



MEETING OF THE CITY COUNCIL  
CITY HALL, Fifth Floor  
6801 Delmar Blvd.  
University City, Missouri 63130  
**January 23, 2017**  
6:30 p.m.

- A. MEETING CALLED TO ORDER**
- B. ROLL CALL**
- C. APPROVAL OF AGENDA**
- D. PROCLAMATIONS**
- E. APPROVAL OF MINUTES**
  - 1. January 9, 2017 Regular session minutes
  - 2. January 9, 2017 Study session minutes
- F. APPOINTMENTS to BOARDS & COMMISSIONS**
  - 1. Boo McLoughlin, Tom Schmidt and Nakita Smith are appointed the Loop Special Business District Board by Mayor Welsch.
  - 2. Kathleen Standley and Nancy McClain are nominated for reappointment to the Park Commission by Councilmember Carr.
  - 3. Ellen Hartz is nominated to Plan Commission by Councilmember McMahon.
- G. SWEARING IN to BOARDS & COMMISSIONS**
  - 1. Judith Rogers Gainer to be sworn in to the Plan Commission
  - 2. Thomas Jennings was sworn in to the Pension Board on 1/18 in the Mayor's office
- H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)**
- I. PUBLIC HEARINGS**
- J. CONSENT AGENDA**
- K. CITY MANAGER'S REPORT**
  - 1. Approval of Thouvenot, Wade and Moerchen, Inc.'s engineering services contract for \$39,000 to design and prepare bidding documents to construct Road & Drainage Improvements in the 8100 block of Teasdale Ave.
  - 2. Award of Project #1275 – Annual Sanitary Sewer Lateral Repairs project to Labib S. Wajih, LLC for its lowest responsible bid of \$77,215.00
  - 3. Approval of a Pole Use License Agreement between the City of University City and Loop Trolley Transportation Development District.

January 23, 2017

**L. UNFINISHED BUSINESS**

**BILLS**

1. **BILL 9302** - An ordinance vacating and surrendering a tract of land being part of the Westview Drive right of way, fifty (50) feet wide, being adjacent to Block 2 and Block 5 of University View, as recorded in Plat Book 19, Page 45 of St. Louis County Records, being located in St. Louis county, Missouri; reserving any public easements, and directing that this ordinance be recorded in the office of the Recorder of Deeds of St. Louis County, Missouri.

2. **BILL 9303** – An ordinance clarifying that the compensation for the position of City Manager under ordinance 7012 shall be paid to an Acting City Manager or Interim City Manager.

**M. NEW BUSINESS RESOLUTIONS**

1. **RESOLUTION 2017-2** A resolution amending the Fiscal Year 2016-2017 (FY17) Budget – Amendment #6 and appropriating said amounts.

**BILLS**

1. **BILL 9304** - An ordinance amending Chapter 300 Traffic Code of the University City Municipal Code to add both sides of Asbury Ave. from Maryland Avenue to Lindell Boulevard where the City has designated as a Residential Permit Parking Area, to be edited to the Traffic Code as the “Schedule” – Schedule III.

2. **BILL 9305** - An ordinance amending Chapter 300 Traffic Code of the University City Municipal Code 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.

3. **BILL 9306** (Emergency Reading) - An ordinance to temporarily impose certain extra duties upon the City's Director of Finance for a period of ninety days.  
VOTE REQUIRED

**N. 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

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

**P. COUNCIL COMMENTS**

**Q. Adjournment**

January 23, 2017



MEETING OF THE CITY COUNCIL  
CITY HALL, Fifth Floor  
6801 Delmar Blvd.  
University City, Missouri 63130  
**January 09, 2017**  
**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, January 9, 2017, 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 Cair  
Councilmember Steven McMahon  
Councilmember Terry Crow  
Councilmember Michael Glickert;  
Councilmember Bwayne Smotherson

Also in attendance were Acting City Manager, Charles Adams, and LaRette Reese, as Acting City Clerk.

**C. APPROVAL OF AGENDA**

Councilmember Carr requested that the hiring of an Assistant City Clerk, under Council Business, be removed from the agenda since it has already been addressed.

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

**D. PROCLAMATIONS**

**E. APPROVAL OF MINUTES**

1. December 12, 2016, Regular session minutes were moved for approval by Councilmember Jennings, seconded by Councilmember Smotherson, and the motion carried unanimously.

**F. APPOINTMENTS TO BOARDS & COMMISSIONS**

1. Thomas Jennings was nominated for appointment to the Pension Board by Councilmember Crow, seconded by Councilmember Glickert and the motion carried unanimously.
2. Cynthia Head was nominated for appointment to the Plan Commission by Councilmember Jennings, seconded by Councilmember Smotherson and the motion carried unanimously.
3. Judith Rogers Gainer was nominated for appointment to the Plan Commission by Councilmember Carr, seconded by Councilmember Crow and the motion carried unanimously.

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

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

David Harris, 8039 Gannon, University City, MO

Mr. Harris stated that each Councilmember, the Acting City Manager, and the City Clerk, should have received a courtesy copy of a Petition for Declaratory Judgment that he filed in the St. Louis County Circuit Court on behalf of two U City residents against Councilmembers Carr, Crow, McMahon and Smotherson. The Petition challenges the four Councilmembers' passage of Resolution 2016-31 that extended the term of Councilmember McMahon to April 2018, rather than April 2017, as stated on the November election ballot. Through the Petition the residents seek to remove uncertainty and achieve finality regarding the date for the end of the term for the Council seat, and to ensure fairness for the 6,389 U City voters who cast their votes in a special election, wherein the ballot stated they were voting for "Councilmember Ward 1, unexpired term ending April 2017". The Petitioners have asked the Court to issue a judgment that declares, (1) The four Councilmembers' act of changing Councilmember McMahon's term from the term set forth on the ballot is ultra vires; (2) that because they acted ultra vires in passing the Resolution, the Resolution is of no force or effect, and (3) that the date for the end of the term for Councilmember McMahon remain April 2017, as stated on the ballot.

Mr. Harris concluded that there is absolutely no authority in the letter or spirit of the Missouri election laws for such a procedure, therefore, any action taken by Councilmember McMahon as a Councilmember after April 2017, could be subject to question and challenge unless this issue is resolved. *(Mr. Harris made copies of the Petition available to all interested parties, and requested that a copy of his written statement be attached to the minutes.)*

**Andrew Roberts, 940 Alanson Drive, University City, MO**

Mr. Roberts stated that with the incoming President's anti-immigrant policies pending, his belief is that it would be beneficial for U City to consider becoming a Sanctuary City; one that directs its municipal police to not directly enforce federal immigration investigations. He then provided an explanation of how this could be accomplished, and why it should be accomplished. Mr. Roberts concluded that becoming a Sanctuary City is constitutional, legal and the right thing to do.

**Elise Glickert, 6712 Etzel, University City, MO**

Ms. Glickert directed her comments to Councilmembers beholden to the Firefighters' Union, whose mantra has been about outsourcing the City's ambulance service to Gateway, and the removal of City Manager, Lehman Walker. She stated that outsourcing has been a great tax savings to the City, and that the unjustified suspension of Lehman Walker was in complete violation of the City's Charter, Article II, Section 11. Ms. Glickert urged Council to reinstate Mr. Walker and stop wasting tax dollars that must now be utilized to pay two salaries for the same position.

**Jo Ann Roberts, 940 Alanson Drive, University City, MO**

Ms. Roberts stated that when reviewing the City's website she had noticed the word "Preliminary" appended to the fourth quarter 2016 budget. She then questioned when residents could expect to see the final 2016 budget, and when community meetings would be initiated to review the proposed budget for 2018?

**Irv Logan, 1336 Waldron, University City, MO**

Mr. Logan expressed disappointment with the suspension of the City Manager, which appears to be racially motivated, blatantly political, and unacceptable to many citizens in this community. Mr. Logan based this belief on his own personal experiences, and stated that from his perspective, discrimination is a lot like pornography, it's hard to describe, but he knows it when he sees it.

**I. PUBLIC HEARINGS**

1. Public Hearing on vacating and surrendering a tract of land being part of Westview Drive and Mapleview Drive

Mayor Welsch opened the public hearing at 6:47 p.m.

Citizen's Comment

**Tim O'Connor, 536 Mapleview Drive, University City, MO**

Mr. O'Connor, a resident of University View for 24 years, expressed concerns about the recommendation because of the impact it could have on his neighborhood. He stated that currently there are 47 properties in University View; 11 of which are owned by shell companies and utilized as rental properties. He stated that the substandard quality of education in U City Schools appears to be another factor that has led to this increase, as well as the mounting concerns now being expressed by homeowners who wish to stay in this great little neighborhood.

Hearing no other requests to speak, Mayor Welsch closed the public hearing at 6:50 p.m.

**J. CONSENT AGENDA**

**K. CITY MANAGER'S REPORT**

1. Approval of a Site Plan for a commercial development at 7577-7593 Olive Blvd (NE corner of Olive Blvd and North and South Rd) in the "GC", General Commercial District.

Andrea Riganti, Director of Community Development, stated that in terms of the process, this is a site plan coming before Council for technical review and approval, in accordance with the Zoning Code. The brewery and restaurant are permitted uses, therefore no conditional use or zoning is warranted, nor was the application presented to any of the City's Boards or Commissions for review. The technical requirements of the Zoning Code have been met and staff will be recommending approval of this application.

Ms. Riganti stated that since this is an item of interest she has asked one of the partners to speak to Council about the operation, followed by the architect who will discuss the site plan details. Finally, staff will follow up with their report, and then open the floor up for any questions.

**Dustin Chalfant, 231 East Washington Avenue, Kirkwood MO 63122.**

Mr. Chalfant, President and co-founder of Senn Bierwerks, introduced himself; James Hellmuth, Vice President; Kristen Chalfant, Director of Marketing, and stated that they are super excited about coming to the corner of Olive and North and South. He then provided the following overview:

- Senn Bierwerks is a family-friendly production style brewery that will also consist of a tasting room and restaurant. The projected sales revenue for the first year is 1.4 million dollars, with an anticipated 60 percent increase by 2019. Initially the business will employ seven full-time employees, with an anticipated goal of adding two to three employees annually for the next four years.

**James Plohr, 8 Floral Court, O'Fallon, MO 63368**

Mr. Floor stated that as the companion restaurant to Senn Bierwerks, he looks forward to doing great things for this community, as exemplified by their new name Brew & Que Enterprises; formerly the St. Louis Rib House.

- Hours of Operation will be from 11 a.m. to 10 p.m. The projected sales revenue for the first year is 1.3 million dollars, with an anticipated increase of 1.6 million in 2018 and 2 million in 2019. St. Louis Rib House won the St.

Louis Magazine's A-List Award for its ribs and was voted as one of the best in St. Louis for its beef brisket.

**Joe Dale, 743 St. Mary's Road, Villa Ridge, MO 63089**

Mr. Dale, the Architect for DD Design, displayed a drawing depicting the plans and elevations for the project. He then provided the following details:

- Approximately 18,600 square feet, the building will be comprised of three sections: an 11,000 square foot brewery; a patio for the public tasting room, and a 3,100 square foot restaurant and patio
- The building will be oriented along the existing sidewalk
- One additional curb cut will be added on Olive Blvd, and two will be added on North and South; directly entering the building and to access the service drive between the building
- 92 parking spaces will be available, with a driveway to access Olive Blvd. *(Discussions are still ongoing to secure an adjoining shared access with the adjacent property owner.)*
- The section of undeveloped ground on the site will remain as-is.
- The facade consists of a wall sign, awning, and storefront glass that will allow people walking by to visually see inside the brewery.
- The east elevation depicts the dock access, overhead door and service drive located towards the rear of the building
- The rear elevation depicts several coolers, a wall panel that will be built into the brewery and storage space for the smokers and other restaurant materials.
- The building will be constructed utilizing several architectural components; a panelized system; granite stone on the entrances; galvanized metal awnings with lighting and a horizontal metal panel to provide more of an industrial look.

Ms. Riganti concluded by stating that staff had reviewed this application, determined that it did meet the technical requirements of the Zoning Code, and is recommending approval pursuant to the conditions outlined in Attachment A.

Councilmember Glickert stated that he was very excited about the project, but would like Ms. Riganti to provide Council with an update on the easement problems associated with MSD? Ms. Riganti stated there were no outstanding problems that she is aware of with MSD in terms of the easement. However, the storm water and drainage plans will be subject to MSD approval prior to the issuance of a building permit. Councilmember Glickert asked if MSD's approval was causing the delay in construction? Ms. Riganti stated that that was correct.

Councilmember Carr echoed the same excitement, noting her appreciation of the plans and elevations. However, since additional curb cuts are being added, she was curious whether a response had been received from the two entities who possess jurisdiction over those streets; Olive, which is MoDOT, and North and South, which is St. Louis County? Mr. Dale stated that the Preliminary Plans have been submitted to both entities, and although they have not received an official response, they have been in constant communication with MoDOT, St. Louis County and MSD. Councilmember Carr stated her understanding is that the City has a formal agreement whereby any site plan must first be approved by these entities before Council could proceed. Ms. Riganti stated that each of these entities have received a copy of the plans and issued their conditional approval. But, if either entity denies the request for additional curb cuts or makes any other

demands which constitute a substantial change to the site plan, that amendment must then come back to Council for review and approval.

Councilmember Jennings expressed his excitement about this new development in the Third Ward, and also wanted to note that one of the owners is a graduate of U City High School. He stated that from his experience with the School District, a conditional approval was granted first, and then they were allowed to work out any discrepancies prior to the issuance of that agency's final approval.

Councilmember Smotherson stated that a resident had been killed while walking on North and South Road because there were no sidewalks, so he would like to know if the site plan included the addition of any new sidewalks? Mr. Dale stated once they have received approval a formal site plan will be filed and reviewed by staff, and this is where these types of safety issues are usually addressed.

Mayor Welsch stated she liked the idea of trying to connect with the adjacent neighbor, and would like more information on exactly where that connection would be made? Mr. Dale stated that what they have decided to do is continue working with the adjacent owner and if they consent to Senn's use of the common easement, then they would work with staff to determine the most suitable location to connect the two properties.

Voice vote on staff's recommendation to approve carried unanimously.

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

#### **M. NEWBUSINESS RESOLUTIONS**

##### **BILLS**

*Introduced by Councilmember Jennings*

1. **BILL 9302**-An ordinance vacating and surrendering a tract of land being part of the Westview Drive right-of-way, fifty (50) feet wide, being adjacent to Block 2 and Block 5 of University View, as recorded in Plat Book 19, Page 45 of St. Louis County Records, being located in St. Louis County, Missouri; reserving any public easements, and directing that this ordinance be recorded in the office of the Recorder of Deeds of St. Louis County, Missouri. Bill 9302 was read for the first time.

*Introduced by Councilmember Jennings*

2. **BILL 9303**-An ordinance clarifying that the compensation for the position of City Manager under ordinance 7012 shall be paid to an Acting City Manager or Interim City Manager. Bill 9303 was read for the first time.

#### **N. COUNCIL REPORTS/BUSINESS**

1. Boards and Commission appointments needed  
Mayor Welsch made the appointments that were needed.
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions and Task Force minutes  
Mayor Welsch acknowledged that Council had received minutes from several Boards and Commissions.
4. Other Discussions/Business
  - Legal Opinions of Special Election. Vote to make these public documents.  
Requested by Councilmembers Carr and Smotherson.



Councilmember Carr stated that what is now before Council are three emails between the City Clerk, City Attorney, Lehman Walker provided by request to Councilmember Carr that have been marked as confidential, attorney/client privileged communications. And since this election is now at issue, she believes they should be placed in the public realm. She stated that in spite of her numerous attempts to obtain information or a legal opinion about the election; and the fact that Mr. Walker had been in possession of this information, she was not made aware that the expiration of the term noted on the ballot was April 2017, until receiving a call from Ms. Gillerman of the West End Word. Thereafter, she contacted Ms. Forster about Ms. Forster's email responses to Ms. Gillerman, but not the legal opinions issued by the City Attorney earlier. Councilmember Carr made a motion that the three emails be made public documents, seconded by Councilmember Glickert.

Roll Call Vote Was:

**AYES:** Councilmember Jennings, Councilmember Carr, Councilmember McMahon, Councilmember Crow, Councilmember Glickert, and Councilmember Smotherson

**NAYS:** Mayor Welsch.

Councilmember Carr requested that the documents be attached to the minutes, and Mayor Welsch said that would be done.

- Hiring an Assistant City Clerk  
Requested by Councilmembers Carr and Smotherson.  
(Removed)

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

**Jeff Hales, 7471 Kingsbury, University City, MO**

Mr. Hales expressed concerns about three Sunshine Requests he had submitted a month ago, and another separate request submitted in August. He stated that on August 8th he received a response from Ms. Pumm informing him that it would cost \$49.00 and some change, for an hour of the Fire Chiefs time to produce three documents. And the only response he has received from his three requests stated that Ms. Pumm was checking on whether the documents could be released. Both responses are contrary to the treatment he has received in the past from Clayton and St. Louis County, and since it has been well over 30 days, it would be deeply appreciated if they could be fulfilled.

Mr. Hales stated that this whole business about Councilmember McMahon's term is nonsense. Terms are established by the Charter, the Charter is clear, and Mayor Welsch was explicitly clear on July 11th, that whoever was successful would serve until 2018. So the question that everyone should be asking is why is it that when various individuals received information that differed from the consensus of the Council they did not believe it was incumbent upon them to share that information?

**Mary Shapiro, 7475 Amherst, University City, MO**

Ms. Shapiro stated that tonight is the second time she has been called on the carpet for being a racist for not supporting the City Manager. She stated that she and her husband moved here because they wanted to live in a diverse community, and has stayed here when everybody else was moving to West County. So the reason she is not in support of the City Manager has nothing to do with his race, merely the fact that she was in disagreement with the lawsuit regarding Ruth Park, and that he had outsourced the City's ambulance service.

**Jan Adams, 7150 Cambridge Avenue, University City, MO**

Ms. Adams stated she would like to submit a copy of the Petition she filed on December 2nd, a

copy of the Motion to Amend the Order filed on January 6th, and a page from the memorandum filed by Ms. Forster, wherein specific attention should be given to page 6, Section B, entitled "An Injunction Cannot Enjoin What is Already Prohibited by Law." She stated that her initial Petition, which was denied in part because at that time there was no evidence that this new Council majority had actually expended taxpayer funds for their own personal defense, is an action in equity which seeks only to protect taxpayer's funds. The Judge stated in her Order that she was sure the attorneys for the respondents would instruct their clients on the law, and that the City officials would follow the law. Thereafter, it became apparent that some of those City officials had not followed the law, resulting in the need to file an Amended Petition. Ms. Adams also submitted a copy of the Cease and Desist Notice to Councilmember Carr for defamatory remarks made in this chamber that were harmful; specifically, "I cannot practice law." Ms. Adams stated that she voluntarily applied for inactive status with the Bar Association after her retirement from the Attorney General's office, but has recently applied for, and was granted, active status. (Ms. Adams asked that her written statement and attachments be made a part of the minutes.)

#### **P. COUNCIL COMMENTS**

Councilmember Smotherson stated he has only been a member of this Council eight months and since that time he has seen his name on more legal documents than he has in his entire lifetime. Nevertheless, he wants everyone to know that he does not wake up every morning with the thought of doing something wrong against this City or any individual. Which is why Mr. Harris' statement that somebody told him about some of Council's actions, and that prompted him to file a lawsuit; which he has every right to do, rather than taking the time to meet with any member of this Council, is pretty amazing. Councilmember Smotherson stated that he is not just the 3rd Ward Councilperson, he's everybody's Councilperson, because the decisions he makes in this capacity impacts the entire City. So he would encourage Mr. Harris and anyone else, to call him; (314) 726-9572, because he would like to get to know them, and he wants them to get to know him. He stated that there are some great things coming for this City and he would much rather deal with making that progress, than all of these legal issues. But at this point, all he can say is let the reasonable people win out in all of this.

Councilmember Crow stated he thinks that he can speak for his colleague in the 1st Ward, and ensure Mr. O'Connor that they too have questions regarding the surrender of that tract of land. So, his hope is that before this item is placed back on the agenda, the two of them, along with any other interested parties, will have had the opportunity to discuss this with staff in greater detail.

Councilmember Crow commended the Acting City Manager and his staff for their quick response to an issue that occurred over the weekend in the West Kingsbury neighborhood, which led to an amenable agreement between the residents and the City.

Councilmember Crow thanked Councilmember Carr for bringing the legal opinions forth, which he hopes will provide the answers to many questions. He stated it is an embarrassment to this entire body that such measures were even necessary, especially when Council had already reached a consensus on the term of office. Although now everyone is being told by one member of Council through her weekly commentary, that her comments regarding the term of office were not substantive, but merely a passing remark. Nevertheless, the fact still remains that Council would not be in the position they are in today if the individuals in possession of these legal opinions had answered Councilmember Carr's requests and shared that information with members of this Council.

In conclusion, Councilmember Crow commended Councilmember Smotherson for his comments. He stated that at some point in time, one member of this Council has to get past

the need to keep grasping for those last vestiges of power, because that is not what residents elected any of them to do. The election results are in, they are clear, and it's time for Council to start taking care of all the important things that need to get done.

**Q. Roll-Call vote to go into a Closed Council Session according to RSMo 610.021 (1)**

**Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys and (3) Personnel hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded.**

Councilmember Carr moved to approve, was seconded by Councilmember Smotherson.

Roll Call Vote Was:

**AYES:** Councilmember Carr, Councilmember McMahon, Councilmember Crow, Councilmember Smotherson, Councilmember Glickert, Councilmember Jennings and Mayor Welsch.

**NAYS:** None.

**R. Adjournment**

Mayor Welsch thanked everyone for their attendance and closed the regular City Council meeting at 7:38 p.m., to go into a Closed Session on the second floor. The Closed Session reconvened in an open session at 7:45 p.m.



E-1-9

Statement of David J. Harris at University City Council Meeting, January 9, 2017

My name is David Harris. I live at 8039 Gannon in the First Ward. I am an attorney.

By now, each Councilmember, the Acting City Manager and the City Clerk should have received in the mail a courtesy copy of a Petition for Declaratory Judgment that I filed in St. Louis County Circuit Court on behalf of two University City residents against Councilmembers Paulette Carr, Terry Crow, Steve McMahon and Bwayne Smotherson. The petition challenges the four Councilmembers' action that extended the term of Councilmember McMahon to April 2018 rather than April 2017 as stated on the November election ballot.

Through the petition, the residents seek to remove uncertainty and achieve finality regarding the date for the end of the term for the Council seat and ensure fairness for the voters of the First Ward.

On November 8th, 6,389 U. City voters cast votes in a special election with a ballot that stated they were voting for "Council Member Ward 1, Unexpired Term ending April 2017." Mr. McMahon won the election. On December 12th, the four Councilmembers voted at a Council meeting to extend the term for that seat to April 2018, passing Resolution 2016-31.

Petitioners and I voted in the election. One of the Petitioners is my wife. She and I supported Luke Babich, the other candidate for the Council seat. But that is not the reason Petitioners and I filed the Petition. If Mr. Babich had been elected and a Council majority had voted to extend his term to April 2018, we would have filed a similar petition.

Petitioners are asking the Court to issue a judgment that declares: (1) the four Councilmembers' act of changing Mr. McMahon's term from the term set forth on the ballot is "ultra vires" which means beyond their power and authority; (2) Because they acted ultra vires in passing the Resolution, the Resolution is of no force or effect; and (3) The date for the end of the term for Councilmember McMahon is April 2017 as stated on the ballot.

When the Petitioners and I heard about the December Council action, we were astonished. The four Councilmembers acted beyond their power and authority by changing what the voters decided. It was wrong and simply not fair.

As a Missouri court observed in a similar situation, a city should not have ultimate authority to decide the outcome of an election in which it has a special interest; there is absolutely no authority in the letter or spirit of the Missouri election laws for such a procedure. Such acts by a city council contravene the two major goals of election law: fairness and finality.

In addition to fairness being undermined, finality was not served by the Councilmembers' decision. Any action taken by Mr. McMahon as a Councilmember after April 2017 could be subject to question and challenge unless this issue is resolved.

If you did not receive your courtesy copy of the petition, I have several copies available. It is also available for any members of the press who want a copy, and after that, any members of the public. I request that a copy of my statement be included with the minutes of this meeting.

E-1-11

RE: Lehman Walker, City Manager

9 Jan 2017

I would like to address my remarks to the Councilmembers who are beholden to the Firefighters' Union.

Your mantra has been the outsourcing of the ambulance service from our Department to the Gateway Ambulance Service. This outsourcing has been a great tax savings to the City and I personally could not make a comparison in the past, but now I can make a comparison.

A number of years ago my husband did not wake up. I immediately called for help, even though I feared the worst. The ambulance arrived, along with a strong odor of soot and smoke. The paramedics had been pulled from a housefire in an adjacent community in accordance with our reciprocal agreement. The paramedics were most sympathetic and professional even though they reeked of smoke and soot. My 58 year old husband had died in his sleep and had he lived it would have been difficult breathing given the smoke odor throughout the house.

Fast forward to the blight of Social House II and the strong community outcry to rid the Loop of this scar. The 10 o'clock news was to carry an update on the removal progress. As I waited for the news I apparently dozed and slid off the chair to the floor. My old body could not get off the floor and I called for help. I explained to the dispatcher this was not an emergency but an embarrassment, and a police officer would be a great help. However, wisdom on the dispatcher's part sent the ambulance as well. The police officer and the paramedics arrived at the same time. This time there was no soot or odor of smoke since they are an ambulance service. The paramedics were clean, courteous very professional -- and smoke free.

E-1-12

RE: Lehman Walker, City Manager

9 Jan. 2017

There is no justification in your removing City Manager Lehman Walker to satisfy the Firefighters' Union. You are in complete violation of our City Charter Article ~~II~~, Sec. 11. You are elected to serve the citizens of University City and not the Union.

When Mr. Walker assumed this position the budget was 2 million dollars in the red, and the Finance Dept was in total chaos. He has subsequently remedied these problems as well as streamlining the departments.

As to the "Kangaroo Court" convened by a previous City Manager, allegedly for the International City Managers Ass'n, this was obvious a vindictive action since the previous manager's gross mismanagement was exposed. Did that same Kangaroo Court convene a hearing for a city manager in an adjacent city who had absconded thousands of dollars from his city? I don't think so.

With all due respect to Charles Adams, Pro Tem City Manager, we are paying two salaries for the same position. I implore you to reinstate Lehman Walker to the position he so efficiently performs.

Shame on you for wasting our tax dollars unnecessarily.

Elsie Beck Glickert  
6712 Etzel Ave.

E-1-13



E-1-14

Copy to files

**Charles Adams <cadams@ucitymo.org>**

To: Paulette Carr Gmail <paulettexcarr@gmail.com>

Cc: Kathryn B. Forster <ktorster@crozzerormsby.com>, Paulette Carr SBC

<paulette\_carr@sbcglobal.net>, Shelley Weisich <Mayor@ucitymo.org>, Terry Crow

<jerry@ctlaw.net>, Michael Glickert <imglickert@yahoo.com>, Rod Jennings

<jimiracle007@gmail.com>, Bwayne Smotherson <bsmotherson@gmail.com>, Steve

McMahon <steve\_mcmahon@att.net>

RE: Additions to the Nov. 28, 2016 meeting agenda ATTORNEY/CLIENT  
COMMUNICATION

*City Attorney emailed response today:*

I do not have a written request from Mr. Walker on July 8. The response was based on a phone conversation. I will review my emails for any other communications to Joyce as well as to and from Mr. Walker. I will forward any other communications that I have.

