes to both the lane configuration and synchronization of traffic signals would help with the traffic flow.

Ms. Gutierrez pointed out that St. Louis County would have to approve changes with the county traffic signals at Big Bend.

Director of Public Works and Parks, Mr. Alpaslan commented that the traffic signals on Forsyth between Bland Ave and Big Bend could be optimized but they cannot be synchronized because the fiber optic infrastructure is not in place connecting them.

Mr. Yanamanamanda stated that the lights could be theoretically be optimized manually.

Mr. Hales thanked Mr. Alpaslan for bringing up the traffic signal at Asbury Dr. and stated that he did not find anywhere in the report that addressed how the school zone and changing speed limits, active pickup and drop offs and traffic turning into and out of neighborhoods along Forsyth during school hours



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might affect traffic flow and signal optimization. Mr. Yanamanamanda indicated that they did take into account those circumstances.

Ms. Gutierrez asked if the changing speed limits would affect the signal optimization. Mr. Yanamanamanda stated that one lane without traffic signals or stop signs could accommodate about 1500 vehicles. In this case, he indicated the traffic was under the threshold and could accommodate a change in speed limits, it would make a difference in capacity and the changes in speed limits would have some affect but would not change the level of service.

Citizen Tom Jennings (7055 Forsyth Blvd.) raised concerns about the existing traffic on Forsyth. He notes that he has seen traffic on Forsyth backed up all the way to Hanley Road and said he doesn't understand how 65 additional cars would not make it worse. He expressed concerns about the added left turn lane at the Parkway exit and that those cars would likely be headed to the buildings east of Hanley. He asked if both of those left turn lanes would be competing to turn left into the parking garage. He also expressed concerns about the addition of a left turn lane on eastbound Forsyth and Asbury and traffic going around the turn lane with the number of children that are regularly trying to cross the street. He stated that he lives on Forsyth and lives with the traffic every day and asked how many parking spaces would be eliminated at Big Bend to accommodate two right turn lanes at Big Bend.

Mr. Yanamanamanda explained that far left lane would turn left into the service drive and the second left lane would continue west on Forsyth and noted that each entry would be signalized with the addition of an additional signal between Lyle and Hanley on Forsyth.

Dr. Warbin pointed out that the additional signals would amount to having a traffic signal with the distance of a football field between each one. He expressed that he was less concerned about the amount of time a Centene employee was waiting at an intersection in Clayton than he was about the safety of kids and residents along Forsyth and the residents who live along Forsyth. Dr. Warbin stated that his experience has been that as it relates to traffic engineering, if they build it, drivers will overload it and raised the question about possible future development across the street.

Citizen Steve Arnold (7305 Forsyth Blvd.) stated that on a perfectly clear sunny morning, he could set up a stand to sell cigars and coffee to the traffic backed up on Forsyth. He stated he had a five minute conversation with someone sitting in traffic with his convertible top down waiting in traffic. He stated that when the weather is bad, the traffic is much worse and he could not see the reality in the report presented. He said that it was dangerous trying to turn to and from Manhattan Ave and in and out of driveways. He felt the report and their models were not consistent to the reality that residents



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already experience on Forsyth. Mr. Arnold also stated that there were 5 other projects going on in Clayton with others planned, but that wasn't discussed in the report.

Mr. Hales asked Mr. Yanamanamanda to speak to the impacts of other developments in Clayton. Mr. Yanamanamanda stated that they project traffic growth through 2036 and stated that the CBB had included in their projections all of the projects in Clayton that have already been approved but not those that have not yet been approved. Mr. Hales stated that there are a number of other projects that are in the approval process and asked if they were included. Mr. Yanamanamanda stated that only those projects that were already approved were taken into consideration, not those which are still pending.

Mr. Hales asked Mr. Yanamanamanda if they had referenced previous traffic studies performed in Clayton to examine whether the projections have been accurate.

Citizen Katie Sprung (7358 Stanford Ave.) commented on the growth of the business district in Clayton and stated that we don't have the traffic infrastructure to accommodate such a large business district and urged them to consider the concerns raised by residents.

Mr. Chapman stated that the reason he came to the commission was to hear the feedback of residents. He stated that this project presents a unique opportunity because one developer is planning the entire project which presents a better opportunity to address parking and traffic in a comprehensive manner rather than the parcels being broken down into smaller separate development projects over time. He stated that they want to be part of the planning process and addressing the concerns that are raised. Mr. Chapman stated that Centene would produce 2000 jobs with an average \$73,000 salary. He stated that if their employees want more bicycle parking, they will install it and that they are working with Metro to improve the Metrolink connections. He urged citizens to take advantage of the planning process to ensure the best outcome. He reiterated that they are here and listening and want to build the very best development possible.

Ms. Gutierrez requested that the traffic commission provide a list of question to present to Centene through the Plan Commission.

### **b. Disabled Parking System**

Ms. Gutierrez presented a proposal and traffic request from Mr. Bwayne Smotherson to change and update the disabled parking system in University City and change the way disabled parking spaces are established for specific residents. The requested change would assign a residential disabled parking space to a specific resident's disabled parking permit. She indicated that the





## Traffic Commission

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requested change came about because a new resident began using a space that had been applied and approved for another resident, leaving that resident without a disabled place to park near her home. She stated that staffed recommended approval of the changes as presented.

Mr. Smotherson explained that he had researched disabled parking systems and found that St. Louis City assigns permits for residential parking spaces to ensure that the residential disabled parking spaces are available to the person whom it was provided for.

Commissioner Mishkin clarified that the proposal is to assign specific residential disabled parking space to a specific person. Ms. Gutierrez confirmed.

Mr. Hales asked what would happen if the person with the approved disabled parking were to move. Ms. Gutierrez stated that there would be annual renewals for the spaces and the signs would be removed if no longer needed. Mr. Hales asked Ms. Gutierrez to confirm there would not be any cost associated with the permit or renewals. Ms. Gutierrez confirmed there would be no cost associated.

Mr. Mishkin asked if this would affect residential homes only or city wide. Ms. Gutierrez stated that it would apply to residential neighborhoods and possibly churches.

Mr. Hales asked if staff felt there were any reasons not to make these changes. Ms. Gutierrez indicated there were not.

Mr. Mishkin asked if we did not change the ordinance, that the existing disabled parking system would only allow those who are disabled to park in those spaces.

Councilman Smotherson explained that recently experienced situation is unique. He reported that a couple had requested and received two disabled spaces across the street from their house on a narrow street that only allows for parking on side of the street. He stated that a resident moved into an apartment across the street and began parking in one of the two spaces leaving the couple who applied for the disabled spaces with no place to park near their home. He indicated that he had made several attempts to work with the new resident so that she could apply for a space as well, but his efforts were unsuccessful.

Ms. Gutierrez stated that the city had made contact with the new resident and asked that the resident consider parking in the vacant lot next to her building.



