



MEETING OF THE CITY COUNCIL  
CITY HALL, Fifth Floor  
6801 Delmar Blvd.  
University City, Missouri 63130  
**April 24, 2017**  
**6:30 p.m.**

- A. MEETING CALLED TO ORDER**
- B. ROLL CALL**
- C. APPROVAL OF AGENDA**
- D. PROCLAMATIONS**
- E. APPROVAL OF MINUTES**
  - 1. April 10, 2017 Regular session minutes
- F. APPOINTMENTS to BOARDS & COMMISSIONS**
- G. SWEARING IN to BOARDS & COMMISSIONS**
  - 1. Robert Klahr to be sworn in to the Historic Preservation Commission
  - 2. Dennis Hoppe to be sworn in to the Human Relations Commission
- H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)**
- I. PUBLIC HEARINGS**
- J. CONSENT AGENDA**
- K. CITY MANAGER'S REPORT**
  - 1. Approve Project 1284 - Sidewalk and Curb Replacement Project  
*VOTE REQUIRED*
  - 2. Approve Project 1293 - Asphalt Overlay Improvements Annual Street Resurfacing Contract.  
*VOTE REQUIRED*
  - 3. Approve Picnic Liquor License for Fair U City  
*VOTE REQUIRED*
- L. UNFINISHED BUSINESS**
  - BILLS*

**M. NEW BUSINESS**  
*RESOLUTIONS*

*BILLS*

1. **Bill 9311** – Kingsland Ave. “Alley Bridge” Replacement Project – Surface Transportation Program (STP) Agreement
2. **Bill 9312** – Trolley Do Not Pass – Municipal Code Amendment
3. **Bill 9313** – Trolley Obstruction Zone – Municipal Code Amendment
4. **Bill 9314** – Parking Prohibition – 7001 Forsyth

**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
  - a. **Selection of City Manager Search Firm**  
*Requested by Councilmember Carr and seconded by Councilmember Crow*  
Discussion and Vote
  - b. **Update on Audio Recording of City Meetings**  
*Requested by Councilmember Carr and seconded by Councilmember Smotherson*  
Discussion and Vote

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

**P. COUNCIL COMMENTS**

**Q. Adjournment**

MEETING OF THE CITY COUNCIL  
CITY HALL, Fifth Floor  
6801 Delmar Blvd.  
University City, Missouri 63130  
**April 10, 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, April 10, 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 Carr  
Councilmember Steven McMahon  
Councilmember Terry Crow  
Councilmember Michael Glickert  
Councilmember Bwayne Smotherson

Also in attendance was Interim City Manager, Charles Adams.

**C. APPROVAL OF AGENDA**

Hearing no requests for amendments Councilmember Jennings moved to approve the agenda as presented, seconded by Councilmember Carr and the motion carried unanimously.

**D. PROCLAMATIONS**

**E. APPROVAL OF MINUTES**

1. March 27, 2017, Study Session Minutes, were moved by Councilmember Jennings, seconded by Councilmember Carr and the motion carried unanimously.
2. March 27, 2017, Regular Session Minutes were moved by Councilmember Carr, seconded by Councilmember Smotherson and the motion carried unanimously.
3. March 30, 2017, Special Session Minutes were moved by Councilmember Carr, seconded by Councilmember Jennings and the motion carried unanimously.

**F. APPOINTMENTS TO BOARDS & COMMISSIONS**

1. Robert Klahr is nominated to the Historic Preservation Commission by Mayor Welsch, seconded by Councilmember Carr and the motion carried unanimously.

2. Dennis Hoppe is nominated to the Human Relations Commission by Mayor Welsch, seconded by Councilmember Glickert and the motion carried unanimously.

**G. SWEARING INTO BOARDS & COMMISSIONS**

1. Jason Sparks was sworn into the Parks Commission at tonight's meeting.

**H. CITIZEN PARTICIPATION (Total of 15minutesallowed)**

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

Mr. Sullivan voiced concerns regarding the following topics:

- **Mayor Pro Tem** - The March 27th agenda did not provide sufficient information regarding the issue of Mayor Pro Tem as the law requires, and anyone with an opinion was prevented from expressing that opinion. Therefore, no vote should have been taken.
- **Excessive Noise** - The Drum Circle, consisting of approximately 15 drummers that perform in The Loop on Sunday evenings can be heard all the way to Vernon Avenue. The police were called and the group was informed they needed a permit. However, in his opinion, no permit which allows this group to play near residential areas should be issued.
- **City Aesthetics** - In a correspondence to the Interim City Manager, Mr. Sullivan advised him about several housekeeping matters that needed attention; numerous inoperable streetlights; an inoperable park light on the Leland entrance to the No. 4 parking lot; missing dumpster lids; missing curbs, and excessive debris on streets as a result of a reduction in the City's street sweeping activities. Sweeping should be conducted from 9 a.m. to 11 a.m., rather than 8 a.m. to 11 a.m.
- **Public Works** - Employees assigned to the City's grass cutting operation should be instructed to clean up all debris rather than blowing it out into the streets.
- **EDRST Board** - Minutes from the March 27th Study Session in regards to Create Space, state, "*None of the other applications gave Board members the warm and fuzzy feeling of an actual hardcore return on investment*". However, he does not think taxpayers will have a warm and fuzzy feeling when they see even more of their tax dollars headed down a rat hole. Non-profits need to provide City staff with their IRS Form 990 and Council should carefully review all of these proposals because only a small fraction of them appear to accomplish the purpose of this fund; to develop retail.

**I. PUBLIC HEARINGS**

**J. CONSENT AGENDA**

**K. CITY MANAGER'S REPORT**

1. Award Bid from Lifeguard's Unlimited for Management Services at Heman Park Swimming Pool and Natatorium for the 2017 Season.

Councilmember Carr moved to approve, and was seconded by Councilmember Glickert.

### Citizen's Comments

#### **Elsie Glickert, 6712 Etzel, University City, MO**

Ms. Glickert stated the 2016 Census indicates there are 1,776 persons age 15 to 19, living in U City, and yet, allegedly staff has had difficulty recruiting guards.

However, as a resident who frequents the pool on a daily basis, her personal observation is that there has never been a sign in the bath house lobby; where you would most likely find potential applicants, saying, "*Lifeguards wanted; any age*". And some of the experienced lifeguards who have applied for the job reported that no one from City staff has ever contacted them. So perhaps, closing or outsourcing would make some members of staff happy. Ms. Glickert then posed the following questions to member of Council:

1. Were any public comments received by the Parks Commission before making their recommendation?
2. Will Lifeguard's Unlimited require U City guards to buy their own swimsuits; this is not a current requirement.
3. Will U City guards have to pay to obtain their Red Cross Certification; currently they are reimbursed for this cost.
4. Where is Lifeguard's Unlimited located, and will U City guards have to travel back and forth to their facility?
5. Will City employees currently assigned these duties receive a reduction in pay once their responsibilities are diminished?

Ms. Glickert stated that the Heman Park Pool has consistently been a wonderful recreational facility and employment opportunity for the residents of U City for 83 years, and in her opinion, this tax-supported entity does not need to be outsourced.

#### **Jen Jensen, 706 Pennsylvania, University City, MO**

Ms. Jensen expressed opposition to outsourcing the Heman Park Pool based on concerns regarding the additional costs for residential lifeguards and whether it would actually benefit the City. At this late date, she would suggest that Council postpones taking any action for one year in order to have enough time to gain additional input and determine whether this is really going to be a benefit for the residents.

### Council's Comments

Councilmember Jennings stated having grown up utilizing this pool and witnessing many of his friends gain employment there, initially he was very concerned about the outsourcing. However, after learning that Lifeguard's Unlimited had made a commitment to give U City kids preference with respect to these jobs; that they would have an opportunity to increase their hours by working at other pools serviced by this company, and that they would get a wage increase, his concerns were minimized. Lifeguards do have to pay for their own swimwear, but the Red Cross Certification is paid for by the company. So, based on his understanding that the City will be closely monitoring this company to ensure that they live up to their commitments, he is satisfied with the proposal.

Councilmember Carr stated this proposal was presented to the Parks Commission; it appears to be reasonable, and this time the outsourcing was handled in the right manner. As both of the resident speakers will probably agree, every year, they, as well as many other residents, have asked the City to extend the pool's hours of operation. But in order to even get the pool into the budget, year after year, the season has had to be reduced. So, this seems to be a way to not only extend the season but deliver the kind of service that people want. The training offered by Lifeguard's Unlimited seems to be good, and since nothing is being eliminated, this appears to be a good solution for now. And with respect to the questions about transportation, her hope is that parents will employ the same type of collaboration utilized when their kids are required to travel for many of their other activities. Councilmember Carr stated this proposal provides the City with an option to ask for amendments and institute changes, so it's actually a work in progress.

Councilmember Glickert stated it's probably pretty obvious why he would not be in favor of outsourcing at this point in time. Councilmember Jennings alluded to the word "*Community*," and that's exactly how he views it. With the exception of one year, these lifeguards have been members of this community since 1933, and everybody knew each other; which may not be the case if it is outsourced. However, after reading the material he was very impressed with the company, especially as it relates to their educational component. And therein lies the problem. The City should have provided swimming lessons for their young people years ago, and there's a sign in the men's shower room which says, "*All valuables will be removed from lockers at the end of the day*," but they have not had lockers for over 30 years. So his big concern is who has been minding the store? Councilmember Glickert stated he thinks what is happening now, is that the City has just said let's wash our hands of these problems, give it away, and let someone else take care of it.

Councilmember McMahon noted that the bid proposal lists a three-year contract and the Parks Commission recommended a one-year contract. So, is Council voting on a three-year contract or is it a one year contract with provisions for renewal? Andrea Riganti, Community Development Director, stated it was a one-year contract.

Councilmember Jennings stated when he was in school swimming was a requirement. Subsequently, it became an elective, and as a result, a lot of African-American children do not know how to swim.

Councilmember Smotherson stated his very first job in 1976 was a lifeguard at the Heman Park Pool, which he and his children have used for many years. And one of the problems he ran into as a parent was the pool closing early in August. So he is in favor of the outsourcing.

Mayor Welsch stated although she has spoken with her good friends, Ms. Jensen and Ms. Glickert, she is in favor of outsourcing the City's services. As previously mentioned, U City children will be given top priority with respect to the hiring of lifeguards, assistant managers, and managers. And in spite of the fact that kids will have to pay for their swimsuits at an approximate cost of \$18.95, they will be paid substantially more than the City has been able to pay its guards.

There will be an expansion of educational programs which the City does not provide enough of; their Red Cross Certification will be paid for by the company; Lifeguard's supervisors will be working closely with a member of City staff, and she is extremely pleased that they are going to provide marketing. Mayor Welsch stated she believes swimming is a health and recreational activity, and that Council must look at what is best for the City as a whole. It is a one year contract and while her hope is that this will be a much better experience than the one 13 years ago, there is a provision for reevaluation. So for the long-term fiscal health of this facility, she thinks it is something the City should try.

Roll Call Vote Was:

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

**Nays:** Councilmember Glickert.

**2. Approve Site Plan for a parking garage at 560 Trinity Avenue in the "PA" - Public Activity District.**

Councilmember Glickert moved to approve, and was seconded by Councilmember Smotherson.

Councilmember Carr asked whether it was correct that the back of the garage facing Delmar which was initially identified as being renovated with a different material has now been changed to brick. Ms. Riganti informed Councilmember Carr that there had been some changes to the materials, however, for a more precise explanation she would like to ask Mr. Greg Truce from the Lawrence Group to address this specific question.

Mr. Truce stated the original HPC presentation had involved a slightly different material. Since that time the northeast elevation has been revised to include the same material proposed on the other four elevations; a terracotta cladding, which has been included in the application.

Councilmember Carr stated her understanding is that although this parking garage is a standalone, ultimately COCA will be permitted to use some of the spaces. So her warning to COCA is that in order to ensure there are no problems when their Conditional Use Permit comes up for reevaluation they will need to have documentation which identifies where the requisite number of parking spaces are located. But other than that, she is excited about this project.

Councilmember Smotherson stated prior to serving on Council he sang with the St. Louis Symphony Orchestras In Unison Chorus and parking was always an issue when they rehearsed in the building owned by Washington University. And based on that experience he believes this is a much-needed project for the area. He stated his only concern is the staging of numerous pieces of equipment in such a tight area. So he hopes that contractors will be considerate of neighboring residents.