Katie

*Charles E. Adams*  
Office of the City Manager  
University City, Missouri 63130  
314-505-8534



**From:** Paulette Carr [mailto:paulettexcarr@gmail.com]  
**Sent:** Tuesday, December 20, 2016 7:43 AM  
**To:** Charles Adams  
**Cc:** Kathryn B. Forster; Paulette Carr SBC  
**Subject:** Re: Additions to the Nov. 28, 2016 meeting agenda ATTORNEY/CLIENT  
COMMUNICATION

Good morning, Charles.

Thank you for providing the opinions I requested. I have carefully read each of the two opinions provided by the City Attorney on the subject of filling the vacancy - one to Ms. Pumm and one, a little more than a month later to Mr. Walker.

E-1-15

On May 31, Ms. Forster gave a relatively detailed response to Ms. Pumm's May 27th request for information on filling the vacancy created by Stephen Kraft's resignation. Mr. Walker was copied on that request and response.

On July 8, 2016 Ms. Forster provided her opinion [of Article II, Section 10] of the Charter on vacancies to Mr. Walker. Mr. Walker's request for Ms. Forster's July 8, 2016 response is missing. Please provide Mr. Walker's request for that opinion to the entire Council.

Are there any other emails, communications or opinions sent directly to Ms. Pumm by Ms. Forster on the subject of filling the vacancy after the May 31st response and prior to Sept. 1st of 2016 when Ms. Pumm would have filled with the election Board for the Nov. 8, 2016 election? If so please provide those communications to the entire Council.

Thanks,  
Paulette



Paulette Carr  
Councilmember, Ward 2  
City of University City

7901 Gannon Ave.  
University City, MO 63130  
PH.: (314) 727-0919  
email: [paulettecarr@gmail.com](mailto:paulettecarr@gmail.com)

On Dec 19, 2016, at 10:59 AM, Charles Adams <[cadams@ucitymo.org](mailto:cadams@ucitymo.org)> wrote:

Please review the requested information from the City Attorney below with the beginning of the specific response highlighted. thanks

*Please find below an email from myself to Mr. Walker.*

Thank you.

Katie

Kathryn B. Forster  
Attorney at Law

E-1-16

<image001.jpg>  
Crotzer & Ormsby, LLC  
130 S Bemiston Ave #602  
Clayton, MO 63105  
314.726.3040  
314.754.0780 (direct)  
314.726.5120 (fax)  
kforster@crotzerormsby.com

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**From:** Katie Forster  
**Sent:** Friday, July 08, 2016 2:36 PM  
**To:** Lehman Walker (lwalker@uctyrmo.org)  
**Subject:** Council Vacancy ATTORNEY/CLIENT COMMUNICATION

Lehman,

Should Council agree on an individual to replace Councilmember Kraft, the Charter states that the appointed individual will serve until the next April election, at which time a successor shall be elected for the unexpired term. I spoke with the election board and even though the City might not have anything else to place on the ballot in April 2017, an election is still held in St. Louis County. As such, a vote for a successor to replace the appointee would go on the April 2017 election. The individual who wins the April 2017 election only serves until the end of the term of the original councilmember being replaced. In this case that would be April 2018.

The language of the City's Charter states that a vacancy filled by special election (elected at the November 8<sup>th</sup> election) holds the position until the next regular municipal election (April 2017) at which time a successor will be elected to serve for Councilmember Kraft's unexpired term (April 2018). At the April 2018 election, the four-year term for the Ward 1 Councilmember position will be on the ballot.

Katie

Kathryn B. Forster

E-1-17

*Attorney at Law*

<image001.jpg>  
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314.754.0780 (direct)  
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kforster@crotzerormsby.com

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Adams,

Please find below email correspondence from myself to Joyce with regard to the Council vacancy. I will be forwarding you a second email.

Katie

Kathryn B. Forster  
*Attorney at Law*

<image001.jpg>  
Crotzer & Ormsby, LLC  
130 S Bemiston Ave #602  
Clayton, MO 63105  
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314.726.5120 (fax)  
kforster@crotzerormsby.com

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E-1-18

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**From:** Katie Forster  
**Sent:** Tuesday, May 31, 2016 9:06 AM  
**To:** 'Joyce Purnm'  
**Cc:** Lehman Walker  
**Subject:** RE: Charter on filling vacancy on Council

Joyce,  
Councilmember Krati's letter of resignation provided to you and Council, stated he resigned effective May 27, 2016.

Pursuant to Article II, Section 10 of the City Charter, a vacancy in Council must be filled within sixty (60) days by the Council. The individual appointed by Council to fill the vacancy will serve until the next April election, which in University City will be April 2018. Sixty days from May 27 is July 26, 2016.

If Council is unable to agree upon an individual to fill the vacancy by July 26, then a special election shall be called to fill the vacancy until the April 2018 election. Section 105.020 of the City Code states that special elections may be called by ordinance at a time to be fixed by Council. However, the City's Charter does not expressly provide specific dates for special elections to be held by the City.

Section 115.123 of the Missouri Revised Statutes limits the dates on which a public election can be held. Specifically Section 115.123.1 states that all public elections shall be held on Tuesday. All public elections shall be held on the "general election day, the primary election day, the general municipal election day, the first Tuesday after the first Monday in November, *or on another day expressly provided by city or county charter*, and in non-primary years on the first Tuesday after the first Monday in August."

The City has the authority to call a special election, but such special election must be on one of the dates set forth in Section 115.123 of the Missouri Revised Code. The City's Charter does not expressly set forth any other dates on which elections in the City will be held. Rather, the City Code delegates to Council the selection of a special election "at a time to be fixed by the Council." This is not an express provision of "another day" within the meaning of Section 115.123. There are only two remaining elections in 2016 on which a public election can be held – August 2 and November 8. However, after the sixty days run, the time to place ballot issues on the ballot for the August 2016 election will have expired (June 21). As such, if Council is unable to select a replacement for Krati, Council could call a special election for filling the vacancy at the November 8 election, if they can comply with the filing deadlines.

E-1-19

The Charter grants Council sixty (60) days to fill the vacancy. Councilmember Kraft's date of resignation was May 27, 2016, sixty days out is July, 26. Pursuant to Section 115.127 of the Missouri Revised Statutes, notice of the election must be provided to the Board of Election by the tenth (10) Tuesday before the election. That certification deadline for the November 8<sup>th</sup> election would be August 30. The filing period for the November 8<sup>th</sup> election is July 19 through August 23. Council can wait until after the final certification deadline to notify the Board that an election is necessary, but the City will need a court order to reopen the filing period. Based on the date of Councilmember Kraft's resignation the City would be able to notify the Board of Election by the time of filing for the November 8<sup>th</sup> election if Council is unable to agree on an individual to appoint to the vacant position within 60 days.

Thank you.

Katie

Kathryn B. Forster  
*Attorney at Law*

<image001.jpg>  
Crotzer & Ormsby, LLC  
130 S Benniston Ave #602  
Clayton, MO 63105  
314.726.3040  
314.754.0780 (direct)  
314.726.5120 (fax)  
kforster@crotzerormsby.com

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**From:** Joyce Pumm [mailto:jpumm@ucitymo.org]  
**Sent:** Friday, May 27, 2016 4:54 PM  
**To:** Katie Forster

E-1-20

**Cc:** Lehman Walker

**Subject:** Charter on filling vacancy on Council

Can you tell me what the Charter states on filling a vacancy on Council when a member resigns and is not officially recalled.

Thank you

<image002.jpg>

Joyce Pumm

City Clerk

University City

314-505-8605

(Fax) 314-338-7803

jpumm@citymo.org

*Charles E. Adams*

Office of the City Manager

University City, Missouri 63130

314-505-8534

<image003.png>

**From:** Paulette Carr [mailto:pauletexcarr@gmail.com]

**Sent:** Tuesday, December 13, 2016 2:39 PM

**To:** Katie Forster; Charles Adams

**Cc:** Terry Crow; Bwayne Smotherson; Paulette Carr SBC; Michael Glickert; Rod Jennings; Steve McMahon; Shelley Welsch

**Subject:** Re: Additions to the Nov. 28, 2016 meeting agenda ATTORNEY/CLIENT COMMUNICATION

Mr. Adams and Ms. Forster,

Thank you, Ms. Forster for providing the response you provided to Mr. Walker on November 21, 2016. Mr. Walker did not provide your position to me or several other members of Council. I wonder with whom it was shared... Well, better late than never. I am especially glad to hear that in your opinion the Council could use a resolution to straighten all this out.

I had asked for a legal opinion regarding the term of the Special Election at the July 11th at a Study Session. I never received that legal opinion from Mr. Walker, though apparently others did. I think it would be appropriate for the entire Council to be provided with that opinion even at this late date.

\*\*\*\*\*

Again, there was a Special Election held on Nov. 8, 2016 that was mandated by our Chapter C. Charter of The City of University City, Missouri Article II. The Council and City Officers Generally Section 10. Vacancies in council states, "Vacancies in the council including that of mayor shall be filled within sixty days by the council. Said appointment shall run to the next April election at which time a successor

E-1-21



*shall be elected for the unexpired term. In the event the council is unable to agree within sixty days, then a special election shall be held to fill the vacancy until the next regular municipal election." (bolding is my emphasis)*

As you noted The City of University City Code, Chapter 105. Elections, Section 105.010. General Elections defines a regular municipal election as the first Tuesday after the first Monday in April of even years, and further the Chapter C. Charter of The City of University City, Missouri, Article IX. **Nominations and Elections Section 66. Time of elections states, "A regular election for the choice of councilmembers shall be held biennially on the first Tuesday in April in the even numbered years subsequent to the year 1947. One councilmember from each ward shall be elected at the first biennial election; and the councilmember-at-large and a councilmember from each ward at the succeeding biennial election."**

This city's regular municipal elections are mandated as municipal elections in even years. A special election for filling the vacant seat was mandated when we could not decide on an appointment and that term was to last UNTIL the next regular municipal election.

*"Special elections for any lawful purpose (i.e., bond issues, Charter amendments, to fill vacant council seats, etc.) may be called by ordinance at a time to be fixed by the Council." (Chapter 105.020 Special Elections) Unfortunately, when I asked Ms. Punam about an ordinance she responded in an email (see below) that one was not necessary for the Nov. 8, 2016 election.*

As you know, a resolution was passed last night to make sure that we comply with our Charter and Ordinances with regard to our elections. That right is provided by §66 of the Charter: **Section 67. Regulation of elections. The council shall make all regulations which it considers needful or desirable, not inconsistent with this Charter or state laws, for the conduct of municipal elections.**

\*\*\*\*\*

Thank you, again, for sending your opinion on the resolution.

Sincerely,  
Paulette Carr

Paulette Carr  
Councilmember, Ward 2  
City of University City

7901 Gannon Ave.  
University City, MO 63130  
PH.: (314) 727-0919  
email: pauletexcarr@gmail.com

<image006.jpg>

E-1-22

On Dec 13, 2016, at 10:52 AM, Katie Forster <kforster@crotzterormsby.com> wrote:

Ms. Carr,

It appears that information was not provided to you and Council with regard to Mr. McMahon's election. I provided Mr. Walker an interpretation of the Charter prior to the election, with the input of the St. Louis County Election Board. On November 21, I provided Mr. Walker the response below with regard to your Resolution.

Thank you.

Katie

Kathryn B. Forster  
*Attorney at Law*

<image002.jpg>  
Crotzer & Ormsby, LLC  
130 S Bemiston Ave #602  
Clayton, MO 63105  
314.726.3040  
314.754.0780 (direct)  
314.726.5120 (fax)  
kforster@crotzterormsby.com

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**From:** Katie Forster  
**Sent:** Monday, November 21, 2016 11:07 AM  
**To:** 'Lehman Walker'  
**Subject:** RE: Additions to the Nov. 28, 2016 meeting agenda ATTORNEY/CLIENT COMMUNICATION

The Charter states that the elected Council member shall fill the vacancy until the "next regular municipal election". In the state of Missouri, the next general municipal election date is April 4, 2017. As such, the City could hold an election on this general municipal election date. Even if the City does not have anything to place on the ballot, a general municipal election will take place in St. Louis County on April 4, 2017. The City's Charter states that Council members are to be elected at general municipal elections in April. Specifically, Council members are to be elected at staggered terms at general municipal elections on the first (1st) Tuesday after the first (1st) Monday in April every four (4) years after 1998 and 2000. This can be interpreted to mean that the City will elect Council members only at general municipal elections in even years. If the majority of Council wishes to enforce this interpretation through a Resolution it can. However, it is possible that a voter could challenge this interpretation as Mr. McMahon was elected at a special election in November and not at an April general municipal election.

Katie

Kathryn B. Forster  
*Attorney at Law*

<image002.jpg>  
Crotzer & Ormsby, LLC  
130 S Bemiston Ave #602  
Clayton, MO 63105  
314.726.3040  
314.754.0780 (direct)  
314.726.5120 (fax)  
kforster@crotzerormsby.com

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E-1-24

**From:** Lehman Walker [mailto:lwalker@ucitymo.org]  
**Sent:** Monday, November 21, 2016 10:23 AM  
**To:** Katie Forster  
**Subject:** FW: Additions to the Nov. 28, 2016 meeting agenda

See below and the attachment regarding the length of term for the Ward 1 councilmember.

Any comments on the resolution regarding the length of the term for the newly elected councilmember?

<image003.jpg>

**Lehman Walker**

*City Manager*

City of University City, 6801 Delmar Boulevard, University City, MO 63130

P: 314.505.8534 | F: 314.863.9146 | [www.ucitymo.org](http://www.ucitymo.org)

**From:** Paulette Carr [mailto:paulettexcarr@gmail.com]

**Sent:** Monday, November 21, 2016 9:03 AM

**To:** Joyce Pumm

**Cc:** Terry Crow; Steve\_McMahon@att.net McMahon; Paulette Carr SBC; Michael Glickert; Rod Jennings; Bwayne Smotherson; Shelley Weisch; Lehman Walker  
**Subject:** Additions to the Nov. 28, 2016 meeting agenda

Ms. Pumm:

Thank you for letting us know this morning about your hours this week.

Please add the following items to the second meeting on November 28, 2016 AFTER the SINE DIE. Councilmember Crow will be the second on all three items. Please assign the correct numbers for the proposed resolutions below:

1. Under New Business: RESOLUTIONS: Resolution 2016-X (A resolution to establish the term of the Ward 1 Councilmember elected in the Special Election held on Nov. 8, 2016):
  - 1.
  2. Under New Business: RESOLUTIONS: Resolution 2016-Y (Non-hostile Employee Environment resolution):
    - 1.
    2. A Closed Session (sometimes referred to as an Executive Session) meeting at the end of the second part of the Nov. 28, 2016 meeting for the Legal and Personnel.

Please confirm receipt of this email and that all three items will be placed on the Agenda of the Nov. 28, 2016 Part II meeting.

If you have any questions, please notify me immediately.

Thank you for your assistance.

Sincerely,

E-1-25

Paulette Carr

<image004.jpg>

Paulette Carr  
Councilmember, Ward 2  
City of University City

7901 Gannon Ave.  
University City, MO 63130  
PH.: (314) 727-0919  
email: [paulettexcarr@gmail.com](mailto:paulettexcarr@gmail.com)

Begin forwarded message:

**From:** Joyce Pumm <[jpumm@ucitymo.org](mailto:jpumm@ucitymo.org)>  
**Subject:** Bill or Resolution for November election  
**Date:** August 3, 2016 2:45:03 PM CDT  
**To:** CityCouncil <[CityCouncil@ucitymo.org](mailto:CityCouncil@ucitymo.org)>  
**Cc:** Lehman Walker <[lwalker@ucitymo.org](mailto:lwalker@ucitymo.org)>

There is not a requirement for a bill or resolution for placing candidates on the November 8, 2016 ballot. The City does have a resolution for the results after the election

Thank you

<image007.jpg>

Joyce Pumm  
City Clerk  
University City  
314-505-8605  
(Fax) 314-338-7803  
[jpumm@ucitymo.org](mailto:jpumm@ucitymo.org)

E-1-26

E-1-27

**Katie Forster <kforster@crozzerormsby.com>**

To: Paulette Carr Gmail <paulettexcarr@gmail.com>, Terry Crow <terry@cttlaw.net>,

Bwayne Smotherson <bsmotherson@gmail.com>, Michael Glickert

<lmglickert@yahoo.com>, Rod Jennings <jmiracle007@gmail.com>, Steve McMahon

<steve\_mcmahon@att.net>, mayor@ucitymo.org

Cc: Charles Adams (cadams@ucitymo.org) <cadams@ucitymo.org>

FW: Additions to the Nov. 28, 2016 meeting agenda ATTORNEY/CLIENT

COMMUNICATION

Ms. Carr,

It appears that information was not provided to you and Council with regard to Mr. McMahon's election. I provided Mr. Walker an interpretation of the Charter prior to the election, with the input of the St. Louis County Election Board. On November 21, I provided Mr. Walker the response below with regard to your Resolution.

Thank you.

Katie

Kathryn B. Forster

*Attorney at Law*



Crozzer & Ormsby, LLC

130 S Benniston Ave #602

Clayton, MO 63105

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314.754.0780 (direct)

314.726.5120 (fax)

[kforster@crozzerormsby.com](mailto:kforster@crozzerormsby.com)

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E-1-28

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**From:** Katie Forster  
**Sent:** Monday, November 21, 2016 11:07 AM  
**To:** 'Lehman Walker'  
**Subject:** RE: Additions to the Nov. 28, 2016 meeting agenda ATTORNEY/CLIENT COMMUNICATION

The Charter states that the elected Council member shall fill the vacancy until the "next regular municipal election". In the state of Missouri, the next general municipal election date is April 4, 2017. As such, the City could hold an election on this general municipal election date. Even if the City does not have anything to place on the ballot, a general municipal election will take place in St. Louis County on April 4, 2017. The City's Charter states that Council members are to be elected at general municipal elections in April. Specifically, Council members are to be elected at staggered terms at general municipal elections on the first (1st) Tuesday after the first (1st) Monday in April every four (4) years after 1998 and 2000. This can be interpreted to mean that the City will elect Council members only at general municipal elections in even years. If the majority of Council wishes to enforce this interpretation through a Resolution it can. However, it is possible that a voter could challenge this interpretation as Mr. McMahon was elected at a special election in November and not at an April general municipal election.

Katie

Kathryn B. Forster  
*Attorney at Law*



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130 S Bemiston Ave #602  
Clayton, MO 63105  
314.726.3040  
314.754.0780 (direct)  
314.726.5120 (fax)

[kforster@crotzerormsby.com](mailto:kforster@crotzerormsby.com)

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**From:** Lehman Walker [<mailto:walker@ucitymo.org>]  
**Sent:** Monday, November 21, 2016 10:23 AM  
**To:** Katie Forster  
**Subject:** Fw: Additions to the Nov. 28, 2016 meeting agenda

See below and the attachment regarding the length of term for the Ward 1 councilmember.

Any comments on the resolution regarding the length of the term for the newly elected councilmember?



**Lehman Walker**

*City Manager*

City of University City, 6801 Delmar Boulevard, University City, MO 63130  
P: 314.505.8534 | F: 314.863.9146 | [www.ucitymo.org](http://www.ucitymo.org)

**From:** Paulette Carr [<mailto:pauletexcarr@gmail.com>]  
**Sent:** Monday, November 21, 2016 9:03 AM  
**To:** Joyce Pumm  
**Cc:** Terry Crow; [Steve McMahon](mailto:Steve.McMahon@att.net); Paulette Carr SBC; Michael Glickert; Rod Jennings; Bwayne Smotherson; Shelley Welsch; Lehman Walker  
**Subject:** Additions to the Nov. 28, 2016 meeting agenda

Ms. Pumm:

Thank you for letting us know this morning about your hours this week

Please add the following items to the second meeting on November 28, 2016 **AFTER the SINE DIE.** Councilmember Crow will be the second on all three items. Please assign the correct numbers for the proposed resolutions below:

1. Under New Business: RESOLUTIONS: Resolution 2016-X (A resolution to establish the term of the Ward 1 Councilmember elected in the Special Election held on Nov. 8, 2016):
  - 1.

E-1-30

2. Under New Business: RESOLUTIONS: Resolution 2016- Y (Non-hostile Employee Environment resolution):
  - 1.
  2. A Closed Session (sometimes referred to as an Executive Session) meeting at the end of the second part of the Nov. 28, 2016 meeting for the Legal and Personnel.

Please confirm receipt of this email and that all three items will be placed on the Agenda of the Nov. 28, 2016 Part II meeting.

If you have any questions, please notify me immediately.

Thank you for your assistance.

Sincerely,  
Paulette Carr



Paulette Carr  
Councilmember, Ward 2  
City of University City

7901 Gannon Ave.  
University City, MO 63130  
PH.: (314) 727-0919  
email: [paulettexcarr@gmail.com](mailto:paulettexcarr@gmail.com)

E-1-31

**Charles Adams <cadams@ucitymo.org>**

To: Paulette Carr SBC <paulette\_carr@sbcglobal.net>, Paulette Carr Gmail  
<paulettexcarr@gmail.com>, Shelley Welsch <Mayor@ucitymo.org>, Terry Crow  
<terry@ctlaw.net>, Michael Glickert <imglickert@yahoo.com>, Rod Jennings  
<jimiracl007@gmail.com>, Bwayne Smotherson <bsmotherson@gmail.com>, Steve  
McMahon <steve\_mcmahon@att.net>  
FW: Nov election for councilmember replacement ATTORNEY/CLIENT COMMUNICATION

Further information:

**From:** Katie Forster [mailto:kforster@crotzzerormsby.com]  
**Sent:** Tuesday, December 20, 2016 9:41 AM  
**To:** Charles Adams  
**Subject:** FW: Nov election for councilmember replacement ATTORNEY/CLIENT  
COMMUNICATION

**Below is an email exchange between Joyce and myself regarding the November election.**

Katie

Kathryn B. Forster  
*Attorney at Law*



Crotzer & Ormsby, LLC  
130 S Bemiston Ave #602  
Clayton, MO 63105  
314.726.3040  
314.754.0780 (direct)  
314.726.5120 (fax)  
[kforster@crotzzerormsby.com](mailto:kforster@crotzzerormsby.com)

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E-1-32

that is sent to you or by you may be copied and held by various computers it passes through as it goes from me to you or vice versa; and (3) persons not participating in our communication may intercept our communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the email passed through. I am communicating to you via email because you have consented to receive communications via this medium. If you change your mind and want future communications sent in a different fashion, please let me know at once.

**From:** Joyce Pumm [mailto:[jpumm@ucitymo.org](mailto:jpumm@ucitymo.org)]

**Sent:** Wednesday, August 03, 2016 2:22 PM

**To:** Katie Forster

**Subject:** RE: Nov election for councilmember replacement

I just placed an ad in the newspaper to advertise it.

Thank you



Joyce Pumm

City Clerk

University City

314-505-8605

(Fax) 314-338-7803

[jpumm@ucitymo.org](mailto:jpumm@ucitymo.org)

**From:** Katie Forster [mailto:[kforster@crozermoney.com](mailto:kforster@crozermoney.com)]

**Sent:** Wednesday, August 03, 2016 2:18 PM

**To:** Joyce Pumm

**Subject:** RE: Nov election for councilmember replacement

There is nothing in the Code or Charter requiring or prohibiting issuing a Resolution putting the Council vacancy on the November ballot. If Council wishes, they can issue a Resolution at the next meeting. With regard to the election, the date to file for candidates is July 19 – August 23. The City has to notify the Election Board of the election for the City to fill the vacancy. I will confirm with Eric Fey if the City needs to do anything other than what is required by statute.

Katie

Kathryn B. Forster

*Attorney at Law*



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130 S Bemiston Ave #602  
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**From:** Joyce Pumm [mailto:[jpumm@uctymo.org](mailto:jpumm@uctymo.org)]  
**Sent:** Wednesday, August 03, 2016 1:56 PM  
**To:** Katie Forster  
**Subject:** RE: Nov election for councilmember replacement

That is all I could find. There is a resolution to accept the final vote tabulation but was not sure if since this was not a normal municipal election if rules changed.

Thank you



Joyce Pumm  
City Clerk  
University City  
314-505-8605  
(Fax) 314-338-7803  
[jpumm@uctymo.org](mailto:jpumm@uctymo.org)

**From:** Katie Forster [mailto:[kforster@crotzerormsby.com](mailto:kforster@crotzerormsby.com)]  
**Sent:** Wednesday, August 03, 2016 1:52 PM

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**To:** Joyce Pumm  
**Subject:** RE: Nov election for councilmember replacement

Does the City usually issue a Resolution for a regular Council election in April? Don't you just notify the public of the opening and closing dates for candidate filing and forward those to Eric Fey? I can touch base with Eric to see if we have to do anything other than notify the Election Board that the City will have something on the ballot in November.

Kathryn B. Forster  
*Attorney at Law*



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**From:** Joyce Pumm [mailto:jpumm@ucitymo.org]  
**Sent:** Wednesday, August 03, 2016 11:56 AM  
**To:** Katie Forster  
**Cc:** Lehman Walker  
**Subject:** Nov election for councilmember replacement

Katie

E-1-35

Does the city need to have an ordinance or resolution to hold an election in November for filling of a council seat? Question asked of me by Councilmember Carr. I could not find an occasion when this was done. The City always has a resolution to accept the results of an election.

Thank you



Joyce Pumm  
City Clerk  
University City  
314-505-8605  
(Fax) 314-338-7803  
[jpumm@ucitymo.org](mailto:jpumm@ucitymo.org)

E-1-36

E-1-39



## COUNCIL COMMENTS

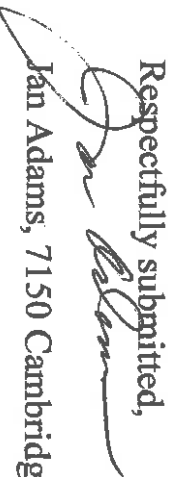
January 9, 2017

I am submitting, for the record, a copy of the Petition that I filed in Court on December 2 and a copy of Motion to Amend the Order that I filed January 6. So that the minute record is clear that I am not suing the City and I am not defending the City Manager. The Petition is an “action in equity” that seeks only to protect taxpayer funds. I am also submitting a page from the Memorandum filed by our City Attorney and I direct your attention to page 6, Section B, entitled “An injunction cannot enjoin what is already prohibited by law”.

My initial Petition was denied in part because there was no evidence, at that time, that this new Council majority had actually expended taxpayer funds for their own personal defense. The Judge stated that she was sure the attorneys for the Respondents will instruct their clients on the law and that City officials will follow the law. But, some City Officials have not followed the law, so I have amended my Petition.

I am also submitting for the Record a cease and desist notice to Paulette Carr for defamatory remarks made in this Council chamber that are harmful to me. Specifically, at the last Council meeting, Paulette Carr stated that I “cannot practice law”. This is not true. I had voluntarily applied for inactive status with the Bar Association after I retired from the Attorney General’s Office, but recently I applied for, and was granted, active status. Thus, there is no legal or professional impediment to my practicing law. Any insinuation that, for some other reason, I cannot practice law is defamatory.

Respectfully submitted,



Jan Adams, 7150 Cambridge Ave.

E-1-38

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI

Jan Adams,

Petitioner

Vs.