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Dr. Warbin expressed concern that this proposal has been proposed as a punishment and over the conflict of a disabled person parking in a disabled parking space that was installed for the couple across the street.

Mr. Hales stated that he didn't see the proposal as a punishment, but as a way to address this problem and similar problems that may arise in the future. He noted that in residential neighborhoods, the only disabled parking spaces that generally exist have been placed there because a resident has requested it for their own usage. He stated that the average person who is disabled and driving down a residential street does not have an expectation of a disabled parking space being near the residence they are visiting, but the resident who requested the sign or signs have the expectation that those disabled space are for their use and this proposed change would codify that. He also stated that if the new resident would like to apply for a disabled parking space, he saw no reason why the commission would not recommend approval of that request.

Dr. Warbin retracted his use of the word punishment and stated that it represents a power assertion from the government against a single individual that has implications for other citizens within the community and Dr. Warbin found a problem with that.

Ms. Gutierrez stated that most of the applicants who apply for a residential disabled parking space are under the assumption that the space is provided only for their use. She stated this would give those residents peace of mind that the space they requested will be available for them.

Dr. Warbin asked if there are other ways of solving this problem that do not involve a change in the law that might be helpful for the residents.

Mr. Smotherson stated that he had looked at every option including speaking with the new resident's landlord. He stated that the proposal is not being made against one person, but to ensure that the people who requested the disabled spaces be able to park in front of their homes.

Dr. Warbin asked if the new resident was given the opportunity to attend the Traffic Commission meeting.

Mr. Smotherson stated that multiple efforts were made to contact the new resident and she was provided several opportunities to attend a meeting and that Ms. Gutierrez had also made outreach to the woman.

Mr. Tunstall stated that he didn't realize that any disabled person could park in a disabled parking space in front of a home where the residents had requested the disabled parking spaces.



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Mr. Barnes made a motion to accept the recommendation as presented. Mr. Hales seconded.

Mr. Mishkin asked if there was any additional cost to the city associated with this change.

Ms. Gutierrez stated the cost to the city would be minimal.

Mr. Mishkin asked what would happen after implementation if the new resident parked in the assigned space.

Sgt. Whitley stated that the police would start by issuing warnings before ticketing after the implementation process.

Mr. Mishkin asked if there had been a similar situation to the one being discussed. Ms. Gutierrez stated this was the first.

The commission voted to on the motion to accept the recommendation as presented. The motion passed 6 to 1 with Dr. Warbin voting Nay.

### c. 7000 Block of Lindell

Ms. Gutierrez presented the previously discussed parking permit petition change request to change the hours of the parking restrictions of the 7000 Block of Lindell. She stated that staff had become aware that additional parking permit signs had been installed years ago beyond the area requested in the original parking permit petition. She stated that the new petition only covered the area that was part of the original petition and not the area with signs posted beyond the petition. She indicated that all of the properties to the west of the affected area were also informed of the meeting and proposed change.

Citizen J. Patrick Reilly (7015 Lindell) stated that the neighbors were requesting that the parking restriction hours be changed from 10am to 2pm Monday thru Friday to 9 am to 9pm seven days a week because of the impact on the neighborhood from individuals parking on the block and going to Washington University. He also stated that they have residents parking on the block and walking to the Metrolink for sporting events.

Mr. Hales asked if the commission was being asked to change the parking restriction for the entirety currently marked residential permit area including the homes with residential parking permit restrictions that are not included in the code.

Ms. Gutierrez stated that upon review of the ordinance, that the ordinance calls for residential parking permits on the 7000 block of Lindell and that it does not match the addresses that were originally part of the petition that only



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span half of the block. She stated that she did not know why the ordinance as approved was not consistent with the petition and asked if the residents in attendance knew why the original petition was not inclusive of the entire block. Mr. Reilly stated that the original parking permit petition was implemented before he lived on Lindell.

Ms. Gutierrez stated that the city would be removing the signs west of 7044 that were not included in the petition. She stated that she was contact by one resident who was upset by the parking permit restriction being removed.

Mr. Hales asked to clarify that the city code applies the existing residential permit parking restriction to the entire city block and asked the additional signs, not covered by this petition could be left in front of those homes since they are technically covered by the code?

Ms. Gutierrez said that could happen, but the new petition does not extend the entire length of the block where signs are currently posted and she indicated that she wanted to leave it up to the commission.

Mr. Helderman asked if the signs would be changed or if they would be replaced. Ms. Gutierrez stated they would be replaced.

Dr. Warbin asked if the commission was being asked to extend the requested change in hours beyond what was requested in the petition and expressed concern of extending the changes beyond what was requested. He asked if the commission has the latitude to extend the change in the restrictions beyond the requested changes.

Mr. Hales stated that he agreed with Dr. Warbin's concern and stated that if the city was to follow the code, the commission should approve the recommended changes as requested on the petition and the city should install residential permit parking signs restricting parking between the hours of 10am and 2pm for the rest of the 7000 block. He noted that it would be strange to have two different sets of restrictions on the same block, but it would be consistent with the code. He also expressed concern that if new signs were erected to conform with the code for the rest of the 7000 block that some residents may not like them, but he said he didn't think the existing signs west of the current petition should be removed because they are part of the ordinance. He also stated the commission was not aware in September of 2015 when this request first came to the commission that the city ordinance covered the entire block.

Ms. Gutierrez explained to the commission that if signs were to be installed to reflect the current ordinance, it would require every house to come to city hall and register their vehicles to be in compliance with the ordinance.



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Mr. Hales suggested that the city could leave the existing signs west of 7038 without erecting new signs for the rest of the block.

Dr. Warbin agreed that he believed that the existing ordinance and petition request required the commission to treat it that way.

Dr. Warbin made a motion to accept the petition and recommendation as presented and was seconded by Mr. Barnes. The motion was passed unanimously.

### **d. Stop Signs at Groby and Glenside Place**

Ms. Gutierrez presented the traffic request form from Richa Rathmore (7920 Glenside Place). She stated that there had be no reported accidents in the last three years but reported that there is a limited sightline. She stated that staff did install a yield sign at that intersection. She indicated that staff has recommended the installation of a stop sign at Glenside Place at Groby as well as speed limit signs on Groby approaching Glenside.

Citizen Richa Rathmore (7320 Glenside Place) stated that traffic on Groby doesn't stop at Glenside and stated that the intersection has a very limited sightline of the intersection until you are about 15 meters from the intersection. She stated that while the speed limit is 25, cars regularly speed on the road because it does not usually have a lot of traffic. Ms. Rathmore also presented insurance paperwork related to a traffic accident she was involved in in May of 2015. She stated that to make a left turn out of Groby, you have to pull out through the crosswalk with the front of the car on Groby to be able to see oncoming traffic. She clarified that she was not requesting a stop sign on Glenside at Groby, but was requesting stop signs on Groby at Glenside Place.

Mr. Hales asked Ms. Gutierrez to speak to the limited sightline and explain that a bit more.