Councilmember Carr stated several members of Council have received various complaints about the constant construction and its impact on parking. So she would like some type of assurance from staff that neighbors will not experience a loss of parking during this construction, and that there will be an emergency contact number where someone can be reached at all times.

Councilmember Crow asked Ms. Riganti if Council could also get information about whether there will be an off-site parking plan for construction employees?

Councilmember Carr asked Ms. Riganti if contractors would be expected to follow the City's Noise Ordinance since that could also create a hardship for residents. Ms. Riganti stated that the hours of construction will be adhered to as per the City's Building Code. And to answer Councilmember Crow's question, once the construction plan is submitted to the Department of Community Development it will be shared with City Council, as well as neighbors who will be impacted.

Mayor Welsch stated she thinks this is a beautiful garage and the cladding that was selected blends in well with the neighborhood.

Voice vote on the motion to approve carried unanimously.

## L. UNFINISHED BUSINESS

### *BILLS*

1. **BILL 9310** - An ordinance authorizing the Interim City Clerk to perform all duties of the City Clerk and Secretary to the City Manager, and fixing the compensation, therefore; containing an emergency clause. Bill 9310 was read for the second and third time.

Councilmember Carr moved to approve, seconded by Councilmember Crow.

Councilmember Crow stated since the emergency clause was not exercised at the last meeting, he would like to make a motion to amend by removing Section No. 4, and the last four words of the heading which states, "*Containing an emergency clause*". The motion was seconded by Councilmember McMahan.

Voice vote on the Motion to Amend carried unanimously.

Mayor Welsch stated she has informed members of Council, as well as Ms. Reese, that she does not feel she can support this Bill, even though she is pleased to work Ms. Reese. She stated to ensure Council is sending the right message to City staff her belief is that Council should have provided additional compensation to Ms. Reese for taking on some of the duties associated with the City Clerk's position per the Administrative Regulations of the City. The difference in pay would have been about \$1.76 an hour.



Councilmember Carr stated Ms. Reese was appointed by Council to be the Interim City Clerk, with the understanding that she would be allowed to maintain her current position as Secretary to the City Manager. Both of these positions are designated as unclassified, whereas the Administrative Regulation alluded to by the Mayor applies to classified employees who are protected under Civil Service Board policies and procedures. However, since Ms. Reese has been appointed to a vacancy for an indefinite period of time, this Bill is simply asking that she be afforded all responsibilities and rights of a City Clerk, until such time as Council hires a permanent Clerk. Councilmember Carr stated there is a need to use a consistent argument when looking at the rules, which in this case, is whether the employee is classified or unclassified. And in her opinion, the \$1.76 is a red herring. Essentially, Ms. Reese is performing two jobs, while receiving the lowest possible salary afforded to a City Clerk; approximately \$58,000. However, if these two positions were performed individually, the City would be paying over \$107,000. So Council is getting a bargain. Ms. Reese's performance has been outstanding, she is very professional, her work product is amazing, and she deserves to be fairly compensated.

Councilmember Crow concurred with Councilmember Carr's analysis of Bill No. 9310, because in his mind it seems clear that the two positions Ms. Reese is being asked to perform fall under the category of unclassified. And the fact that she has been willing to perform these responsibilities at the minimum pay grade for a City Clerk shows that those members who are trying to make this work are also cognizant of being good stewards of taxpayer dollars. He stated that while he would applaud the Mayor for her concern about the message being sent to staff, over the years a number of different messages have been conveyed which demonstrated absolutely no concern for staff; particularly with respect to the outsourcing of the City's entire EMS staff. So, although this concern may have come late to the dance, at least Council seems to be heading in the right direction.

Roll Call Vote Was:

**Ayes:** Councilmember McMahon, Councilmember Crow, Councilmember Glickert, Councilmember Smotherson, Councilmember Jennings, and Councilmember Carr.

**Nays:** Mayor Welsch.

## **M. NEW BUSINESS**

### *RESOLUTIONS*

### *BILLS*

## **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**

Councilmember Carr stated Arbor Day tree plantings sponsored by Urban Forestry have been scheduled for the Mona Bike Trail Park site. However, one problem is that this initiative was never presented to the Park Commission.

The second problem is that the bike trail travels along River Des Peres where the bank is starting to crumble, and consideration is currently being given as to whether or not the trail should be moved to the west. So, at this point in time, the addition of new plantings may be a waste of resources. Councilmember Carr stated anything that happens in City parks must be brought before the Park Commission; at least for informational purposes. Therefore, to ensure that such actions do not become a precedent, in the future she would strongly urge that any plans concerning a specific Board or Commission be referred to them for guidance prior to taking any action.

3. Boards, Commissions, and Task Force Minutes

4. Other Discussions/Business

- **Recording of Board and Commission Meetings**

*Requested by Councilmember Smotherson and seconded by Councilmember Carr*

Councilmember Carr stated several years ago the City Manager made a decision to relieve staff of their responsibility to record Commission and Board meetings. At the same time, minutes were reduced to be comprised of only the basics, which oftentimes left the reader clueless as to what had actually occurred. But with today's advancements in technology and such an engaged community, she would like to see the recording of these meetings reinstated and the files uploaded to the City's website for review by all interested parties. Councilmember Carr made a motion to reinstitute the policy of recording Commission and Board meetings, and the digital files added to the City's website for easy access. The motion was seconded by Councilmember Smotherson.

Councilmember Smotherson stated important topics are often discussed at these meetings and it is imperative for Council and the public to have an opportunity to hear these live conversations rather than receive secondhand information.

Councilmember Crow asked the Interim City Manager if he believed this request could be accomplished by staff. Mr. Adams stated that after being made aware that this topic would be on tonight's agenda he had discussed the dynamics with staff and concluded that although new equipment would have to be purchased, the Director of Community Development will work with her staff and establish the protocols necessary to honor Council's request.

Councilmember Glickert stated his belief is that a majority of Commissions already have recorders. However, since they are allowed to make their own rules and regulations in terms of how they conduct their meeting, his preference would be to leave the decision of whether to record or not to record these meetings up to the members.

Councilmember Jennings stated often he has found it difficult to recruit citizens to serve on these Commissions and one of his concerns is whether they would feel comfortable voicing their opinion if meetings were recorded. So perhaps, it should be left up to the individual Board or Commission.

His other concerns are related to whether the need to purchase new equipment is a good return on investment, and if the City's server has the capacity to store a large volume of digital data.

Councilmember Smotherson stated he was under the impression that each staff liaison already possessed this equipment and that his request would not create an additional cost or burden on the City.

Councilmember Carr stated every Board or Commission is a governmental body and required to have open meetings and records. A recorded proceeding allows members who are absent to easily get back up to speed, assists with the taking of minutes, and provides everyone with the opportunity to stay engaged with Boards and Commission who are making decisions on how taxpayer dollars are spent. She stated that she probably paid less than \$50.00 for her recorder and the clarity is excellent.

Councilmember Jennings stated that Council's microphones, as well as the microphones used for meetings at the Community Center, are both attached to a larger warehousing system. So he would ask the Interim City Manager to consider whether it would be more cost-effective to add-on to the City's existing equipment.

Mr. Adams stated initially he had only been looking at small recorders similar to the one mentioned by Councilmember Carr. However, he would be willing to research Councilmember Jennings' suggestion to determine the most inexpensive way to get the job done.

Mayor Welsch asked Councilmembers Smotherson and Carr if they would be amenable to postponing any action for a month until feedback could be obtained from members of Commissions, Mr. Adams could develop a budget, and Ms. Riganti could establish the suggested protocol.

Councilmember Carr stated she does not see where a month would make a difference since her motion was simply to reinstitute the recording of these meetings for the purpose of retaining valuable information. So she is not willing to take a vote on postponing this for a month when there have been other instances she thinks were much more important that some of her colleagues were not willing to consider.

Councilmember Crow stated if the Interim City Manager has a practical problem with this request he would be more than happy to talk about it. But all Council is asking tonight, is that a directive be issued to restore something that probably should have never been eliminated.

Councilmember Jennings stated he would be interested in gaining a better understanding of why the former City Manager made the decision to eliminate the recording of Commission meetings? Councilmember Crow stated he doubts there is a record of why he took this action, it was simply taken away.

Mayor Welsch stated when she was a member of Arts & Letters their meetings were not recorded. Thereafter, recordings were instituted and subsequently eliminated again.

Roll Call Vote Was:

**Ayes:** Councilmember Crow, Councilmember Smotherson, Councilmember Jennings, Councilmember Carr and Councilmember McMahon.

**Nays:** Councilmember Glickert and Mayor Welsch.

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

**Greg Pace, 7171 Westmoreland, University City, MO**

Mr. Pace responded to Councilmember Crow's comment regarding the treatment of City employees, specifically as it relates to the outsourcing of EMS. He stated that in spite of the fact that Union Leadership was very unhappy, no employee was ever laid off or lost their job; which he attributes to the leadership of Lehman Walker. And in response to Councilmember Carr's comment about EMS being dumped on Council with 48 hours' notice, he would point out that the RFP, as well as the responses from the two companies who applied, were all displayed on social media. So everyone was well aware of what was being proposed. The outsourcing was taken off of the table for a long period of time and a Study Session was even conducted. Mr. Pace stated that it also might be interesting to note that as the citizen consultant; which every member of Council was aware of, no one ever asked him any questions about the outsourcing. So yes, the contract was laid out shortly before Council's meeting, and he would agree that was wrong, but the idea that this whole situation caught everybody with their pants down is ridiculous.

**P. COUNCIL COMMENTS**

Councilmember Glickert stated at the last meeting Council had asked that he begin working on a process to fill the open position of City Clerk. He stated that he had met with Mr. Adams and the HR Manager, and they hope to have the process in place within the next couple of weeks.

Councilmember Carr stated last week she had the absolute pleasure of going to Brittany Woods Middle School to talk with some of the seventh graders about her role as a member of Council. It was a day well spent. And at the end of the class students discussed what they had learned about the City's Wards, the number of parks and the Sunshine Law. She stated that when talking about First Amendment Rights, it was pointed out to her that one young lady had already successfully exercised this right by petitioning to remove assigned seating, and was now working on a petition to enhance the quality of lunches. Councilmember Carr stated it was a wonderful experience with an amazing group of kids and her hope is that they will invite her to come back again next year.

Councilmember Crow stated to ensure there are no surprises going forward he would like to present some of the items Council will be working on and hope to get accomplished, in the near future. At the top of the list is the search for a new City Manager, and parallel to that is the City budget.

Once the budget is complete, he would then like to see Council conduct a review of the services that have been provided by Gateway to date, and determine whether any improvements are needed. Councilmember Crow cited an incident with one of his new neighbors who complained about constantly being asked by Gateway drivers how to get from upper Maryland to lower Maryland.

He further noted that his neighbor's wife had left several messages with individuals sitting on this dais that has yet to be answered. So there are still some lingering concerns and he believes Council owes it to its citizens to maintain oversight by conducting an evaluation of the services being rendered. He stated he also thinks a majority of citizens would tend to agree that the outsourcing of EMS impacted the morale of City employees. And as a side note, he was a little surprised to hear that members of Council were expected to contact a citizen about things going on within City Government. Nevertheless, his hope is that everyone has started to notice the robust and professional demeanor in which discussions and votes are being conducted by Council, which in his opinion, is just the way business should be conducted in this Chamber.

Councilmember Smotherson asked Mr. Adams if the Study Session previously scheduled for this coming Thursday to discuss the budget had been canceled. Mr. Adams stated that it had been.

**Q. ADJOURNMENT**

Mayor Welsch thanked everyone for their attendance and closed the City Council meeting at 7:40 p.m.

LaRette Reese  
Interim City Clerk

10 April 2017

Regarding the outsourcing of our outdoor Heman Park Swim Pool, I have questions and comments:

How much public comment was made to the Park Commission? Or was it only Staff comments? How much will it cost U.C. Guards to get the job? Will they have suits furnished as in U.C. will they be charged for certification? Will it be necessary for them to travel to LifeGuard Unlimited (located WHERE?)