City of University City and  
Paulette Carr, Terry Crow, Bwayne  
Smotherson and Steve McMahon,  
individually, and as Council Members  
of the City of University City

No. 165L0004465

DV 41

**FILED**  
DEC - 2 2016

JOAN M. GILLEN  
CIRCUIT CLERK, ST. LOUIS COUNTY

PETITION FOR TEMPORARY INJUNCTION  
AND PROTECTIVE ORDER

Jan Adams petitions this Court for a temporary Order which enjoins

Respondents from using, or voting to use, any taxpayer funds to settle personal lawsuits or to hire special counsel to defend themselves from the impending personal lawsuits by the City Manager, Lehman Walker, for the intentional torts of defamation and infliction of emotional distress. Further, Jan Adams petitions this Court for a Protective Order that nullifies the Resolutions passed during a closed City Council session on November 28, 2016. In support of this Petition, the undersigned states:

STATEMENT OF FACTS

PETITION FOR TEMPORARY INJUNCTION

1. Jan Adams is a resident and taxpayer in the City of University City, St. Louis County, Missouri.

2. The four individual Respondents are Council Members for University City. Steve McMahon, was recently elected on November 8, 2016, and sworn into office on November 28, 2016.

3. Lehman Walker has been the City Manager for University City since 2010. On November 28, Respondents passed several Resolutions, including one to suspend the City Manager “with pay until further notice”. See Group Exhibit 1, Resolution 2016-27.

4. On November 17, 2016, David Heimos, attorney for Lehman Walker, sent a letter to the four individual Respondents. Mr. Walker claimed that the Respondents had defamed him and had inflicted emotional distress. Specifically, Steve McMahon’s campaign material was false and defamatory. Because it was “readily apparent that the four of you [the individual Respondents named herein] want my [] employment to come to an end”, Mr. Walker offered to resign in exchange for a settlement of \$500,000. Mr. Heimos states in his letter that if he does not receive a response by December 7 suit will be filed against Steve McMahon, personally, and Paulette and Terry Crow, both personally and as Council Members. See Exhibit 2, page 5.

5. Respondent, Paulette Carr, sent the November 17 letter to all members of Council and to the City Clerk, on November 21, thereby making this letter a public document. See Exhibit 3.

6. On Friday, November 25, Council caused its proposed Agenda for the November 28 meeting, with all supporting documents, to be distributed to the public. The Agenda included a vote to hold a "closed session" to discuss personnel and legal issues. Council did NOT disclose to the public the letter of November 17. See Exhibit 4.

7. During the November 28 Council meeting, the Mayor stated that neither she nor two other Council members (hereinafter referred to as the Council minority) were given any information as to why Council Members Paulette Carr and Terry Crow requested a closed session; she then verbally disclosed some of the contents of the letter and suggested the letter would likely be the subject of the closed session. The Mayor and Council member Jennings stated that they would not attend the closed session due to the lack of disclosure.

8. The undersigned spoke on the record just before the closed session was to convene. The undersigned suggested that the Council members who had been put on notice of an imminent lawsuit for intentional torts were now at risk for personal liability, consequently they have a conflict of interest and should recuse themselves from any vote related to the impending lawsuits.

9. Respondents voted in the closed session to suspend Lehman Walker with pay (R.27); to appoint the former Chief of Police as acting city manager without disclosing his compensation (R.28) and to retain “special counsel to advise and represent the City in special legal matters relating to the City Manager as may be requested by the City...” (R.29). The Retainer Agreement attached to R.29 expressly anticipates extensive and prolonged litigation of the allegations of personal intentional torts. Respondents barred the City Clerk from attending this meeting so it was Mr. McMahon who submitted the minutes, which do not comply with the requirements of Missouri’s Sunshine law. See Exhibit 5.

10. Steve McMahon was not a member of Council on November 17 and all allegations against Mr. McMahon are based on occurrences when he was a private citizen. See Exhibit 2, page 4.

12. The next Council meeting is scheduled for the evening of December 5 thus, to avoid irreparable harm, it is incumbent upon this Court to issue a temporary injunction prior to December 5 at 5:00 p.m.

### PROTECTIVE ORDER

Jan Adams petitions this Court for a Protective Order that will protect taxpayer funds from being used to defend personal litigation against Respondents and in support of her petition states:

1. Petitioner incorporates statements from paragraphs 1 through 12.

2. Exhibit 1, Resolution 2016-29 purports to grant Respondents the right to expend taxpayer funds to “retain special counsel...in special legal matters relating to the City Manager as may requested (sic) by the City...and (emphasis added) in such other special legal matters as may be requested by the City...”. This language is so broad that now the individual Respondents, who constitute a majority voting block for the “City”, may use taxpayer funds for their own personal defenses.

3. Resolution 2016-27 states that “WHEREAS, Lehman Walker...has asserted various legal claims and demands against the City...Lehman Walker is hereby suspended as City Manager with pay (emphasis added) until further notice by the City Council”. Resolution 2016-28 appoints an “acting city manager” but does not specify the compensation taxpayers are expected to pay. Therefore, the decision to continue to pay the City Manager over \$10,000 per month while also paying an acting city manager is related to the impending personal litigation against the individual Respondents.

4. The Resolutions in Group Exhibit 1 purport to expend taxpayer dollars to defend the individual Respondents from personal liability for intentional torts.

5. The Resolutions in Group Exhibit 1 were passed by individual Respondents who have a conflict of interest.

6. The Resolutions in Group Exhibit 1 are not in the best interest of the taxpayers of University City.

7. Absent a Protective Order, the individual Respondents may continue to cast votes in an attempt to circumvent any Protective Order intended to protect taxpayer funds from being used by the individual Respondents for their personal use.

### ARGUMENT

Respondents' actions have caused, and if not enjoined, will continue to cause immediate and irreparable harm to the taxpayers of University City due to the contractual obligations Respondents have created by passing Resolutions 27, 28 and 29 and may continue to create in the very near future. A special Council meeting may be called with just 24 hours' notice.

The Resolutions in Group Exhibit 1 were passed by individual Council members who have a conflict of interest. These Resolutions purport to continue to pay Mr. Walker over \$10,000 per month and to pay an "acting City manager" some undisclosed amount. There is no rational reason to pass these Resolutions other than as a legal strategy relating to Mr. Walker's offer to resign and release the individual Respondents from their personal liabilities. Resolution 29 expressly authorizes expending taxpayer money for a special counsel to defend the impending personal actions against the individual Respondents. These Resolutions are not in the best interest of the taxpayers of University City and should be declared null and void.

The Director of Finance of the City of University City should be immediately enjoined from expending or transferring any taxpayer funds relating to the Resolutions until further Order of this Court.

Steve McMahan was not a member of Council on November 17 and all allegations against Mr. McMahan are based on occurrences when he was a private citizen. See Exhibit 2, page 4. Consequently, Steve McMahan is clearly not entitled to use taxpayer funds for his defense and should be enjoined from any votes related to the anticipated litigation. Mr. McMahan is a practicing trial attorney and therefore will not be prejudiced by any such injunction. Furthermore, he is capable of petitioning this Court for any judicial relief if or when circumstances change.

Steve McMahan, within minutes of his being sworn into office, voted to go into a closed session, without disclosing to all members of Council the proposed Resolutions or the proposed agenda for the meeting. The new Council majority told the City Clerk that she was not allowed to attend the meeting to take minutes and that Mr. McMahan would take the minutes. Mr. McMahan's minutes do not comply with the State of Missouri's Sunshine Law. Apparently, the Resolutions had been drafted in advance and the closed session lasted approximately 30-40 minutes. Given the gravity of the situation, it would appear that there had been



discussion among the individual Respondents prior to the closed session which may be a violation of the Missouri Sunshine laws.

Paulette Carr and Terry Crow (also a practicing attorney) were members of Council when the alleged wrongful acts occurred. However, the issue is whether the incidents that Mr. Walker claims to be defamatory and causing emotional distress are considered to be outside the scope of their official duties. The issue of whether the City's insurance carrier will cover intentional torts has not been resolved. Regardless, it is a conflict of interest for these two Council members to vote on the issues raised by the impending personal lawsuits against them and they should be enjoined from any further votes on this issue.

There are no specific allegations by Mr. Walker against Bwayne Smotherson at this time. Thus, Petitioner is not seeking an injunction against Mr. Smotherson. The taxpayers of University City need to be protected from misuse of City funds for defense of personal litigation against the individual Respondents. Unless Respondents are enjoined from doing so, the new Council majority is likely to expend Tens of Thousands of Dollars of taxpayer money defending personal litigation, or \$500,000 to obtain a release of all personal claims.


Petitioner requests that the Resolutions in Group Exhibit 1 be declared null and void and that this Court issue a protective order instructing the Respondents to refrain from voting on any issue relating to their personal legal liabilities.

The "new majority" on City Council have the authority to call a meeting with just 24 hours' notice and to vote to pay the \$500,000 demand for settlement of their personal liabilities and to direct the "acting City Manager" to direct the Director of Finance to transfer those funds electronically. Given the way they conducted the meetings of November 28, where they not only withheld the settlement demand letter of November 17 from the public so that there would be no public input at the open meeting, but they also withheld both the agenda and the proposed Resolutions from the three "minority" members of Council, I believe there is a legitimate concern that they will continue to conduct the City's business in this manner unless there is a judicial check on their power.

Petitioner's request for a temporary injunction lasting not more than 15 days before a full evidentiary hearing is reasonable and not prejudicial to the Respondents. All Council members can continue to conduct the regular business of the City, they would simply be barred from taking any further action regarding the now suspended City Manager.

WHEREFORE, Petitioner prays that this Court sign the proposed Order for Temporary Injunction and the proposed Protective Order that are submitted by Petitioner contemporaneous with her Petition.

Respectfully submitted,

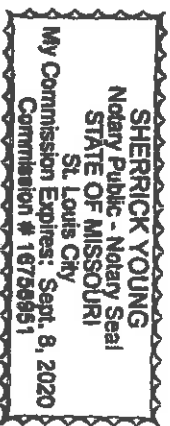
  
Jan Adams, pro se  
7150 Cambridge Avenue  
St. Louis, Mo. 63130  
314-497-7815  
[janadams@sbcglobal.net](mailto:janadams@sbcglobal.net)

VERIFICATION

I declare under penalty of perjury that the statements herein and the Exhibits attached are true and correct to the best of my knowledge, information and belief.

  
Jan Adams

Subscribed and sworn to before me this 1 day of dec, 2016.



  
Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby states that the foregoing pleading was served on each Respondent, by hand delivery, on this 2nd day of Dec. 2016.

*e-mail +*  
  
Jan Adams

RESOLUTION 2016-27

A RESOLUTION SUSPENDING LEHMAN WALKER AS CITY MANAGER.

WHEREAS, Lehman Walker has recently retained legal counsel regarding his employment with the City and other matters, and he has asserted various legal claims and demands against the City and certain Councilmembers; and

WHEREAS, Lehman Walker informed the City Council today that he has designated the Director of Finance as Acting City Manager until further notice; and

WHEREAS, the City Council finds that under all of the circumstances Lehman Walker should be suspended as City Manager with pay until further notice by the City Council.

NOW THEREFORE, BE IT RESOLVED, that Lehman Walker is hereby suspended as City Manager with pay until further notice by the City Council; and during the suspension he shall have no power or authority to act as City Manager and he shall not access, enter or use City property or premises not open or available to the general public.

Adopted this 28<sup>th</sup> day of November, 2016.

Shelley Welsch, Mayor

*Shelley Welsch*

Paulette Carr, Councilmember, Second Ward

*Paulette Carr*

Terry Crow, Councilmember, First Ward

*Terry Crow*

Michael Glickert, Councilmember, Second Ward

Rod Jennings, Councilmember, Third Ward

Steve McMahon, Councilmember, First Ward

*Steve McMahon*

Bwayne Smotherson, Councilmember, Third Ward

*E-149*  
*Group EXHIBIT #2*

ATTEST:  
*Joyce Pumm*  
Joyce Pumm, City Clerk

RESOLUTION 2016-28

A RESOLUTION APPOINTING CHARLES ADAMS AS ACTING CITY MANAGER.

WHEREAS, the City Council has suspended Lehman Walker as City Manager; and

WHEREAS, Lehman Walker informed the City Council today that he has designated the Director of Finance as Acting City Manager until further notice; and

WHEREAS, Charles Adams has agreed to serve as Acting City Manager during the suspension; and

WHEREAS, the City Council finds that Charles Adams should serve as Acting City Manager during the suspension.

NOW THEREFORE, BE IT RESOLVED, that Charles Adams is appointed Acting City Manager until further action of the City Council, and the Director of Finance shall not perform the duties of the City Manager during the suspension.

Adopted this 28 day of November, 2016.

Shelley Welsch, Mayor

Paulette Carr  
Paulette Carr, Councilmember, Second Ward

Terry Crow  
Terry Crow, Councilmember, First Ward

Michael Glickert  
Michael Glickert, Councilmember, Second Ward

Rod Jennings  
Rod Jennings, Councilmember, Third Ward

Steve McMahon  
Steve McMahon, Councilmember, First Ward

Bwayne Smotherson  
Bwayne Smotherson, Councilmember, Third Ward

ATTEST:

Joyce Purnin  
Joyce Purnin, City Clerk

E-1-50

RESOLUTION 2016-29

A RESOLUTION AUTHORIZING THE EXECUTION OF A RETAINER AGREEMENT WITH SPECIAL COUNSEL.

WHEREAS, the matter of retaining special counsel to advise and represent the City of University City, Missouri (the "City") was considered; and

WHEREAS, the City desires to retain special counsel to advise and represent the City in special legal matters relating to the City Manager as may requested by the City and accepted by special counsel, and in such other special legal matters as may be requested by the City and accepted by special counsel.

NOW THEREFORE, BE IT RESOLVED, that a Retainer Agreement with John F. Mulligan, Jr. is hereby approved in substantially the form attached hereto and incorporated by reference, and the Acting City Manager is authorized and directed to enter into and execute on behalf of the City the Retainer Agreement, and may take such further action as may be necessary or desirable to carry out the intent of this Resolution.

Adopted this 28 day of March, 2016.

\_\_\_\_\_  
Shelley Welsch, Mayor

*Paulette Carr*  
Paulette Carr, Councilmember, Second Ward

*Terry Crow*  
Terry Crow, Councilmember, First Ward

*Michael Glickert*  
Michael Glickert, Councilmember, Second Ward

\_\_\_\_\_  
Rod Jennings, Councilmember, Third Ward

*Steve McMahon*  
Steve McMahon, Councilmember, First Ward

*Bwayne Smotherson*  
Bwayne Smotherson, Councilmember, Third Ward

ATTEST:

*Joyce Punn*  
Joyce Punn, City Clerk

### RETAINER AGREEMENT

The City of University City, Missouri (the "City") hereby retains John F. Mulligan, Jr. (hereinafter "Special Counsel") as Special Counsel to advise and represent the City in special legal matters relating to the City Manager as may be requested by the City and accepted by Special Counsel, and in such other special legal matters as may be requested by the City and accepted by Special Counsel. Special counsel is not an officer or employee of the City under this Retainer Agreement.

Special Counsel shall be compensated at the rate of \$250.00 per hour, measured in increments of one-tenth of an hour. In addition, Special Counsel shall be reimbursed for any customary costs or expenses incurred in advising and representing the City, including but not limited to filing fees, fees for service of process and subpoenas, expert witness fees, consultant fees, stenographer fees, paralegal fees, associate counsel fees, travel and lodging expenses, and copying charges. Special Counsel will submit periodic invoices to the City for all fees, costs and expenses.

The City agrees to make full and honest disclosures to Special Counsel of all relevant facts. The City understands that its employees, officials and representatives may have to appear in court, to attend depositions, to produce documents and/or provide information, and it will assist and cooperate with Special Counsel to the fullest extent.

Special Counsel agrees to advise and represent the City competently and diligently, to exercise professional judgment, and to respond promptly to reasonable requests for information. The City understands that it is free to terminate this Retainer Agreement upon written notice to Special Counsel executed by a duly authorized City representative. Similarly, Special Counsel may, upon giving written notice to the City, terminate this Retainer Agreement for any reason, in accordance with the Missouri Rules of Professional Conduct.

The City recognizes that no result has been guaranteed by Special Counsel, and that this Retainer Agreement is not based upon any such promise or anticipated result. This Retainer Agreement constitutes the entire agreement between the parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the parties shall be deemed merged into this Retainer Agreement.

City of University City, Missouri

Special Counsel

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

John F. Mulligan, Jr.

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

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

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

E-1-53

**DAVID M. HEIMOS**  
Attorney at Law  
230 South Bemiston Avenue  
Suite 1200  
Clayton, Missouri 63105

314-862-3333 Ext. 17  
314-862-0605 Fax

E-mail: davidmheimos@dheimoslaw.com  
Internet Address: davidheimoslaw.com

November 17, 2016

**FOR SETTLEMENT PURPOSES ONLY**

Paulette Carr  
Council Member – Ward 2  
City of University City  
7901 Gannon Avenue  
University City, Missouri 63130

Terry Crow  
Council Member – Ward 1  
City of University City  
7025 Maryland Avenue  
University City, Missouri 63130

Steve McMahon  
Council Member – Elect. Ward 1  
City of University City  
8135 Stanford Avenue  
University City, Missouri 63130

Bwayne Smotherson  
Council Member – Ward 3  
City of University City  
1243 Purdue  
University City, Missouri 63130

**RE: My Client: Lehman O. Walker, City Manager, City of University City**

Dear Ms. Carr, Mr. Crow, Mr. McMahon and Mr. Smotherson:

Please be advised that I have been retained by Lehman O. Walker to represent him regarding his employment with the City of University City, Missouri and any and all claims he may have against any or all of you, both personally and in your official capacities as Council Members for the City of University City, Missouri. My client, who is a 64-year-old African American with almost 18 years of service with the City of University City, Missouri, had been employed as the Head of the Department of Planning and Development for approximately 11 ½ years, from April 1998 until November 2009, and then as City Manager for six plus years, from August 2010 to the present. My client has repeatedly been harmed by Ms. Carr, Mr. Crow and Mr. McMahon, including being the subject of numerous defamatory statements made to or in the presence of others or by distributing various defamatory materials to others.

It is readily apparent that the four of you, who are aligned together and who generally vote the same way, want my client's employment with the City of University City to come to an end. Although my client has not at least not at this time, been the subject of blatant defamatory statements by Mr. Smotherson, this letter is also being directed to Mr. Smotherson, who has been a Council Member of Ward 3 only since April 2016, because Mr. Smotherson is aligned with Ms. Carr, Mr. Crow and Mr. McMahon and will probably vote the same way regarding matters concerning my client's employment with the City of University City. Furthermore, although Mr.

E-1-54

EXHIBIT 2



Paulette Carr  
Terry Crow  
Steve McMahon  
Bwayne Smotherson  
Page 2  
November 17, 2016

McMahon has not yet taken office, he is Council Member Elect for Ward 1, he is clearly aligned with Ms. Carr. Mr. Crow and Mr. Smotherson, he clearly wishes that my client's employment with the City of University City come to an end, and he has repeatedly made defamatory statements about my client in his campaign for election. It is abundantly clear that the defamatory statements made about my client by Ms. Carr, Mr. Crow and Mr. McMahon have been made with malice.

The following are some examples of false and defamatory statements that have recently been made about my client by Ms. Carr, Mr. Crow and Mr. McMahon:

Paulette Carr

1. In Paulette Carr's Newsletter dated January 6, 2015, after referring to my client's "fiscal dishonesty", she states as follows: "How many other times has the City Managers sought to circumvent our Charter and hide expenditures for pet projects for the Mayor or others? I regret to say that I have no confidence in either of them and must conclude that this is standard practice as they seek to promote their own agendas, at any cost, while undermining the intent of the Charter and our Council/Manager form of government." These statements, accusing my client of engaging in possible criminal activity, are bald-face lies.
2. In Paulette Carr's Newsletter dated June 14, 2015, she states as follows: "The City Manager (my client) has been derelict in his duty to provide the best public safety possible by neglecting to fill vacancies in the Fire Department over the last year, and now the Council is derelict in its duty to provide for the safety of this City by making these vacancies permanent in the next budget. These decisions have created an increase in the risk to our lives and property. You deserve better." Stating that my client has been derelict in his duties to provide the best public safety possible by neglecting to fill vacancies in the Fire Department over the last year is a bald-faced lie.
3. At the November 23, 2015 City Council Meeting, Paulette Carr stated that my client failed to respond to her requests and then denied Council's right to put something on the agenda by deliberately attempting to block two members of Council (Ms. Carr and Mr. Crow) from putting something on the agenda. This is a lie.
4. At the September 12, 2016 City Council Meeting, Paulette Carr stated that my client and the City Clerk, Joyce M. Pumm (whom Ms. Carr knows is also represented by me), have put up an incredible roadblock for access to public records for citizens requesting information under the Missouri Sunshine Law. This statement, accusing my client of violating the Missouri Sunshine Law, is a lie. Furthermore, Ms. Carr stated in this meeting: "that the City Manager (my client) did not find it important to monitor a contractor is ASTOUNDING." This is a lie because the contractor is being monitored.

E-1-55

Paulette Carr  
Terry Crow  
Steve McMahon  
Bwayne Smotherson  
Page 3  
November 17, 2016

5. In Paulette Carr's Newsletter dated October 31, 2016, she referred to "a continued pattern of behavior on the part of the City Manager (my client) to influence our elections", including the following:
  - (b) "In the 2014 election, the City Manager (my client) aided the City Clerk (my client, Joyce M. Pumm) in keeping Jeffrey Hales off the ballot"... "That the City Manager (my client) spent tax payer money and put the full legal weight of the City behind the effort to keep Mr. Hales off the ballot"... and that "he threatened the firefighters and union for supporting candidates other than the Mayor and incumbents"; and
  - (c) "Last April, the City Manager (my client) again intervened in our Municipal elections by hiring special legal counsel without the authorization of Council, as required by our City Code."

falsely attributing these matters to my client is disingenuous at best, and clearly cast him in a false light.

Terry Crow

1. At the August 3, 2015 City Council Meeting, Terry Crow stated that, "The City Manager (my client) seems to have an agenda of sticking it to the firefighters. I cannot help but wonder whether those dynamics are driving the current plan to remove EMS from the firefighters and outsource them to Gateway? If so, it is disgraceful that the City Manager (my client) would allow considerations of personal peak and power to drive the decision-making process on a matter involving public safety." Making such false accusations or insinuations about my client clearly cast him in a false light.
2. At the April 26, 2016 Council Meeting, Terry Crow stated that "The public has a lack of trust in our administration (meaning my client) and in our Council." This false insinuation about my client clearly cast him in a false light.
3. At the June 27, 2016 City Council Meeting, Terry Crow stated that "The Mayor and City Manager (my client) clearly exceeded their authority." This statement is false as five members of the City Council (not including Paulette Carr and Terry Crow) were consulted, such that my client did not exceed his authority.
4. At the August 8, 2016 City Council Meeting, Terry Crow stated that it would be difficult to pass a bond issue "based on Council's and this administration's (meaning my client's) reputation." This insinuation that my client has a bad reputation clearly cast him in a false light.

E-1-56

Paulette Carr  
Terry Crow  
Steve McMahon  
Bwayne Smotherson  
Page 4  
November 17, 2016

5. In an October 2016 newsletter, Terry Crow stated, with respect to the Special Council Election on November 8<sup>th</sup>, that the Mayor and City Manager (my client) tried to push through \$25,000,000.00 worth of bond issues with no citizen input. This is a lie, as a Citizen Committee made the recommendation, and there were meetings where the public provided input.

Steve McMahon

1. On Steve McMahon's campaign website (McMahonforchange.com) and in his campaign literature, Steve McMahon states that "A contamination and poor conditions of the police facility are the direct result of the neglect of the City Manager (my client) and Council when they failed to make timely and appropriate fixes over the last six years." Falsely attributing such matters to my client clearly cast him in a false light.

2. On Steve McMahon's campaign website, under the heading "Hold the City Manager (my client) Accountable", Steve McMahon falsely states that my client has "Been caught spending money without authorization and without consequence"... "Presided over a record \$1.1 Million in legal settlements and judgments in the last 12 months alone, costing our City time, money, and giving our City a black eye"; and "Neglected our City buildings, ignoring known water and mold problems which led to the building's condemnation and a Court Order to relocate the police station costing us millions." My client was never "caught" spending money without authorization". Such a statement, accusing my client of engaging in possible criminal activity, is a bald-faced lie. With regard to the statement that my client "presided over a record \$1.1 Million in legal settlements and judgments in the last 12 months alone", my client assumes this is in reference to the settlement of \$300,000.00 with the Firefighters, the settlement of \$300,000.00 for a sexual harassment claim, and \$500,000.00 in attorney's fees incurred with regard to the Social House matter. My client acted on the basis of the recommendations of the City's insurance company's counsel with regard to the settlements. The money spent on the Social House matter was approved by the City Council. There were no judgments. Hence, these statements are all bald-faced lies. Finally, my client is not the cause of the problems with the police station. This is clearly false.

3. On Steve McMahon's campaign website, under the heading "End Unauthorized Spending", Steve McMahon falsely states "Last December, the City Manager (my client) hired special legal counsel in violation of City Ordinance committing our tax dollars without Council approval. Several years ago, the City Manager (my client) split a contract for electrical work into smaller pieces to come within his spending authority, apparently in violation of City regulations on competitive bidding." Such statements, accusing my client of engaging in possible criminal activity, are bald-faced lies.

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Paulette Carr  
Terry Crow  
Steve McMahon  
Bwayne Smotherson  
Page 5  
November 17, 2016

4. In Steve McMahon's campaign literature, he states that he "blew the whistle on unauthorized spending by the City Manager (my client)". My client was within his authority with respect to such spending. Steve McMahon's statement, accusing my client of engaging in possible criminal activity, is a bald-faced lie.

My client is prepared to resign from his employment and release all of you, as well as the City of University City, of any and all claims that he may have, in return for payment in the amount of \$500,000.00. A response is expected within twenty (20) days, or on or before Wednesday, December 7, 2016. If no response is forthcoming within this period of time, suit will be filed against the City of University City and the three of you. Paulette Carr, Terry Crow and Steve McMahon, both personally and, in the case of Paulette Carr and Terry Crow, in your official capacities as Council Members of the City of University City, seeking any and all remedies available to my client, including damages for emotional distress and damages for loss of reputation, as well as punitive damages.

Thank you.

Sincerely,



David M. Heimmos

DMH/bhd

E-1-58

**From:** Paulette Carr <[paulettexcarr@gmail.com](mailto:paulettexcarr@gmail.com)>  
**Date:** November 21, 2016 at 3:30:59 PM CST  
**To:** Terry Crow <[terry@ctlaw.net](mailto:terry@ctlaw.net)>, "Steve McMahon@att.net McMahon"  
<[steve.mcmahon@att.net](mailto:steve.mcmahon@att.net)>, Paulette Carr <[paulette\\_carr@sbcglobal.net](mailto:paulette_carr@sbcglobal.net)>, Michael Glickert  
<[mgllickert@yahoo.com](mailto:mgllickert@yahoo.com)>, Rod Jennings <[rjmiracle007@gmail.com](mailto:rjmiracle007@gmail.com)>, Bwayne Smotherson  
<[bsmotherson@gmail.com](mailto:bsmotherson@gmail.com)>, Shelley Welsch <[mayor@ucitymo.org](mailto:mayor@ucitymo.org)>  
**Cc:** Joyce Pumm <[jpumm@ucitymo.org](mailto:jpumm@ucitymo.org)>  
**Subject:** Letter from Counsel for Lehman Walker

Fellow Members of Council :

I have received the following letter from Counsel for Lehman Walker. This affects the City of University City and Council, so I am providing it to the entire Council.