Ms. Gutierrez stated that there is a visibility problem from Glenside at Groby and that is why staff recommends the installation of a stop sign on Glenside. She also stated that there was vegetation that would cut back to improve visibility.

Mr. Hales asked if the limited sightline is caused by the vegetation or the concrete wall of the bridge on Groby.

Ms. Rathmore stated that it is the bridge that blocks visibility of oncoming traffic. She also asked that if stop signs cannot be placed on Groby if a sign could be placed to show a blind drive or limited sightline approaching Glenside.



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Mr. Barnes stated that he drives this road regularly and agreed with the petitioner that there is a need for a stop sign on Groby Rd..

Mr. Smotherson stated he is very familiar with this intersection and stated that you cannot see Glenside while approaching on Groby Rd. and that he believed the petitioners concerns were valid.

Mr. Barnes made motion to recommend the installation of all-way stop signs at the intersection of Groby Rd. and Glenside Place. Dr. Warbin seconded the motion. Mr. Tunstall asked if there was any further discussion.

Mr. Hales asked staff to explain why staff does not feel this solution was appropriate. Ms. Gutierrez stated that the MUTCD standards establish the guidelines for intersections with stop signs and this intersection did not fit those standards.

Mr. Tunstall called for a vote on the motion. The motion was unanimously approved.

Mr. Tunstall called on Citizen Alvin Franklin of 8537 Kempland Place. Mr. Franklin addressed the commission about the meetings not be scheduled at times that were conducive to all residents. He stated that he owns a business and works at night and he had to make special arrangements to be able to attend the meeting. He expressed his desire to have a bus stop moved from in front of his property because of significant trash and alcohol bottles that are left on his property. His main concern to the commission was the accessibility of the commission for those like himself who may not be able to attend the meeting and expressed that he didn't think it was fair for the commission to make recommendations when the petitioner is unable to attend and expressed that his concerns should be considered.

Sgt. Whitley informed Mr. Franklin that he was aware of his concerns and complaint that the police have already observed the conditions in front of his house. He stated that officers did not witness any violations, but did observe the trash at the location.

Mr. Franklin stated that he has talked to everyone he could possibly talk to, including the City Manager and City Clerk and expressed his frustration that little has be done to address his concerns.

Mr. Tunstall stated that he understood Mr. Franklin's concerns and urged him to speak to Councilman Smotherson and attend and speak to the city council.

### **e. Center Drive – Residential Parking Permit request**





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Citizen Lori Goodman of 8001 Teasdale Ave. requested to withdraw her request and plans to have more discussion with her neighbors before coming back to the Traffic Commission.

### f. 7300 Block of Forsyth – Residential Parking Permit Request

Ms. Gutierrez presented the traffic request form from Mr. Steve Arnold for the 7300 block of Forsyth, continued from the previous meeting. She reported that a staff had concluded that a 1 or 2 hour parking restriction except by residential permit is an option for the commission to recommend. She stated that this plan would be exactly like the residential parking permit implemented in the 200 block of Linden. She asked that if the commission would like to make this recommendation, that staff would like the commission to determine the list of affected households.

Steve Arnold (7305 Forsyth) spoke to his desire to co-exist with the neighboring businesses and spoke about the continued parking problems in front of his property including cars partially blocking his driveway.

Mr. Hales made a motion to issue a residential parking permit petition to Mr. Arnold for 1 hour parking except by residential permit on the north side of the 7300 block of Forsyth Blvd, from 7301 and 7331 Forsyth Blvd. between the hours of 8am to 8pm seven days a week, requiring 75% of the signatures of the property owners of the affected households including 7301 thru 7331 Forsyth Blvd. Mr. Helderman seconded the motion. The motion passed unanimously.

## 7. Council Liaison Report

Mr. Smotherson stated that he shares commission's concern about the traffic and parking related to the Centene project and the concerns shared by residents. He also stated that the council approved a daycare project on Olive which did not need the approval of the traffic commission since the ingress and egress to is to remain on Olive.

## 2. Election of Chair, Vice-Chair and Secretary

Election of the Chair: Mr. Tunstall nominated Mr. Hales to serve as the Chair. Mr. Hales stated that he would be willing to serve as the chair and would be honored to do so, but he wanted to continue in his role as Secretary. He stated that there was nothing in the bylaws that prevented serving in both roles, but that he wanted to continue to serve as the Secretary. Mr. Barnes seconded the nomination. Mr. Hales was unanimously elected Chair.

Election of the Vice Chair: Dr. Warbin complimented Mr. Tunstall on his job as the Vice-Chair and his running of the meetings in the absence of the Chair. Mr. Mishkin nominated Mr. Tunstall to serve as Vice-Chair and was seconded by Ms. Creer. Mr. Tunstall was unanimously elected as Vice-Chair.



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Election of the Secretary: Mr. Mishkin nominated Mr. Hales to serve as Secretary. Mr. Barnes seconded the nomination. Mr. Tunstall asked if there was anything preventing Mr. Hales from serving as both Secretary and Chair. Mr. Mishkin indicated that other commissions have one person serving both roles. Mr. Hales was unanimously elected to serve as Secretary.

Mr. Hales thanked his fellow commissioners for electing him to serve as both Chair and Secretary.

Citizen Karen Neilson (521 W. Point Ct.) expressed concern about the traffic from the proposed Centene development from westbound Forest Park Parkway on to Pershing.

### **8. Miscellaneous Business**

**None**

### **9. Adjournment.**

The meeting was adjourned at 9:51 pm

Minutes prepared by Jeff Hales, Traffic Commission Chair & Secretary



**INTRODUCED BY:**

**DATE:** October 24, 2016

**BILL NO. 9297**

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE AMENDING SCHEDULE VII, TABLE VII-A – STOP INTERSECTIONS, CHAPTER 300 TRAFFIC CODE, OF THE UNIVERSITY CITY MUNICIPAL CODE, TO REVISE TRAFFIC REGULATION AS PROVIDED HEREIN.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:**

**Section 1.** Schedule VII, Table VII-A. Stop Intersections of Chapter 300 of the Traffic Code, of the University City Municipal Code is amended as provided herein. Language to be added to the Code is **emphasized**. This Ordinance contemplates no revisions to the Code other than those so designated; any language or provisions from the Code omitted from this Ordinance is represented by an ellipsis and remains in full force and effect.

**Section 2.** Chapter 300 of the University City Municipal Code is hereby amended to add a new location where the City has designated as a stop intersection, to be added to the Traffic Code – Schedule VII, Table VII-A, as follows:

**Schedule VII: Stop Intersections**

**Table VII-A. Stop Intersections**

<b>Stop Street</b>	<b>Cross Street</b>	<b>Stops</b>
<b>Glenside Place</b>	<b>Groby Road</b>	<b>All Way</b>

\* \* \*

**Section 3.** This ordinance shall not be construed so as to relieve any person, firm or corporation from any penalty heretofore incurred by the violation of the sections revised by this amendment nor bar the prosecution for any such violation.