There are 13 weeks in the outdoor pool season. 3 weeks in August, the hottest time of the year in St. Louis, allegedly the Staff has had difficulty recruiting Guards because of School time. I can say from personal observation, since I am at the pool almost daily, that I have never seen a free-standing sign in the bath-house lobby saying "LIFEGUARDS WANTED any age". All swimmers must pass through this lobby to access the pool, and they are ~~they~~ the potential applicants since they are swimmers. I also know experienced guards called, interested in the positions, but their calls were never returned by Staff. TELLS ME SOMETHING!!! If outsourced, are staff salaries to be reduced for non-performance of duty?

Consistently for 84 years (minus 1 when it was oursourced), this has been a wonderful recreation facility for all people; a place for all U C kids to work as techs and guards -- all from 2 1/2 miles from their home where they would walk or bike. ~~Consistently they were trained by our Staff on sight.~~ Why change 83 years of success (and 1 disaster) for a company located WHERE? We have Staff hired to do the job on sight. <sup>sfc</sup> Municipal pools are not cost effective -- they are recreational and health facilities.

Heman Pool is a Swim Pool - not a Water Park which may need additional assistance. We have had the same pool foot-print for 84 years. We have the human resource<sup>w</sup> for guards. The 2010 Census indicates there are 1776 persons 15 to 19 here as well as 35,000 people. Our dynamics are much different from smaller municipalities. No County municipality can match 84 years of aquatic history.

Our tax-supported Heman pool does not need to be outsourced.

Elsie Glickert  
6712 Etzel Ave.  
UC., MO 63130  
April 10, 2017



## Council Agenda Item Cover

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**MEETING DATE:** April 24, 2017

**AGENDA ITEM TITLE:** Project 1284 - Sidewalk and Curb Replacement Project

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

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

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**BACKGROUND:** Every two years, the City inspects all streets for deficiencies and rates them based on severity of deterioration/damage by documenting the actual conditions of the road pavement, sidewalk pavement, and Americans with Disabilities Act (ADA)-compliance conditions. With this information the City is able to develop a maintenance budget, make timely repairs and use cost-effective maintenance procedures.

The City replaces sidewalks that are extensively cracked, failed, does not meet certain ADA requirements, faulted, and/or possesses a trip hazard. Curbs are replaced when severe enough to disrupt drainage or when deteriorated and adjacent to street pavement that is being resurfaced.

On April 3, 2017, the City opened bids for the Sidewalk and Curb Replacement Project. The tabulation of bid proposals is as follows:

<b>Contractor</b>	<b>Base Bid Price</b>
Pride Master	\$463,169.00
Infrastructure Management	\$592,250.00
Raineri Construction	\$606,950.00
Sweetens Concrete	\$619,619.00
Spencer Contracting	\$715,500.00

The low bidder Pride Master has successfully completed similar projects to the Project 1284 in other municipalities as well as private owners. Pride Master plans to use a sub-contractor (West Fall Hauling) that has performed sidewalk-curb concrete work for University City previously and this company is a registered Minority Business Enterprise in our region.

**RECOMMENDATION:** It is recommended that the City Council approve the award for the Project 1284 – Sidewalk and Curb Replacement to Pride Master Construction in the amount of \$463,169.00.

**ATTACHMENT:** Project locations list

### LOCATIONS

<b>Tulane</b>	<b>Swarthmoor</b>	<b>Groby</b>
<b>Orchard</b>	<b>Grant</b>	<b>Sheridan</b>
<b>Coolidge</b>	<b>Archer</b>	<b>Appleton</b>
<b>Balson</b>	<b>Midland</b>	<b>Purdue</b>
<b>Balson</b>	<b>Purdue</b>	<b>Jackson</b>
<b>Jackson (N)</b>	<b>Amherst</b>	<b>Balson</b>
<b>Jackson (S)</b>	<b>Cornell</b>	<b>Balson</b>
<b>Jackson</b>	<b>Balson</b>	<b>Shaftesbury</b>
<b>Balson</b>	<b>Gay</b>	<b>Old Bonhomme</b>
<b>Groby</b>	<b>Ahern</b>	<b>Glenside</b>
<b>Barby</b>	<b>McKnight Pl.</b>	<b>I-170 Ramp</b>
<b>Westover</b>	<b>Glenside</b>	<b>Groby</b>

### ADDITIONAL LOCATIONS

<b>Archer</b>	<b>Grant</b>	<b>Coolidge</b>
<b>Delcrest</b>	<b>8350 Delcrest Dr.</b>	<b>Raised Crosswalk</b>
<b>U Heights</b>	<b>Subdivision</b>	<b>Agreement</b>





## Council Agenda Item Cover

**MEETING DATE:** April 24, 2017

**AGENDA ITEM TITLE:** Project 1293 - Asphalt Overlay Improvements

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

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

**BACKGROUND:** The City resurfaces streets that are beyond routine maintenance such as pot hole patching and spot repairs. Every two years, the City rates streets on a scale of 1 (poor condition) to 10 (excellent condition), using the Pavement Surface Evaluation and Rating (PASER) method developed by the University of Wisconsin's Transportation Information Center. After PASER street ratings are completed city-wide, streets are prioritized for maintenance and repair and programmed into the City's capital improvement plan. It is the goal of the project to overlay streets that have been updated with current specifications for ADA (Americans with Disabilities Act)-compliant sidewalks and curbs.

The City publicly opened bids for the Asphalt Overlay Project on April 3, 2017. The tabulation of bid proposals is as follows:

<b>Contractor</b>	<b>Base Bid Price</b>
Ford Asphalt Company	\$528,600.00
Spencer Contracting	\$532,120.00
Gateway DCS	\$543,058.60
West Contracting	\$648,600.00
KRUPP	\$666,628.00
E. Meier Contracting	\$699,050.00
Byrne & Jones Construction	\$801,977.00

**RECOMMENDATION:** Ford Asphalt Company has completed University City's annual street resurfacing work with satisfactory results in the last three fiscal years. This project is funded by the Capital Improvement Sales Tax Fund 12-40-90.

It is recommended that the City Council approve the award for the Asphalt Overlay Project to the lowest and responsible bidder, Ford Asphalt Company in the amount of \$528,600.00.

**Attachment: Project Location List**

**Project 1293 Asphalt Overlays Project Locations**

<b>STREET</b>	<b>FROM</b>	<b>TO</b>
Tulane	Swarthmoor	Groby
Orchard	Grant	Sheridan
Coolidge	Archer	Appleton
Balson	Midland	Purdue
Balson	Purdue	Jackson
Groby	Ahern	Glenside
Barby	Kingdel	I-170 Ramp
Westover	Glenside	Groby



## City Manager's Report Agenda Item Cover

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**MEETING DATE:** April 24, 2017

**AGENDA ITEM TITLE:** Picnic Liquor License for Fair U City

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

**CAN THIS ITEM BE RESCHEDULED? :** No

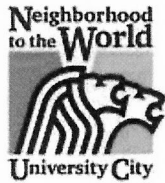
**BACKGROUND REVIEW:** Fair U City has applied for a picnic liquor license; type of liquor to be sold is beer. The applicant/representative for the above organization is Robert H Parker, Treasurer.

- The event is scheduled to take place Friday, June 9<sup>th</sup> to Sunday, June 11, 2017 at Heman Park, University City.
- St. Louis County Police revealed no disqualifying information.

**ATTACHMENTS:** Application and background check

**RECOMMENDATION:** Approval





**Administrative Services  
Finance Department**

6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 863-0921

**APPLICATION FOR PICNIC LICENSE**

Under the provision of ordinance 600.909 of the Municipal Code of University City, I hereby make application for a liquor license to sell Intoxicating Liquoy by the Drink at retail on the date specified below. The filing fee in the amount of \$25.00 made out to the City of University City is attached.

Name of Applicant: ROBERT H PARKER

Applicant Address: 815 HAVERSHAME DR ST CHARLES MO 63304

Telephone Number: (314)302-6287

Organization Name: FAIR U CITY

Organization Address: 630 TRINITY AVE ST. LOUIS MO 63130

Date of Event: JUNE FRIDAY 9TH- SUNDAY 11TH

Location of Event: UNIVERSITY CITY HEMAN PARK 63130

Type of Liquor to be sold: BEER, SPRITS

  
Signature of Applicant

4-19-2017  
Date

-----  
**APPROVAL**

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
Date

**DEFINITIONS** Contains records from  
St. Louis County REJIS  
agencies ONLY

1. **Open Arrest Records** - Reflects that a person has been arrested and charged and has either been: 1) convicted in court; or 2) the case has not yet been heard in court. **IF THE CASE HAS NOT YET BEEN RESOLVED IN COURT, THE INDIVIDUAL IS NOT CONSIDERED GUILTY UNDER THE LAW. AN ARREST IS NOT CONSIDERED A CONVICTION.**
2. **Suspended Imposition of Sentence (SIS)** - Suspension of sentence is a suspension of active proceedings in a criminal prosecution. It is not a final judgment or the equivalent of "no prosecution" nor does it represent a discharge of the accused. A disposition of "suspended imposition of sentence" becomes a closed record upon successful completion of probation.

**SECTION B: TO BE COMPLETED BY BUREAU OF CENTRAL POLICE RECORDS (COUNTY POLICE)**

*The Commander, Bureau of Central Police Records, St. Louis County Police, Missouri, hereby validates the record information noted below. Not valid without signature and raised official Police Department seal.*

ST. LOUIS COUNTY, MISSOURI  
POLICE DEPARTMENT  
DATE 04.19.17 PER 4815  
Record check reflects criminal  
information for St. Louis County  
and St. Louis City ONLY.  
NO RECORD

*Commander, Central Police Records, per Clerk*

*AT*

DATE	CHARGE	DISPOSITION	ARRESTING AGENCY

THIS INFORMATION IS NOT FOR CHILD CARE  
AND NURSING HOME EMPLOYMENT



## Council Agenda Item Cover

**MEETING DATE:** April 24, 2017

**AGENDA ITEM TITLE:** Kingsland Ave. "Alley Bridge" Replacement Project – Surface Transportation Program (STP) Agreement

**AGENDA SECTION:** New Business

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

---

**BACKGROUND REVIEW:** The City of University City has been granted a Transportation Improvement Program Grant to reconstruct a portion of the Kingsland Ave. Bridge over the Alley "Alley Bridge" just north of Chamberlain Ave. Attached is a program agreement for this grant project.

The Missouri Department of Transportation requires that the City execute the attached "Missouri Highways and Transportation Commission Surface Transportation Program – Urban Program Agreement" with an enabling ordinance passed by the Council.

The total budget for this project is \$165,000. The federal share will be 80% of the cost of the project, not to exceed \$132,000. The University City's share will be the remaining cost equivalent to 20% or \$33,000. This grant is funded from the Capital Improvement Sales Tax Fund and the project is scheduled for construction in Fiscal Year 2018.

**RECOMMENDATION:** Staff recommends approval of the attached ordinance to grant authority to City Manager to sign and enter into the attached program agreement with the Missouri Highway and Transportation Commission.

**ATTACHMENTS:**

- 1) Program Agreement with Exhibits:
  - a. Project Location Map
  - b. Project Schedule
  - c. Required Contract Provisions for Federal-Aid Construction Contracts
  
- 2) Draft Enabling Ordinance





BILL NO. \_\_\_\_\_

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

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT BETWEEN THE CITY OF UNIVERSITY CITY AND THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION PROVIDING FOR THE KINGSLAND AVE. ALLEY BRIDGE RECONSTRUCTION OVER NE BRANCH OF RIVER DES PERES.**

**WHEREAS**, the City of University City desires to replace the Kingsland Ave. Alley Bridge over the NE branch of Rivers Des Peres, designated as Project STP-5582(604) by the Missouri Highway and Transportation Commission; and

**WHEREAS**, the Council has determined that it is in the best interest for the residents of the City to enter into a contract with the Missouri Highway and Transportation Commission for the replacement of the Kingsland Ave. Alley Bridge.

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

**Section 1.** The City Manager is hereby authorized and directed to execute on behalf of the City of University City a contract with the Missouri Highway and Transportation Commission providing for the Kingsland Ave. Alley Bridge Reconstruction, the terms and conditions of which are set forth in Exhibit "A" attached hereto and incorporated herein by reference.

**Section 2.** That all ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

**Section 3.** This ordinance shall be in force and take effect from and after the date of its passage and approval as provided by law.