Sincerely,  
Paulette Carr

**Paulette Carr**  
**Councilmember, Ward 2**  
**City of University City**

**7901 Gannon Ave.**  
**University City, MO 63130**  
**PH.: (314) 727-0919**  
**email: [paulettexcarr@gmail.com](mailto:paulettexcarr@gmail.com)**

E-1-59

EXHIBIT 3



MEETING OF THE CITY COUNCIL

CITY HALL, Fifth Floor

6801 Delmar Blvd.

University City, Missouri 63130

November 28, 2016

6:30 p.m.

PART 2

- A. MEETING CALLED TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. PROCLAMATIONS
- E. CITY MANAGER'S REPORT
  - 1. Approval of the consultant's proposal of \$31,207.44 for design and surveying of the Morgan and Wilshire area  
VOTE REQUIRED
  - 2. Approval of award to MTTI for the purchase of the golf course's rough cut mower for \$52,000  
VOTE REQUIRED
  - 3. Approval to award to Clipper Tree Services for the FY17 Annual Tree Trimming Project for \$40,635.00.  
VOTE REQUIRED
  - 4. Approval to authorize the City Manager to sign the contract accepting the quote from Villa Lighting for \$56,100 to upgrade the Olive Boulevard pedestrian lights to LED.  
VOTE REQUIRED
  - 5. Approval to authorize the City Manager to enter into an agreement with the cities of Clayton, Maryland Heights, Richmond Heights and Webster Groves for a Cooperative Recreation Inclusion Coordinator.  
VOTE REQUIRED
- F. COUNCIL REPORTS/BUSINESS
  - 1. Other Discussions/Business
- G. NEW BUSINESS  
RESOLUTIONS
  - 1. RESOLUTION 2016 – 25 A resolution to determine the term of the Ward 1 Councilmember elected in the Special Election held on November 8, 2016.
  - 2. RESOLUTION 2016 – 26 A resolution on non-hostile employee environment

**BILLS**

- 1. **BILL 9301** – 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 a study of the five primary schools in University City to measure prevailing speeds within

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EXHIBIT 4

each of the five school zones and evaluate alternatives to calm traffic and reduce travel speeds during school hours.

H. CITIZEN PARTICIPATION (continued if needed)

I. COUNCIL REPORTS/BUSINESS

1. Other Discussions/Business

J. COUNCIL COMMENTS

K. Roll-Call vote to go into a Closed Council Session according to RSMo 610.021 (1)Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys and (3)Personnel hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded.

L. Adjournment

E-1-61

**MINUTES OF THE UNIVERSITY CITY COUNCIL**  
**CLOSED SESSION**  
**November 28, 2016**

The City Council meeting on November, 2016, was called to order, in the second floor conference room of City Hall, after Council's regular session at 7:50 a.m. by Mayor Pro-term Michael Glickert. In addition to the Mayor pro-term the following members of the Council were present:

Councilmember Steve McMahon  
Councilmember Terry Crow  
Councilmember Paulette Carr  
Councilmember Bwayne Smotherson

The Closed session minutes from May 12, 2016 were moved for approval by Councilmember Crow and were seconded by Councilmember Smotherson. Voice vote for approval carried with Councilmember McMahon abstaining, since he was not present at that meeting.

Councilmember Carr asked the City Clerk to leave but be on stand-by. She asked Councilmember McMahon to take minutes.

Upon vote of Council the meeting continued from open session to closed session without adjournment.

Three resolutions were distributed for reading by members present. Each resolution to be voted upon separately."

Steve McMahon

City Clerk re-entered the meeting. She was asked what would be the next number to be used for a City's resolution for which the City Clerk provided.

Councilmember Carr provided Resolution 2016 – 27 for vote and signatures.

Roll Call vote on Resolution 2016 – 27:

AYES: Councilmembers Carr, McMahon, Crow and Smotherson

NAYS: Councilmember Glickert

Councilmember Carr provided Resolution 2016 – 28 for vote and signatures.

Roll Call vote on Resolution 2016 - 28

AYES: Councilmembers Carr, McMahon, Crow and Smotherson.

NAYS: Councilmember Glickert

Councilmember Carr provided Resolution 2016 – 29 for vote and signatures.

Roll Call vote on Resolution 2016 - 29

AYES: Councilmembers Crow, Smotherson, Carr and McMahon

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Evilinn 5



NAYS: Councilmember Glickert

Councilmember Carr spoke about prepared press release that would be made after Mr. Mulligan contacted Mr. Heimos. There was a consensus with the press release. Councilmember Carr stated that any Councilmember may speak and note that you are speaking for self and not for the City. Any Council prepared statement would need Council's approval.

Councilmember Glickert moved to adjourn the meeting into an open session at 8:25 p.m. The Open session was adjourned at 8:28 p.m.

Joyce Pumm, MRCC/CMC; City Clerk

E-1-63

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI

Jan Adams, )  
 )  
 Petitioner )  
 )  
 Vs. ) No. \_\_\_\_\_  
 )  
 )  
 City of University City and )  
 )  
 Paulette Carr, Terry Crow, Bwayne )  
 )  
 Smotherson and Steve McMahon, )  
 )  
 individually, and as Council Members )  
 of the City of UniversityCity )

**TEMPORARY INJUNCTION ORDER**

This cause coming on to be heard on the Petitioner's request for a temporary injunction; and due notice having been given to Respondents; and the Court having considered the verified facts set out in the Petition and the facts submitted by Respondents and having considered the arguments of counsel and being fully advised in the premises, it finds:

1. Respondents' actions have caused and will continue to cause immediate and irreparable harm to the taxpayers of University City due to the contractual obligations Respondents created by purporting to pass Resolutions 27, 28 and 29.
2. Respondents may continue to cause immediate and irreparable harm to the taxpayers of University City due to the contractual obligations they purport to create in the very near future.

3. Respondents, Paulette Carr, Terry Crow and Steve McMahon, are found to have a conflict of interest relating to the current allegations of intentional torts, which creates various personal liabilities.

4. Resolutions 2016-27, 2016-28 and 2016-29 are not in the best interest of the taxpayers of University City and are hereby declared null and void.

Therefore, it is Ordered that

1. Petitioner's request for temporary injunction is granted and the City of University and the individual Respondents are hereby enjoined from voting on any issue relating to their personal legal liabilities.

2. The Director of Finance of the City of University City is hereby enjoined from expending or transferring any taxpayer funds relating to Resolutions 2016-27, 2016-28 and 2016-29 until further Order of this Court.

3. Respondents, Paulette Carr, Terry Crow and Steve McMahon, are hereby enjoined from casting any votes on issues related to the continued employment of Lehman Walker until further order of this Court.

4. This Order shall be effective for 15 days.

Bond to be determined after hearing on Permanent Injunction.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Circuit Court

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI

Jan Adams, )  
 )  
 ) Petitioner )  
 )  
 ) Vs. )  
 )  
 ) Paulette Carr, Terry Crow, )  
 )  
 ) Steve McMahon and Bwayne )  
 )  
 ) Smotherson, individually and )  
 )  
 ) as Council Members of University )  
 )  
 ) City and the City of University City, )  
 )  
 ) Respondents )

No. \_\_\_\_\_

**PROTECTIVE ORDER**

This cause coming on to be heard on the Petitioner's request for a protective order; and due notice having been given to Respondents; and the Court having considered the verified facts set out in the Petition and the facts submitted by Respondents and having considered the arguments of counsel and being fully advised in the premises, it finds:

1. Respondents' actions have caused and will continue to cause immediate and irreparable harm to the taxpayers of University City due to the contractual obligations Respondents created by purporting to pass Resolutions 27, 28 and 29.
2. Respondents may continue to cause immediate and irreparable harm to the taxpayers of University City due to the contractual obligations they purport to create in the very near future.

E-1-66

3. Respondents, Paulette Carr, Terry Crow and Steve McMahon, are found to have a conflict of interest relating to the current allegations of intentional torts, which creates various personal liabilities.

4. Resolutions 2016-27, 2016-28 and 2016-29 are not in the best interest of the taxpayers of University City and are hereby declared null and void.

Therefore, it is Ordered that

1. Petitioner's request for a protective order is granted and the City of University and the individual Respondents are hereby enjoined from voting on any issue relating to their personal legal liabilities.

2. The Director of Finance of the City of University City is hereby enjoined from expending or transferring any taxpayer funds relating to Resolutions 2016-27, 2016-28 and 2016-29 until further Order of this Court.

3. Respondents, Paulette Carr, Terry Crow and Steve McMahon, are hereby enjoined from casting any votes on issues related to the continued employment of Lehman Walker until further order of this Court.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Circuit Court

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI

Jan Adams, )  
 )  
 Petitioner )  
 )  
 Vs. ) No. \_\_\_\_\_  
 )  
 )  
 Paulette Carr, Terry Crow, )  
 )  
 Steve McMahon and Bwayne )  
 )  
 Smotherson, individually and )  
 )  
 as Council Members of University )  
 )  
 City and the City of University City, )  
 )  
 Respondents )

**ORDER SETTING HEARING ON  
PETITION FOR TEMPORARY INJUNCTION AND  
PROTECTION ORDER**

Upon due consideration, it is Ordered that the Petition for Temporary

Injunction and Protection Order be, and the same is, hereby set for hearing on the

\_\_\_\_\_ day of December, 2016, at \_\_\_\_\_ in Division \_\_\_\_\_.

DATE: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

The undersigned hereby states that the foregoing pleading was served on  
each Respondent, by hand delivery and e-mail, on this \_\_\_\_\_ day of  
\_\_\_\_\_.

\_\_\_\_\_ Jan Adams

E-1-68

RECEIVED AND FILED  
CIRCUIT COURT OF  
ST. LOUIS COUNTY

2017 JAN -6 AM 10: 18

JOAN M. GILMER  
CIRCUIT CLERK

IN THE CIRCUIT COURT OF THE COUNTY OF  
STATE OF MISSOURI

Jan Adams, )  
 )  
Petitioner )  
 )  
Vs. )  
 )  
 )  
 )  
City of University City and )  
 )  
Paulette Carr, Terry Crow, Bwayne )  
 )  
Smotherson and Steve McMahon, )  
 )  
individually, and as Council Members )  
 )  
of the City of UniversityCity, )  
 )  
 )  
 )  
Respondents. )

No. 16SL-CC4405

Div. 41

MOTION TO AMEND ORDER

Petitioner hereby moves this Court to amend its Order dated December 8, 2016,  
and in support of her Motion, states:

1. Petitioner filed for a Temporary Injunction and Protective Order on December 2, 2016, after Respondents, who represent the majority of the City Council of the City of University, withheld vital information from the minority members of Council, called a closed session and voted to pass three (3) Resolutions that purport to spend taxpayer funds for the legal defense of anticipated private causes of action for defamation and infliction of emotional distress.
2. Petitioner asserts that a City cannot be liable for defamation unless the majority of the City Council signs a document that is defamatory. Further, that a member of a

E-1-19

City Council cannot engage in defamation under color of his/her office as that is a violation of tort law and, thus, outside the scope of his/her authority.

3. The City of University City's Motion to Dismiss states, at paragraph 4, that "Petitioner seeks to enjoin Respondents from acts they are already prohibited by law from doing." And, in its Memorandum in Support, page 6, Section B, cites the Missouri Constitution VI, 25, which prohibits the use of public funds for a private purpose. Thus, Counsel for Respondents concedes that taxpayer funds should not be expended as a result of the threat of imminent litigation for private causes of action.

4. At the hearing in Chambers on December 8, Petitioner argued that Respondents, by Resolution, have retained "special counsel" and on her knowledge and belief, John Mulligan was already providing legal services for both the City AND the private interests of the four individual members of City Council. Further, that as a result of the threat of imminent litigation against Respondents, they had Resolved to suspend the City Manager, WITH PAY, and had contracted with Charles Adams to perform services as "Acting City Manager", with no disclosure of the amount of compensation that had been agreed upon. The Resolutions expressly state that they are being passed as a result of the letter threatening litigation.

5. This Court denied the Petition for Injunction, finding that there is no evidence that taxpayer funds are being used improperly, at this time, and if taxpayer funds are used, those funds can be recovered. The Court concluded by stating that it is sure that the



attorneys present would advise their clients of the law and that the clients would follow the law.

6. Petitioner is now filing, contemporaneously with this Motion to Amend Order, a Motion to Amend her Petition to include a Count for Declaratory Judgment.

7. Respondents called another closed session on December 12 to discuss the threat of imminent personal litigation. The newly retained "Special Counsel", John Mulligan, attended both the open session and the closed session for a total of approximately 3 hours at the rate of \$250/hour.

8. On December 13, Petitioner filed a Sunshine Request for the Minutes of the closed session, and received the following response from the City Clerk:

According to the legal advice from the City Attorney the draft minutes of December 12, 2016 closed Council session have not been completed. Furthermore, the meeting was closed pursuant to Sections 610.021 (1) and (3) RSMo and minutes of such a meeting are closed unless and until they are required to be made available to the public under said statute.

9. Petitioner then sent the following request:

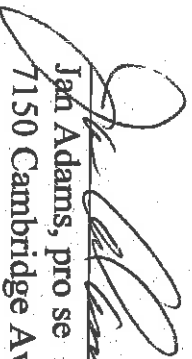
Please identify the "city attorney" who has issued this opinion. Also, please ask said City Attorney to clarify his/her opinion. Is s/he saying that I must obtain a Court Order in order to obtain a copy of the minutes? Would an opinion from the Attorney General be sufficient?

10. Petitioner asserts that Respondents have now paid, or at least committed taxpayer funds, and will continue to commit and expend taxpayer funds, in direct response to the threat of imminent litigation for the individual intentional torts of defamation and infliction of emotional distress.

11. Petitioner filed a Sunshine Request on December 27, 2016, requesting public documents that will support Petitioner's assertions herein. However, Petitioner is concerned that the City will not produce all of the documents before the 30 day period ends for filing this Motion to Amend the Order of December 8.

WHEREFORE, Petitioner respectfully requests that this Court amend the Order of December 8 to schedule an evidentiary hearing and direct Respondents to comply with Petitioner's Sunshine requests.

Respectfully submitted,

  
Jan Adams, pro se  
7150 Cambridge Avenue  
St. Louis, Mo. 63130  
314-497-7815  
[janadams@sbcglobal.net](mailto:janadams@sbcglobal.net)

**CERTIFICATE OF SERVICE**

The undersigned hereby states that the foregoing pleading was served on Counsel for Respondents, by e-mail, on this 6th day of January 2017.

  
Jan Adams

weigh when deciding whether to grant temporary injunctive relief. Again, those factors are: 1) likelihood of success on the merits; 2) the threat of irreparable and immediate harm; 3) the balance of hardships with or without injunctive relief; and 4) whether the public interest will be served by granting the requested injunctive relief. See Gabbert, 925 S.W.2d at 839.

It is Petitioner's burden to prove these facts. This motion to dismiss must be granted upon a Petitioner's failure to allege elements necessary for a cause of action. By failing to allege and analyze the required elements necessary, Petitioner has failed to meet her burden. Since the Petition fails to allege, analyze or present facts or evidence to support the elements necessary for preliminary injunction relief, the Petition must be dismissed for failure to state a claim.

**B. An injunction cannot enjoin what is already prohibited by law.**

Further, a preliminary injunction cannot be utilized to prohibit that which is already prohibited by law. Petitioner's Petition is seeking the court to enjoin Respondents from using or voting to use taxpayer funds for the defense of personal lawsuits. The Missouri Constitution already prohibits the use of public funds for a private purpose. Specifically, no city shall be authorized to grant public money or property to any private individual unless it is for a public purpose. See Mo. Const. art. VI, § 25. It is a basic principle of municipal law that public funds may be expended only for proper public municipal purposes. Dysart v. City of St. Louis, 321 Mo. 514, 11 S.W.2d 1045 (Mo. 1928) (en banc).

Petitioner is seeking the court to enjoin Respondents from doing what is already prohibited by law. As such, Petitioner's Petition fails to state a claim upon which relief can be granted and must be dismissed.



**UNIVERSITY CITY COUNCIL**  
**STUDY SESSION**  
5th Floor of City Hall  
6801 Delmar  
January 9, 2017

**MEETING CALLED TO ORDER**

The City Council Study Session was held in the Council Chambers on the fifth floor of City Hall, on Monday, January 9, 2017. Mayor Shelley Welsch, called the Study Session to order at 5:31 p.m. In addition to the Mayor, the following members of Council were present:

Councilmember Rod Jennings  
Councilmember Paulette Carr, *(Arrived at 5:33 p.m.)*  
Councilmember Steven McMahon  
Councilmember Terry Crow  
Councilmember Michael Glickert;  
Councilmember Bwayne Smotherson

Also in attendance was Acting City Manager, Charles Adams.

No members of Council will be requesting any changes to tonight's regular session agenda.

**AGENDA**

**1. Discussion of next steps related to the City Clerk position.**

Mayor Welsch stated that she and Councilmember Jennings requested this Study Session to initiate a general discussion about the options available for handling the various duties performed by the City Clerk's office going forward. And although late with respect to its delivery, each member had been provided with information to review for tonight's session. Mayor Welsch informed members that the Director of Finance was in attendance to answer any questions and that the discussion should not include any specifics related to personnel matters.

Councilmember Crow stated that in spite of the fact that he still has several questions regarding the guiding principles behind FMLA, and Council's ability to move forward this evening, he would be curious to know whether the City has a Director of Human Relations? Mr. Adams stated that the former Director recently accepted a new job outside of City Hall, and in the interim, all HR-related matters are being handled by the Director of Finance and her staff. Interviews are currently underway to hire a replacement for the Human Relations manager.

Councilmember Smotherson stated that while he appreciates the Mayor's information, without the knowledge of the current City Clerk's status, and a

response to questions he had previously posed, he is uncertain as to whether Council could actually move forward on this matter.

Mayor Welsch stated that she would like to note that tonight's regular meeting agenda includes a request by Councilmembers Smotherson and Carr to vote on issues related to this topic. This session is being conducted simply to discuss available options that would allow the City to successfully move forward during this transitional phase.

Councilmember Jennings stated that unfortunately, unlike a football team, the City has not developed a reinforcement strategy for things of this nature. So he thinks it would be wise for Council to look at options to address the issue.

Mayor Welsch stated that her options included hiring someone on a temporary rather than permanent basis, since at this point, no one knows how long the City Clerk will be on leave.

Councilmember Smotherson stated that while he understands that this topic is on tonight's regular agenda, that's still somewhat different from having a Study Session on what the Mayor has labeled a transition. In his mind, the Clerk's status must first be addressed, and the City Attorney should be present to corroborate whether this is even a legal discussion.

Mayor Welsch stated that what is on tonight's regular agenda has substantially more impact than this Study Session, where several members have asked for a vote regarding the creation of another position; which is contrary to what she is recommending, although that is provided as an option to consider.

Councilmember Jennings stated that it was his understanding that everything regarding this FMLA request had been done in accordance with the City's personnel policies.

Councilmember Smotherson stated that in his mind, receipt of a doctor's statement and email from the City Clerk, does not mean that this is an appropriate topic for tonight's session.

Mayor Welsch stated that temporary employees have been hired in the past to assist when permanent employees are on leave. Since there is no one in the City Clerk's office to perform this job, there is a need to find someone who can do so.

Councilmember Glickert echoed the Mayor's comments regarding the need to find someone, at least on a temporary basis. That should be Council's immediate focus, and any unresolved issues or questions regarding personnel matters should be reserved for Executive Session.

Councilmember Glickert asked Ms. Charumilind if funds were available to hire a temporary employee? Tina Charumilind, Director of Finance, stated that although she would have to review the budget again, her belief is that she could amend the budget to include the salary for a temporary hire.

Councilmember Carr thanked Mayor Welsch for the information she had provided, and stated that she had been told that at various times Deanna Townson had performed these duties on a temporary basis in the past.

Mayor Welsch agreed that Deanna, whose current status she is uncertain of, had assisted during City Council meetings in the past, although did not believe she had performed any of the additional responsibilities associated with the City Clerk's position.

Ms. Charumilind informed Council that currently, Ms. Townson is the secretary to the Chief of Police.

Mayor Welsch asked Ms. Charumilind if there was anything she wished to add to the discussion? Ms. Charumilind explained that FMLA had been utilized by 26 employees in 2016, and that by law, it is the City's responsibility to approve such requests as long as the employee has met the following criteria: they have worked over 1,250 hours, and they have coordinated this action with their supervisor. Upon approval, an employee is allowed to take up to twelve weeks of unpaid, job-protected leave per year.

Mayor Welsch asked Ms. Charumilind if the provisions of FMLA permitted employees to take leave for health-related issues and the care of family member? Ms. Charumilind stated that that was correct, as well as the birth and care of an employee's newborn child.

Councilmember Carr asked Ms. Charumilind if the City Clerk's position was governed by the policies established in the Employees Handbook? Ms. Charumilind stated that the City Clerk's position is treated the same as all other employees.

Councilmember Carr stated that any additional questions she had should probably be covered in a closed session, and therefore would request that Council include this on the Executive Session under personnel. Mayor Welsch acknowledged that Councilmember Carr had included personnel matters on the closed-session agenda.

Councilmember Carr stated that she had contacted GovTempsUSA regarding this matter, and in the event Council elects to go this route, would like to provide everyone with a copy of their response detailing the agency's specializing in placing professionals in local government positions.

Mayor Welsch asked Councilmember Carr if this was a fee-based service? Councilmember Carr stated that it was. However, the temporary employee would be vetted and any benefits would be absorbed by the agency.

Councilmember Crow asked Mr. Adams if he was aware of any internal solutions to this problem? Mr. Adams stated that currently staff is taking care of the immediate needs. However, since he is uncertain as to how long the City Clerk will be on leave, his belief is that the most viable solution would be for Council to hire someone on a temporary basis. And if this individual is vetted, it would certainly make for a smoother transition.

Councilmember Crow asked Mr. Adams if he had an estimated timeframe for how soon he would like to see this vacancy filled? Mr. Adams stated that although he and his staff are going to do whatever they can to make sure things run as smoothly as possible, it would be greatly appreciated if the position could be filled within the next few weeks.

Councilmember Jennings stated that the information provided by Councilmember Carr is essentially, Kelly Girls for government entities, which seems to indicate that they can provide immediate placement of a vetted individual, benefits, and an extensive background check. So, he would like to receive more information about how soon they could provide a replacement, the cost to the City, and whether they offer any temp-to-hire options?

Mayor Welsch informed Councilmember Jennings that she did not believe Council should probe in to the topic of a permanent replacement.

Councilmember Carr stated that she had not delved deep enough to discern any of the questions posed by Councilmember Jennings. However, if Council would like, she could contact the agency tomorrow and obtain additional information. Mayor Welsch stated that she would be in favor of proceeding in that manner.

Councilmember Jennings inquired whether it would be appropriate to include Ms. Charumilind in the screening process? Mayor Welsch stated that although she is certain that Council will be asking Ms. Charumilind's department for assistance moving forward, the responsibilities associated with the City Clerk's position rests solely with Council.

Councilmember Glickert stated that he appreciated Councilmember Carr taking the time to gather this information and thinks that Council should take the comments made by the Acting City Manager seriously, and make a decision within the next two weeks.

Mayor Welsch stated that since there seems to be a consensus among Council, she would ask Councilmember Carr to contact the agency tomorrow and inform members of her findings. A subcommittee can then be established to work out the



details, if Council finds it beneficial to do so. Councilmember Carr agreed to obtain the additional information.

Ms. Charumilind suggested that Council give consideration to the customary practice of requesting several applicants, who can then be interviewed to determine who Council believes would be best suited for this position. And in the event that that person does not work out, they would already have an alternative replacement.

Mayor Welsch informed Councilmember Carr that she would also be interested in knowing whether this agency has any provisions in place that address employees who will be asked to work in sensitive areas related to legal and confidential matters. Because it is her belief that the City should make certain that their contract includes such a remedy, in the event a breach occurs.

**ADJOURNMENT**

Hearing no additional questions or comments, Mayor Welsch adjourned the Study Session at 5:51 p.m.





## Council Agenda Item Cover

**MEETING DATE:** January 23, 2017

**AGENDA ITEM TITLE:** 8100 Block of Teasdale Ave. – Drainage & Road Improvements

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

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

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### **BACKGROUND REVIEW:**

The project begins at the intersection of Westview Drive and Teasdale Avenue to the west and ends at the three way intersection of Teasdale Avenue, Gay Avenue, and Mapleview Drive. This includes approximately 500 feet of roadway with a proposed survey corridor width of 100 feet.

The Teasdale Avenue Rehabilitation project proposes to install drainage improvements which include, but is not limited to, concrete curb and gutter, curb inlet sump reconstruction, and pavement underdrain systems. Along with the proposed drainage improvements, the existing roadway pavement will be removed and replaced with full depth bituminous pavements mixture. The project limits currently does not include pedestrian facilities and it is not the intention of this project to add pedestrian facilities.

Thouvenot, Wade and Moerchen, Inc. (TWM) is the engineer/consultant selected based on qualifications for this project. They will provide design engineering, technical evaluation, and geotechnical support.

University City has utilized TWM's services for other improvement projects and they currently provide technical assistance for the Geographical Information System (GIS) setup and maintenance for the Public Works and Parks Department.

Consultant cost - \$39,000

This project is proposed to be funded by the capital improvement sales tax, 12-40-90\_8120 – Stormwater Improvement account.

### **STAFF RECOMMENDATION:**

Staff recommends approval of the attached proposed engineering services contract for the 8100 block of Teasdale Ave. Drainage and Road Improvements project.

### **ATTACHMENT:**

Engineering Services Contract Proposal – TWM, Inc.

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## CONTRACT AGREEMENT FOR TRANSPORTATION ENGINEERING SERVICES ROADWAY REHABILITATION AND RECONSTRUCTION TEASDALE AVENUE

### GENERAL PROJECT SCOPE

The Teasdale Avenue Rehabilitation project proposes to install drainage improvements which include, but is not limited to, concrete curb and gutter, curb inlet sump reconstruction, and pavement underdrain systems. Along with the proposed drainage improvements, the existing roadway pavement will be removed and replaced with full depth bituminous pavement mixture. The project limits currently does not include pedestrian facilities and it is not the intention of this project to add pedestrian facilities.

The project begins at the intersection of Westview Drive and Teasdale Avenue to the west and ends at the three way intersection of Teasdale Avenue, Gay Avenue, and Mapleview Drive. This includes approximately 500 feet of roadway with a proposed survey corridor width of 100 feet.

Investigating existing GIS parcel data, provided by St. Louis County online services, has determined that the existing right-of-way width along the project corridor is approximately 50 feet wide. This right-of-way width provides sufficient width for construction activities and, for the purpose of this contract, it is assumed all proposed improvements will be located within existing right-of-way.

### SCOPE OF CONSULTANTING SERVICES

In order to achieve the above project goals and objective, the CONSULTANT will provide:

#### I. PROJECT MANAGEMENT

- a. *Client Coordination* will be anticipated for the approximate duration of the schedule. It is anticipated that all meetings may be held at University City Hall office, at the project site, or through conference phone calls. The CONSULTANT will prepare meeting minutes and distribute to all attendees.
- b. *Internal Team Meetings* will be held as needed to ensure that all team members are operating under the same directions and following the same guidance for the project. Four (4) meetings are assumed for this task.
- c. *Invoices* will be prepared monthly for the duration of the project (assume 6 months).
- d. *Quality Control Plan* - CONSULTANT will establish review and checking procedures for the project deliverables. This includes designated responsibility for implementation of the Plan. Quality Assurance (or the process of executing the established Quality Control procedures) will be included in each individual task items and will be completed at appropriate points in time for that specific task. However, for major deliverables that require assembling data from many different tasks, an additional review will be completed. It is anticipated that these reviews will be completed prior to submittal of the following deliverables:

- Topographic Survey Results
- Preliminary Plan Submittal
- Final PS&E Submittal

#### II. RECONNAISSANCE PHASE

##### 2. Topographic Surveys:

Provide the location of existing topographic and planimetric features within the survey area as shown in *Exhibit A - Teasdale Survey Limits* and defined as follows:

- i. Topographic survey will be conducted and will be of a density to produce accurate 1-foot interval contours and referenced to NAVD88 datum.