**Section 4.** Any person, firm or corporation violating any of the provisions of this ordinance shall be punished in accordance with the provisions of the University City Municipal Code.

**Section 5.** This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2016

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY



## Council Agenda Item Cover

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**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** An ordinance to amend University City's Municipal Code

**223.010 AGENDA SECTION:** Unfinished Business

**CAN THIS ITEM BE RESCHEDULED? :** Yes

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**BACKGROUND REVIEW:** . An ordinance amending Chapter 223, Section 223.010 of the City of University City Municipal Code, to add source of income as a protected class for housing discrimination

**RECOMMENDATION:** Approval

**INTRODUCED BY:**

**DATE:** October 24, 2016

**BILL NO. 9298**

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 223, SECTION 223.010 OF THE CITY OF UNIVERSITY CITY MUNICIPAL CODE, TO ADD SOURCE OF INCOME AS A PROTECTED CLASS FOR HOUSING DISCRIMINATION.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:**

**WHEREAS**, the City of University City desires to provide all individuals with equal access to housing; and

**WHEREAS**, the addition of “source of income” as a protected class in the City of University City’s Housing Discrimination Ordinance Section 223.010 provides fair and equal access to housing for all; and

**WHEREAS**, the Council of the City of University City desire to update the City of University City Municipal Code to add source of income as set forth herein. Language to be deleted from the Code is represented as ~~stricken through~~; language to be added to the Code is **emphasized**. This Ordinance contemplates no revisions to the Code other than those so designated; any language or provisions from the Code omitted from this Ordinance is represented by an ellipsis and remains in full force and effect.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI AS FOLLOWS:**

**Section 1.**

Subsection 223.010 of the Municipal Code of the City of University City, is hereby repealed and a new Subsection 223.010 is enacted in lieu thereof, to read as follows:

**Chapter 223. Human Rights**

**Section 223.010. Unlawful Housing Practices — Discrimination in Housing.**

A. *Definitions.* As used in this Section, the following terms shall have these prescribed meanings:

## **DISABILITY**

A physical or mental impairment which substantially limits one (1) or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with occupying the dwelling in question. For purposes of this Section, the term "*disability*" does not include current, illegal use of or addiction to a controlled substance as such term is defined by Section 195.010, RSMo.; however a person may be considered to have a disability if that person:

1. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;
2. Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or
3. Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance.

## **DISCRIMINATION**

Any unfair treatment based on race, color, religion, national origin, ancestry, sex, sexual orientation, disability or familial status.

## **DWELLING**

Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

## **FAMILIAL STATUS**

One (1) or more individuals who have not attained the age of eighteen (18) years being domiciled with:

1. A parent or another person having legal custody of such individual; or
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

## PERSON

Includes one (1) or more individuals, corporations, partnerships, associations, organizations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries or other organized groups of persons.

## RENT

Includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

## SEXUAL ORIENTATION

A male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender.

## SOURCE OF INCOME

The point or form of the origination of legal gains of income accruing to a person in a stated period of time; from any occupation, profession, or activity from any contract, agreement or settlement, from the federal, state, or local payments, including Section 8 or any other rent subsidy or rent assistance program, from court ordered payments or from payments received as gifts, bequests, annuities, or life insurance policies.

B. **Violations.** It shall be an unlawful housing practice:

1. To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, to deny or otherwise make unavailable a dwelling to any person because of race, color, religion, national origin, ancestry, sex, sexual orientation, disability, or familial status, **or source of income**;

2. To discriminate against any person in the terms, conditions, or privilege of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, sexual orientation, disability, or familial status, **or source of income**;

3. To make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, ancestry, sex, sexual orientation, disability, or familial status, **or source of income**; or an intention to make any such preference, limitation or discrimination;

4. To represent to any person because of race, color, religion, national origin, ancestry, sex, sexual orientation, disability, or familial status, **or source of income** that

any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;

5. To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, ancestry, sex, sexual orientation, disability, or familial status, or source of income;

6. To discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

- a. That buyer or renter,
- b. A person residing in or intending to reside in that dwelling after it is sold, rented or made available, or
- c. Any person associated with that person;

7. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

- a. That person,
- b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available, or
- c. Any person associated with that person.

C. **Discrimination.** For purposes of this Section, discrimination includes:

1. A refusal to permit, at the expense of the person with the disability, reasonable modifications on existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

2. A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

3. In connection with the design and construction of covered multi-family dwellings for first (1st) occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:



a. The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability,

b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs, and

c. All premises within such dwellings contain the following features of adaptive design:

(1) An accessible route into and through the dwelling,

(2) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations,

(3) Reinforcements in bathroom walls to allow later installation of grab bars, and

(4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

d. As used in this Subdivision, the term "*covered multi-family dwelling*" means:

(1) Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators, and

(2) Ground floor units in other buildings consisting of four (4) or more units.

e. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for people with physical disabilities, commonly cited as "ANSI A117.1", suffices to satisfy the requirements of paragraph (a) of this Subdivision.

D. **Certain Exceptions.**

1. Nothing in this Section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

E. 2. Nothing in this Section shall prohibit a religious organization, association or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the

sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Section prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

~~F.~~ **3.** Nothing in this Section, other than the prohibitions against discriminatory advertising in Subsection **(B)(3)** of this Section, shall apply to:

1. The sale or rental of any single-family house by a private owner, provided the following conditions are met:

a. The private individual owner does not own or have any interest in more than three (3) single-family houses at any one time; and

b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does not reside in it at the time of sale or was not the most recent resident of the house prior to such sale, the exemption in this Section applies to only one (1) such sale in any twenty-four (24) month period; or

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters at his/her residence.

**4.** Nothing in this Section prohibits discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

~~G.~~~~E.~~ **Unlawful.** It shall be unlawful:

1. To aid, abet, incite, compel or coerce the commission of acts prohibited under this Section or to attempt to do so;

2. To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this Section or because such person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this Section; or

3. To discriminate in any manner against any other person because of such person's association with any person protected by this Section.

**F. Effect on Other Law.**

1. This Section does not affect a reasonable state or local restriction on the maximum number of occupants permitted to occupy a dwelling or a restriction relating to the health or safety standards.

**Section 5.** This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2016

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY



## City Council Agenda Item Cover

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**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE UNIVERSITY CITY MUNICIPAL CODE, TO COMPLY WITH MISSOURI SENATE BILL NO. 572 RELATING TO NUISANCE, MUNICIPAL ORDINANCE VIOLATIONS AND MUNICIPAL COURT FINES.

**AGENDA SECTION:** New Business

**CAN THIS ITEM BE RESCHEDULED? :** Yes

**BACKGROUND REVIEW:**

Missouri Senate Bill No. 572 was enacted into law during the 2016 Session of the Missouri General Assembly and included several revisions to state law affecting nuisances and municipal court fines. To comply with and reflect these changes, an update to the City's municipal code is required.