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

\_\_\_\_\_

MAYOR

ATTEST:

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CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

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CITY ATTORNEY

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP 5582(604)  
Award Year: (2017)  
Federal Agency: Federal Highway Administration, Department of Transportation

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

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP 5582(604)  
Award Year: 2017  
Federal Agency: Federal Highway Administration, Department of Transportation

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

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

WITNESSETH:

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

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

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

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

(1) PURPOSE: The purpose of this Agreement is to grant the use of STP funds to the City. The improvement contemplated by this Agreement and designated as Project STP-5582(604) involves:

Kingsland Avenue Alley Bridge Reconstruction

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

(2) LOCATION: The contemplated improvement designated as Project STP-5582(604) by the Commission is within the city limits of University City, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

Kingsland Avenue Alley over the northeast branch of River Des Peres, immediately south of Bartmer Ave

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

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

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

(6) INVENTORY AND INSPECTION: The City shall:

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

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

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

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

(8) INDEMNIFICATION:

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

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

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

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

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

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

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

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

(11) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act. However upon written request by the City and the written acceptance by the Commission, the Commission shall acquire right of way for the City. Upon approval of all agreements, plans and specifications by the Commission and the FHWA, the commission will file copies of said plans in the office of the county clerk: and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of City, and the City will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the City. The City shall pay into court all awards and final judgments in favor of any such condemnees. The City shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.

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

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be 80 percent not to exceed **\$132,000.00**. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall

not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

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

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

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

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project STP-5582(604) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

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

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

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

(19) PROMPT PAYMENTS: Progress invoices submitted to MoDOT for reimbursement more than thirty (30) calendar days after the date of the vendor invoice

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

(20) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any STP improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

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

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

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

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

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



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

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

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

- (A) To the City:  
6801 Delmar Blvd  
University City, MO 63130  
Facsimile No.: (314) 862-0694
  
- (B) To the Commission:  
1590 Woodlake Drive  
Chesterfield, MO 63017  
Facsimile No.: (573) 522-6480

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

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

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

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49

C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

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

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, sex, disability or national origin, age or ancestry of any individual.

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

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

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

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (29) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of

Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

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

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

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

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

\_\_\_\_\_  
City

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

ATTEST:

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

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

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

By \_\_\_\_\_

Title \_\_\_\_\_

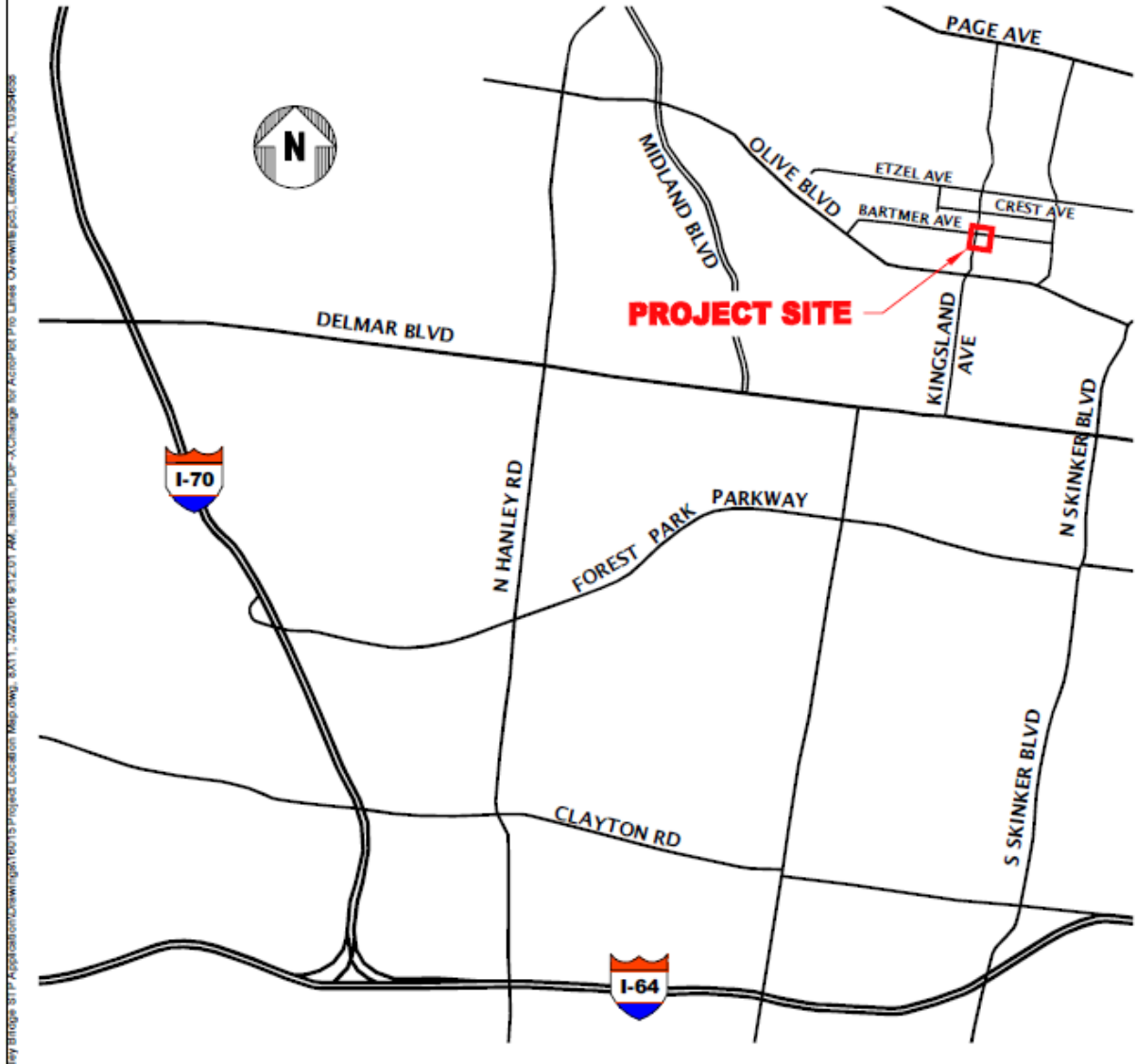
[If needed to authorize a city official  
to execute the agreement.]

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

Exhibit A - Location of Project

## PROJECT LOCATION MAP

City of University City, Mo. (St. Louis County)  
Kingsland Ave. Alley Bridge Proposed Reconstruction  
Bridge No. 4320014 - Unit 30  
Section 2, Township 45N, Range 6E



File: Bridge\_SITPA\_04062016\20160115\Project\_Location\_Map.dwg, Date: 11/07/2016 10:20:16 AM, User: PUP-ACchange for AutoCAD 2016, Overwrite: 0, User: PUP-ACchange for AutoCAD 2016, User: PUP-ACchange for AutoCAD 2016

## Exhibit B – Project Schedule

Project Description: University City, STP-5582(604), Kingsland Ave Alley Bridge

Activity Description	Start Date (MM/YYYY)	Finish Date* (MM/YYYY)	Time Frame (Months)
Receive Notification Letter	3/2016	4/2016	1.0
Execute Agreement (Project sponsor & DOT)	4/2016	5/2016	1.0
Engineering Services Contract Submitted & Approved <sup>1</sup>	9/2017	10/2017	1.0
Obtain Environmental Clearances (106, CE-2, etc.)	10/2017	2/2018	4.0
Public Meeting/Hearing			
Develop and Submit Preliminary Plans	12/2017	4/2018	4.0
Preliminary Plans Approved	4/2018	5/2018	1.0
Develop and Submit Right-of-Way Plans	5/2018	5/2018	1.0
Review and Approval of Right-of-Way Plans	6/2018	7/2018	2.0
Submit & Receive Approval for Notice to Proceed for Right-of-Way Acquisition (A-Date) <sup>2</sup>	7/2018	7/2018	1.0
Right-of-Way Acquisition			
Utility Coordination	10/2017	6/2018	8.0
Develop and Submit PS&E	5/2018	10/2018	4.0
District Approval of PS&E/Advertise for Bids <sup>3</sup>	11/2018	12/2018	2.0
Submit and Receive Bids for Review and Approval	1/2019	2/2019	2.0
Project Implementation/Construction	3/2019	9/2019	6.0

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

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

## Exhibit C

### REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

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#### ATTACHMENTS

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

#### I. GENERAL

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

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

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

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

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

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

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

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

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

#### II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 6. Training and Promotion:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

### III. NONSEGREGATED FACILITIES

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

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

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

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

### IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

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

#### 1. General:

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

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

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

#### 2. Classification:

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

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

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

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

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

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

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

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

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

#### 3. Payment of Fringe Benefits:

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

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

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

##### a. Apprentices:

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

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

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

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

##### b. Trainees:

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

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

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

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

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

##### c. Helpers:

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

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

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

#### 6. Withholding:

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

#### 7. Overtime Requirements:

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

#### 8. Violation:

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

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

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

## V. STATEMENTS AND PAYROLLS

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

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

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

### 2. Payrolls and Payroll Records:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## VII. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

### VIII. SAFETY: ACCIDENT PREVENTION

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

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

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

### IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

*quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or*

*Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or*

*Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;*

*Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."*

### X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

### XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this

transaction for cause of default.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\*\*\*\*\*

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\*\*\*\*\*

#### **2. Instructions for Certification - Lower Tier Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and

frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\*\*\*\*\*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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**XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT PREFERENCE FOR  
APPALACHIAN CONTRACTS**

(Applicable to Appalachian contracts only.)

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification,

(c) the date on which he estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within 1 week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.

5. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.







## Council Agenda Item Cover

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**MEETING DATE:** April 24, 2017

**AGENDA ITEM TITLE:** Trolley Do Not Pass – Municipal Code Amendment

**AGENDA SECTION:** New Business

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

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### **BACKGROUND REVIEW:**

For a safe Loop Trolley system operation an amendment to the Municipal Code is proposed.

The City's Municipal Code is proposed to be amended to regulate under which conditions vehicles, with the exception of emergency vehicles, shall not any time pass a Loop Trolley Car traveling in the same direction as the vehicle.

An amended Chapter 340 – Section 340.160 Passing Regulations is proposed as provided in the attached draft bill.

The Traffic Commission reviewed and recommended approval of this bill at their regular meeting on March 8, 2017.

### **RECOMMENDATION:**

Staff recommends that the Municipal Code Chapter 340 – Section 340.160 be amended as provided herein.

### **ATTACHMENT:**

- Bill amending Chapter 340 – Section 340.160 "Passing Regulations"
- Traffic Commission staff report and meeting minutes.



BILL NO. \_\_\_\_\_

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

**AN ORDINANCE AMENDING CHAPTER 340, SECTION 340.160 OF THE CITY OF UNIVERSITY CITY MUNICIPAL CODE, TO ADD NO PASSING OF LOOP TROLLEY CARS.**

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

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

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

**Section 1.**

Section 340.160 of the Municipal Code of the City of University City, is hereby repealed and a new Section 340.160 is enacted in lieu thereof, to read as follows:

**Section 340.160. Passing Regulations.**

A. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated:

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and
2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of such driver's vehicle until completely passed by the overtaking vehicle.

B. The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a City street with unobstructed pavement of sufficient width for two (2) or more lines of vehicles in each direction;

3. Upon a one-way street.

The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved or main traveled portion of the roadway. The provisions of this Subsection shall not relieve the driver of a slow-moving vehicle from the duty to drive as closely as practicable to the right-hand edge of the roadway.

C. Except when a roadway has been divided into three (3) traffic lanes, no vehicle shall be driven to the left side of the centerline of a highway or public road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

D. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; and

2. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct, tunnel or when approaching within one hundred (100) feet of or at any intersection or railroad grade crossing.

E. No vehicle, with the exception of emergency vehicles, shall at any time pass a Loop Trolley Car traveling in the same direction as the vehicle under the following conditions:

1. When any Loop Trolley Car has stopped for the purpose of taking on or discharging passengers, until the Loop Trolley Car has taken on or discharged all such passengers; and

2. The driver of a vehicle shall not stop more closely to the rear of the Loop Trolley Car than is reasonably safe and prudent, having due regard for the speed of the Loop Trolley Vehicle and the traffic upon and the condition of the roadway.

A vehicle may pass a Loop Trolley Car where a safety zone has been established and is properly marked.