The topographic survey corridor described above will include, but is not limited to:

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- Storm sewer inlets and manholes, including incoming and outgoing flowlines and pipe sizes.
- Sanitary sewer manholes, including incoming and outgoing flowlines and pipe sizes.
- Landscaping Areas (shrubs, bushes, mulched planting beds, etc.)
- Visible Irrigation sprinkler heads
- Trees (all sizes)
- Edge of pavement and type (no jointing)
- Edge of sidewalk and type (no jointing)
- Highway and street signs.
- Highway or Street lights, and corresponding conduit runs based upon utility locate marks, by Missouri One Call, Mailboxes
- Traffic signal bases, posts and pull boxes, and corresponding conduit runs based upon utility locate marks.
- Signal, or utility, boxes, and corresponding conduit runs based upon utility locate marks, by Missouri One Call, Utility valves and meters
- Utility poles
- Fiber Optic Manhole / Vault, including depth of structure, top slab thickness and manhole frame depth
- All ridges or valleys or any other breaklines necessary for an accurate Digital Terrain Model (DTM) of the project, and all other pertinent existing features which may affect the proposed design.
- NOTE, we will contact the appropriate underground utility designating authorities, and wait the required period prior to beginning our field work, one time. This proposal does not include contacting the underground utility designating authorities multiple times, or returning to the site multiple times to locate utility markings not made within the initial time period.

ii. The CONSULTANT will provide the labor and material for the following:

- ASCII file containing all points, elevations, and descriptions of all shots taken.
- CAD file in Microstation format per Missouri Department of Transportation (MoDOT) CAD standards containing all of the above information, processed to MoDOT standard symbology in the Modified State Plane coordinate system.
- Digital Terrain Model (DTM) of the project.
- Benchmarks used, control points set, and any reference datum required for the project in an electronic. Control points shall be three-point tied to existing features outside of the proposed construction limits of the project and spaced no more than five hundred (500') feet apart.
- Description of the coordinate system zone used, geographic reference station used, coordinate values held for azimuth and direction, the grid factor, and the origin point for scaling for the project in an electronic file.

b. **Geotechnical Report:**

TSI Geotechnical, Inc., will be responsible for the required geotechnical services and delivering geotechnical reports as needed to complete this project. Likewise, TSI will provide an assessment of the existing pavement structure and provide a recommendation of the proposed pavement structure based on forecasted traffic for the design year.

Geotechnical investigations will include the analysis of the existing ground water table due to, known, local seepage issues that have resulted in pavement repairs.

III. **PRELIMINARY DESIGN PHASE**

The CONSULTANT will provide Preliminary Plans and cost estimate that are approximately 70% complete. These plans will show the general nature of the proposed improvements and will include the following:

- a. **Field Check:** The CONSULTANT will complete a field check to review and evaluate the topographic survey, as described below, prior to proceeding to the Preliminary Design Phase.
- b. **Cover Sheet** with project information, legend, sheet index, location map, and other items as is typical.
- c. **Typical Section Sheet - One (1) Typical Section** sheet is anticipated to display existing pavement structure and proposed improvements for the roadways described above.

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- d. **Plan / Profile Sheets** - Plan / Profile sheets will be drawn to a scale of 1" equals 20' horizontally and 1" equals 5' vertically with an aerial background. Design of horizontal and vertical alignments shall be sufficient to provide construction limits and cross sections. Profiles may be sheeted separately from the plan view, as directed by the CONSULTANT, to promote clarity of the proposed improvements. The following describes the plan / profile sheet:

*Teesdale Avenue* - One (1) sheet is expected for the Teesdale Avenue improvements. The plan / profile sheets will depict the replacement of existing pavement and curb and gutter. Existing property information, based on available GIS Parcel Data, will be included along with proposed construction limits. Replacement of existing striping will be depicted on the plan / profile sheets rather than separate marking sheets.

- e. **Drainage Analysis** - A preliminary analysis of storm water drainage impacts will be completed. A preliminary storm water drainage layout will be designed and shown on plan sheets. A technical narrative will be completed summarizing this task. The narrative will include the following:

- i. Delineation of Existing Drainage Areas
- ii. Analysis of Existing Pavement Drainage
- iii. Analysis of Existing Enclosed Storm Sewer System
- iv. Conceptual Enclosed Storm Sewer Improvements
- v. Determination of Phase II Water Quality Requirements
- vi. Conceptual Water Quality and Quantity Features (as required)
  - The CONSULTANT will investigate the feasibility of permanent Water Quality and Quantity BMP's
  - The CONSULTANT will recommend permanent BMP's based on constructability, future maintenance and cost
- vii. MSD submittal to include Drainage Technical Memo along with the Preliminary Plan drawings.

NOTE: It is anticipated that the "disturbed area" of this project will be less than 1 acre, refer to *Exhibit A - Teesdale Survey Limits*. Therefore, for the purpose of this contract, it is assumed that the St. Louis Metropolitan Sewer District's Phase II Water Quality and Quantity requirements will not be triggered. Design of water quality and quantity BMP's is not part of this scope.

- f. **Cross Sections Sheets** - Mainline will be shown at fifty-foot intervals along the proposed centerlines of the alignment, drawn at a scale of 1" equals 5' both horizontally and vertically. Cross sections shall include:
  - i. Existing ground lines with existing pavement thickness (based on borings)
  - ii. Existing right-of-way based on GIS Data
  - iii. Existing surveyed subsurface utilities
  - iv. Proposed pavement and slope ties (construction limits)
- g. **Prepare Preliminary Engineer's Estimate of Probable Cost (EEOPC)** - The CONSULTANT will, based on the preliminary plans, will complete an engineer's estimate of probable cost utilizing MODOT's Estimate program, as well as other sources of published unit bid prices for construction.
- h. **Preliminary Plan Submittal** - The CONSULTANT will revise the construction plans based on the review comments received and resubmit the required number of revised plan sets to the Local Agency for approval. For the purpose of this contract, one resubmittal is anticipated.

#### IV. FINAL DESIGN PHASE

The CONSULTANT will provide 100% Final Plans, Specifications, and Estimate (PS&E) that will include the sheets developed in the Preliminary Design Phase with the additional sheets included:

- a. **Schedule of Quantities** - Quantity sheets (Summary "A-Sheet" and "2B-Sheet(s)") with subsequent quantity breakdown per item / per sheet will be provided.
- b. **Reference The Sheet** - Sheets depicting adopted and set control for the project. Each reference point shall be three-point tied to existing features located outside proposed construction limits.
- c. **Intersection Warping Detail Sheets** - The CONSULTANT will develop warping sheets, as required, for inclusion in the final design plan set. It is anticipated that two (2) warping sheets will be required to effectively depict improvements along the corridor.

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- d. *Storm Sewer Profile Sheets* - If the Preliminary Design Phase determines that improvements to the existing enclosed drainage facilities are required, proposed profiles for storm sewer pipe will be create and drawn at a scale of 1" equals to 20' horizontally and 1" equals 5' vertically.
  - e. *Traffic Control Plan Sheets* – The CONSULTANT will develop detailed Traffic Control Plans that will indicate construction staging and traffic handling during construction conforming to the requirements of the MUTCD and the MODOT Engineering Policy Guidelines.
  - f. *Prepare Final Engineer's Estimate of Probable Cost (EEPC)* - The CONSULTANT will, based on the final plans, will complete an engineer's estimate of probable cost utilizing MODOT's Estimate program, as well as other sources of published unit bid prices for construction.
  - g. *Project Specifications* - Missouri Department of Transportation Standard Specifications will be adopted for the specifications of this project and appended as needed in the Job Special Provisions. The CONSULTANT shall prepare all necessary Job Special Provisions (which supersede MODOT's Standard Specifications) for review and approval by the Local Agency. The Local Agency will provide the front-end Contractual documents and the CONSULTANT shall advise the Local Agency of any needed changes to these documents to correlate with JSPs or meet other applicable requirements.
  - h. *Final PS&E Submittal* – The CONSULTANT will revise the construction plans based on the review comments received and resubmit the required number of revised plan sets to MODOT for approval. For the purpose of this contract, one resubmittal is anticipated.
- V. BIDDING AND CONSTRUCTION PHASE**  
Bidding and Construction Phase Services for this project will include:
- a. The CONSULTANT will assemble the bid package and coordinate the submittal of the bid package to the CITY's vendor of choice for online plan distribution and tabulation.
  - b. Issuing written clarifications in response to RFIs (in the form of addenda to the advertisement for bids).
  - c. Answer contractor questions during construction and make periodic site visits when requested by the CITY, for special issues regarding plan conformance or plan interpretation.

**VI. EXCLUSIONS TO THIS PROPOSAL**

- a. BMP design to satisfy Phase II Water Quality and Quantity Calculations for MSD Permits.
- b. Shop Drawing Review: The CITY shall handle all shop drawing submittals.
- c. Completion of traffic counts neither by automated means nor by hand count.
- d. Right of Way Plan Sheet & Acquisition Summary Sheets
- e. Boundary Survey and Right of Way Acquisition Services
- f. Separate Pavement Marking Sheets
- g. Design and Layout of Roadway Signage
- h. Public Interfacing, Public Meetings, Individual Stakeholder Meetings
- i. Construction and Boundary Staking
- j. Noise Analyses, Air Quality Analyses
- k. Wetland Mitigation / Soil Mitigation Plan.
- l. Archeological / Historical / Cultural Exploration
- m. Hazardous Waste Investigations/Exploration

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- n. Any fees required for approvals or permits
- o. Any work related to condemnation of specific parcels.
- p. Utility Coordination Design for relocation of existing utilities.
- q. Construction Inspection and/or observation

**VII. SCHEDULE**

The schedule listed below identifies approximate project milestone dates that by mutual agreement may be adjusted to address changes in review cycles or other issues.

Estimated Calendar Days:	200 Days
Assuming a Notice to Proceed Date:	January 16 <sup>th</sup> , 2017
Reconnaissance Submittal:	March 17 <sup>th</sup> , 2017
Preliminary Submittal:	May 16 <sup>th</sup> , 2017
Final PS&E Submittal:	August 4 <sup>th</sup> , 2017

**VIII. FEE TO COMPLETE SCOPE OF SERVICES**

Our services will be provided in accordance with the following:

We will provide the services outlined above at our **Hourly Rates, as listed in Exhibit C - Schedule of Fees, not to exceed:**

Total for Design Phase = **\$39,000.00**

For details of fee, see **Exhibit B – Manhour Breakdown.**

**VIII. INSURANCE**

We agree to obtain insurance from a reputable insurance company and to maintain that insurance throughout the term of this contract. Our current insurance coverage and limits are included in this contract as **Exhibit D – Schedule of Insurance**. At your request, we will provide you with a certificate of insurance on the standard ACCORD form issued by an authorized representative of our insurer, as evidence that we have obtained insurance coverage applicable to this Agreement.

As to Professional Liability/Errors & Omissions Insurance, we agree to maintain that insurance throughout the design and construction of this project, and for a period of one year following substantial completion, provided that coverage is reasonably available at commercially affordable premiums. For the purposes of this Contract, "reasonably affordable" and "commercially available" mean that more than half the design professionals practicing in the State of Illinois and in this specific discipline are able to obtain such coverage.

You may request that we secure and provide project specific insurance with higher limits than we would normally carry, and for a specific length of time, provided that you also agree to pay for the higher cost of the premiums for that insurance.

**VIX. BILLING & PAYMENT.**

We will bill you on a monthly basis for any services under the **Scope of Services** above, as well as for any additional services you requested, and any reimbursable costs we have provided to date. If you have a question about or disagree with any portion of any invoice, you should notify us in writing within fifteen (15) calendar days of receipt of the invoice, specifically describing the reason for your dispute. We will then work towards resolving any issue with you within thirty (30) calendar days. You must pay the full amount of the invoice unless a portion of the invoice is in dispute, and in that case you must pay any portion of the invoice that is not in dispute while we work to answer your questions or resolve any issue you have raised.

Our payment terms require that the full amount of our services be paid within 30 days of invoice. If payment for services we provide to you is not received by us within thirty (30) calendar days of the invoice date, you agree that while we are not obligated to do so, we have the right to charge interest at a rate of up to one and one-half (1½) percent (or the maximum allowable by law, whichever is lower) on the PAST DUE amount each month it remains past due.

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**X. SPECIFIC TERMS & CONDITIONS.**

In addition to the General Terms and Conditions below, please note the following:

- You are responsible for paying any permit and / or application fees, any fees required by municipal ordinance, code, or other regulatory agency, and any fees for activities including but not limited to legal recordation or title report.
- You agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) should you fail or refuse to comply with any local, state or federal ordinance, code, law or other regulation as they apply to this project, or should your other consultants, subcontractors, contractors or subcontractors, fail or refuse to comply with any local, state or federal ordinance, code, law or other regulation as they apply to this project, and an injury, claim or loss arises or is alleged as a result.
- This Contract does not provide for the design of private utilities including, but not necessarily limited to, natural gas, electric, cable TV, and telephone. The contract and our pricing assumes that the design of said utilities will be undertaken by the respective utility companies.
- Although we provide many different professional services, those that you have requested are listed above. We have no obligation to provide services to you beyond those listed, or to offer advice or direction on any other matters.
- You agree to not initiate any construction based upon our plans until any and all required permits and approvals are received from any issuing agency or municipality. Should you disregard this limitation and initiate work or seek bids prior to plan approval or permits being issued, and should the municipality or issuing agency require modifications to the plans as we submitted, we are not responsible for the revised bid prices that may result, or for the cost to remove, modify or otherwise change any construction performed prior to the issuance of a permit.
- As part of your review, should you detect what you believe to be errors, necessary changes, or failure on our part to complete our responsibilities under the Basic Scope of Services above, you are to immediately notify us. We will then correct any errors you note or complete any remaining tasks, as necessary.
- If your review is delayed for some reason, we may temporarily suspend work until you are able to complete the review, so that we are able to make any required changes before proceeding with the project.

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**ACCEPTANCE.**

Assuming that this document accurately reflects our conversation and the terms under which we are to perform this work, please sign at this page, keep a copy for your records and return or mail the original signature copy to us. We will begin work when we have received the signed agreement and retainer.

This Agreement and the General Terms and Conditions below, as well as any other attachments comprise the final and complete agreement between you and us. It supersedes any prior communication, representation, or agreement, whether oral or written, relating to the subject matter of this Agreement. By signing this Agreement you acknowledge that you have read the document thoroughly, have had any questions explained and are satisfied. Amendments to this Agreement will not be binding unless made in writing and signed by both of us.

**THOUVENOT, WADE & MDERCHEN, INC.**

  
J.R. Landeck, P.L.S., P.E.,  
St. Louis Branch Manager

Date \_\_\_\_\_

720 Olive Street, Suite 200A  
St. Louis, MO 63101  
Phone: (314) 241-6300

**CITY OF UNIVERSITY CITY, MISSOURI**

Signature of City Manager \_\_\_\_\_

Date \_\_\_\_\_

Typed or Printed Name \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Cell: \_\_\_\_\_

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## GENERAL TERMS AND CONDITIONS

**GOVERNING LAW.** Because of our corporate headquarters location, this Contract, its validity, interpretation and performance, will be governed by the laws of the State of Missouri.

**TITLES.** The paragraph titles used in this Contract, and in any attachments, are only for general reference and are not part of the Contract.

**TERMINATION.** Either you or we may terminate this Contract at any time with or without cause upon giving the other party thirty (30) calendar day's prior written notice. Regardless of who initiates termination, within thirty (30) calendar days of such termination you agree to pay us for all services rendered and all costs incurred up to the date of termination.

**SUSPENSION OF SERVICES.** If you suspended work on the project for more than thirty (30) calendar days in the aggregate, we are obviously entitled to compensation for the services we performed and the charges we incurred prior to that suspension. Upon resumption, we may also be entitled to a fair adjustment to our fees to help offset the resulting demobilization and remobilization costs, as well as a fair adjustment in the project schedule because of the suspension. You also agree that we are entitled to be paid, and that you will pay us, for all the services we provide to you, even if you subsequently decide not to proceed with your project.

**DEFINITIONS.** Sometimes people assume the meaning of specific words commonly used in the construction industry, but that presumed meaning may not be accurate. For the purposes of this Contract, and unless otherwise specified in this Contract, you agree with us that the following words, and their derivative words or phrases, will have the meaning indicated below:

- **CERTIFY, CERTIFICATION:** A statement of our opinion, to the best of our professional knowledge, information and belief, and based on observed conditions. Any such statement of opinion does not constitute a warranty, either express or implied. You understand that our certification does not relieve you or your contractors of any responsibility or obligation they may have by industry custom or under any contract.
- **COST ESTIMATE:** An opinion of probable construction cost made by us. If we provide a cost estimate or an opinion of probable construction cost, you recognized that we have no control over the actual costs of labor, equipment or materials, or over the methods used by contractors and bidders to determine prices or bidding. Any opinion of probable construction costs is therefore based upon our reasonable professional judgment, experience, and the data available to us at the time, and does not constitute a warranty, express or implied, that any bids or the negotiated price of the work will not vary from your budget or from that opinion of probable cost previously prepared by us.
- **DAY, DAYS:** The term "day" means a calendar day of 24 hours. The term "days" means consecutive calendar days of 24 hours each, or any fraction of a single day.
- **INSPECT, INSPECTION:** The visual observation of the Work involved in this project as it is being constructed, in order to permit us, as experienced and qualified professionals, to determine that the Work, when completed by the Contractor, generally conforms to the plans, specifications and Contract Documents. If we make any such inspections for you, you agree that we are not guaranteeing, and that we have no authority or control over, the Contractor's performance or his failure to perform the Work in accordance with the Contract Documents. We also have no responsibility for the means, methods, techniques, sequences or procedures selected by the Contractor, or for the Contractor's safety precautions and programs, or for the failure of the Contractor to comply with any laws or regulations relating to performing or furnishing the Work under their Contract.
- **RECORD DOCUMENTS:** Drawings prepared by us upon the completion of construction. These are typically based upon market-up drawings and other data furnished to us by the Contractor and / or others showing significant changes in the Work made during construction. Some refer to these as "as-builts" but because Record Documents are prepared using unverified information provided by others, we don't make any warranty as to the absolute accuracy or completeness of the drawings we prepare, and in fact because of the source of the information we use, the drawings we provide to you may not accurately reflect what was built.
- When you see the words "us", "we", and "our" they generally refer to TWM INC., as well as our officers, partners, employees, agents and subcontractants.
- When you see the words "you" or "your", they generally refer to you as the CLIENT, as well as your officers, partners, employees, agents and subcontractants.

**SCOPE OF SERVICES.** Both you and we have agreed to a list of Basic Services that we will provide to you at an agreed upon price. Those services are listed in the Scope of Services section. Services not specifically listed in this section are excluded from the scope of our work and we therefore assume no responsibility to perform those services. If you ask us to perform additional services we will do so at our prevailing fee schedule. On some projects we are asked to provide only surveying or construction staking services, or to design only specific aspects of the project, while someone else provides those aspects of the design not provided by us. This may be the case in a "design-build" project as well, where the contractor provides some "design" services. In all such cases you agree that we have no responsibility, and accept no responsibility, for any design performed by others, or for detecting errors in their design, or for bringing any such possible errors to your attention.

**TIMELINESS OF PERFORMANCE; DELAYS.** We will perform our services with due and reasonable diligence consistent with sound professional practices. However, we are not responsible for delays caused by factors beyond our reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, your failure to furnish timely information or approve or disapprove of our services or work product promptly, or delays caused by your faulty performance or by Contractors at any level. When such delays beyond our reasonable control occur, you agree that we are not responsible for damages, nor shall we be deemed to be in default of this Contract.

**CERTIFICATIONS, GUARANTEES, & WARRANTIES.** We will not be required to sign any documents, no matter who makes the request, which would result in our having to certify, guarantee, or warrant the existence of conditions, when we did not observe the existence of those conditions and can not otherwise determine their existence. You agree not to make the resolution of any dispute with us, or the payment of any amount due to us, in any way contingent upon our signing any such certification. In addition, we will not be required to execute any documents subsequent to the signing of this Contract that in any way might, in our sole judgment, increase our contractual or legal obligations or risks, or the availability or cost of our professional or general liability insurance.

**INFORMATION PROVIDED BY OTHERS.** We may need you to provide to us with some specific information so we can perform our Scope of Services. Typically that at least includes a current title insurance commitment or title insurance policy pertaining to the subject property so that we can determine the legal description of the property and the easements, covenants, conditions and restrictions encumbering it. You are also obligated to provide us with any additional information available to you or to your other consultants or contractors that might be applicable, necessary or helpful to us in performing our Scope of Services. With all such information you acknowledge that we have to trust the accuracy, completeness and sufficiency of information when it is provided by you or someone else. Still, there are a number of possible reasons why the information may not be accurate, including that errors or omissions may have occurred in the information when assembled and provided by you, or you may fail to produce all the necessary or appropriate documents or information. Even so, you agree that for any information provided by you or others, we are entitled to rely upon it, and to assume that it is accurate, complete, and in compliance with applicable rules, regulations, codes and laws. You therefore also agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) should you provide documents or other information for our use, and an injury, claim or loss arises or is alleged based upon errors, omissions, inaccuracies or code violations contained within the information you or someone else provides.

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**GENERAL TERMS AND CONDITIONS (CONTINUED)**

**UNDERGROUND UTILITIES & SUBSURFACE CONDITIONS.** Our Scope of Services may require that we indicate the location of underground utilities on our survey or plans. If so, we will request that the location of those underground utilities be identified by surface markings. We do this by calling J.U.L.I.E. (State of Illinois) or MO ONE-CALL (State of Missouri) or any other appropriate "one-call" utility location service. You also agree to provide us with any information you might have about easements, pipelines, personal communication cables, or any subsurface conditions that might not otherwise be known or located. We then prepare our survey / plans indicating the locations of existing underground utilities, as they have been marked, or disclosed by you. However, you again recognize and understand that in order for us to provide this service, we are dependent upon information provided by others, and that the information upon which we must rely may contain errors or be incomplete for a number of reasons, including: 1) joint utility location services or their member companies may refuse to locate buried utilities during the design phase of a project; 2) the actual location of utilities sometimes deviates from the surface location marked by joint location services; 3) not all utilities are members of joint location services and therefore may not be notified by them; and; 4) member utilities may not respond to all requests for utility location. You should also recognize and understand that surface location markings do not identify the depth of underground utilities. You therefore agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) should the markings provided by a utility location service prove inaccurate or incomplete, and property damage, injury or economic loss arises or is alleged because of a contractor's reliance on underground utility information contained in plans prepared by us.

While we will indicate subsurface utilities on our plans and surveys in a manner consistent with the ordinary standard of care, unless specifically required to do so in the Scope of Services, we will not excavate, uncover or inspect actual underground utilities to indicate a more precise location, condition or capacity, or to try to determine the existence of any subsurface condition that might impact the eventual construction of the project.

**STANDARD OF CARE.** Services provided by us under this Contract will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

Both you and we owe a duty of care to the public that requires both of us to conform to applicable codes, standards, regulations and ordinances, principally to protect the public health and safety. You will make no request of us that, in our reasonable opinion, would be contrary to our professional responsibilities to protect the public. You will take all actions and render all reports required of you in a timely manner. Should you fail or refuse to take any required actions or render any required notices to appropriate public authorities in a timely manner, you agree that we have the right to exercise our professional judgment in reporting to appropriate public officials or taking other necessary action. You agree to take no action against us or attempt to hold us liable in any way for carrying out what we reasonably believe to be our public responsibility. You also agree that in this situation, we have the right to immediately terminate this Contract and cease providing services, without the notice we would normally provide under the Termination or Suspension of Services sections of this Contract.

In order to minimize frivolous lawsuits, you will make no claim for professional negligence against us, either directly or in a third party claim, unless you have first provided us with a written certification executed by an independent professional currently practicing in the same discipline as us and licensed in the State of Missouri. This certification shall: a) contain the name and license number of the certifier, b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of a professional performing professional services under similar circumstances; and c) state in complete detail the basis of the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to us not less than thirty (30) calendar days prior to the institution of any claim.

**JOBSITE SAFETY.** Our employees will perform their work in a safe manner and in accordance with applicable rules and regulations. We are responsible for the safety of our own employees on the jobsite but will follow instructions of the General Contractor when those employees are in an area of the jobsite controlled by the General Contractor. Both you and we agree that the General Contractor is solely responsible for jobsite safety, and you agree that it is your responsibility to make that evident to your General Contractor. Neither our professional activities, nor the presence of our employees or subcontractors at a construction site, will relieve the General Contractor or any other entity of their responsibility for jobsite safety or for their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Neither we nor any of our employees has the authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. You also agree that in order to further protect all of us, you, we, and any subcontractors we employ, will be indemnified and made additional insureds under the General Contractor's general liability insurance policy, endorsed under ISO Form CG 20 10 11 85, unless a different form is proposed and accepted by us.

**UNAUTHORIZED CHANGES.** In the event you allow, authorize, consent to or approve of anyone else making changes to any plans, specifications or other construction documents prepared by us, and those changes are not approved in writing by us, you recognize that said changes and the results thereof are not our responsibility. You therefore agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) should you, or any of your agents or representatives other than us, make unauthorized changes to drawings and data provided by us.

**SUPPLANTING DESIGN PROFESSIONAL.** If, for any reason, we do not complete all the services contemplated by this Contract, we cannot be certain of the accuracy, completeness or workability of any documents prepared by us, especially if they are used, changed, or completed by you or someone else. Since the accuracy of any such documents would no longer be in our control, we also can not be held responsible for assuring that accuracy. Accordingly, you agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability, or cost (including reasonable attorney's fees and defense costs) for injury or loss arising or alleged because of such use or completion, or for any unauthorized changes made by any party to any documents prepared by us. Nothing in this paragraph indemnifies us from our own negligence or breach of our obligations under this Contract.

**DEFECTS IN SERVICE.** Should you discover what you suspect to be a defect in our work or services, you agree to promptly report that suspicion to us as soon as you become aware of it, so that we can investigate and take measures to correct any such defect and to minimize the consequences of it. You further agree to impose a similar notification requirement on all your contractors, and that they do so with all subcontractors, at any level. The intent is to avoid the potentially higher cost of change orders by identifying and correcting any such defects as early as possible. Therefore, failure by you or your contractors or subcontractors to notify us as required in this section, will limit our cost of remedying any such defects to the sum that remedy would have cost had we been given prompt notification.

**BETTERMENT.** Betterment, or unjust enrichment, means that a person, who is negatively impacted because of an alleged error, recoups not only their actual losses caused by the error, but gains an advantage or profit because of it. This Contract does not allow betterment or unjust enrichment. Therefore, if due to an oversight by us, any required item or component of the project is omitted from the project construction documents, our responsibility is limited to the cost over and above what it would have cost you had the component or item been designed, specified and constructed in the first place. In other words, not the cost of the item itself, but only the premium cost to add the omitted item out of normal sequence.

**CONSEQUENTIAL DAMAGES.** Notwithstanding any other provision of the Contract, you or we will not be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by you or us, or by your or our employees, agents, subcontractors, or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

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**GENERAL TERMS AND CONDITIONS (CONTINUED)**

**OWNERSHIP OF INSTRUMENTS OF SERVICE.** All reports, plans, specifications, computer files, field data, notes and other documents prepared by us are instruments of the professional services we provide. They are not products. This is an important distinction when considering the implications of "product liability versus "professional liability". We therefore shall be deemed the owner and author of said drawings and data, and shall retain all rights to them, including all statutory and other reserved rights, the right to reuse specific design elements created by us, and the ownership of the copyright imbedded therein.