The attached draft ordinance depicts language to be deleted from the Code as ~~stricken through~~; and language to be added to the Code is **emphasized**.

The City Attorney prepared this document and certifies that it is true to form.

The first reading of the ordinance should occur on November 14, 2016. The second and third reading should occur at a subsequent meeting.

**ATTACHMENT:**

Draft Ordinance

**INTRODUCED BY:**

**DATE:** November 14, 2016

**BILL NO. 9299**

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE UNIVERSITY CITY MUNICIPAL CODE, TO COMPLY WITH MISSOURI SENATE BILL NO. 572 RELATING TO NUISANCE, MUNICIPAL ORDINANCE VIOLATIONS AND MUNICIPAL COURT FINES.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:**

**WHEREAS**, Missouri Senate Bill No. 572 was enacted into law during the 2016 Session of the Missouri General Assembly; and

**WHEREAS**, Senate Bill No. 572 includes revisions to state law affecting nuisances and municipal court fines; and

**WHEREAS**, the Council of the City of University City desire to update the City of University City Municipal Code to reflect the changes to state law as set forth herein. Language to be deleted from the Code is represented as ~~stricken through~~; language to be added to the Code is **emphasized**. This Ordinance contemplates no revisions to the Code other than those so designated; any language or provisions from the Code omitted from this Ordinance is represented by an ellipsis and remains in full force and effect.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI AS FOLLOWS:**

**Section 1.**

Subsection 100.190 of the Municipal Code of the City of University City, is hereby repealed and a new Subsection 100.190 is enacted in lieu thereof, to read as follows:

**Chapter 100. General Provisions**

**Article IV. General Penalty**

**Section 100.190. General Penalty.**

A. Whenever in this Code or any other ordinance of the City, or in any rule, regulation, notice or order promulgated by any officer or agency of the City under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense, misdemeanor or ordinance violation or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, misdemeanor or ordinance violation,

and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the City or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the City prison or workhouse instead of the County Jail.

B. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.

C. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

D. *Minor Traffic Violations and Municipal Ordinance Violations*. The punishment of a minor traffic violation and a municipal ordinance violation, as defined by Section **300.010** of the University City Municipal Code, shall be subject to the following:

1. For any minor traffic violation, the maximum fine and court costs that can be imposed for the violation of any minor traffic violation shall be three hundred dollars (\$300.00) two hundred twenty-five dollars (\$225.00).

2. For any municipal ordinance violation(s) committed within a twelve (12) month period beginning with the first violation, \$200.00; \$275.00 for the second violation; \$350.00 for the third violation; and \$450.00 for the fourth and any subsequent violation.

3. Minor traffic violations and municipal ordinance violations shall not be punishable by imprisonment, unless the violation:

- a. Involved alcohol or controlled substances,
- b. Endangered the health or welfare of others, or
- c. Involved eluding or giving false information to a law enforcement officer.

3. 4. A person convicted of a minor traffic violation or municipal ordinance violation shall not be placed in confinement for failure to pay a fine unless such non-payment violates the terms of the person's probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.63 or its successor rule are strictly followed by the court.

4. 5. Court costs shall be assessed against such person unless the court finds that the defendant is indigent or if the case is dismissed.

## Section 2.

Subsections 220.060 and 220.070 of the Municipal Code of the City of University City are hereby repealed and new Subsections 220.060 and 220.070 are enacted in lieu thereof, to read as follows:

### Chapter 220. Nuisances

#### Article I. General Provisions

##### Section 220.060. **Immediate Abatement Without Notice — Special Tax Bill.**

Whenever it becomes necessary to immediately abate a nuisance, as defined by Section **220.020**, by common law or by the Statutes of the State, in order to secure the general health **or safety** of the City or any of its inhabitants, the City Manager is authorized to abate **or remove** such nuisance, ~~without notice; and the~~ **The City shall provide service of written notice to the owner of the property and, if the property is not owner-occupied, to any occupant of the property specifically describing each condition of the lot or land declared to be a public nuisance and identifying what action will remedy the public nuisance. The City Manager may use any suitable means or assistance for that purpose the removal or abatement of the nuisance,** whether employees of the City or day laborers especially employed for that purpose or any other helper or assistance necessary therefor. The City Manager shall certify the cost of abating **or removing** such nuisance **together with the proof of notice to the owner of the property** to the Director of Finance who shall prepare a special tax bill against the property on which such nuisance was located, which tax shall be collected like other taxes. ~~and shall be a first (1st) lien on the property until paid~~

**If the certified cost is not paid, the tax bill shall be considered delinquent. The tax bill shall be deemed a personal debt against the owner and shall also be a lien on the property from the date the bill is delinquent until paid.**

##### Section 220.070. **Duty to Abate Upon Notice and Procedure Upon Neglect of Notice. Procedure For Delay in Abatement of Nuisance or Compliance With Closure Order.**

- A. In case the abatement of any nuisance described in Section **220.060** is not immediately necessary for the protection of the health **and safety** of the inhabitants of the City, or in case of the existence of any alleged nuisance not defined therein, **Building Commissioner or his designee shall provide service of written notice by personal service or first-class mail to both the occupant of the property at the property address and the owner at the last known address of the owner.**



1. The notice shall specifically describe each condition of the lot or land declared to be a public nuisance and identify what action will remedy the public nuisance, providing the owner ten (10) calendar days in which to abate or commence removal of each condition identified in the notice.
2. Upon failure of the owner to pursue the removal or abatement of the nuisance without unnecessary delay within ten (10) calendar days from the date of the notice, the Building Commissioner or his designee shall hold a hearing prior to commencing abatement of the nuisance by the City.
3. The City will provide written notice of the hearing to the occupant and owner of the property at least five (5) calendar days prior to the hearing. The hearing notice shall set forth the date, time and place for the hearing. All interested parties may appear at such hearing either in person or by attorney and present evidence concerning the matters at issue.
4. If upon such hearing the Building Commissioner finds that a nuisance exists, the Building Commissioner shall order the owner, occupant or agent of such property, or the person causing or maintaining such nuisance to abate the same.

Upon failure of the owner or occupant to commence work of abating or removing such nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the Building Commissioner or designated officer may cause the condition which constitutes the nuisance to be removed or abated. In all cases when the Building Commissioner or other person under the direction of the Building Commissioner shall remove or abate the public nuisance, the cost of such removal or abatement and the proof of notice to the owner of the property shall be certified to the Director of Finance to be included in a special tax bill in the manner prescribed in Section **220.060**. If the City Manager finds that the premises are in violation of Section **220.270**, the City Manager may order the immediate closure of the premises in accordance with said Section.