\* \* \*

**Section 2.** 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





**Department of Public Works and Parks**

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

**STAFF REPORT**

MEETING DATE: March 8, 2017  
APPLICANT: The Loop Trolley  
Location: The Loop Trolley Route (University City Limits)  
Request: Amend the City Code to reflect the “Do Not Pass Regulation”  
Attachments: Traffic Request Form

**Existing Conditions:**

Loop Trolley University Route



Currently the Code only regulates general passing

**Request:**

Amend the Code Chapter 340 Section 340.160 to include:

E. No vehicle, with the exception of emergency vehicles, shall at any time pass a Loop Trolley Car traveling in the same direction as the vehicle under the following conditions:

1. When any Loop Trolley Car has stopped for the purpose of taking on or discharging passengers, until the Loop Trolley Car has taken on or discharged all such passengers; and
2. The driver of a vehicle shall not stop more closely to the rear of the Loop Trolley Car than is reasonably safe and prudent, having due regard for the speed of the Loop Trolley Vehicle and the traffic upon and the condition of the roadway.

A vehicle may pass a Loop Trolley Car where a safety zone has been established and is properly marked.

**Conclusion/Recommendation:**

Staff recommends that the Municipal Code Chapter 340 – Section 340.160 be amended.

Attachments – Proposed amended code 340.160



## 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 March 8, 2017

At the Traffic Commission meeting of University City held in the Heman Park Community Center, on Wednesday, March 8, 2017, Chairman Jeff Hales called the meeting to order at 6:32 p.m. In addition to Chairman Hales, the following members of the commission were present:

- Bart Stewart
- Eva Creer
- Curtis Tunstall
- Derek Helderman
- Jeffrey Mishkin

Also in attendance:

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

Absent (excused):

- Jeff Zornes

### 3. Approval of Agenda

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

### 4. Approval of the Minutes

#### A. January 11, 2017 Minutes

Mr. Tunstall made a motion to approve the minutes of the January 11, 2017 meeting and was seconded by Helderman. The motion carried unanimously.

### 5. Agenda Items

#### a. Restriction of high profile vehicles parking in the westbound lane of Forsyth in-between the entrance and exit of Bethel Lutheran Church at 7001 Forsyth Blvd.

Mr. Tate presented the request from Bethel Lutheran Church and members Gary Sheetz and Wayne Flesch.

Churchmember Gary Sheetz of 7722 Lyle of Richmond Heights addressed the commission about the issues with the poor visibility from the western exit<sup>M-2-8</sup>





## Traffic Commission

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

drive from the church. He noted that cars often park right to the edge of the driveway and high profile vehicles block the line of sight for vehicles attempting to exit the church lot. The church operates a nursery school daily with regular pickup and drop-off. He requested a restriction on the height of the vehicles parked between the entry and exit driveways and a parking restriction of 10 to 15 feet east of the western exit.

Mr. Tunstall asked Mr. Sheetz and Mr. Sheetz confirmed that nature of the request is safety related.

Mr. Mishkin asked if the restrictions were to be everyday at all hours of the day. Mr. Sheetz confirmed that they would like the restrictions to be at all hours of the day, every day of the week.

Mr. Tunstall asked if they were seeking no parking in the space between the driveways or if the request was for parking of low profile vehicles. Mr. Sheetz clarified that they sought to restrict all parking for 10 to 15 feet to the east of the western exit drive and restrict the remaining spaces to low profile vehicles.

Mr. Stewart asked about the current no parking restriction in front of the church. Mr. Helderman clarified that the current restrictions restrict parking during certain hours.

Mr. Mishkin asked if the city had any restrictions about parking distance from driveways. Sgt. Whitley stated there were no such restrictions in the code and no such restrictions related low profile or compact cars.

Mr. Hales asked if there was an existing ordinance defining compact cars. Mr. Tate stated that the commission had discussed but no action had been taken.

Mr. Alpaslan stated that the staff would have to review and propose an ordinance to accommodate compact or low profile vehicle only parking restriction.

Mr. Helderman stated he thought it would be best to implement compact car parking in the entire space between the driveways.

Mr. Mishkin asked what the enforcement of a compact car only restriction. Sgt. Whitley stated that a compact car would typically be less than 60 inches and violators would be ticketed. He stated that the police would use common sense on enforcement on the height levels.

Mr. Hales stated that he thought the issue was really related to the height and not necessarily the length. He asked if the commission could consider a restriction of no van, truck or SUV parking.

M-2-9



## Traffic Commission

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

Mr. Mishkin asked if there had been any accidents. Mr. Sheetz stated there were none that he could recall but there have been a number of close calls. Mr. Mishkin asked if the commission could recommend church parking only in those spaces. Mr. Helderman indicated he thought limiting parking to the church would not be enforceable.

Sgt. Whitley stated that the 10 foot parking restriction would reduce the number of cars that could park between the driveway from 3 to 2.

Mr. Hales stated that he thought if a new restriction on van, truck and SUV parking were to be implemented, that it would be helpful if the public works and police department staff could provide a recommendation on the circumstances or instances where such a restriction should be implemented, such as only near commercial driveways. He suggested that the commission could proceed with restricting parking 10 feet to the east of the western driveway for now and continue discussing the new parking restrictions for high profile vehicles in the coming meetings.

Mr. Helderman asked if the current signage restricting parking during certain hours would remain. Mr. Sheetz stated that was not requested to change.

Mr. Mishkin made a motion to recommend restricting all parking for a distance of 10 feet to the eastern edge of the western driveway exit of Bethel Lutheran Church and was seconded by Mr. Tunstall. The motion carried unanimously.

**b. Permanently make Loop South a two way street from Kingsland Avenue to a point four hundred and twenty-four feet to the east.**

Mr. Tate presented the staff recommendation to make this portion of Loop South two-way.

Mr. Hales informed the commission that he also spoke with Jessica Bueler who is the Marketing Director for the Loop Special Business District and she conveyed that the businesses in the loop were strongly in favor of the two way traffic on Loop South. He also indicated that Mr. Edwards had come to the previous meeting at which there was no quorum and expressed his support for the proposal as well.

Boo McLaughlin, Executive Director of Craft Alliance (6640 Delmar) presented a letter signed by representatives of Commerce Bank, McArthurs Bakery and Pitaya in support of the recommended two-way traffic on Loop South. She stated that two-way traffic is more convenient to their customers and will be more convenient to delivery trucks with the opening of the Loop Trolley.

Mr. Tate informed the commission that a traffic engineer would be evaluating the street and that the parking would be moved from the southern side to the northern side of the street.

M-2-10



## Traffic Commission

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

Mr. Stewart asked if the commission was being asked to make a recommendation on the 2-way traffic only or if the commission was to make a recommendation on the parking as well.

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Mr. Mishkin asked if the city would install parking meters. Mr. Tate stated the city would stripe the spaces.

Mr. Helderman asked if the businesses needed to sign a petition. Mr. Hales stated that there is no requirement in the code, bylaws or charter that the commission get a petition except in the case of residential parking permits. He stated that he believed it was completely within the purview of the commission to make a recommendation.

Mr. Hales asked Ms. McLaughlin if the change of allowing parking on only one side of Loop South was known to her and businesses. Ms. McLaughlin stated that she and the Loop Businesses were not aware of the change in parking to the north side, but did not believe it makes a difference.

Mr. Hales asked if staff was concerned about the potential of losing spaces by moving parking from the south to the north side. Mr. Alpaslan indicated that was a concern and he suggested that the parking engineer provide two options to see if it would be feasible to keep parking on the south side.

Mr. Mishkin asked where the majority of the customers park. Ms. McLaughlin indicated that most people park in the lots behind the buildings and on Loop South.

Mr. Helderman made a motion to recommend that Loop South become two-way traffic as recommended by staff and was seconded by Mr. Mishkin. The motion carried unanimously.

### **c. No Parking on west side of North and South Road between Gannon Ave. and Cornell Ave.**

Mr. Hales introduced the petition from Genevieve Kramer of 7732 Gannon Ave. He commented that there were a lot of people who showed up for this issue at the previous meeting at which there was not a quorum. The petitioner did not show up and was not in attendance on this night.

Mr. Tate presented the request from Ms. Kramer and initially requested that the traffic commission make a recommendation to take to St. Louis County



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but stated that upon further review that staff believed the request should be denied because of the existing parking restriction.

Mr. Hales stated that the road is a county road and the city does not have jurisdiction.

Ms. Natasha Kwon of 622 North and South addressed the commission as a resident and an owner of businesses at North and South and Gannon. She was strongly against the proposed restriction and suggested a stop sign at North and South and Gannon because of the high number of pedestrians and her observations of speeding traffic.

Mr. Mishkin asked what the parking restriction would do to the nearby businesses. Ms. Kwon stated that it would be very negative for the local businesses. Mr. Mishkin asked what the purpose of the four-way stop. Ms. Kwon indicated it was about safety.

Mr. Hales stated that the commission has discussed this intersection and said when he first saw this proposal he was strongly opposed it. He noted that this intersection has very good sightlines from Gannon eastbound looking northbound on North and South because of the 35ft parking restriction for the bus stop. He stated that commission has talked about pedestrian safety at this intersection multiple times in the past and has suggested that city work with the county to install LED solar operated crossing signals at the crosswalk on North and South and Gannon as well as others on Delmar, but the county has not been very receptive to it. He stated that he believes what would really help is if the business community and neighbors contacted the county requesting a signalized crosswalk, it might make a difference.

Sgt. Whitley stated the St. Louis County examined it and decided against crossing signals.

Councilman Smotherson recommended to Ms. Kwon that she contact St. Louis County Councilwoman Hazel Erby with her concerns over the crosswalk safety.

Ms. Mary Adams (6985 Dartmouth) is the Executive Director of the University City Chamber of Commerce and came to speak on behalf of the local businesses. She expressed concern over the potential loss of parking spaces for the local businesses. She emphasized the access to parking being directly related to a business' ability to thrive.

Mr. Hales stated that the floor was open to anyone to make a motion in favor of the proposed restriction. No motions were made. No action was recommended.

**d. Senn Bierwerks Site Plan Update for Information Only**

Mr. Alpaslan provided an informational update on the Senn Bierwerks site. He indicated that the traffic patterns on Olive and North and South are still awaiting review and proposals from MODOT and St. Louis County Traffic. He informed the commission that the city has requested the proposed implementation along Olive and North and South which will be brought to the traffic commission as soon as it is received. Mr. Smotherson stated his reason for bringing this to the commission was that the City Council has approved the site plan and he thought the commission should be aware of the proposed changes with the implications to traffic on North and South and Olive which are the jurisdiction of St. Louis County and MODOT respectively.

Mr. Mishkin expressed concern over potential traffic issues related to ingress and egress from the lots. Mr. Alpaslan stated that because Olive is a State road and North and South is a County road that they are responsible for reviewing and making changes to their roads. He indicated that it is possible that one or both agency could recommend changes at which point the commission would be updated.

**e. Loop Trolley “Do Not Pass” Code Amendment**

Mr. Tate presented the staff recommendation to amend the traffic code to add a do not pass ordinance restricting the passing of the Loop Trolley.

Mr. Hales stated he looked back through the minutes in December of 2012 and Officer Margul indicated that the commission would have to look at whether it wanted to recommend allowing passing of the trolley and asked what considerations went into the recommendation from staff prohibiting passing of the trolley.

Mr. Alpaslan stated that passing of the trolley would violate the rules of the road and the pavement markings because the trolley travels in the traffic lane. He stated that the only area where traffic could pass the trolley would be at Leland where the trolley is in the turn lane.

Mr. Mishkin expressed concern about the trolley travelling in the left hand turn lane while travelling east with through traffic at Leland. Mr. Alpaslan stated that the trolley has its own traffic signal and the traffic has a pre-empt device which will allow the trolley to continue east through the intersection while through traffic heading east will have a red light. He stated that at the Leland intersection, the traffic signal will govern the traffic movement.

Mr. Mishkin expressed concern that the through traffic would proceed when it sees the trolley proceeding through the intersection. Mr. Hales stated he



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shared Mr. Mishkin's concerns and hoped that the traffic engineers had considered these issues.

Mr. Hales asked what the signage would be like in the loop. Mr. Alpaslan stated that the trolleys will have signs on the rear of the trolley stating "Do Not Pass".