**ELECTRONIC MEDIA /FILES.** Data transferred in electronic format is easily altered, even unintentionally; therefore creating the possibility that unwanted errors might be introduced into the data via the transfer process. These errors might result from incompatible software or hardware settings; from damage to the electronic media; from electrical changes; from unauthorized changes made by you or another party; or from similar events. It is generally difficult to determine when and how such errors were first introduced, and therefore who is responsible for the change. Like our paper documents, electronic data are instruments of the professional services we provide. They are not products. As such, we normally do not provide clients with drawings or other data as electronic files.

**DISPUTE RESOLUTION.** Should any disagreement or conflict arise between you and us in relation to this Contract during or following the completion of the project, we both agree to work diligently to try to amicably resolve our differences. We both agree to first do so through informal discussion and agreement, using the court system only as a last resort. However, nothing in this Section prohibits us from proceeding with any legal action necessary to enforce the payment provisions of this Contract, should you fail to pay for services rendered by us.

**STATUTES OF REPOSE.** Any legal action by either you or us against the other arising out of or in any way connected with the services to be performed under this Contract, is barred after any statute of limitation set by state law, or after five (5) years have passed from the date the project or project phase is substantially completed, whichever is shorter, and under no circumstances will any such claim be initiated by either you or us beyond those dates. In the event this Contract is terminated early, the date of Contract termination will be used in place of a substantial completion date.

**THIRD PARTY BENEFICIARIES.** Nothing contained in this Contract should be interpreted to create a contractual relationship with, or a cause of action in favor of, a third party against either you or us. Our services under this Contract are being performed solely for your benefit, and no other entity shall have any claim against us because of this Contract or the performance or nonperformance of services under this Contract. You agree to include a provision in all you contracts with contractors and other entities involved in this project to carry out the intent of this Section.

**FAILURE TO PAY FOR SERVICES PROVIDED.** Failure to make payment to us in accordance with the terms herein is a material breach of this Contract. If payment for services we provide to you is not received by us within thirty (30) calendar days of the invoice date, you agree that while we are not obligated to do so, we have the right to charge interest at a rate of up to one and one-half (1½) percent (or the maximum allowable by law, whichever is lower) on the PAST DUE amount each month it remains past due. Any payments you then make will first be applied to the accrued interest and then to the unpaid principal. In addition we may take additional actions, which may include:

- **SUSPENSION OF SERVICES.** We may suspend performance of services by giving you five (5) calendar days' notice. If we do so, we have no liability whatsoever to you for any costs or damages as a result of such suspension caused by any breach of this Contract.
- **TERMINATION OF SERVICES.** We may terminate this Contract. Payment remains due for services provided regardless of termination of this Contract by either of us.
- **MECHANICS LIEN.** We may file a lien against your property to protect our financial interests under this Contract.
- **LEGAL ACTION.** We may file suit against you to enforce the payment provisions of this Contract.

In the event that we find it necessary or prudent to file a lien or take legal action in order to enforce the payment provisions of this contract, you agree to compensate us for our cost of doing so. Among other things, those costs include our time, at current billing rates, and the expenses we incur in our collection efforts. They also include reasonable attorney's fees, court costs and related expenses incurred by us. You agree that in addition to any judgment or settlement sums due, you will pay these fees, costs and expenses to us.

**GENERAL INDEMNIFICATIONS.** You agree, to the fullest extent permitted by law, to indemnify, defend and hold us (as well as our officers, directors, employees and their heirs and assigns, and any individuals and entities we retain for performance of the services under this Contract, including but not limited to our subcontractors and their officers, directors, employees, heirs and assigns) harmless from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by your negligent acts, errors or omissions in connection with the Project, or those of your contractors, subcontractors or other consultants, or anyone for whom you are legally liable.

You are not obligated to indemnify us in any manner whatsoever for our own negligence. We are not obligated to indemnify you in any manner whatsoever for your own negligence. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of both of us, they shall be borne by each party in proportion to each party's negligence.

**LIMITATION OF LIABILITY.** The potential risks of the project, in recognition of the relative benefits to both you and us, have been allocated in such a manner that you agree, to the fullest extent permitted by law, to limit our liability, and the liability of our subcontractors, to you, and to all construction contractors and subcontractors on the project, for any and all claims, losses, costs, and damages of any nature whatsoever, or claims or expenses from any cause or causes. As such, unless a higher limit is requested by you and agreed to by us, the total aggregate liability for us and our subcontractors to all those named, defaults to, and shall not exceed, \$2,500. This limitation applies regardless of cause of action or legal theory, pled or asserted. You also agree that you will not seek damages in excess of the contractually agreed limitations indirectly through suits with other parties who may join us as a third party defendant.

Limitations on liability and indemnities in this Contract are business understandings between you and us and shall apply to all the different theories of recovery, including breach of contract or warranty, tort (including negligence), strict or statutory liability, or any other cause of action. However, these limitations on liability and indemnities will not apply to any losses or damages that have been found by a trier of fact to have been caused by our sole or gross negligence or our willful misconduct.

**SEVERABILITY AND SURVIVAL.** If any provision of this Contract is later held unenforceable for any reason it will be deemed void, but all remaining provisions will continue in full force and effect. Notwithstanding completion or termination of this Contract for any reason, your rights, duties and obligations, as well as ours, will survive the completion of the work or the termination of the Contract, and remain in full force and effect until they are fulfilled.

**ENTIRE AGREEMENT.** This Contract contains the entire agreement between you and us and supersedes any prior understanding or agreements, whether verbal or in writing, in relation to this project and the specific Scope of Services outlined in this Contract.

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**ATTACHMENT LIST:**

- EXHIBIT A - TEASDALE SURVEY LIMITS**
- EXHIBIT B - MANHOUR BREAKDOWN**
- EXHIBIT C - SCHEDULE OF FEES**
- EXHIBIT D - SCHEDULE OF INSURANCE**

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K-1-B



EXHIBIT A - TEASDALE SURVEY LIMITS

**TWM**  
**TRAVANT,**  
**WADE &**  
**MCCREYEN INC.**  
 MISSOURI SURVEYORS

TEASDALE SURVEY LIMITS  
 TEASDALE AVENUE  
 SHEET - 1 OF 1

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION**  
**MoDOT**  
 100 WEST CAPITOL  
 JEFFERSON CITY, MO 65102  
 1-888-452-0007 (1-888-576-6081)

DATE	DESCRIPTION

DATE PREPARED  
 12/1/2016

ROUTE STATE SHEET NO.  
 DISTRICT MO

COUNTY  
 DISTRICT

JOB NO. 150314

CONTRACT ID.

PROJECT NO.

BRIDGE NO.

THIS MEDIA SHOULD NOT BE CONSIDERED A CERTIFIED DOCUMENT.

IF A SEAL IS PRESENT ON THIS SHEET IT HAS BEEN ELECTRONICALLY SEALED AND DATED.

**EXHIBIT B - TEASDALE AVENUE RECONSTRUCTION  
MAN-HOUR ESTIMATE BREAKDOWN**

<b>I. PROJECT MANAGEMENT</b>	<b>Rate</b>	<b>Hours</b>	<b>Cost</b>
Project Manager	\$122.00	20	\$2,440.00
Project Engineer	\$115.00	0	\$0.00
Staff Engineer	\$92.00	4	\$368.00
Survey Project Manager	\$108.00	0	\$0.00
Registered Land Surveyor	\$123.00	0	\$0.00
3D Scanning Tech	\$95.00	0	\$0.00
Survey Technician	\$74.00	0	\$0.00
1-Man Crew w/Robotics	\$141.00	0	\$0.00
2-Man Crew w/Robotics	\$196.00	0	\$0.00
1-Man Crew w/Scanner	\$195.00	0	\$0.00
<b>II. RECONNAISSANCE PHASE</b>			
Project Manager	\$122.00	1	\$122.00
Project Engineer	\$115.00	0	\$0.00
Staff Engineer	\$92.00	0	\$0.00
Survey Project Manager	\$108.00	3	\$324.00
Registered Land Surveyor	\$123.00	4	\$492.00
3D Scanning Tech	\$95.00	0	\$0.00
Survey Technician	\$74.00	12	\$888.00
1-Man Crew w/Robotics	\$141.00	20	\$2,820.00
2-Man Crew w/Robotics	\$196.00	0	\$0.00
1-Man Crew w/Scanner	\$195.00	0	\$0.00
<b>III. PRELIMINARY DESIGN PHASE</b>			
Project Manager	\$122.00	37	\$4,514.00
Project Engineer	\$115.00	0	\$0.00
Staff Engineer	\$92.00	87	\$8,004.00
Survey Project Manager	\$108.00	0	\$0.00
Registered Land Surveyor	\$123.00	0	\$0.00
3D Scanning Tech	\$87.00	0	\$0.00
Survey Technician	\$74.00	0	\$0.00
1-Man Crew w/Robotics	\$141.00	0	\$0.00
2-Man Crew w/Robotics	\$196.00	0	\$0.00
1-Man Crew w/Scanner	\$195.00	0	\$0.00
<b>IV. Final Design Phase</b>			
Project Manager	\$122.00	37	\$4,514.00
Project Engineer	\$115.00	0	\$0.00
Staff Engineer	\$92.00	89	\$8,188.00
Survey Project Manager	\$108.00	0	\$0.00
Registered Land Surveyor	\$123.00	0	\$0.00
3D Scanning Tech	\$87.00	0	\$0.00
Survey Technician	\$74.00	0	\$0.00
1-Man Crew w/Robotics	\$141.00	0	\$0.00
2-Man Crew w/Robotics	\$196.00	0	\$0.00
1-Man Crew w/Scanner	\$195.00	0	\$0.00
<b>V. BIDDING AND CONSTRUCTION PHASE</b>			
Project Manager	\$122.00	6	\$732.00
Project Engineer	\$115.00	0	\$0.00
Staff Engineer	\$92.00	0	\$0.00
Survey Project Manager	\$108.00	0	\$0.00
Registered Land Surveyor	\$123.00	0	\$0.00
3D Scanning Tech	\$87.00	0	\$0.00
Survey Technician	\$74.00	0	\$0.00
1-Man Crew w/Robotics	\$141.00	0	\$0.00
2-Man Crew w/Robotics	\$196.00	0	\$0.00
1-Man Crew w/Scanner	\$195.00	0	\$0.00
<b>TMM Total Labor, Overhead &amp; Fixed Fee</b>			<b>\$39,406.00</b>
<b>Other Direct Costs</b>			
Mileage: 88 miles	Rate = \$	0.540	\$47.52
Subcontractor: <u>T&amp;I Geotechnical</u>	DBE % =	0	\$5,526.00
Printing, Postage, and Copies			\$20.48
Direct Cost and Subcontractor Subtotal			\$5,594.00
<b>SUB-TOTAL FOR THOUVENOT, WADE &amp; MOERCHEN, INC.</b>			<b>\$39,000.00</b>

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Engineering Estimate of Staff Time



Local Agency: University City, MO  
 Section: N/A  
 Project: Teasdale Avenue  
 TWM Project No.: T27-160914

Anticipated Construction Cost of Project:

TWM Staff Time Estimate

Basic Scope of Engineering Services	Hours by Classification											Total Hours	
	Estimated Sheet Count	Project Manager	Project Engineer	Staff Engineer	Survey Project Manager	Registered Land Surveyor	3D Survey Technician	Survey Personnel					
								Survey Technician	1-Man Crew w/Robotics	2-Man Crew w/Robotics	1-Man Crew w/Scanner		
<b>I. PROJECT MANAGEMENT</b>		36	0	4	0	0	0	0	0	0	0	0	34
A. Client Coordination		6											
B. Internal Team Meetings (4 - 1 Hour Meetings)		4		4									
C. Invoicing		4											
D. Quality Control Plan													
Topographic Survey Kestrel		2											
Preliminary Plan Submittal		2											
Final PS&E Submittal		2											
<b>Phase Sub-Total =</b>		\$2,460.00	\$0.00	\$368.00	\$6.00	\$1.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,028.00
<b>II. RECONSTRUCTION PHASE</b>		1	1	0	3	4	0	12	20	0	0	0	40
A. Topographic Survey		1			3	4		12	20				
B. Geotechnical Report Review and Coordination		1											
<b>Phase Sub-Total =</b>		\$122.00	\$0.00	\$0.00	\$324.00	\$482.00	\$0.00	\$168.00	\$2,020.00	\$0.00	\$0.00	\$0.00	\$4,046.00
<b>III. PRELIMINARY DESIGN PHASE</b>		7	27	0	67	0	0	0	0	0	0	0	134
A. Field Check		1	1		4								
B. Cover Sheet		1	1		4								
C. Typical Section Sheet		1	2		1								
D. Plan Sheets		1											
-Charrette Design			2		10								
Preliminary Construction Limits			1		8								
RSP Preparation			4		8								
E. Drainage Analysis													
i. Definition of Existing Drainage Areas			1		2								
ii. Analysis of Existing Pavement Drainage			1		2								
iii. Analysis of Existing End-of-Road Storm Sewer System to Conceptual Enclosed Storm Sewer Improvements			1		4								
iv. Phase II Water Quality Requirements			1		4								
v. Conceptual Water Quality and Quantity Features			0		0								
vi. MGD Submittal			0		2								
D. Cross Sections		4	2		20								
E. Preliminary EEOPC			4		4								
F. Preliminary Plan Submittal			2										
<b>Phase Sub-Total =</b>		\$4,514.00	\$0.00	\$8,004.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$12,318.00
<b>IV. Final Design Phase</b>		17	37	0	88	0	0	0	0	0	0	0	132
A. Cover Sheet		1	1		1								
B. Summary of Quantities & Schedules (2A & 2B Sheets)		3	4		6								
C. Typical Section Sheets		1	1		4								
D. Reference Tie Sheet		1	1		6								
E. Plan & Profile Sheets		1	1		12								
F. Intersection Geometric Sheets		2	2		14								
G. Storm Sewer Profile Sheets		1	2		12								
H. Traffic Control Sheets		3	2		24								
I. Cross Section Sheets		1	1		7								
J. Final EEOPC			4		4								
K. Project Specifications			16										
L. Final PS&E Submittal			2										
<b>Phase Sub-Total =</b>		\$4,514.00	\$0.00	\$8,188.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$12,702.00
<b>V. BIDDING AND CONSTRUCTION PHASE</b>		5	0	0	0	0	0	0	0	0	0	0	0
A. Preparation of Bid Package			2										
B. Response to RFPs			2										
C. Contractor Questions During Construction			2										
<b>Phase Sub-Total =</b>		\$722.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$722.00
<b>Total Hours</b>		101	0	160	3	4	0	12	20	0	0	0	320.0
<b>Hourly Rate (See Schedule of Fees)</b>		\$122.00	\$115.00	\$82.00	\$108.00	\$123.00	\$85.00	\$74.00	\$141.00	\$196.00	\$185.00		
<b>Total Classification Cost</b>		\$12,322.00	\$0.00	\$16,860.00	\$324.00	\$482.00	\$0.00	\$868.00	\$2,820.00	\$0.00	\$0.00	\$0.00	\$33,406.00
<b>TOTAL PROJECT ENGINEERING FEE BUDGET</b>												<b>\$33,406.00</b>	

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EXHIBIT C - SCHEDULE OF FEES

THOUVENOT, WADE & MOERCHEN, INC.  
SCHEDULE OF FEES

Principal .....	\$173,000
Senior Engineer .....	\$164,000
Project Engineer V .....	\$161,000
Project Engineer IV .....	\$149,000
Project Engineer III .....	\$129,000
Project Engineer II .....	\$122,000
Project Engineer I .....	\$115,000
Project Manager IV .....	\$150,000
Project Manager III .....	\$139,000
Project Manager II .....	\$123,000
Project Manager I .....	\$105,000
Senior Structural Engineer .....	\$175,000
Structural Engineer V .....	\$161,000
Structural Engineer IV .....	\$158,000
Structural Engineer III .....	\$137,000
Structural Engineer II .....	\$131,000
Structural Engineer I .....	\$125,000
Survey Crew (3 man crew) .....	\$236,000
Survey Crew (2 man crew) .....	\$184,000
Survey Crew (2 man crew w/Robotics or GPS) .....	\$196,000
Survey Crew (1 man w/Robotics or GPS) .....	\$141,000
Survey Crew (1 man w/3D Scanner) .....	\$195,000
Engineer III .....	\$102,000
Engineer II .....	\$98,000
Engineer I .....	\$92,000
Surveyor IV .....	\$139,000
Surveyor III .....	\$123,000
Surveyor II .....	\$108,000
Surveyor I .....	\$94,000
Management Construction Engineering Services .....	\$116,000
Construction Observation (Non-Professional Engineer) .....	\$105,000
3D Scanning Technician .....	\$95,000
Technician V .....	\$92,000
Technician IV .....	\$83,000
Technician III .....	\$77,000
Technician II .....	\$74,000
Technician I .....	\$66,000
Jr. Technician .....	\$39,000
Senior Electrical Designer .....	\$115,000
Senior Transportation Designer .....	\$112,000
Data Systems Manager .....	\$106,000
Cad Manager .....	\$103,000
Cad Designer III .....	\$94,000
Cad Designer II .....	\$88,000
Cad Designer I .....	\$73,000
Accountant II .....	\$105,000
Accountant I .....	\$76,000
Word Processing .....	\$68,000
Air & Vacuum Testing 2 Technicians w/ Equipment .....	\$187,000
Live Sewer Testing 2 Technicians w/ Equipment .....	\$249,000
Mandrel Testing 2 Technicians w/ Equipment .....	\$172,000
Live Sewer Testing 2 Technicians w/ Equipment .....	\$232,000
Video Testing 1 Technician w/ Equipment .....	\$199,000
Video Testing 2 Technicians w/ Equipment .....	\$272,000
Outside Services (Consultants, Delivery Service, Express Mail, etc.) .....	At Cost plus 15%
Commercial Travel, Meals, Lodging & Other Expenses .....	At Cost
4 X 4 Poilarte (per Day) .....	\$66,000
Travel (Non local) per Mile at current GSA rate.	



## **EXHIBIT D – SCHEDULE OF INSURANCE**

The following reflects TWM Inc.'s Insurance Coverage and Limits in effect as of Jan 1st, 2016.

### **General Liability Insurance - The Hartford Insurance Company**

- **Commercial General Liability Insurance** - on a broad-form occurrence basis with limits of \$1,000,000 per each occurrence and \$2,000,000 in the general aggregate.
- **Contractual Liability**
- **Cross Liability**

### **Automobile Liability Insurance - The Hartford Insurance Company**

- **Automobile Liability Insurance** - personal injury and property damage with combined single limits (each accident) of \$1,000,000.

### **Excess / Umbrella Liability - The Hartford Insurance Company**

- **Excess / Umbrella Liability** – on a broad-form occurrence basis with limits of \$10,000,000 per occurrence and in the aggregate.

### **Worker's Compensation Insurance - The Hartford Insurance Company / USL & H – All States**

- **Worker's Compensation Insurance** – as required by statute, including Employers' Liability, with limits of:
  - \$1,000,000 each accident
  - \$1,000,000 disease – each employee
  - \$1,000,000 disease – policy limit

### **Professional Liability Practice Policy – Hall & Company – Ace American Insurance Company**

- **A/E Professional Liability Insurance Policy** – with limits of \$2,000,000 per claim and \$2,000,000 in the annual aggregate.

K-1-17





**Council Agenda Item Cover**

**MEETING DATE:** January 23, 2017

**AGENDA ITEM TITLE:** Project #1275 - Sanitary Sewer Lateral Repairs

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

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

**BACKGROUND** This Sanitary Sewer Lateral Repairs project will include the repair and replacement of residential sanitary sewer laterals in the city. This project is initiated to have a company under contract to repair and replace sewer laterals, therefore minimizing the bidding process and administrative work hours spent for each sewer lateral repair applied for by University City residents. The program averages 160-180 repairs yearly, and, with an annual contract such as this, the City obtains more stable pricing, and the contract enables the City to process repairs much quicker in preparation for the upcoming spring season when repair volume typically increases.

This project was advertised on December 12, 2016, prior to the bid opening on December 29, 2016. The City received and reviewed three (2) bids. The lowest bidder is Labib S. Wajih, LLC with a bid in the amount of \$77,215.00. The bid results are as follows:

COMPANY NAME	BID PRICE
Labib S. Wajih LLC	\$77,215.00
Jeff Roderfeld	\$113,150.00

The lowest, responsible bidder Labib S. Wajih, LLC was awarded the Sanitary Sewer Lateral Repairs project in the last fiscal year and timely delivered that work. This contractor has also completed individual sanitary sewer lateral repair tasks in University City with acceptable results and is a current participant in the City's individual sewer lateral repairs bidding process for other sanitary sewer lateral repair jobs. The City's budget for this program is \$550,000. The project is funded by 05 - Sewer Lateral Repair Fund.

**RECOMMENDATION:** Staff recommends an award of Project# 1275 – Annual Sanitary Sewer Lateral Repairs project to Labib S. Wajih, LLC for its lowest responsible bid of \$77,215.00.





## Council Agenda Item Cover

**MEETING DATE:** January 23, 2017

**AGENDA ITEM TITLE:** Loop Trolley Pole Use License Agreement

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

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

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**BACKGROUND REVIEW:**

The attached agreement is referenced on the City of University City ("City")'s Construction, Maintenance and Operations (CMO) Agreement with the Loop Trolley Transportation Development District ("District") (ref. Section 4 – Maintenance of the Project, Subsection d. Street Lights) as follows:

"... The City's acceptance of ownership, maintenance, repair and replacement of all new light poles and lights erected as part of the U City Project Portion by the Loop Trolley Transportation Development District shall be subject to a separate "Pole Use License Agreement", the terms of which shall be mutually agreeable to the parties hereto, to run concurrent with this Agreement, and signed by the Parties before the start of operation of the Project."

The agreement defines the roles of the signatories appropriately and it is in line with the CMO Agreement that the City previously executed with the District. The City is responsible for maintenance, repair and replacement of the poles without any Loop Trolley system components attached to them and also only the streetlight components of the poles otherwise with Loop Trolley system components attached to them. The Loop Trolley District is responsible for maintenance, repair and replacement of the rest of the poles and Loop Trolley system components on these poles.

**RECOMMENDATION:**

It is recommended that City Council authorize the City Manager to enter into the Loop Trolley Pole Use License Agreement as proposed.

**ATTACHMENT:**

- Draft University City-Loop Trolley Pole Use License Agreement
- Exhibit A of the Agreement

K-3-1

**POLE USE LICENSE AGREEMENT**

THIS AGREEMENT, made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the CITY OF UNIVERSITY CITY, hereinafter called "Licensor", and LOOP TROLLEY TRANSPORTATION DEVELOPMENT DISTRICT, hereinafter called "Licensee."

WITNESSETH:

WHEREAS, Licensor and Licensee entered into a Construction, Maintenance and Operations Agreement dated as of July 28, 2014 (hereinafter the "Construction Agreement"); and

WHEREAS, Licensee is responsible for the construction, operation, and maintenance of an in-road trolley car system and other improvements as more specifically described and set forth in the Construction Agreement (the "Project"); and

WHEREAS, pursuant to Section 4(d) of the Construction Agreement, the City agreed to accept ownership of all new poles and the Street Lights erected on such poles, within the boundaries of University City, Missouri as part of the Project ("U City Project Portion"), with the exception of OCS Poles without Street Lights; and to maintain, repair and replace all new and existing Street Lights only in the U City Project Portion; and

WHEREAS, pursuant to Section 4(e) of the Construction Agreement, the Licensee agreed to maintain, repair and replace any and all OCS Poles; and

WHEREAS, the City shall own and maintain the underground conduit in the U City Project Portion that feeds power to the Street Lights; and

WHEREAS, the Licensee shall own and maintain all OCS Poles without Street Lights; and

WHEREAS, in connection with the Project, Licensor agrees to allow Licensee or its qualified contractor to install Attachments on Licensor's Facilities; and

WHEREAS, Licensor is willing to permit Licensee to place and maintain said Attachments on said Facilities, subject to the terms and conditions in this Agreement; and

WHEREAS, Licensee is willing to maintain, repair and replace the OCS Poles.

NOW THEREFORE, in consideration of the covenants and agreements hereinafter stated, Licensor hereby grants to Licensee the right to place and maintain the Attachments on the Facilities, subject to the following terms and conditions:



## Section 1. Definitions

- A. “Non-OCS Poles” mean decorative and concrete street light poles erected and used only for lighting. See Lighting Diagram, attached hereto and incorporated herein as Exhibit A.
- B. “OCS Poles” mean all poles erected by the Licensee for overhead wire use by the Loop Trolley system, whether or not said poles have Street Lights attached to them. See Exhibit A.
- C. “Street Lights” mean light fixtures including the arm and the head attached to an OCS Pole or Non-OCS Pole.
- D. “Attachments” means all catenaries and wires and all associated hardware and equipment reasonably necessary to the attachment of said catenaries and/or wires owned and/or utilized by Licensee for the operation and maintenance of the Project that occupy Licensor’s Facilities.
- E. Licensor’s “Facility” or “Facilities” shall include all OCS Poles erected by Licensee within the U City Project Portion, which the City has assumed ownership of pursuant to Section 4(d) of the Construction Agreement.
- F. “Licensee” shall have the meaning set forth in the preamble to this Agreement.
- G. “Licensor” means the City of University City, Missouri, or any related entity.

## Section 2. Grant of License

Licensor hereby grants to Licensee the right to place and maintain the Attachments on the Facilities. Licensee may begin attaching any of its Attachments to any of Licensor’s Facilities after the date this License Agreement is fully executed and any Licensor hereby approves of any and all Attachments already existing on Licensor’s Facilities as of the date hereof. Licensor hereby grants Licensee the right of entry and access onto any portion of the property adjacent to Licensor’s Facilities in order to exercise its rights hereunder; provided that Licensee shall restore any damage caused by such access. Licensee will at all times comply with all applicable laws and regulations and, at its sole cost and expense, secure and maintain all permits, licenses, land rights, easements and approval of third parties necessary for the construction, installation, operation, maintenance and removal of its Attachments.

Licensor, or Licensor’s contractor, is permitted to attach holiday lights, banners and other temporary accessories (“Accessories”) to the OCS Poles that are compatible and able to coexist with the Attachments. Such Accessories shall comply with the load capacity and safety requirements of the OCS Poles as determined by Project designer.

### Section 3. Maintenance

#### A. Obligations of Licensor:

Licensor shall maintain, repair and replace any and all new and existing Non-OCS Poles and Street Lights attached to both OCS Poles and Non-OCS Poles in the U City Project Portion, unless damaged by the construction, maintenance, or operation of the Project. Licensor shall notify Licensee of any damage and/or construction to the Licensor's Facilities that might affect the Attachments and shall exercise reasonable care not to interfere with such Attachments.

#### B. Obligations of Licensee:

Licensee will maintain, repair and replace any OCS Poles. Licensee will promptly and at its sole cost and expense, repair and/or replace any and all damage, including any damage caused by the negligence of Licensor, or caused by emergency response actions, to such overhead wiring and street light poles (in a good and workmanlike, lien-free manner), and to restore such overhead wiring and street light poles to the same or better condition that existed immediately prior to such damage.