~~the City Manager shall hold a public hearing before declaring the same to be a nuisance and ordering its abatement. Five (5) days' notice of such hearing shall be given to the owner or occupant of the premises upon which such alleged nuisance exists, or to his/her agent, or to the person causing or maintaining such alleged nuisance, which notice shall state the time and place of such hearing. In the event the whereabouts of the owner or occupant of the premises where such alleged nuisance exists, or of his/her agent, or of the person causing or maintaining such alleged nuisance are unknown and notice cannot be served upon them, such notice shall be posted on the premises where such alleged nuisance exists at least five (5) days before such hearing. All interested parties may appear at such hearing either in person or by attorney and present evidence concerning the matters at issue. If upon such hearing the City Manager finds that a nuisance exists, the City Manager shall order the owner, occupant or agent of~~

~~such property, or the person causing or maintaining such nuisance, to abate the same; and if the same be not abated within the time prescribed by the City Manager in such order, the City Manager shall abate the same, and the costs thereof may be levied as a special tax in the manner prescribed in Section 220.060. If the City Manager finds that the premises are in violation of Section 220.270, the City Manager may order the immediate closure of the premises in accordance with said Section.~~

### Section 3.

Subsection 300.010 of the Municipal Code of the City of University City, is hereby amended by repealing the definition of “minor traffic violation” and replacing it with a new definition, and by the enactment of a new definition for “municipal ordinance violation,” to read as follows:

## Chapter 300. General Provisions

### Section 300.010. Definitions.

...

#### MINOR TRAFFIC VIOLATION

A. Any violation of a municipal **traffic** ordinance:

1. For which **no points are assessed by the Missouri Department of Revenue or for which the Department of Revenue is authorized to assess no more than from one (1) to** four (4) points to a person’s driving record upon conviction, and
2. That does not involve:
  - a. An accident or injury,
  - b. The operation of a commercial vehicle,
  - c. Exceeding a speed limit by more than nineteen (19) miles an hour, or
  - d. A violation occurring within a construction zone or a school zone, **and**

3. **A “minor traffic violation” shall include amended charges for any minor traffic violation.**

...

#### MUNICIPAL ORDINANCE VIOLATION

**Any municipal ordinance violation prosecuted for which penalties are authorized by statute under Sections 64.160, 64.200, 64.487, 64.690, 64.895, 67.398, 71.285,**

89.120 and 89.490 of the Revised Statutes of Missouri. A “municipal ordinance violation” shall include any charge amended form a municipal ordinance violation.

\* \* \*

**Section 5.** This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2016

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY



## Council Agenda Item Cover

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**MEETING DATE:** November 14, 2016

**AGENDA ITEM TITLE:** Bicycle Facilities Project Phase III – Surface Transportation Program Agreement

**AGENDA SECTION:** New Business

**CAN THIS ITEM BE RESCHEDULED?:** Yes

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### BACKGROUND REVIEW:

The City of University City applied for federal funds through the Missouri Highways and Transportation Commission and administered by East West Gateway Council of Governments and the Missouri Department of Transportation, to install bicycle facilities along twelve different streets within University City, in accordance with the City of University City Bicycle and Pedestrian Master Plan.

The Missouri Department of Transportation requires that the City execute the attached “Missouri Highways and Transportation Commission Program Agreement” between The Federal Highway Administration, Department of Transportation and the City of University City.

The estimated project cost is \$163,911.09. Federal participation is 80% of the project cost, and City participation is 20% of the project cost, equivalent to \$32,782.22. The funding will be available for Federal fiscal year 2017 through 2018.

### RECOMMENDATION:

It is staff recommendation that the attached ordinance be approved by the City Council.

### Attachments:

- Missouri Highways and Transportation Commission STP Agreement
- City’s applicable enabling ordinance

CCO Form: FS11  
Approved: 07/96 (KMH)  
Revised: 02/16 (MWH)  
Modified:

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP 5402(615)  
Award Year: 2017  
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
STP-URBAN PROGRAM AGREEMENT**

THIS STP-URBAN AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of University City, St. Louis County, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, the Fixing America's Surface Transportation Act (FAST) 23 U.S.C. §133, authorizes a Surface Transportation Program (STP) to fund transportation related projects; and

WHEREAS, the City desires to construct certain improvements, more specifically described below, using such STP funding; and

WHEREAS, those improvements are to be designed and constructed in compliance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The purpose of this Agreement is to grant the use of STP funds to the City. The improvement contemplated by this Agreement and designated as Project STP-5402(615) involves:

**Bicycle Facilities Improvements Phase 3**

The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project STP-5402(615) by the Commission is within the city limits of University City, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

Braddock Ave, Kempland Pl, Mt. Olive, Groby Rd, Gay Ave, Warder Ave, Burr Oak Ln, Wild Cherry, Balson Ave, Pershing Ave, Ferguson Ave, Etzel Ave

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FHWA, information concerning conditions on streets included in the STP system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project



for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation (MoDOT or Department) employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(B) The City will require any contractor procured by the City to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The City shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the STP for the City will be constructed in accordance with current MoDOT design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the FHWA.

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United

States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be 80 percent not to exceed **\$131,128.00**. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(13) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(14) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project STP-5402(615) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

(16) DISADVANTAGED BUSINESS ENTERPRISES (DBEs): At time of processing the required project agreements with the FHWA, the Commission will advise the City of any required goals for participation by DBEs to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(17) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(18) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. All progress payment requests must be submitted for reimbursement within 90 days of the project completion date for the final phase of work. The City shall repay any progress payments which involve ineligible costs.

(19) PROMPT PAYMENTS: Progress invoices submitted to MoDOT for reimbursement more than thirty (30) calendar days after the date of the vendor invoice shall also include documentation that the vendor was paid in full for the work identified in the progress invoice. Examples of proof of payment may include a letter or e-mail from the vendor, lien waiver or copies of cancelled checks. Reimbursement will not be made on these submittals until proof of payment is provided. Progress invoices submitted to MoDOT for reimbursement within thirty (30) calendar days of the date on the vendor invoice will be processed for reimbursement without proof of payment to the vendor. If the City has not paid the vendor prior to receiving reimbursement, the City must pay the vendor within two (2) business days of receipt of funds from MoDOT.

(20) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any STP improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any

privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(21) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(22) AUDIT REQUIREMENT: If the City expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the City expend(s) less than seven hundred fifty thousand dollars (\$750,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(23) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The City shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(24) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(25) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(26) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(27) COMMISSION REPRESENTATIVE: The Commission's ***District Engineer*** is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(28) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

- (A) To the City:  
6801 Delmar Boulevard  
University City, Missouri 63130  
Facsimile No.: 314-505-8568
  
- (B) To the Commission:  
1590 Woodlake Drive  
Chesterfield, Missouri 63017  
Facsimile No.: 573-522-6480

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(29) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this

Agreement relative to nondiscrimination on grounds of the race, color, religion, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (29) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(30) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

(31) CONFLICT OF INTEREST: The City shall comply with conflict of interest policies identified in 23 CFR 1.33. A conflict of interest occurs when an entity has a financial or personal interest in a federally funded project.

(32) MANDATORY DISCLOSURES: The City shall comply with 2 CFR 200.113 and disclose, in a timely manner, in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.



IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

\_\_\_\_\_  
City

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Secretary to the Commission

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

By \_\_\_\_\_

Title \_\_\_\_\_

Ordinance No:\_\_\_\_\_

# Exhibit A - Location of Project

## Attachment A - Project Location Map

Bicycle Facilities Improvements on Braddock Dr, Kempland Pl, Mt. Olive, Groby Rd, 81 St, Warder Ave, Burr Oak, Wild Cherry, Balson Ave, Ferguson Ave, Etzel Ave, Pershing Ave.



Exhibit B – Project Schedule

Project Description: University City, STP-5402(615), Bicycle Facilities Improvements, Phase 3

Activity Description	Start Date (MM/YYYY)	Finish Date* (MM/YYYY)	Time Frame (Months)
Receive Notification Letter	08/2016	09/2016	1.0
Execute Agreement (Project sponsor & DOT)	09/2016	11/2016	2.0
Engineering Services Contract Submitted & Approved <sup>1</sup>	10/2017	11/2017	1.0
Obtain Environmental Clearances (106, CE-2, etc.)	12/2017	12/2017	1.0
Public Meeting/Hearing	01/2018	01/2018	1.0
Develop and Submit Preliminary Plans	02/2018	05/2018	3.0
Preliminary Plans Approved	05/2018	07/2018	2.0
Develop and Submit Right-of-Way Plans			
Review and Approval of Right-of-Way Plans			
Submit & Receive Approval for Notice to Proceed for Right-of-Way Acquisition (A-Date) <sup>2</sup>			
Right-of-Way Acquisition			
Utility Coordination			
Develop and Submit PS&E	07/2018	10/2018	3.0
District Approval of PS&E/Advertise for Bids <sup>3</sup>	10/2018	12/2018	2.0
Submit and Receive Bids for Review and Approval	01/2019	02/2019	1.0
Project Implementation/Construction	03/2019	05/2019	3.0

\*Note: the dates established in the schedule above will be used in the applicable ESC between the sponsor agency and consultant firm.

\*\*Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and requires request to adjust.

# Exhibit C

## REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

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### ATTACHMENTS

- A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

#### I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

- Section I, paragraph 2;
- Section IV, paragraphs 1, 2, 3, 4, and 7;
- Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:

a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or

b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

#### II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all

related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed

in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

#### 6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for

minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualified minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

**8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

**9. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA

each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

### III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

### IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

#### 1. General:

a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

#### 2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) the additional classification is utilized in the area by the construction industry;

(3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

#### 3. Payment of Fringe Benefits:

a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.



#### 4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

##### a. Apprentices:

(1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

##### b. Trainees:

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour

Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### c. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

#### 5. Apprentices and Trainees (Programs of the U.S. DOT):

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

#### 6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

#### 7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

#### 8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

#### 9. Withholding for Unpaid Wages and Liquidated Damages:



The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

## V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

### 1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

### 2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof of the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made

either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

## VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

## VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of

a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

### VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

### IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

#### NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

*"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality,*

*quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or*

*Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or*

*Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;*

*Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."*

### X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

### XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this

transaction for cause of default.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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#### **2. Instructions for Certification - Lower Tier Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and

frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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**XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT PREFERENCE FOR  
APPALACHIAN CONTRACTS**

(Applicable to Appalachian contracts only.)

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification,

(c) the date on which he estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within 1 week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.

5. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP proj. no. STP-5402(615)  
Award Year: 2017  
Federal Agency: Federal Highway Administration, Department of Transportation

DATE: November 14, 2016

CITY OF UNIVERSITY CITY

INTRODUCED BY:

ORDINANCE NO. \_\_\_\_\_

BILL NO. **9300**

An Ordinance to authorize the City Manager to execute a contract between the City of University City and the Missouri Highway and Transportation Commission providing for the installation of Bicycle Facilities along Braddock Ave, Kempland Pl, Mt. Olive, Groby Rd, Gay Ave, Warder Ave, Burr Oak Ln, Wild Cherry, Balson Ave, Pershing Ave, Ferguson Ave, Etzel Ave

Be it ordained by the City Council of University City as follows:

Section 1. That the City Manager is hereby authorized to execute on behalf of the City of University City the contract, attached hereto as Exhibit A, with the Missouri Highway and Transportation Commission providing for the installation of Bicycle Facilities along Braddock Ave, Kempland Pl, Mt. Olive, Groby Rd, Gay Ave, Warder Ave, Burr Oak Ln, Wild Cherry, Balson Ave, Pershing Ave, Ferguson Ave, Etzel Ave

Section 2. That all ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

Section 3. This ordinance shall be in full force and effect from and after the date of its passage and approval. Read three times, passed and approved on the day of \_\_\_\_\_, 20 \_\_\_\_\_.

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk



## Park Commission

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

### MINUTES OF THE PARK COMMISSION Heman Park Community Center (HPCC), 975 Pennsylvania Tuesday, September 20, 2016

President, Ed Mass called the meeting to order at 6:35 pm. Members present were:

Steve Goldstein  
Clarence Olsen  
Kathy Standley  
William Field  
Nancy McClain

Paulette Carr, City Council Liaison  
Sinan Alpaslan, Director of Public Works-Parks  
Ewald Winker, Park Operations Superintendent  
Lynda Euell-Taylor, Deputy Director of Recreation  
Jenny Wendt, Staff Liaison  
Chris Kalter, Project Manager

#### **Approval of Minutes from July 19, 2016**

Mr. Goldstein moved to accept and approve the July 19, 2016 minutes with no changes, Ms. Standley seconded, vote taken – all approved.

**Citizens' Comments** – Kevin Taylor requested that the commission consider resident's wishes when updating the parks especially as it pertains to the use of asphalt or concrete for walking and running paths. Mr. Taylor stated that he has brought this up previously and to more than one of the city commissions, but with no results. Mr. Taylor then talked about a memo that was sent to city council that the wording he found to be offensive. He hoped that decisions made by the city would be looked at with a racial equity lens and that 3<sup>rd</sup> ward parks were not treated the same as the rest of the parks in the city. As an example he cited that the signage in Lewis Park was different from that of other parks in the city. He stated that voices needed to be heard from all parts of the city and that if we are using grant funding for park improvements then why can't we use the preferred substrate that residents are asking for?

Mr. Mass asked Mr. Taylor to clarify "What Memo?" Mr. Taylor will send the memo to Mr. Mass. Mr. Mass also asked Mr. Taylor to put his concerns in writing from now on so that they can be distributed to the entire commission for review. Mr. Taylor agreed to do so.

Mr. Goldstein stated that he had read the memo and did not find it offensive and he did not recall residents complaining about the use of asphalt.

Council person Carr stated that she and Council person Smotherson had a conversation about the topic of concrete and asphalt and their constituents were requesting that asphalt be used.