Mr. Hales asked if the ordinance applied to bicycle traffic. Mr. Stewart stated that there is a new bike route, but his understanding was that bikes are not prohibited on Delmar. Mr. Alpaslan stated that there is no prohibition to bicycle traffic on Delmar; the signage discouraging bikes is not regulatory, but he indicated that staff would be looking at that. Mr. Alpaslan stated he understood the concerns of the commission about bicycles.

Mr. Helderman stated that while he shared many of the concerns expressed he made a motion to approve the ordinance as recommended. Ms. Creer seconded and the motion carried unanimously.

### **f. Loop Trolley "Obstruction Zone" Create Chapter to the Code**

#### **i. The Loop Trolley Track Layout Plans**

Mr. Tate stated that the purpose of this ordinance was to restrict vehicles from stopping on the trolley tracks.

Mr. Mishkin made a motion to recommend the ordinance as recommended by staff and was seconded by Mr. Stewart. The motion passed unanimously.

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

None

### **7. Miscellaneous Business**

Mr. Tate stated he had one issue that will be coming to the commission at the April meeting related to the study on the school zone speed limit study.

### **8. Adjournment.**

Mr. made a motion to adjourn the meeting and was seconded by Mr. Mishkin. The motion unanimously carried and the meeting was adjourned at 8:16pm.

Minutes prepared by Jeff Hales, Traffic Commission Chairman & Secretary



## Council Agenda Item Cover

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**MEETING DATE:** April 24, 2017

**AGENDA ITEM TITLE:** Trolley Obstruction Zone – Municipal Code Amendment

**AGENDA SECTION:** New Business

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

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### **BACKGROUND REVIEW:**

For a safe Loop Trolley system operation an amendment to the Municipal Code is proposed.

It is codified under the City's Municipal Code by this amendment that the physical corridor used by the Loop Trolley vehicles during movement along the Loop Trolley track (including a safety buffer) shall be maintained free of obstructions. The procedures for removal and ticketing of obstructing vehicles within the defined Loop Trolley physical corridor are also included in the attached bill.

A new Chapter 357 - "Unauthorized Stopping and Parking along Trolley Track" is proposed to be enacted as provided in the attached draft bill.

The Traffic Commission reviewed and recommended approval of this bill at their regular meeting on March 8, 2017.

### **RECOMMENDATION:**

Staff recommends that the Municipal Code be amended to add a Chapter 357 as provided herein.

### **ATTACHMENT:**

- Bill creating Chapter 357 – Unauthorized Stopping and Parking along Trolley Track.
- Traffic Commission staff report and meeting minutes.





BILL NO. \_\_\_\_\_

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

**AN ORDINANCE AMENDING THE TRAFFIC CODE CREATING A NEW CHAPTER 357 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI ENACTING AND ADOPTING “UNAUTHORIZED STOPPING AND PARKING ALONG TROLLEY TRACK”.**

**WHEREAS**, the City wishes to enact an ordinance to keep the Loop Trolley track clear of obstructions that could impair Trolley service or present safety concerns for the traveling public.

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

**Section 1.** A new Chapter 357 of the Traffic Code of the University City Municipal Code, “Unauthorized Stopping and Parking along Trolley Track”, is hereby enacted, which shall read as follows:

**Chapter 357 – Unauthorized Stopping and Parking Along Trolley Track**

**Section 357.010. Definitions.**

For the purpose of this Section, the following terms, phrases and words shall have the meanings given herein and shall apply in the interpretation and enforcement of this Chapter unless otherwise specifically stated:

**TROLLEY OBSTRUCTION ZONE**

The physical corridor used by the Loop Trolley vehicles during movement along the Loop Trolley track (including a safety buffer), measuring five feet six inches (5’6”) outward in both direction from the center of the Loop Trolley track (11’ wide in total), except that if the City has officially striped a parking lane along the edge of the Trolley Obstruction Zone, then the Trolley Obstruction Zone extends to the stripe’s curb-side edge.

**Section 357.020. Stopping and Parking Prohibited.**

- A. No person shall stop or leave standing any vehicle, other than an emergency vehicle, whether attended or unattended, in the Trolley Obstruction Zone, as defined in Section 357.010 except in compliance with the directs of a police officer, traffic-control device, or City-issued right-of-way permit with track access authorization.

- B. The prohibitions set forth in this Section shall apply 24 hours a day, 7 days per week and apply with or without a trolley vehicle being present on the Trolley track.
- C. Where street parking is allowed parallel to the Trolley track, vehicles parked along the curb in a marked parking space shall not permit any part of the vehicle to cross or encroach over or onto the pavement surface marking that defines the parking space onto the Trolley track.
- D. Such prohibition shall not apply to delivery trucks lawfully stopped or parked for the purpose of loading or unloading in areas marked and designated as Loading Zones.

**Section 357.030. Removal of Obstructing Vehicles.**

Where any vehicle is stopped or standing within the Trolley Obstruction zone in violation of Chapter 357, the Police will attempt to locate the owner or person in charge of the vehicle and request the vehicle be moved outside of the Trolley Obstruction Zone. Where the owner fails or refuses to move the vehicle, or the vehicle is incapable of being moved under its own power, the Police may without notice, if notice is infeasible, cause the same to be removed to a City contracted tow lot and the Police shall thereupon notify the owner or owners of such motor vehicle if known, by certified mail, of the location thereof and of the right of such owner to secure return of possession of the motor vehicle upon payment of the cost of removal and storage. Nothing herein shall be construed to provide the owner with a defense against any Sections of this Chapter. No person other than the City or its duly authorized contractor shall tow or move the incapacitated vehicle, authorize the towing or moving of the incapacitated vehicle, or remove or tamper with wheel immobilization device.

**Section 357.040. Parking Violation.**

Vehicles parked in the trolley obstruction zone as defined in Section 357.010 shall be ticketed as a non-moving parking violation. Tickets are subject to late fees based on non-payment. Fourteen (14) days after non-payment, ticket amounts double from the initial fine. Citations remained unpaid after forty-five (45) days from the issuance date shall triple from the initial fine. After forty-five (45) days of non-payment, tickets are subject to receive a summons to appear in Municipal Court.

\* \* \*

**Section 2.** 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 3.** 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





**Department of Public Works and Parks**

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

**STAFF REPORT**

MEETING DATE: March 8, 2017  
APPLICANT: The Loop Trolley  
Location: The Loop Trolley Route (University City Limits)  
Request: Create Chapter 357 of the Code to reflect "Trolley Obstruction Zone"  
Attachments: Traffic Request Form

**Existing Conditions:**

Loop Trolley University Route



No Chapter currently adopted

**Request:**

For a safe Loop Trolley system operation an amendment to the Municipal Code is requested. So that the physical corridor used by the Loop Trolley vehicles during movement along the Loop Trolley track (including a safety buffer) shall be maintained free of obstructions. This should include the removal and ticketing of obstructing vehicles within the defined Loop Trolley physical corridor also.

**Conclusion/Recommendation:**

Staff recommends a Bill creating Chapter 357 – Unauthorized Stopping and Parking along Trolley Track. .

Attachments – Proposed Bill Creating Chapter 357



## Traffic Commission

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### CITY OF UNIVERSITY CITY MINUTES OF THE TRAFFIC COMMISSION March 8, 2017

At the Traffic Commission meeting of University City held in the Heman Park Community Center, on Wednesday, March 8, 2017, Chairman Jeff Hales called the meeting to order at 6:32 p.m. In addition to Chairman Hales, the following members of the commission were present:

- Bart Stewart
- Eva Creer
- Curtis Tunstall
- Derek Helderman
- Jeffrey Mishkin

Also in attendance:

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

Absent (excused):

- Jeff Zornes

### 3. Approval of Agenda

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

### 4. Approval of the Minutes

#### A. January 11, 2017 Minutes

Mr. Tunstall made a motion to approve the minutes of the January 11, 2017 meeting and was seconded by Helderman. The motion carried unanimously.

### 5. Agenda Items

#### a. Restriction of high profile vehicles parking in the westbound lane of Forsyth in-between the entrance and exit of Bethel Lutheran Church at 7001 Forsyth Blvd.

Mr. Tate presented the request from Bethel Lutheran Church and members Gary Sheetz and Wayne Flesch.

Churchmember Gary Sheetz of 7722 Lyle of Richmond Heights addressed the commission about the issues with the poor visibility from the western exit<sup>M-3-8</sup>



## Traffic Commission

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drive from the church. He noted that cars often park right to the edge of the driveway and high profile vehicles block the line of sight for vehicles attempting to exit the church lot. The church operates a nursery school daily with regular pickup and drop-off. He requested a restriction on the height of the vehicles parked between the entry and exit driveways and a parking restriction of 10 to 15 feet east of the western exit.

Mr. Tunstall asked Mr. Sheetz and Mr. Sheetz confirmed that nature of the request is safety related.

Mr. Mishkin asked if the restrictions were to be everyday at all hours of the day. Mr. Sheetz confirmed that they would like the restrictions to be at all hours of the day, every day of the week.

Mr. Tunstall asked if they were seeking no parking in the space between the driveways or if the request was for parking of low profile vehicles. Mr. Sheetz clarified that they sought to restrict all parking for 10 to 15 feet to the east of the western exit drive and restrict the remaining spaces to low profile vehicles.

Mr. Stewart asked about the current no parking restriction in front of the church. Mr. Helderman clarified that the current restrictions restrict parking during certain hours.

Mr. Mishkin asked if the city had any restrictions about parking distance from driveways. Sgt. Whitley stated there were no such restrictions in the code and no such restrictions related low profile or compact cars.

Mr. Hales asked if there was an existing ordinance defining compact cars. Mr. Tate stated that the commission had discussed but no action had been taken.

Mr. Alpaslan stated that the staff would have to review and propose an ordinance to accommodate compact or low profile vehicle only parking restriction.

Mr. Helderman stated he thought it would be best to implement compact car parking in the entire space between the driveways.

Mr. Mishkin asked what the enforcement of a compact car only restriction. Sgt. Whitley stated that a compact car would typically be less than 60 inches and violators would be ticketed. He stated that the police would use common sense on enforcement on the height levels.

Mr. Hales stated that he thought the issue was really related to the height and not necessarily the length. He asked if the commission could consider a restriction of no van, truck or SUV parking.

M-3-9



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Mr. Mishkin asked if there had been any accidents. Mr. Sheetz stated there were none that he could recall but there have been a number of close calls. Mr. Mishkin asked if the commission could recommend church parking only in those spaces. Mr. Helderman indicated he thought limiting parking to the church would not be enforceable.

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Mr. Mishkin made a motion to recommend restricting all parking for a distance of 10 feet to the eastern edge of the western driveway exit of Bethel Lutheran Church and was seconded by Mr. Tunstall. The motion carried unanimously.

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M-3-10





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Mr. Hales stated that the floor was open to anyone to make a motion in favor of the proposed restriction. No motions were made. No action was recommended.

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Mr. Helderman stated that while he shared many of the concerns expressed he made a motion to approve the ordinance as recommended. Ms. Creer seconded and the motion carried unanimously.

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#### **i. The Loop Trolley Track Layout Plans**

Mr. Tate stated that the purpose of this ordinance was to restrict vehicles from stopping on the trolley tracks.

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

None

### **7. Miscellaneous Business**

Mr. Tate stated he had one issue that will be coming to the commission at the April meeting related to the study on the school zone speed limit study.

### **8. Adjournment.**

Mr. made a motion to adjourn the meeting and was seconded by Mr. Mishkin. The motion unanimously carried and the meeting was adjourned at 8:16pm.

Minutes prepared by Jeff Hales, Traffic Commission Chairman & Secretary



## Council Agenda Item Cover

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**MEETING DATE:** April 24, 2017

**AGENDA ITEM TITLE:** Parking in Prohibited or Restricted Zone – Municipal Code Amendment – 7001 Forsyth Blvd.

**AGENDA SECTION:** New Business

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

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### **BACKGROUND REVIEW:**

Two representatives of Bethel Lutheran Church (7001 Forsyth Blvd.) submitted a traffic request for restricting parking in front of Bethel Lutheran Church to compact cars only. This request would prevent higher profile vehicles from parking next to the exiting driveway of the church parking lot.

As the City Traffic Code doesn't currently regulate for compact car-only parking, it was recommended by the Traffic Commission at their March 8, 2017 regular meeting to prohibit parking for 10 feet in front of the church starting at the eastern side of the exiting driveway and extending 10 feet to the east. The Traffic Commission voted in favor of recommending this parking prohibition for approval by City Council.