If Licensor determines the Facilities used to connect overhead wires to the trolley vehicles require maintenance or repair by Licensee, Licensor may notify Licensee in writing of the maintenance or repair required. If Licensor so notifies Licensee, Licensee shall within ten (10) days from receipt of such notice, and at its sole cost and expense, begin maintenance and/or repair the Facilities in compliance with applicable law, including the applicable and current City Code standards. Before any maintenance work or repairs, Licensee shall obtain any required permits from Licensor at no cost to Licensee. If maintenance or repair is not accomplished within fifteen (15) days or the maintenance or repair is deemed an emergency, Licensor may:

- 1) Maintain or repair any Facility used to connect overhead wires to the trolley vehicles itself, and recover the costs from Licensee for any such maintenance or repair work performed; and/or
- 2) Pursue any other remedies available to it under this Agreement or the Construction Agreement, in equity or at law to enforce Licensee's obligation under this Agreement.

Notwithstanding the foregoing, if the maintenance or repair cannot reasonably be completed within fifteen (15) days following the Licensor giving notice, Licensee shall be afforded additional reasonable time to complete the maintenance or repair if Licensee begins to complete the maintenance or repair within fifteen (15) days following Licensor's notice and continues to diligently in good faith to complete the maintenance or repair; provided, however, nothing herein shall restrict or limit Licensor from performing such maintenance or repair if Licensee fails for any reason to complete such work within said fifteen (15) days.

Licensee will review and consult with Licensor prior to initiating any such maintenance or repair to ensure proper standards will be attained. Licensor will inspect the maintenance or

repair work upon completion to ensure it has been completed satisfactorily. However, no such inspection or approval shall cause Licensor to assume or be liable for any non-compliance of any Laws with respect to such maintenance or repair; and Licensee shall indemnify and hold Licensor harmless from any and all claims arising out or related to such maintenance or repair, notwithstanding any Licensor approval of any such maintenance or repair.

#### **Section 4. Assignment**

Licensee shall not assign its rights hereunder without the consent of Licensor, which shall not be unreasonably withheld; provided, however, that this Agreement shall apply to all of Licensee's affiliates and contractors and third party entities hired in connection with the Project.

#### **Section 5. Term of License.**

This Agreement shall run concurrently with the term of the Construction Agreement and shall be non-revocable by Licensor during such term.

#### **Section 6. Termination.**

A. This Agreement may be terminated: (1) by mutual consent or (2) by Licensor if Licensee and/or its Loop Trolley system terminates or suspends its business for a period of six (6) months.

B. If Licensee fails to comply with any provisions of this Agreement, or in the event of breach of any term or condition of this Agreement, by Licensee and Licensee does not cure such breach within thirty (30) days after written notice from Licensor specifying the breach (or if the breach cannot be cured within such thirty (30) day period, if Licensee shall not within such thirty (30) day period commence such cure and thereafter diligently pursue same to its completion), Licensor shall have the right to terminate this Agreement.

C. If the Loop Trolley System ceases operation of a period of six (6) months, absent Force Majeure or closure of Delmar Boulevard by acts of the Licensor, and the Licensor elects to terminate this Agreement, the Licensee shall remove the Attachments within sixty (60) days of termination of the Agreement. In the event that Licensee does not remove Attachments within sixty (60) days, Licensor will remove Licensee's Attachments and deliver same to Licensee. Licensee will reimburse Licensor for the actual costs of removal and all other amounts due to Licensor hereunder.

#### **Section 7. Indemnification.**

Licensee shall defend, indemnify and hold harmless the Licensor and its officers, agents and employees to the fullest extent of the law and as may be permitted under Sections 537.600-.610 of the Missouri Revised Statutes, as amended from time to time, from and against any and all claims, actions, damages, liability and expense, including attorneys' and other professional fees, and the expenses of such parties, in connection with loss of life and bodily injury and/or damage of property arising from the OCS Poles maintained by the Licensee, its officers, agents, employees, operators and contractors under this Agreement.

Licensor agrees to defend, indemnify and hold harmless Licensee and its officers, agents and employees to the fullest extent of the law and as may be permitted under Sections 537.600-610 of the Missouri Revised Statutes, as amended from time to time, from and against any and all claims, actions, damages, liability and expense, including attorneys' and other professional fees, and the expenses of such parties, in connection with loss of life and bodily injury and/or damage of property arising from the Non-OCS Poles and Street Lights attached to OCS Poles maintained by the Licensor, its officers, agents, employees, operators and contractors under this Agreement.

Nothing in this Section 7 shall be construed as a waiver by the Licensor or the Licensee of any right to assert sovereign immunity as a defense to any claim by a third person and nothing in this Agreement is intended to create any rights to any entity as a third-party beneficiary of this Agreement.

#### **Section 8. Insurance.**

Licensee shall maintain in full force and effect, throughout the period of this Agreement, comprehensive general liability insurance, in amounts of not less than a per occurrence limit of \$1,000,000, with not less than a \$5,000,000 general aggregate.

#### **Section 9. Choice of Law**

This Agreement shall be governed by and construed in accordance with the internal laws, and not the laws of conflicts of laws, of the State of Missouri without regard to its choice of law provisions.

#### **Section 10. Miscellaneous**

Failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement, or to give notice or declare this Agreement or the rights hereunder terminated shall not constitute a general waiver or relinquishment of any of the terms or conditions herein contained, but the same shall be and remain at all times in full force and effect. Except as provided herein, the terms and conditions of this Agreement shall not be amended, changed or altered except in writing and with approval by authorized representatives of both parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date set forth above.

**CITY:** UNIVERSITY CITY, MISSOURI

By: \_\_\_\_\_  
Charles Adams, Acting City Manager

[SEAL]

ATTEST: \_\_\_\_\_

**DISTRICT:** LOOP TROLLEY TRANSPORTATION  
DEVELOPMENT DISTRICT,  
a Missouri political subdivision

By: \_\_\_\_\_  
Joe Edwards, Chairman

**APPROVED AS TO FORM:**  
**HUSCH BLACKWELL LLP**

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

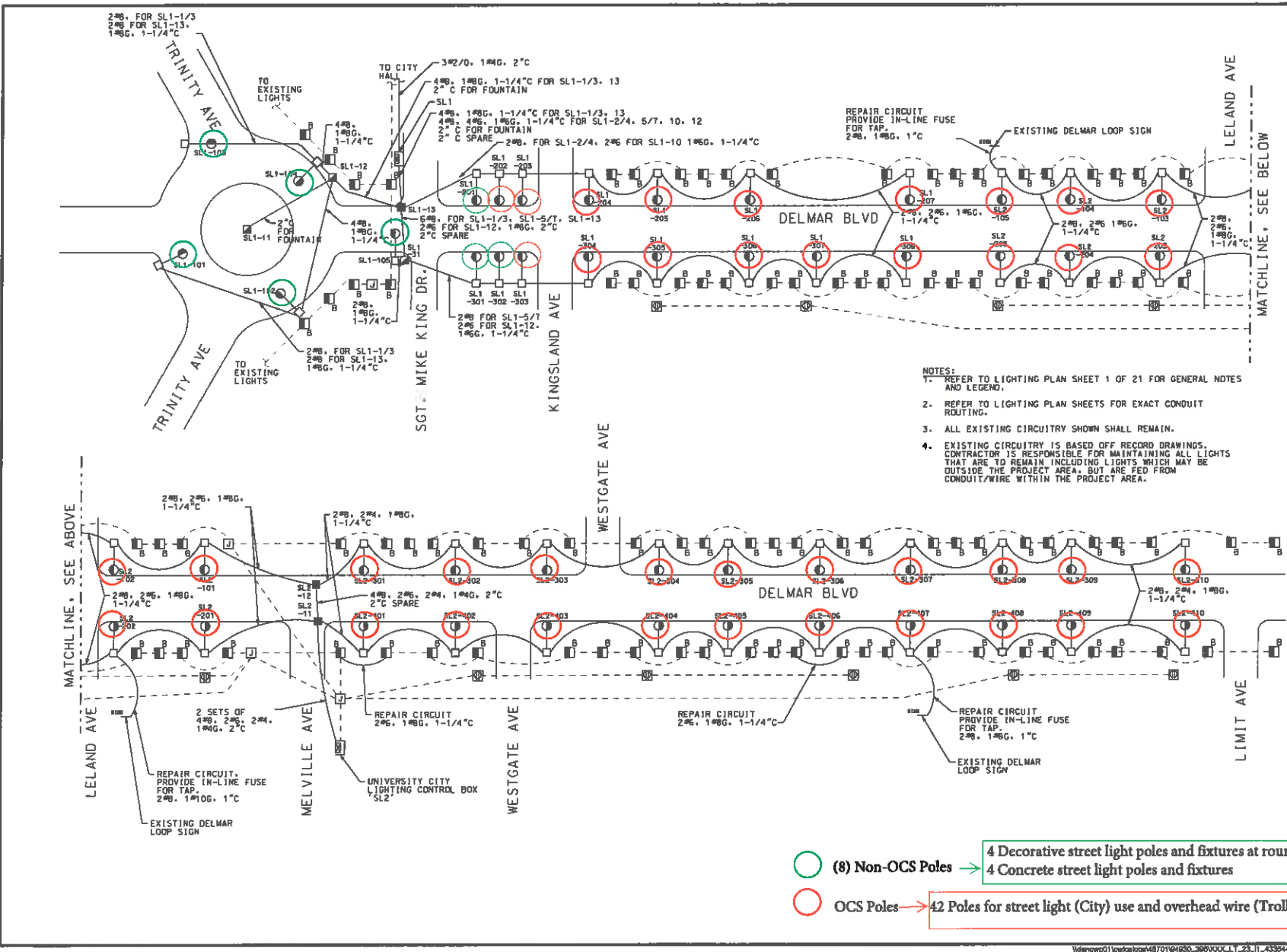


DATE PREPARED: 6/23/2014  
 PROJECT NO.: LT2.1  
 CITY: ST. LOUIS  
 CONTRACT NO.:  
 PRODUCT NO.:  
 ENTRY NO.:

DATE	DESCRIPTION

EAST-WEST GATEWAY  
 East-West Gateway Council of Governments  
 One Market Dr., Ste 1000  
 St. Louis, MO 63102  
 Phone: (314) 481-6220 or (816) 274-6746

LIGHTING WIRING DIAGRAM  
 SHEET 1 OF 4



- NOTES:
1. REFER TO LIGHTING PLAN SHEET 1 OF 21 FOR GENERAL NOTES AND LEGEND.
  2. REFER TO LIGHTING PLAN SHEETS FOR EXACT CONDUIT ROUTING.
  3. ALL EXISTING CIRCUITRY SHOWN SHALL REMAIN.
  4. EXISTING CIRCUITRY IS BASED OFF RECORD DRAWINGS. CONTRACTOR IS RESPONSIBLE FOR MAINTAINING ALL LIGHTS THAT ARE TO REMAIN INCLUDING LIGHTS WHICH MAY BE OUTSIDE THE PROJECT AREA, BUT ARE FED FROM CONDUIT/WIRE WITHIN THE PROJECT AREA.

- (8) Non-OCS Poles → 4 Decorative street light poles and fixtures at roundabout  
 4 Concrete street light poles and fixtures
- OCS Poles → 42 Poles for street light (City) use and overhead wire (Trolley) use

K-38





## Council Agenda Item Cover

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MEETING DATE: January 23, 2017

AGENDA ITEM TITLE: Resolution for Fiscal Year 2016-2017- Budget Amendment # 6

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED? : No

**BACKGROUND REVIEW:** Attached is the budget amendment for the end of the second quarter of fiscal year 2017. This amendment incorporates the adjustment of expenditures between divisions and departments that have significant variances to the annual budget and the transfers from the fund reserve for all funds.

### General Fund

#### 1) General Administration

In March, 2016, City Council approved a one-time transfer of \$400,000 from the General Fund reserve to be spent on litigation regarding a business in the Delmar Loop known as "Social House". However, the actual expense came in \$130,000 higher. A transfer from the fund reserve is needed to cover the cost.  
Allocation of \$20,000 to Arts & Letters Commission was not included in the original budget.

#### 2) Information Technology

A transfer of \$60,000 to cover the cost of leasing copiers and printers for all departments from Computer Equipment to Office Equipment budgets.

#### 3) Police

A transfer of \$450,000 from the fund reserve to cover other expenses associated with the temporary Police Station and Traffic Violation Bureau. The details are attached.

A transfer of \$116,000 from the fund reserve to cover the purchase of a new generator.

### General Fund Balance

Below is an estimated General Fund reserve after this amendment:

Unassigned Fund Balance as of July 1, 2016	\$ 8,584,000	
Budget Amendments:		
Resolution 2016-13		40,000
Resolution 2016-17		100,000
Resolution 2016-18		114,800
Resolution 2016-19		1,000,000
		<u>1,000,000</u>
Fund Balance as of August 2016	\$ 7,329,200	
Resolution 2017		716,000
Fund Balance as of January 2017	<u>\$ 6,613,200</u>	

28% of FY 2017 Expenditure Budget

M-1-1



Other Funds

**4) Sewer Lateral Fund**

To cover the cost of future sewer lateral projects to be approved and to avoid an interruption of program services to residents that need them and per the County tax regulations, a transfer of funds is requested as detailed above. For this fiscal year the program has already approved 145 repairs with five (5) months remaining in the fiscal year. An additional \$150,000 needs to be transferred from the fund reserve.

**5) Economic Development Sales Tax Fund**

At the regular meeting in December of 2016, the Economic Development Retail Sales Tax Board requested that staff submit a budget amendment, to transfer \$150,000 from fund reserve to cover the cost of the Create Space generator.

During the budgeting process for the Proposed Budget for FY 2017, Capital Improvement and Park and Storm Water Sales Tax did not present the detailed line items. Therefore, transfers between accounts are needed in order to capture all expenditures in a more accurate manner.

**6) Capital Improvement Sales Tax Fund**

A transfer of \$85,500 from the fund reserve to cover expenditures for Asphalt Products, Sign Supplies and Street Construction in the amount of \$10,000, \$15,500 and \$60,000, respectively.

**7) Park and Storm Water Sales Tax Fund**

A transfer of \$100,400 from the fund reserve to cover the Personal Services of \$50,400 and Fleet Service of \$50,000.

The changes in the attached budget amendment will have impact of approximately \$716,000 to the General Fund unassigned fund reserve while the changes in the Sewer Lateral, Economic Development Sales Tax and Capital Improvement and Park and Storm Water Sales Tax will also reduce the fund reserve by \$150,000, \$150,000, \$85,500 and \$100,400, respectively.

The resolution for approval of the amendment is attached, as well as details of the budget amendment. The details of budget transfers for the amounts up to \$25,000 that were delegated to the Acting City Manager are also attached for information only.

**RECOMMENDATION:** Approval

M-1-2

FY 17 Budget Amendment # 6  
To be Approved by the City Council  
January 23, 2017

**GENERAL FUND**

<u>Account</u>	<u>Expenditure Increase</u>	<u>Expenditure Decrease</u>	<u>Description</u>
1) City Manager's Office			
6020.01 Legal Services	130,000		Bryan Cave - Social House
6020.01 Events and Reception	20,000		Arts and Letters Commission Expense
2) Information Technology			
6400 Office Equipment	60,000		Leasing Copiers and Printers
8120 Computer Equipment		(60,000)	
3) Police			
6050 Maintenance Contract	450,000		Detail (attached)
8220 Equipment	116,000		New Generator

<b>TOTAL GENERAL FUND</b>		
REDUCTION IN FUND BALANCE	\$	716,000

**SEWER LATERAL FUND**

<u>Account</u>	<u>Expenditure Increase</u>	<u>Expenditure Decrease</u>	<u>Description</u>
4) 6450 Sewer Lateral Expenses	\$150,000		

<b>TOTAL SEWER LATERAL FUND</b>		
REDUCTION IN FUND BALANCE	\$	150,000

Increase volume of repairs

**ECONOMIC DEVELOPMENT SALES TAX**

<u>Account</u>	<u>Expenditure Increase</u>	<u>Expenditure Decrease</u>	<u>Description</u>
5) 8100 Misc. Improvement	\$100,000		Kitchen Sink

<b>TOTAL ECONOMIC DEVELOPMENT SALES TAX FUND</b>		
REDUCTION IN FUND BALANCE	\$	100,000

**CAPITAL IMPROVEMENT SALES TAX FUND**

<u>Account</u>	<u>Expenditure Increase</u>	<u>Expenditure Decrease</u>	<u>Description</u>
6) 7170 Asphalt Products	10,000		
7810 Sign Supplies	15,500		
8080 Street Construction	60,000		Maryland Avenue

<b>TOTAL CAPITAL IMPROVEMENT SALES TAX FUND</b>		
REDUCTION IN FUND BALANCE	\$	85,500

**PARK AND STORM WATER SALES TAX**

<u>Account</u>	<u>Expenditure Increase</u>	<u>Expenditure Decrease</u>	<u>Description</u>
7) 5340 Salaries Part-time	4,000		
5380 Overtime	2,400		
5420 Workers' Comp.	9,000		
5460 Medical Insurance	35,000		
6530 Fleet Service & Replacement	50,000		

<b>TOTAL PARK AND STORM WATER SALES TAX FUND</b>		
REDUCTION IN FUND BALANCE	\$	100,400

FY 17 Budget Transfer# 1  
To be Delegated to Acting City Manager  
January 23, 2017

**GENERAL FUND**

<u>Account</u>	<u>Expenditure Increase</u>	<u>Expenditure Decrease</u>	<u>Description</u>
<b>1) Finance</b>			
5860	Unemployment	1,000	Reduction in Force
5001	Salaries-Full time	(1,000)	
6010	Professional Services	8,500	CPA- Financial Statement
5001	Salaries-Full time	(8,500)	
6050	Maintenance Contract	10,000	New World - Financial Software
6400	Office Equipment Maintenance	(10,000)	
8180	Equipment	13,500	Purchase of Pay Station at Twoli
5001	Salaries-Full time	(13,500)	Parking lot
<b>2) Municipal Court</b>			
6560	Office Equip. Maintenance	5,000	Updated REJIS System
6050	Maintenance Contract	(5,000)	
<b>3) Police</b>			
5220	Injury Leave	22,000	Increase injury leave
5001	Salaries - Full time	(22,000)	
6010	Professional Services	2,000	
6050	Maintenance Contract	(2,000)	
6260	Electricity	12,000	
6050	Maintenance Contract	(12,000)	
<b>4) Fire</b>			
5220	Injury Leave	10,000	Increase Injury/leave
5001	Salaries Full-time	(10,000)	
<b>5) PW- Admin &amp; Engineering</b>			
5001	Salaries Full-time	10,000	Hiring Contractor to be
6070	Temporary Labor	(10,000)	a full-time Project Manager
<b>6) PW- Street</b>			
5220	Injury Leave	1,000	Increase Injury Leave
5001	Salaries Full-time	(1,000)	
<b>7) PW- Golf</b>			
5860	Unemployment	1,100	Increase Injury Leave
5001	Salaries Full-time	(1,100)	
6160	Property Insurace & Auto	20,000	Increase insurance premium
6380	Equipment Maintenance	(10,000)	
7130	Agricultural Supplies	(5,000)	
7690	Recreational Supplies	(5,000)	
<b>10) CD-Facilities Maintenance</b>			
5340	Part-time	20,000	
5001	Salaries Full-time	(20,000)	
6160	Property Insurance & Auto	15,000	Increase insurance premium
6260	Electricity	(15,000)	
<b>11) Aquatics</b>			
5380	Overtime	3,000	
5340	Part-time	(3,000)	

M-1-4

FY 17 Budget Transfer# 1 (continued)  
To be Delegated to Acting City Manager  
January 23, 2017

<b>12) Centennial Commons</b>		
5380	Overtime	1,000
5340	Part-time	(1,000)
5860	Unemployment	2,000
5001	Salaries Full-time	(2,000)

**CAPITAL IMPROVEMENT SALES TAX FUND**

5220	Injury Leave	1,000
5380	Overtime	1,000
5420	Workers' Comp	6,000
5460	Medical Insurance	11,000
5660	Social Security	4,000
5900	Medicare	1,000
5001	Salaries Full-time	(24,000)

**APPROVAL SECTION:**

<u>Acting City Manager</u>	<u>Date</u>
----------------------------	-------------

**Expenditures Associated with the Temporary Police Station:**

A-1 Private Investigation	\$	1,584.00	Overnight Security
Armstrong Construction		10,229.00	Dismantle
AT&T		11,248.87	Relocate 911 Service
Bus Comm Incorporated		1,752.71	Audio Log Relocation
Central District Alarm		3,448.00	Back Door Buzzer
Dialman Moving and Storage		21,734.27	Mowing Services
Hydro Dynamics Corp.		1,445.00	Install Irrigation Sprinklers
LVD Concepts Inc.		80,831.00	Directional Bore, Fiber and Data Work
Modular Space Corp.		15,383.00	Install Modular Units
Paton Landscape & Construction		13,700.00	Landscape
Reinhold Electric		26,000.00	Power for Dispatch Center
REJIS		892.25	Relocate Equipment
Tech Electronic		157,750.75	Relocate Phone, Net Work and Access Control
Warehouse of Fixtures		10,691.64	Cubicle Installation
Will Electronics		65,791.46	Surveillance Camera
Wireless USA		27,366.00	Communication Center Relocation
Sub Total	<u>\$</u>	<u>449,847.95</u>	
Birkel Electric	<u>\$</u>	<u>116,820.00</u>	Generator

*Resolution 2017 - 1*

**A RESOLUTION AMENDING THE FISCAL YEAR 2016-2017 (FY17)  
BUDGET – AMENDMENT # 6 AND APPROPRIATING SAID AMOUNTS**

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of University City, Missouri, that the Annual Budget for the fiscal year beginning July 1, 2016, was approved by the City Council and circumstances now warrant amendment to that original budget.

**BE IT FURTHER RESOLVED**, that in accordance with the City Charter, the several amounts stated in the budget amendment as presented, are herewith appropriated to the several objects and purposes named.

Adopted this 23rd day of January, 2017

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Acting City Clerk

Certified to be Correct as to Form:

\_\_\_\_\_  
City Attorney

M-1-6





## Council Agenda Item Cover

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**MEETING DATE:** January 23, 2017

**AGENDA ITEM TITLE:** 100 Block of Asbury Ave – Residential Permit Parking Area

**AGENDA SECTION:** New Business

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

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**BACKGROUND REVIEW:**

The Traffic Commission reviewed a petition to create a Residential Permit Parking Area in the 100 block of Asbury Ave. on both sides, from Maryland Avenue to Lindell Boulevard.

According to the Municipal Code Section 355.030 Residential Parking Permit Plan, parking on public streets within residential neighborhoods may be restricted to the residents along not more than three (3) blocks of a street if the street is within two (2) blocks of Washington University or another municipality's boundary and if the problems caused by non-resident parking on the block are chronic and well documented.

The petition submitted by property owners at 7152 Maryland Avenue documents the parking problems on both sides of the 100 block of Asbury, and requests to restrict parking for residents on the both sides of the block.

The signatures in the petition exceeded the minimum requirement. The petition was signed by 100% of the affected households. Restricted hours are not to exceed twelve (12) hours daily. Proposed hours are from 9 am to 9 pm every day of the week except Sunday.

The Traffic Commission reviewed this request at their December 14, 2016 meeting and recommended City Council's approval of this petition to alleviate a reoccurring parking problem in this residential area within University City.

**RECOMMENDATION:**

Staff recommends approval of the request, based on the parking issues documented and submitted to the City through the petition attached, and compliance with the requirements outlined on the University City Municipal Code section 355.030; thus amending the Traffic Code Schedule III-D Residential Permit Parking Areas to add both sides of Asbury Ave (100 block) from Maryland Avenue to Lindell Boulevard.

**ATTACHMENTS:**

- Bill amending Schedule III-D Residential Permit Parking Areas
- Minutes of the December 14, 2016 Traffic Commission Meeting
- Petition submitted by the affected property owners

MB-1-1

INTRODUCED BY:

DATE:

BILL NO: 9304

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

**AN ORDINANCE AMENDING SCHEDULE III OF THE TRAFFIC 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 III of the Traffic Code, of the University City Municipal Code is amended as provided herein. Language to be added to the Code is represented as highlighted. 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.** Schedule III of the University City Municipal Code is hereby amended to add both sides of Asbury Ave. from Maryland Avenue to Lindell Boulevard where the City has designated as a Residential Permit Parking Area, to be edited to the Traffic Code as the "Schedule" – Schedule III, as follows:

**Traffic Schedules**

**Schedule III: Parking Restrictions**

**Table III-D Residential Permit Parking Areas**

The following areas are "Residential Permit Parking Areas" and are regulated as set forth in section 355.030 of this Code:

Street	Block	Scope
Asbury Avenue	100	Both Sides

\* \* \*

**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 \_\_\_\_\_ 2017

\_\_\_\_\_  
MAYOR

ATTEST:

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

CERTIFIED TO BE CORRECT AS TO FORM:

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



**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  
December 14, 2016**

At the Traffic Commission meeting of University City held in the Heman Park Community Center, on Wednesday, December 14, 2016, Chairman Jeff Hales called the meeting to order at 6:31 p.m. In addition to Chairman Hales, the following members of the commission were present:

- Jeffrey Mishkin
- Bob Warbin
- Curtis Tunstall

Also in attendance:

- Angelica Gutierrez (non-voting commission member – Public Works Liaison)
- Errol Tate (Incoming 2017 Public Works Liaison)
- Sinan Alpaslan (Public Works Director)
- Police Department Sergeant Shawn Whitley (non-voting commission member – Police Department Liaison)
- Councilmember Bwayne Smotherson (non-voting commission member—Council Liaison)

Absent (excused):

- Eva Creer
- Derek Helderman
- Mark Barnes

**3. Approval of Agenda**

Mr. Tunstall moved to approve the agenda and was seconded by Mr. Mishkin. The motion carried unanimously.

**4. Approval of the Minutes**

**A. November 9, 2016 Minutes**

Mr. Mishkin made a motion to approve the minutes of the October 6, 2016 meeting and was seconded by Mr. Tunstall. The motion carried unanimously

**5. Agenda Items**

**a. Stop Sign Request on Raymond Ave. at Melrose Ave.**

Ms. Gutierrez presented the request to the commission from Bwayne Smotherson on behalf of John Cross requesting the stop sign at Raymond at Melrose. Despite record of traffic accidents, the sightline is limited and due to the geometry of the intersection, staff recommended that installation of a stop sign on Raymond and removal of the yield sign on Melrose.



## **Traffic Commission**

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

Councilmember Smotherson stated that he has observed traffic on Melrose not observing the yield sign to traffic on Raymond.

Dr. Warbin confirmed that the change would require traffic on Raymond to stop and traffic on Melrose would have the right of way. Ms. Gutierrez confirmed.

Mr. Hales asked if the installation of the stop sign would impact residential parking in front of the homes. Ms. Gutierrez stated that they do not anticipate an issue.

Sgt. Whitley stated that the police department supports the change.

Dr. Warbin made a motion to accept the recommendation of staff and was seconded by Mr. Tunstall. The motion carried unanimously.

### **b. Residential Parking Permit Request – Asbury Ave.**

Ms. Gutierrez presented the completed residential parking petition provided to the Scudieris at the November meeting. Staff verified the signatures on the petition and 100% of the affected households were in agreement. Staff recommended approval.

Mr. Hales asked and Ms. Gutierrez confirmed that the times will be consistent with Forsyth's residential parking restrictions.

Mr. Mishkin moved to accept the recommendation of staff to implement the residential parking permit on Asbury and was seconded by Dr. Warbin. The motion carried unanimously.

## **6. Council Liaison Report**

None.