Mr. Alpaslan then brought up whether or not asphalt should be used for the Fogerty Park improvements as the Department is planning to send this project out for bid before the end of September.

Mr. Mass asked that a Life Cycle Analysis be done to determine which material would be better from a longevity and cost perspective, as well as keeping in mind what residents preferred.





## Park Commission

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

### Department Reports

Public Works and Parks Operations – Mr. Winker discussed projects he and his crews have been working on this past month.

Public Works and Parks Projects – Jay Wohlschlaeger, SWT Design and Tim Dean, Intuition & Logic presented an update on the Heman Park South Drainage Channel Improvements project. SWT Design will be submitting documents to the Army Corps of Engineers, MSD, and FEMA for permitting on this project.

The commission discussed whether it was worth spending the overall/long-term amount of money on this project.

Mr. Goldstein suggested that other funding be sought to move forward on this project.

For the Heman Park South Drainage Channel Improvements Design, Park Commissioners agreed by consensus to the “Base Bid” and “Alternative Add 1” and to first look for outside funding for these items before proceeding with University City funds.

Ms. Wendt gave updates about the active parks projects as reported to the Commission in their agenda packet and she introduced Chris Kalter who will be a new project manager in the department with primary responsibility for parks and storm water projects.

The Commission requested information about building overhead cover in Fogerty Park for the benches by the playground. Staff will look into pricing and options.

The commission talked about Wilson ave becoming a park. Mr. Kalter stated that he talked with Community Development (CD) about rezoning the area into one parcel and that CD was looking into whether it would be easier to own as one parcel. CD stated to Mr. Kalter that if it wasn't easier for the City they probably would not pursue making it one parcel.

Community Development/Recreation Division – Mrs. Euell-Taylor stated summer camp was a success with 120 participants. She passed out cost information for summer camp which showed that there was a negative \$3500 in the program funding. Overall the commission agreed it was a successful program. This year the City will be hosting a trunk or treat event at Centennial Commons and the City will be sponsoring the Red Bird Rookie Program in spring of 2017.

**Council Liaison Report** – Council person Carr talked about economic opportunities for the City. One such opportunity would be a big box store at 170 and Olive.

She asked about a resident on Vassar Ave whose property floods from run-off from Lewis Park. Mr. Winker and Mr. Alpaslan both commented that the improvements to Lewis Park impact the flow of water from the park because they are rain gardens. It

Individual Park Reports – Mr. Field reported that the Golf Course looked good. Ms. McClain stated she had no updates. Mr. Goldstein asked about the status of Kaufman Park tennis courts project, Mr. Alpaslan stated Mr. Winker put together bid specs and Mr. Kalter was putting together the bid documents. Mr. Olsen stated that he observed lots of people using the park and that was a good thing. Ms. Standley said that all her parks were fine and Mr. Winker took care of her issue with Ruth Park Woods.



## **Park Commission**

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

### **Old Business**

Lewis Park Message Board – Mr. Winker stated that he would be taking some of the message boards from Lewis Park and putting them in other parks that received grant funding from Municipal Park Grants. There was some discussion about what would be placed in the message boards.

### **New Business**

Storybook walk – Mr. Mass stated that he learned about this program from the Brentwood Library. He thought it would be a good idea for the City to do. Everyone agreed it would be good to get more information and look into this.

Cross-commission communication with Green Practices Commission – Mr. Mass stated he had been in contact with the chairperson for the GPC about having one of their members attend Park commission meetings. Mr. Kalter suggested that it might be a burden on someone's time if they had to attend two meetings a month. Mr. Goldstein concurred and suggested that perhaps they could be informed when there was something of substance to talk about. Ms. Wendt stated she could add the chairperson to the email list to be notified about the commission meetings and then the GPC could decide if someone wanted to attend the park commission meeting.

### **Other Business**

Long Acre Farms relocation – this was discussed by the group. Agreement was reached that this was a bad precedent to set and the city should not get into the business of being a landlord. The concern was raised that if they could not meet their financial obligations with their current landlord, why would the city want to take on that burden. Additionally, Council person Carr asked if the residents had been notified of this and is this something they would be Ok with. Mr. Goldstein moved to vote that the commission recommend against this move. Mr. Olsen seconded. All approved.

The commission will look at the existing bus shelter to determine the use of this space.

### **Adjournment**

Mr. Goldstein moved to adjourn, Mr. Mass seconded – vote taken, all approved. The meeting ended at 9:38 pm.

Meeting minutes of the Board of Trustees for the University City Public Library for  
September 28, 2016

Members Present: Edmund Acosta, Dorothy Davis, Luise Hoffman, Joy Lieberman, Joan Greco-Cohen, Rosalind Turner

Members Absent: Deborah Arbogast, LaTrice Johnson, Rubina Stewart-McCadney

City Council Liaison: Mayor Shelley Welsch

Library Staff: Patrick Wall – Director, Christa Van Herreweghe, Cynthia Scott

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The meeting was called to order at 5:15 by Edmund Acosta, President, who welcomed Mayor Shelley Welsch as the new City Council Liaison.

Minutes – The minutes from the June 8, 2016 meeting were approved.

Correspondence – A letter was received from a patron praising the Summer Reading Program and a thank you from the Red Cross for hosting a blood drive.

Friends' Report – The Friends have planned three author events for this year. The first event, David Baugher's Haunted St. Louis will be in October.

Council Liaison Report –

- The Police Department has moved into their temporary facility.
- New businesses were talked about. The brewery at Olive and North & South is breaking ground soon. A coffee shop has been proposed for the Olive/Midland corner property.
- A small triangle of property included in Clayton's Centene project is in University City, we will be getting some tax revenue from that. Traffic will be impacted on county roads. The project expects to be up and running in 2018.

Librarian's Report –

- YuanNan He, our guest librarian from China, was introduced to the board.
- Written report was reviewed.
- Due to Yom Kippur falling on October 12, we will move the next Board Meeting to October 19<sup>th</sup>.

Discussion items – were discussed.

Action Items –

- Tax rates: A resolution to accept the proposed 2016 tax rates for the University City Public Library district was passed unanimously.  
The tax rates are:           Residential:    0.259  
  Commercial:  0.235  
  Personal:     0.280
- The board voted unanimously to pay the MOREnet invoice of \$11,997.80.
- The board voted unanimously to purchase a new scanner from CDW-G at a cost of \$3,229.01.
- The board voted unanimously to renew our Lynda.com database subscription for an additional two years at a cost of \$9,000.00.

President's Report – We would like to invite someone from the Friends of the Library board to attend the Library Board meetings.

Committee Reports –

- The Long Range Planning Committee will meet on Wednesday, October 5 at 5:15pm.
- Personnel and Policy Committee will meet on October 19<sup>th</sup> before the board meeting.
- Building and Grounds Committee needs to schedule a walk-through in November. Possible dates will be emailed.

The next Board meeting will be Wednesday, October 19, 2016 at 5:15pm.

There being no further business, the meeting adjourned at 6:25pm.