### **RECOMMENDATION:**

It is the recommendation of the Public Works and Parks Department that the Municipal Code be amended to include a parking prohibition in the area in front of Bethel Lutheran Church at 7001 Forsyth Blvd. as referenced on the attached draft enacting bill.

Traffic Code Section 355.100; Parking in Prohibited or Restricted Zone is hereby proposed to be amended.

### **ATTACHMENTS:**

- Bill amending section 355.100 Parking in Prohibited or Restricted Zone
- Traffic Commission staff report and meeting minutes



BILL NO. \_\_\_\_\_

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

**AN ORDINANCE AMENDING THE TRAFFIC CODE CREATING A NEW CHAPTER 357 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI ENACTING AND ADOPTING “UNAUTHORIZED STOPPING AND PARKING ALONG TROLLEY TRACK”.**

**WHEREAS**, the City wishes to enact an ordinance to keep the Loop Trolley track clear of obstructions that could impair Trolley service or present safety concerns for the traveling public.

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

**Section 1.** A new Chapter 357 of the Traffic Code of the University City Municipal Code, “Unauthorized Stopping and Parking along Trolley Track”, is hereby enacted, which shall read as follows:

**Chapter 357 – Unauthorized Stopping and Parking Along Trolley Track**

**Section 357.010. Definitions.**

For the purpose of this Section, the following terms, phrases and words shall have the meanings given herein and shall apply in the interpretation and enforcement of this Chapter unless otherwise specifically stated:

**TROLLEY OBSTRUCTION ZONE**

The physical corridor used by the Loop Trolley vehicles during movement along the Loop Trolley track (including a safety buffer), measuring five feet six inches (5’6”) outward in both direction from the center of the Loop Trolley track (11’ wide in total), except that if the City has officially striped a parking lane along the edge of the Trolley Obstruction Zone, then the Trolley Obstruction Zone extends to the stripe’s curb-side edge.

**Section 357.020. Stopping and Parking Prohibited.**

- A. No person shall stop or leave standing any vehicle, other than an emergency vehicle, whether attended or unattended, in the Trolley Obstruction Zone, as defined in Section 357.010 except in compliance with the directs of a police officer, traffic-control device, or City-issued right-of-way permit with track access authorization.

- B. The prohibitions set forth in this Section shall apply 24 hours a day, 7 days per week and apply with or without a trolley vehicle being present on the Trolley track.
- C. Where street parking is allowed parallel to the Trolley track, vehicles parked along the curb in a marked parking space shall not permit any part of the vehicle to cross or encroach over or onto the pavement surface marking that defines the parking space onto the Trolley track.
- D. Such prohibition shall not apply to delivery trucks lawfully stopped or parked for the purpose of loading or unloading in areas marked and designated as Loading Zones.

**Section 357.030. Removal of Obstructing Vehicles.**

Where any vehicle is stopped or standing within the Trolley Obstruction zone in violation of Chapter 357, the Police will attempt to locate the owner or person in charge of the vehicle and request the vehicle be moved outside of the Trolley Obstruction Zone. Where the owner fails or refuses to move the vehicle, or the vehicle is incapable of being moved under its own power, the Police may without notice, if notice is infeasible, cause the same to be removed to a City contracted tow lot and the Police shall thereupon notify the owner or owners of such motor vehicle if known, by certified mail, of the location thereof and of the right of such owner to secure return of possession of the motor vehicle upon payment of the cost of removal and storage. Nothing herein shall be construed to provide the owner with a defense against any Sections of this Chapter. No person other than the City or its duly authorized contractor shall tow or move the incapacitated vehicle, authorize the towing or moving of the incapacitated vehicle, or remove or tamper with wheel immobilization device.

**Section 357.040. Parking Violation.**

Vehicles parked in the trolley obstruction zone as defined in Section 357.010 shall be ticketed as a non-moving parking violation. Tickets are subject to late fees based on non-payment. Fourteen (14) days after non-payment, ticket amounts double from the initial fine. Citations remained unpaid after forty-five (45) days from the issuance date shall triple from the initial fine. After forty-five (45) days of non-payment, tickets are subject to receive a summons to appear in Municipal Court.

\* \* \*

**Section 2.** 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 3.** This ordinance shall take effect and be in force from and after its passage as provided by law.



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

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MAYOR

ATTEST:

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CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

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CITY ATTORNEY





## STAFF REPORT

MEETING DATE: March 8, 2017  
APPLICANT: The Loop Trolley  
Location: The Loop Trolley Route (University City Limits)  
Request: Create Chapter 357 of the Code to reflect "Trolley Obstruction Zone"  
Attachments: Traffic Request Form

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### **Existing Conditions:**

#### Loop Trolley University Route



No Chapter currently adopted

### **Request:**

For a safe Loop Trolley system operation an amendment to the Municipal Code is requested. So that the physical corridor used by the Loop Trolley vehicles during movement along the Loop Trolley track (including a safety buffer) shall be maintained free of obstructions. This should include the removal and ticketing of obstructing vehicles within the defined Loop Trolley physical corridor also.

### **Conclusion/Recommendation:**

Staff recommends a Bill creating Chapter 357 – Unauthorized Stopping and Parking along Trolley Track. .

Attachments – Proposed Bill Creating Chapter 357



## 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 March 8, 2017

At the Traffic Commission meeting of University City held in the Heman Park Community Center, on Wednesday, March 8, 2017, Chairman Jeff Hales called the meeting to order at 6:32 p.m. In addition to Chairman Hales, the following members of the commission were present:

- Bart Stewart
- Eva Creer
- Curtis Tunstall
- Derek Helderman
- Jeffrey Mishkin

Also in attendance:

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

Absent (excused):

- Jeff Zornes

### 3. Approval of Agenda

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

### 4. Approval of the Minutes

#### A. January 11, 2017 Minutes

Mr. Tunstall made a motion to approve the minutes of the January 11, 2017 meeting and was seconded by Helderman. The motion carried unanimously.

### 5. Agenda Items

#### a. Restriction of high profile vehicles parking in the westbound lane of Forsyth in-between the entrance and exit of Bethel Lutheran Church at 7001 Forsyth Blvd.

Mr. Tate presented the request from Bethel Lutheran Church and members Gary Sheetz and Wayne Flesch.

Churchmember Gary Sheetz of 7722 Lyle of Richmond Heights addressed the commission about the issues with the poor visibility from the western exit<sup>M-4-8</sup>



## Traffic Commission

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drive from the church. He noted that cars often park right to the edge of the driveway and high profile vehicles block the line of sight for vehicles attempting to exit the church lot. The church operates a nursery school daily with regular pickup and drop-off. He requested a restriction on the height of the vehicles parked between the entry and exit driveways and a parking restriction of 10 to 15 feet east of the western exit.

Mr. Tunstall asked Mr. Sheetz and Mr. Sheetz confirmed that nature of the request is safety related.

Mr. Mishkin asked if the restrictions were to be everyday at all hours of the day. Mr. Sheetz confirmed that they would like the restrictions to be at all hours of the day, every day of the week.

Mr. Tunstall asked if they were seeking no parking in the space between the driveways or if the request was for parking of low profile vehicles. Mr. Sheetz clarified that they sought to restrict all parking for 10 to 15 feet to the east of the western exit drive and restrict the remaining spaces to low profile vehicles.

Mr. Stewart asked about the current no parking restriction in front of the church. Mr. Helderman clarified that the current restrictions restrict parking during certain hours.

Mr. Mishkin asked if the city had any restrictions about parking distance from driveways. Sgt. Whitley stated there were no such restrictions in the code and no such restrictions related low profile or compact cars.

Mr. Hales asked if there was an existing ordinance defining compact cars. Mr. Tate stated that the commission had discussed but no action had been taken.

Mr. Alpaslan stated that the staff would have to review and propose an ordinance to accommodate compact or low profile vehicle only parking restriction.

Mr. Helderman stated he thought it would be best to implement compact car parking in the entire space between the driveways.

Mr. Mishkin asked what the enforcement of a compact car only restriction. Sgt. Whitley stated that a compact car would typically be less than 60 inches and violators would be ticketed. He stated that the police would use common sense on enforcement on the height levels.

Mr. Hales stated that he thought the issue was really related to the height and not necessarily the length. He asked if the commission could consider a restriction of no van, truck or SUV parking.

M-4-9



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Mr. Mishkin asked if there had been any accidents. Mr. Sheetz stated there were none that he could recall but there have been a number of close calls. Mr. Mishkin asked if the commission could recommend church parking only in those spaces. Mr. Helderman indicated he thought limiting parking to the church would not be enforceable.

Sgt. Whitley stated that the 10 foot parking restriction would reduce the number of cars that could park between the driveway from 3 to 2.

Mr. Hales stated that he thought if a new restriction on van, truck and suv parking were to be implemented, that it would be helpful if the public works and police department staff could provide a recommendation on the circumstances or instances where such a restriction should be implemented, such as only near commercial driveways. He suggested that the commission could proceed with restricting parking 10 feet to the east of the western driveway for now and continue discussing the new parking restrictions for high profile vehicles in the coming meetings.

Mr. Helderman asked if the current signage restricting parking during certain hours would remain. Mr. Sheetz stated that was not requested to change.

Mr. Mishkin made a motion to recommend restricting all parking for a distance of 10 feet to the eastern edge of the western driveway exit of Bethel Lutheran Church and was seconded by Mr. Tunstall. The motion carried unanimously.

**b. Permanently make Loop South a two way street from Kingsland Avenue to a point four hundred and twenty-four feet to the east.**

Mr. Tate presented the staff recommendation to make this portion of Loop South two-way.

Mr. Hales informed the commission that he also spoke with Jessica Bueler who is the Marketing Director for the Loop Special Business District and she conveyed that the businesses in the loop were strongly in favor of the two way traffic on Loop South. He also indicated that Mr. Edwards had come to the previous meeting at which there was no quorum and expressed his support for the proposal as well.

Boo McLaughlin, Executive Director of Craft Alliance (6640 Delmar) presented a letter signed by representatives of Commerce Bank, McArthurs Bakery and Pitaya in support of the recommended two-way traffic on Loop South. She stated that two-way traffic is more convenient to their customers and will be more convenient to delivery trucks with the opening of the Loop Trolley.

Mr. Tate informed the commission that a traffic engineer would be evaluating the street and that the parking would be moved from the southern side to the northern side of the street.

M-4-10



## Traffic Commission

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Mr. Stewart asked if the commission was being asked to make a recommendation on the 2-way traffic only or if the commission was to make a recommendation on the parking as well.

Mr. Tate stated that the timing of the implementation of the two way street and new parking on the north side would take place at the same time.

Mr. Mishkin asked if the city would install parking meters. Mr. Tate stated the city would stripe the spaces.

Mr. Helderman asked if the businesses needed to sign a petition. Mr. Hales stated that there is no requirement in the code, bylaws or charter that the commission get a petition except in the case of residential parking permits. He stated that he believed it was completely within the purview of the commission to make a recommendation.

Mr. Hales asked Ms. McLaughlin if the change of allowing parking on only one side of Loop South was known to her and businesses. Ms. McLaughlin stated that she and the Loop Businesses were not aware of the change in parking to the north side, but did not believe it makes a difference.

Mr. Hales asked if staff was concerned about the potential of losing spaces by moving parking from the south to the north side. Mr. Alpaslan indicated that was a concern and he suggested that the parking engineer provide two options to see if it would be feasible to keep parking on the south side.

Mr. Mishkin asked where the majority of the customers park. Ms. McLaughlin indicated that most people park in the lots behind the buildings and on Loop South.

Mr. Helderman made a motion to recommend that Loop South become two-way traffic as recommended by staff and was seconded by Mr. Mishkin. The motion carried unanimously.

### **c. No Parking on west side of North and South Road between Gannon Ave. and Cornell Ave.**

Mr. Hales introduced the petition from Genevieve Kramer of 7732 Gannon Ave. He commented that there were a lot of people who showed up for this issue at the previous meeting at which there was not a quorum. The petitioner did not show up and was not in attendance on this night.

Mr. Tate presented the request from Ms. Kramer and initially requested that the traffic commission make a recommendation to take to St. Louis County



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but stated that upon further review that staff believed the request should be denied because of the existing parking restriction.