## **7. Miscellaneous Business**

Mr. Hales asked if the commission would be getting an update on Centene following the recent significant changes to their plans. He asked if there would be a need for a different parking study.

Mr. Mishkin asked what changes have been made. Mr. Hales stated that it had been published on NextSTL.com that the location for the auditorium had been moved, as well as the residential portion of the development and the number of garage parking spaces had been reduced. Mr. Hales asked if Centene had provided staff with any information on the changes.

Ms. Gutierrez stated that the city has not received any updated plans and informed the commission that it will be informed of any changes and new information.



## Traffic Commission

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

Mr. Mishkin asked if the council has been asked to look at the Centene project. Councilman Smotherson indicated that it has not yet come before the council. Ms. Gutierrez also stated that the plan commission has yet to make a recommendation on the proposed rezoning until there is an official request and plans brought to the commission.

Mr. Alpaslan said that he had heard from Clayton that utility work has begun on the first portion of the project and anticipates that Centene will come back with an application for rezoning.

Mr. Hales stated that the only aspect of the changes that seemed particularly applicable to the traffic commission was the reduction in parking spaces and potential impacts.

Mr. Hales stated that in a discussion with his neighbor, he discovered that the city code for parking restrictions on Hanley Rd. is not consistent with the county and asked if that could be looked into. If the county traffic code is the prevailing code, he suggested the commission recommend making our codes consistent. Ms. Gutierrez stated that the county will sometimes make changes to county traffic code on county roads in University City without informing University City. She suggested that the city ask the county for other recent changes to county roads in University City. Mr. Mishkin suggested that the city ask for the County's list of changes each year and Ms. Gutierrez stated that could be done.

Mr. Hales thanked Ms. Gutierrez for all of her work on the Traffic Commission and for the city and welcomed Mr. Errol Tate who will be the new Staff Liaison for the Traffic Commission.

Ms. Gutierrez thanked the commissioners for the nine years she served as Traffic Commission Staff Liaison.

### 8. Adjournment.

Dr. Warbin made a motion to adjourn the meeting and was seconded by Mr. Tunstall. The motion unanimously carried and the meeting was adjourned at 6:52pm

Minutes prepared by Jeff Hales, Traffic Commission Chairman & Secretary



Public Works Department  
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 863-9146

RESIDENTIAL PARKING PERMIT PETITION

TO: UNIVERSITY CITY - TRAFFIC COMMISSION

PROBLEMS CAUSED BY NON-RESIDENT PARKING (PROBLEMS SHOULD BE CHRONIC AND WELL DOCUMENTED). USE ADDITIONAL PAGE IF NECESSARY  
Non-resident parking makes driving & access to driveway difficult for residents. We also believe the existing regulations on nearby streets to be pushing non-resident parking toward us. We have incidents of long term non-resident parking & some of parking creates SPECIFIC AREA REQUESTED TO BE RESTRICTED:  
Asbury between Lindell and Maryland →

REQUESTED RESTRICTED TIME PERIOD (SHALL NOT EXCEED 12 HOURS DAILY)  
9 am to 9 pm ~~Monday - Friday~~  
Everyday

NOTE:  
THIS PETITION SHOULD BE SIGNED BY AT LEAST SEVENTY-FIVE (75%) PERCENT OF THE PROPERTY OWNERS ADJACENT TO THE BLOCK OF THE PUBLIC STREET INVOLVED.

The Public Works Department staff will review this petition 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: Sin & Nate Scudieri  
ADDRESS: 7152 Maryland Ave  
PHONE (HOME): 314-397-6434 PHONE WORK: \_\_\_\_\_  
Date: 11-16-16

Please return completed to Angelica Gutierrez, at the Public Works Department, 3<sup>rd</sup> floor of the City Hall, located at 6801 Delmar Blvd, University City, MO 63130. Phone: (314) 505-6560 Fax: (314) 862-0694

MB-1-7

Situations that can be very dangerous  
for the many elementary age children  
who walk this route to/from school.

MB-18



**Public Works Department**  
 6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 962-6767, Fax: (314) 863-9146

Block: N/A PETITION FOR RESIDENTIAL PARKING PERMIT  
 Name of Street: Asbury  
 Hours restricted: 9am to 9pm between Maryland and Lindell

NAME (PRINTED)	SIGNATURE	ADDRESS
WAVE DARRISON Kate Soudier	<i>[Signature]</i> Kate Soudier	7300 MARLYLAND 7152 Maryland Ave
John Cahill	<i>[Signature]</i> John Cahill	7301 LANPARK BLVD 63130







## Council Agenda Item Cover

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**MEETING DATE:** January 23, 2017

**AGENDA ITEM TITLE:** Stop sign – Raymond Ave and Melrose Ave intersection

**AGENDA SECTION:** New Business

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

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### **BACKGROUND REVIEW:**

The Traffic Commission reviewed a request to approve the permanent installation of a stop sign on Raymond Avenue at Melrose Avenue.

A stop sign is warranted at this location. Due to the geometry of the intersection, it is recommended to install a Stop sign on Raymond Ave at Melrose Ave, as requested. An additional plaque “Cross traffic does not stop” should be added.

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

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

### **RECOMMENDATION:**

Staff recommends approval of this request; therefore amend the Municipal Code Chapter 300 Traffic Code – Schedule VII Stop Intersections, Table VII-A Stop Intersections.

### **ATTACHMENTS:**

- Bill amending Chapter 300 – Schedule VII Stop Intersections.
- Minutes of the December 14, 2016 Traffic Commission Meeting
- Staff Report

BILL NO. 9305

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>Raymond Avenue</b>	<b>Melrose Avenue</b>	<b>1</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.

MB-2-2

PASSED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2017

\_\_\_\_\_  
MAYOR

ATTEST:

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

CERTIFIED TO BE CORRECT AS TO FORM:

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



**Traffic Commission**  
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-6560, Fax: (314) 862-0694

**CITY OF UNIVERSITY CITY MINUTES OF THE TRAFFIC COMMISSION**  
**December 14, 2016**

At the Traffic Commission meeting of University City held in the Heman Park Community Center, on Wednesday, December 14, 2016, Chairman Jeff Hales called the meeting to order at 6:31 p.m. In addition to Chairman Hales, the following members of the commission were present:

- Jeffrey Mishkin
- Bob Warbin
- Curtis Tunstall

Also in attendance:

- Angelica Gutierrez (non-voting commission member – Public Works Liaison)
- Errol Tate (Incoming 2017 Public Works Liaison)
- Sinan Alpaslan (Public Works Director)
- Police Department Sergeant Shawn Whitley (non-voting commission member – Police Department Liaison)
- Councilmember Bwayne Smotherson (non-voting commission member—Council Liaison)

Absent (excused):

- Eva Creer
- Derek Helderman
- Mark Barnes

**3. Approval of Agenda**

Mr. Tunstall moved to approve the agenda and was seconded by Mr. Mishkin. The motion carried unanimously.

**4. Approval of the Minutes**

**A. November 9, 2016 Minutes**

Mr. Mishkin made a motion to approve the minutes of the October 6, 2016 meeting and was seconded by Mr. Tunstall. The motion carried unanimously

**5. Agenda Items**

**a. Stop Sign Request on Raymond Ave. at Melrose Ave.**

Ms. Gutierrez presented the request to the commission from Bwayne Smotherson on behalf of John Cross requesting the stop sign at Raymond at Melrose. Despite record of traffic accidents, the sightline is limited and due to the geometry of the intersection, staff recommended that installation of a stop sign on Raymond and removal of the yield sign on Melrose.



## Traffic Commission

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-6560, Fax: (314) 862-0694

Councilmember Smotherson stated that he has observed traffic on Melrose not observing the yield sign to traffic on Raymond.

Dr. Warbin confirmed that the change would require traffic on Raymond to stop and traffic on Melrose would have the right of way. Ms. Gutierrez confirmed.

Mr. Hales asked if the installation of the stop sign would impact residential parking in front of the homes. Ms. Gutierrez stated that they do not anticipate an issue.

Sgt. Whitley stated that the police department supports the change.

Dr. Warbin made a motion to accept the recommendation of staff and was seconded by Mr. Tunstall. The motion carried unanimously.

### **b. Residential Parking Permit Request – Asbury Ave.**

Ms. Gutierrez presented the completed residential parking petition provided to the Scudieris at the November meeting. Staff verified the signatures on the petition and 100% of the affected households were in agreement. Staff recommended approval.

Mr. Hales asked and Ms. Gutierrez confirmed that the times will be consistent with Forsyth's residential parking restrictions.

Mr. Mishkin moved to accept the recommendation of staff to implement the residential parking permit on Asbury and was seconded by Dr. Warbin. The motion carried unanimously.

### **6. Council Liaison Report**

None.

### **7. Miscellaneous Business**

Mr. Hales asked if the commission would be getting an update on Centene following the recent significant changes to their plans. He asked if there would be a need for a different parking study.

Mr. Mishkin asked what changes have been made. Mr. Hales stated that it had been published on NextSTL.com that the location for the auditorium had been moved, as well as the residential portion of the development and the number of garage parking spaces had been reduced. Mr. Hales asked if Centene had provided staff with any information on the changes.

Ms. Gutierrez stated that the city has not received any updated plans and informed the commission that it will be informed of any changes and new information.



## Traffic Commission

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

Mr. Mishkin asked if the council has been asked to look at the Centene project. Councilman Smotherson indicated that it has not yet come before the council. Ms. Gutierrez also stated that the plan commission has yet to make a recommendation on the proposed rezoning until there is an official request and plans brought to the commission.

Mr. Alpaslan said that he had heard from Clayton that utility work has begun on the first portion of the project and anticipates that Centene will come back with an application for rezoning.

Mr. Hales stated that the only aspect of the changes that seemed particularly applicable to the traffic commission was the reduction in parking spaces and potential impacts.

Mr. Hales stated that in a discussion with his neighbor, he discovered that the city code for parking restrictions on Hanley Rd. is not consistent with the county and asked if that could be looked into. If the county traffic code is the prevailing code, he suggested the commission recommend making our codes consistent. Ms. Gutierrez stated that the county will sometimes make changes to county traffic code on county roads in University City without informing University City. She suggested that the city ask the county for other recent changes to county roads in University City. Mr. Mishkin suggested that the city ask for the County's list of changes each year and Ms. Gutierrez stated that could be done.

Mr. Hales thanked Ms. Gutierrez for all of her work on the Traffic Commission and for the city and welcomed Mr. Errol Tate who will be the new Staff Liaison for the Traffic Commission.

Ms. Gutierrez thanked the commissioners for the nine years she served as Traffic Commission Staff Liaison.

### 8. Adjournment.

Dr. Warbin made a motion to adjourn the meeting and was seconded by Mr. Tunstall. The motion unanimously carried and the meeting was adjourned at 6:52pm

Minutes prepared by Jeff Hales, Traffic Commission Chairman & Secretary



**Department of Public Works and Parks**

3801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

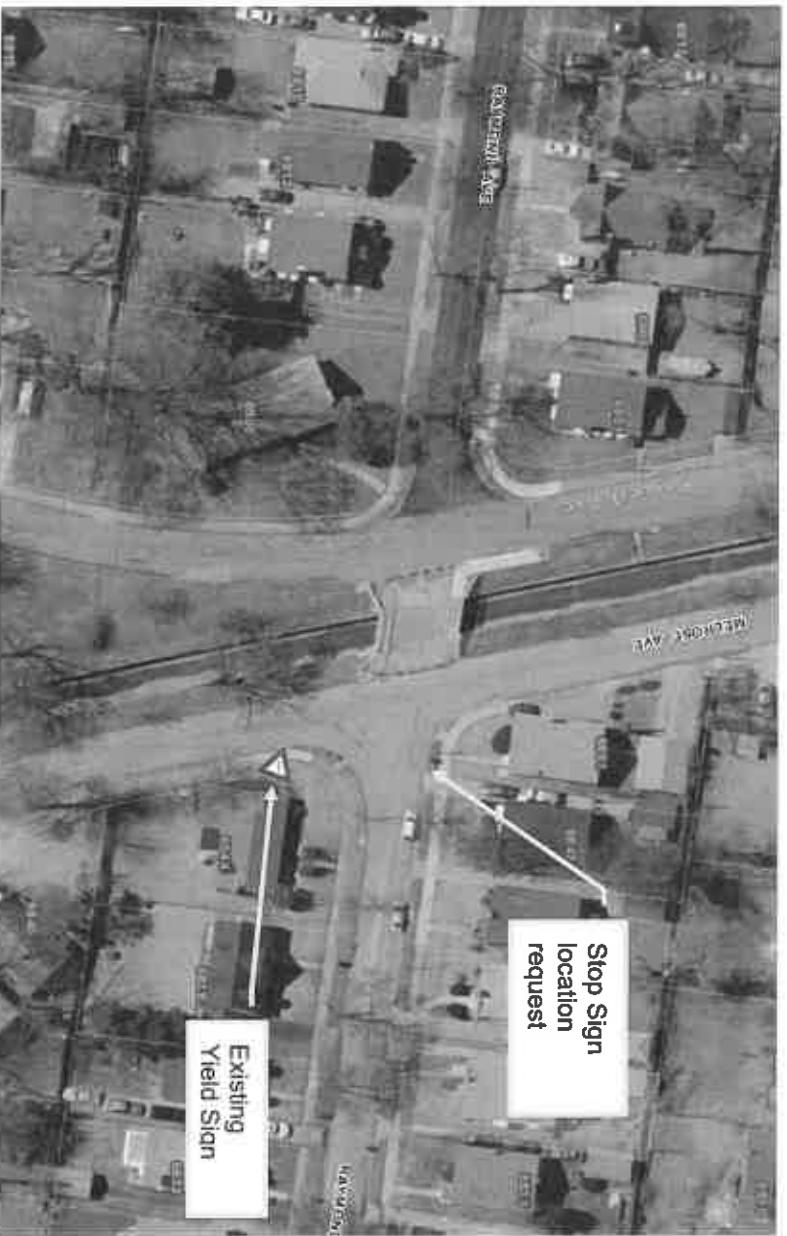
**STAFF REPORT**

**MEETING DATE:** December 14, 2016  
**APPLICANT:** Bwayne Smotherson on behalf of John Cross, 6800 block of Raymond  
**Location:** Raymond Ave and Melrose Ave intersection  
**Request:** Stop Sign Installation  
**Attachments:** Traffic Request Form

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**Existing Conditions:**

**Raymond Ave and Melrose Ave intersection – Stop signs location request**



Currently there is a yield sign on Melrose Ave at Raymond Ave (northbound only), and no stop signs on Raymond Ave.

The University City Police Department will provide accidents reported for the last 3 years at the time of the meeting. Raymond Ave and Melrose Avenues speed limit is 25 MPH.

The northbound Melrose Ave traffic cannot be seen from the eastbound Raymond Ave traffic.

**Request:**

Install a stop sign on Raymond Ave at Melrose Ave.

**Conclusion/Recommendation:**

Due to the geometry of the intersection, it is recommended to install a Stop sign on Raymond Ave at Melrose Ave, as requested. An additional plaque "Cross traffic does not stop" should be added. The Yield sign located on Melrose Ave will have to be removed to avoid confusion at the intersection, with a Stop Sign on one corner and a Yield Sign on the other corner.





TRAFFIC REQUEST FORM

LOCATION OF REQUEST:

6801 Raymond & Northcrest corner of  
Raymond & Forest

STATE THE NATURE OF YOUR REQUEST:

A stop sign should be placed on the corner  
of Raymond. Cars have to pull over & yield  
to the left. North and is a blind spot for cars turning  
right off of Raymond

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

Requesting a stop sign so that car  
turning right from Raymond stop and look  
left for cars turning north on Forest.

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

THIS impact would be minimal

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: Burton Smathers (John Cross)  
ADDRESS: 1215 Madeline Ave  
PHONE (HOME): 314 726 9522 PHONE (WORK): 4800 1306  
Email: bsm@thesmathers@gmail.com  
Date: 7-27-16

Please return the completed form to the Public Works and Parks Department, 3rd floor of  
the City Hall, attention Angelica Gutierrez, Public Works Liaison of the Traffic  
Commission, via email at

Or, by mail/fax:

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



INTRODUCED BY:

DATE:

BILL NO: 9306

ORDINANCE NO:

**AN ORDINANCE TO TEMPORARILY IMPOSE CERTAIN EXTRA DUTIES UPON THE CITY'S DIRECTOR OF FINANCE FOR A PERIOD OF NINETY DAYS.**

WHEREAS, the City Clerk of the City of University City as elected by Council is an officer of the City. The City Clerk shall keep the journal of Council's proceedings and keep in a book, a record of all ordinances and resolutions, authenticated by her signature; and

WHEREAS, the City Clerk of the City of University City is temporarily on leave for an extended period of time; and

WHEREAS, the duties of the City Clerk are required to be carried out in order to assist the City in its day-to-day business as a municipal government; and

WHEREAS, the Director of each department of the City is also an officer of the City; and

WHEREAS, the Director of Finance as an officer of the City shall pursuant to City Code, perform all duties imposed by the Code as well as perform such other duties as may be imposed upon her by any other ordinance.

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

Section 1. Assignment of Duties. The duties of the City Clerk set forth herein shall be assigned by this ordinance to the City's Director of Finance for ninety (90) days from the passage of this ordinance. The Director of Finance shall be responsible for authenticating by her signature all ordinances, resolutions and contracts as required by the City and shall keep a record of such documents.

Section 2. Emergency Clause. The City Council of the City of University City, hereby declares this ordinance to be an emergency in order to maintain and preserve the daily operations of the City government.

Section 3. Effective Date. This ordinance shall take effect and be in force from and after its passage as provided by law.

Read three times and PASSED this \_\_\_\_ day of January, 2017.

\_\_\_\_\_  
Mayor

MB-3-1

ATTEST:

City Clerk

CERTIFIED TO BE CORRECT AS TO FORM:

City Attorney

MB-3-2





Regular Meeting of the Municipal Commission on Arts & Letters  
City of University City  
November 10, 2016

**Members Present:**

Garrie Burr, Fred Fehr, Melcine Henderson, Lowanda Hinton, Richard Massey, Marian Reed, Barbara Santoro, Stephanie Schalter, Winnie Sullivan, Nicole Thomas, Wilmetta Toliver-Diallo, Myra Vandercsail, Kay Watts  
**Excused:** Fred Fehr, Felicia Hickman, Winnie Sullivan, Nicole Thomas

**Staff Liaison:** Lynda Euell-Taylor

**Council Liaison:** Bwoyne Smotherson

The meeting was called to order at 7:04 by president, Garrie Burr.

**Minutes** from October 13, 2016. Melcine Henderson moved approval. **Kay Watts seconded; they were approved unanimously**

**Citizen Comments:** None

**Treasurer's Report:** No report in absence of the treasurer

**Staff Liaison Report:** 1) Ms. Euell-Taylor reminded Commissioners of the 11/16/16 deadline for Jan/Feb ROARS. 2) Budget needs, if there are changes, needs to be submitted by 11/16/16. 3) There seems to be a problem with the resolution of photo for July. Myra will check CD for rescanning. 4) Lowanda's trunk was judged best at Trunk or Treat.

**Council Liaison Report:** Mr. Smotherson announced that the First Ward council seat has been filled.

**Committee Reports**

- Finance – Report is delayed until January due to Ms. Sullivan's absence.
- Literary – Lit in the Lot was better than last year's, thanks to volunteers.
- Marketing – Myra reported the information has been submitted for ROARS and to the city's marketing service. She would like to submit a written proposal in January for a nationally known photographer possibly present a program on her new book on insects and pets/owners. Myra also thanked Gary for his help in keeping the website up to date.
- Photo Show – Fred and Marian will ask Myra for help with their brochure
- Policies & Procedures – Work on the manual will continue after the first of the year. Information or questions should be sent to Kay.
- Public Art – nothing new to report
- Returning Artist – Kay reported that scheduling is still being arranged. Both days' programs will be held at UCHS because of the availability of the piano.
- Starlight Concerts – Melcine and Richard only need to obtain confirmations after budget numbers are determined. Suggested performers should be submitted to Melcine along with lists of preferred types of music.

**Old Business:** Kay passed a sign-up sheet for refreshments for the December gathering at her home.

**New Business:** Melcine moved that all officers for 2017 be accepted by acclamation. Marian seconded; unanimous approval. President, Garrie Burr; Vice President, Kay Watts; Treasurer, Winnie Sullivan; Secretary, Barbara Santoro.

**Adjournment** – The meeting was adjourned at 7:42 p.m



**Traffic Commission**  
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0894

**CITY OF UNIVERSITY CITY MINUTES OF THE TRAFFIC COMMISSION**  
**November 9, 2016**

At the Traffic Commission meeting of University City held in the Heman Park Community Center, on Wednesday, November 6, 2016, Chairman Jeff Hales called the meeting to order at 6:30 p.m. In addition to Chairman Hales, the following members of the commission were present:

- Jeffrey Mishkin
- Eva Creer
- Curtis Tunstall
- Derek Helderman
- Mark Barnes

Also in attendance:

- Angelica Gutierrez (non-voting commission member – Public Works Liaison)
- Police Department Sergeant Shawn Whitley (non-voting commission member – Police Department Liaison)
- Councilmember Bwayne Smotherson (non-voting commission member—Council Liaison)

Absent (not excused):

- Bob Warbin

**3. Approval of Agenda**

Mr. Mishkin moved to approve the agenda and was seconded by Ms. Creer. The motion carried unanimously.

**4. Approval of the Minutes**

**A. October 6, 2016 Minutes**

Mr. Mishkin made a motion to approve the minutes of the October 6, 2016 meeting and was seconded by Mr. Barnes. The motion carried unanimously

**5. Agenda Items**

**a. Residential Parking Permit Request – Asbury Ave.**

Ms. Gutierrez presented the residential parking permit request from Nate and Erin Scudieri of 7152 Maryland Ave seeking a residential permit parking plan for the block of Asbury between Lindell and Maryland Ave. Chairman Hales asked if the commissioners had any questions or discussion. There were no questions raised. Mr. Barnes made a motion to request the petitioner obtain signatures from 75% of the affected households and that the affected households include 7152 and 7200 Maryland Ave, and 7157 and 7201 Lindell. The motion was seconded by Mr. Mishkin. Mr. Hales asked that it be suggested to petitioner that we match the times on the adjacent streets. The motion unanimously carried.



**Traffic Commission**

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

**6. Council Liaison Report**

Mr. Smotherson thanked the commission for their consideration and support of the newly adopted disabled parking ordinance and played a voicemail from a resident thanking him and the commission for their work on the issue.

**7. Miscellaneous Business**

Mr. Hales stated he was asked by a resident about the new 20MPH speed limit signs in the loop and asked Ms. Gutierrez how that came about. Ms. Gutierrez replied that the revised speed limit and parking changes came before the commission 2 years ago when before the Loop Trolley construction began and was approved by the commission and the council. She indicated that they were waiting for the completion of the construction to implement the changes.

Erin Scudieri, the petitioner for the residential parking permit request arrived. Chairman Hales informed her that the commission had already recommended a residential parking petition with 75% approval from the four adjacent property owners to the block of Asbury and informed Ms. Scudieri that Ms. Gutierrez could assist her with the petition paperwork. Chairman Hales asked if Ms. Scudieri had any questions or wanted to address the commission. Ms. Scudieri said she didn't need to address the commission thanked the commission.

**8. Adjournment.**

Mr. Barnes made a motion to adjourn the meeting and was seconded by Mr. Tunstall. The motion unanimously carried and the meeting was adjourned at 6:41pm

Minutes prepared by Jeff Hales, Traffic Commission Chair & Secretary





**Commission on Senior Issues**  
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8563

**Meeting Minutes – University City Commission on Senior Issues**  
**November 21, 2016**

**Location:** Heman Park Community Center  
**Attendees Present:** Margaret Diekemper, Wayne Flesch, Mary Hart, Bill Thomas, Dorothy Merritt, Marcia Mermelstein (Senior Coordinator), LaRette Reese (staff Liaison)  
**Excused:** Elaine Henton, Sue Slater, Councilmember Carr  
**Guest:** Andrea Riganti, Jodie Lloyd, Roz Turner

Ms. Margie Diekemper called the meeting to order at 6:09 PM  
Roll call was done by Ms. LaRette Reese

**Approval of Minutes**

Mr. Thomas moved to approve the meeting minutes from the October 17, 2016 meeting; it was seconded by Mr. Flesch. The motion passed.

Chairperson Diekemper reviewed the agenda and made note of a change in the order of agenda items; the unfinished and new business sections will now be the first topic of discussion.

**Unfinished Business**

Ms. Diekemper opened the discussion around the goals, objectives and priorities of the Commission; which began at the October meeting. Ms. Merritt provided a handout with her recommendations and ideas. She believes the Commission is definitely needed. All progressive cities should have a board for the aging population. She feels perhaps more board members needed so more can be done. Mr. Flesch suggested that the Senior Commission needs to be more visible and suggested perhaps a fall prevention workshop that might be part of a partnership with Washington University. Ms. Merritt suggested that the MEAAA Senior Center in U. City could possibly be the host site for such an event if such an event was something the Senior Commission decided to host. (there was no consensus on this voiced at this meeting). Mr. Flesch also suggested activities that would give the commission more visibility such as holiday caroling. On the idea of programs in the Senior Center, he then followed up with the suggestion that Commission members might visit the Center and get their suggestions for programs. To that, Ms. Diekemper asked Ms. Hart to share again the results of the survey done by WU OT students earlier in 2016, whom they spoke to and what were some of the findings.

Ms. Hart stated that based on the March survey done at the Senior Center, participants prioritized hot meals and 1 time or single event programs. Attendance in the past has not been very good. The two common issues that keep coming up over and over are transportation and home repairs. The best way to get information to some neighborhoods is to go door to door with a magnet or handout. Ms. Hart suggested the Commission focus in on becoming an age friendly business community. The Commission could provide a seasonal checklist to seniors, and hold small focus groups on different topics.

Ms. Diekemper suggested the member think about looking forward; where do we want to be in 2-5 years from now? What services, programs and monies do want to have?

Ms. Mermelstein submitted the article for the Jan/Feb issue of ROARS.

**New Business**

The Director of Community Development, Andrea Riganti and the Economic Development Manager Jodie Lloyd were present to meet the Commissioners and also to share information about the Senior Coordinator (Marcia Mermelstein) moving to the Community Development department. Ms. Mermelstein will work with Ms. Lloyd to develop a work plan, they will work together to bring projects and programs to support older adults. This reporting change will provide more support and resources.

Review updated bylaws and Commissioner Terms and meeting frequency. Further discussion is delayed until the January meeting. Chairperson Delkemper is planning to resign from the chairperson position in January 2017. Members will consider who will be the next chairperson.

#### Other Business:

The next ITNGateway meeting is November 30, 2016.

Ms. Merritt motioned to cancel the December meeting. Ms. Flesch seconded and the motion was passed.

#### Senior Coordinator Update

Ms. Mermelstein provided the following updates on activities, meetings and programs related to older adults.

- The coffee talk sessions have provided good feedback and fellowship. About 8 people attended.
- Working on a plan to build a regular source of labor to help with home repairs. Not having much success, any ideas or suggestion are welcomed
- Senior's mailing list is up to 211 people

#### Public Participation

Ms. Roz Turner stated the things being discussed are the same items that she heard a year ago.

#### Follow-up Actions:

1. Ms. Hart agreed to draft a bullet point list of what the Commission has completed and what things we want to do next.
2. All members should be thinking next chairperson and also where we want to be in 2-5 years regarding senior services.

Council Liaison Update: NA

Meeting was adjourned at 7:35PM

**Next Meeting: Tuesday, January 17th at 6:30 PM. – Heman Park Community Center**