Mr. Hales stated that the road is a county road and the city does not have jurisdiction.

Ms. Natasha Kwon of 622 North and South addressed the commission as a resident and an owner of businesses at North and South and Gannon. She was strongly against the proposed restriction and suggested a stop sign at North and South and Gannon because of the high number of pedestrians and her observations of speeding traffic.

Mr. Mishkin asked what the parking restriction would do to the nearby businesses. Ms. Kwon stated that it would be very negative for the local businesses. Mr. Mishkin asked what the purpose of the four-way stop. Ms. Kwon indicated it was about safety.

Mr. Hales stated that the commission has discussed this intersection and said when he first saw this proposal he was strongly opposed it. He noted that this intersection has very good sightlines from Gannon eastbound looking northbound on North and South because of the 35ft parking restriction for the bus stop. He stated that commission has talked about pedestrian safety at this intersection multiple times in the past and has suggested that city work with the county to install LED solar operated crossing signals at the crosswalk on North and South and Gannon as well as others on Delmar, but the county has not been very receptive to it. He stated that he believes what would really help is if the business community and neighbors contacted the county requesting a signalized crosswalk, it might make a difference.

Sgt. Whitley stated the St. Louis County examined it and decided against crossing signals.

Councilman Smotherson recommended to Ms. Kwon that she contact St. Louis County Councilwoman Hazel Erby with her concerns over the crosswalk safety.

Ms. Mary Adams (6985 Dartmouth) is the Executive Director of the University City Chamber of Commerce and came to speak on behalf of the local businesses. She expressed concern over the potential loss of parking spaces for the local businesses. She emphasized the access to parking being directly related to a business' ability to thrive.

Mr. Hales stated that the floor was open to anyone to make a motion in favor of the proposed restriction. No motions were made. No action was recommended.



**d. Senn Bierwerks Site Plan Update for Information Only**

Mr. Alpaslan provided an informational update on the Senn Bierwerks site. He indicated that the traffic patterns on Olive and North and South are still awaiting review and proposals from MODOT and St. Louis County Traffic. He informed the commission that the city has requested the proposed implementation along Olive and North and South which will be brought to the traffic commission as soon as it is received. Mr. Smotherson stated his reason for bringing this to the commission was that the City Council has approved the site plan and he thought the commission should be aware of the proposed changes with the implications to traffic on North and South and Olive which are the jurisdiction of St. Louis County and MODOT respectively.

Mr. Mishkin expressed concern over potential traffic issues related to ingress and egress from the lots. Mr. Alpaslan stated that because Olive is a State road and North and South is a County road that they are responsible for reviewing and making changes to their roads. He indicated that it is possible that one or both agency could recommend changes at which point the commission would be updated.

**e. Loop Trolley “Do Not Pass” Code Amendment**

Mr. Tate presented the staff recommendation to amend the traffic code to add a do not pass ordinance restricting the passing of the Loop Trolley.

Mr. Hales stated he looked back through the minutes in December of 2012 and Officer Margul indicated that the commission would have to look at whether it wanted to recommend allowing passing of the trolley and asked what considerations went into the recommendation from staff prohibiting passing of the trolley.

Mr. Alpaslan stated that passing of the trolley would violate the rules of the road and the pavement markings because the trolley travels in the traffic lane. He stated that the only area where traffic could pass the trolley would be at Leland where the trolley is in the turn lane.

Mr. Mishkin expressed concern about the trolley travelling in the left hand turn lane while travelling east with through traffic at Leland. Mr. Alpaslan stated that the trolley has its own traffic signal and the traffic has a pre-empt device which will allow the trolley to continue east through the intersection while through traffic heading east will have a red light. He stated that at the Leland intersection, the traffic signal will govern the traffic movement.

Mr. Mishkin expressed concern that the through traffic would proceed when it sees the trolley proceeding through the intersection. Mr. Hales stated he



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shared Mr. Mishkin's concerns and hoped that the traffic engineers had considered these issues.

Mr. Hales asked what the signage would be like in the loop. Mr. Alpaslan stated that the trolleys will have signs on the rear of the trolley stating "Do Not Pass".

Mr. Hales asked if the ordinance applied to bicycle traffic. Mr. Stewart stated that there is a new bike route, but his understanding was that bikes are not prohibited on Delmar. Mr. Alpaslan stated that there is no prohibition to bicycle traffic on Delmar; the signage discouraging bikes is not regulatory, but he indicated that staff would be looking at that. Mr. Alpaslan stated he understood the concerns of the commission about bicycles.

Mr. Helderman stated that while he shared many of the concerns expressed he made a motion to approve the ordinance as recommended. Ms. Creer seconded and the motion carried unanimously.

### **f. Loop Trolley "Obstruction Zone" Create Chapter to the Code**

#### **i. The Loop Trolley Track Layout Plans**

Mr. Tate stated that the purpose of this ordinance was to restrict vehicles from stopping on the trolley tracks.

Mr. Mishkin made a motion to recommend the ordinance as recommended by staff and was seconded by Mr. Stewart. The motion passed unanimously.

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

None

### **7. Miscellaneous Business**

Mr. Tate stated he had one issue that will be coming to the commission at the April meeting related to the study on the school zone speed limit study.

### **8. Adjournment.**

Mr. made a motion to adjourn the meeting and was seconded by Mr. Mishkin. The motion unanimously carried and the meeting was adjourned at 8:16pm.

Minutes prepared by Jeff Hales, Traffic Commission Chairman & Secretary

# City of University City Request for Proposal City Manager Recruitment Services

## Proposals Received – April 2017

- 1 Gov HR USA
- 2 JD Gray
- 3 Noor Associates
- 4 Ralph Andersen & Associates
- 5 Slavin Management Consultants
- 6 Strategic Government Resources (SGR)
- 7 The Mercer Group, Inc.
- 8 Springsted /Waters Executive Recruitment

**\*\* Proposals are available for viewing at City Hall in the City Clerk's Office \*\***

**City of University City  
Request for Proposal  
City Manager Recruitment Services**



**Submission Due Date: Wednesday, April 12, 2017 at 5:00pm**

**All RFP's must be received by the closing date and time**

**Submit an Electronic Copy in PDF via e-mail to [lreese@ucitymo.org](mailto:lreese@ucitymo.org)**

**REQUEST OF PROPOSALS**  
**CITY MANAGER RECRUITMENT SERVICES**

**I. INTRODUCTION AND BACKGROUND**

The City of University City is seeking services from a qualified executive search firm to assist the City Council in an executive search for the vacant City Manager position.

University City, Missouri is a vibrant, highly diverse community of 35,000 at the heart of the St. Louis metropolitan area. A full-service city, University City provides its residents with police and paramedic fire service, eighteen parks and extensive recreation facilities, a library and a full range of public works services with a \$35.0 million budget.

The community is primarily residential with a diverse range of single and multifamily residences. Home to the Loop, a vibrant business district named one of American's Ten Best Streets and other strong business districts; the City is adjacent to Washington University in St. Louis.

University City has a Home Rule Charter with a model Council-Manager form of government. The City Council, a nonpartisan policy-making body comprised of seven co-equal members includes the Mayor elected at-large and two Council members elected in each of three wards. The City Manager is the city's chief executive, running the day to day operations. Many residents take an active role in the community, serving on more than twenty boards, commissions and committees.

More information can be found on the City website at <http://www.ucitymo.org>.

**II. SCOPE OF SERVICES**

The applying firm or individual will collaborate with the City Council to carry out a national search which may include, but is not limited to:

- Have a public meeting with the City Council (City Council defined as all seven members of the body) to discuss process, recruitment strategy and answer questions about the process.
- Design a robust public participation process for Council approval so that residents can provide their comments and thoughts about attributes they want in the City Manager.
- Meet publicly with the City Council as necessary to facilitate the development of an appropriate candidate profile and list of priorities for the new City Manager.
- Develop and administer a national search for appropriate candidates including a public position announcement and diverse job posting resources.
- Answer questions from candidates and collect application materials.
- Review all application materials received, comparing them to the candidate profile and perform screening interviews as needed.
- Provide a written report summarizing the overall candidate pool and the qualifications of those to be interviewed; recommend or rank the most qualified candidates based on the candidate profile developed and setup interviews for candidates selected by City Council.

- Advise the City Council on interview strategies and appropriate questions to ask candidates; attend the interview sessions and assist the City Council in narrowing the candidate pool to finalists.
- Conduct complete background check on finalist candidates and advise the City Council of the results. Coordinate psychological evaluation with finalist.
- Facilitate the final interview process and assist the City Council to make a selection as needed.
- Assist with employment contract negotiations.

### III. PROPOSAL REQUIREMENTS

The proposal should provide a description of the proposer's capabilities to satisfy the requirements for each deliverable specified in the Scope of Services.

While additional information may be presented, the items listed in Scope of Services must be completely addressed in your proposal.

Submit an electronic copy in PDF via email to [lreese@ucitymo.org](mailto:lreese@ucitymo.org) and

The proposal shall include, but not be limited to the following:

1. **Title Page:** Title page must include the request for proposal's subject; the company's name; the name, address and telephone number of the contact person; and the date of the proposal.
2. **Table of Contents**
3. **Transmittal Letter:** A signed letter of transmittal briefly stating the proposer's understanding of the services to be provided, the commitment to perform the services, a statement why the proposer believes itself to be best qualified to provide City Manager recruitment services to the City of University City and a statement that the proposal is a firm and irrevocable offer for year stated in the RFP.
4. **Qualifications:** Please include background and experience of those professionals who would be involved in the recruitment and selection process from your firm.
5. **Detailed Proposal:** The detailed proposal must address all deliverables especially public participation and the full City Council involvement set forth in the Scope of Services of this request for proposal. Include a detailed timeline of recruitment and selection process leading to a preferred start date by August 2017.
6. **Cost** Proposal including details on proposed payment terms **shall be in a separate, sealed envelope.**
7. **References:** Provide the City with at least THREE (3) references from municipalities utilizing the firm's services. The City may contact the references provided.

### IV. TIME LINE FOR SELECTION PROCESS

Release date	March 31, 2017
Proposals due	April 12, 2017 (5:00pm CDT)
City Council select recruiting firm	April 17, 2017

## **V. QUALIFICATIONS AND EXPERIENCE**

1. Each respondent shall need to demonstrate that, within the past thirty-six (36) months, they have worked with public entities similar to the City of University City to conduct an executive recruitment. Additionally, respondents shall have, within the past twenty-four (24) months, successfully placed at least one (1) executive candidate with a municipal government.
2. Brief information about your company's history, size, number of clients, organization and /or any other information that might aid us in the decision making process.

## **VI. EVALUATION PROCESS**

Proposals will be evaluated by the City Council. The City Council will select the proposal, which is judged to be the most responsive to the City of University City's requirements, and based on ability and fee.

There is no expressed nor any implied obligation for the City to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. During the evaluation process, the City reserves the right, where it may serve the City's best interests, to request additional information or clarification from proposers, or to allow corrections of errors or omissions.

## **VII. EVALUATION CRITERIA**

The following represents the principal selection criteria which will be considered during the evaluation process:

1. Responsiveness of the proposal.
2. Ability, capacity, and skill of the respondent to perform the services.
3. Responses of the respondent's references.
4. Methodology for conducting the recruitment.
5. Experience of the respondent and its individual professional staff members in performing services for similar municipalities.
6. Qualifications of the professional staff proposed for the project.
7. The sufficiency of financial resources and ability of respondent in performing the contract.
8. The firm's capability to meet the Scope of Service.
9. The Schedule proposed and ability to complete the process in a timely manner.

## **VIII. CITY RESPONSIBILITIES**

The Interim City Manager and Interim City Clerk will be available as needed to assist in coordinating the national search process including scheduling meetings, facilitating interviews, providing recruitment information, benefit package information, etc.

## **IX. RIGHT TO REJECT**

The City reserves the right to reject part of any and/or all proposals, waive formalities or to accept the proposal which best serves the interests of the City of University City.

## **X. QUESTIONS AND INQUIRIES**

Questions regarding this Request for Proposal may be directed to the Interim City Clerk listed below. The original and three (3) copies of the completed proposal must be received no later than 5:00 p.m. on April 12, 2017.

LaRette Reese  
Interim City Clerk  
(314) 505-8531  
[lreese@ucitymo.org](mailto:lreese@ucitymo.org)

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