



MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
November 27, 2017
6:30 p.m.

- A. MEETING CALLED TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. PROCLAMATIONS
- E. APPROVAL OF MINUTES
 - 1. November 13, 2017 Regular session minutes
- F. APPOINTMENTS to BOARDS & COMMISSIONS
 - 1. Kristin Sobotka is nominated to Urban Forestry as a **fill in** replacing Theodore Smith's vacant seat, by Mayor Welsch.
 - 2. Felecia Hickman, Kay Watts, Richard Massey and Winifred Sullivan are nominated for **reappointment** to the Arts and Letters Commission by Council member Smotherson.
- G. SWEARING IN to BOARDS & COMMISSIONS
- H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)
- I. PUBLIC HEARINGS
 - 1. Zoning Code Text Amendment - Division 10 relating to Telecommunication Facilities (PC 17-14)
- J. CONSENT AGENDA
- K. CITY MANAGER'S REPORT
- L. UNFINISHED BUSINESS
 - BILLS*
 - 1. **Bill 9340** - AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING MINIMUM REQUIREMENTS AND STANDARDS FOR THE USE OF EXPLOSIVES AND EXPLOSIVES MATERIALS TO PROTECT HEALTH, SAFETY AND WELFARE WITHIN THE CITY OF UNIVERSITY CITY, MISSOURI; PROVIDING FOR THE ISSUANCE OF PERMITS; MAKING OF INSPECTIONS; COLLECTION OF PERMIT AND INSPECTION FEES; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF THROUGH THE ADOPTION OF THE EXPLOSIVES CODE OF THE COUNTY OF SAINT LOUIS, MISSOURI AS THE EXPLOSIVES CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI.
 - 2. **Bill 9341** - AN ORDINANCE APPROVING A FINAL PLAT FOR A MAJOR SUBDIVISION OF A TRACT OF LAND TO BE KNOWN AS MAGNOLIA TOWNHOMES: DELMAR HEIGHTS LOTS 17, 18, AND 19 IN BLOCK 4 BOUNDARY ADJUSTMENT PLAT AND PART OF A 15 FOOT WIDE ALLEY IN BLOCK 4 OF DELMAR HEIGHTS.
(7634 Delmar Boulevard & 565 N. Central Avenue (PC 17-08))

3. **Bill 9342** – AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING MINIMUM REGULATIONS FOR CONTROLLING EROSION, AND SEDIMENT FROM LAND DISTURBANCE ACTIVITIES AT CONSTRUCTION SITES WITHIN THE CITY OF UNIVERSITY CITY, MISSOURI; PROVIDING FOR THE ISSUANCE OF PERMITS; MAKING OF INSPECTIONS; COLLECTION OF PERMIT AND INSPECTION FEES; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF THROUGH THE ADOPTION OF THE LAND DISTURBANCE CODE OF THE COUNTY OF SAINT LOUIS, MISSOURI AS THE LAND DISTURBANCE CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI AS IT PERTAINS TO MAJOR LAND DISTURBANCE.
4. **Bill 9343** - AN ORDINANCE AMENDING SCHEDULE III OF THE TRAFFIC CODE, TO REVISE TRAFFIC REGULATION AS PROVIDED HEREIN. *(1000 block of Purcell)*
5. **Bill 9344** – AN ORDINANCE TO AMEND CHAPTERS 100 AND 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI RELATED TO SELF-PREEMPTION AND REGULATION OF SMALL WIRELESS COMMUNICATION FACILITIES

M. NEW BUSINESS

RESOLUTIONS

BILLS

1. **Bill 9345** – AN ORDINANCE AMENDING CHAPTERS 100 AND 505 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI RELATED TO REGULATIONS FOR RIGHT-OF-WAY MANAGEMENT AND ENFORCEMENT REGULATIONS
(Right-of-Way Code Amendment relating to Telecommunications Facilities)
2. **Bill 9346** – AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT BETWEEN THE CITY OF UNIVERSITY CITY AND THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION PROVIDING FOR THE ACKERT WALKWAY IMPROVEMENTS.
3. **Bill 9347** - AN ORDINANCE FIXING THE COMPENSATION TO BE PAID FOR THE POSITION OF CITY MANAGER.

N. COUNCIL REPORTS/BUSINESS

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

O. CITIZEN PARTICIPATION (continued if needed)

P. COUNCIL COMMENTS

Q. ADJOURNMENT

MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
November 13, 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, November 13, 2017, Mayor Shelley Welsch called the meeting to order at 6:32 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, and City Attorney, John F. Mulligan, Jr.

Mayor Welsch announced that she had just signed a contract with Gregory Rose, to return to U City to serve as City Manager. Mr. Rose previously served as the Assistant City Manager for U City, from 1997 to 2001, and will initiate his new contract on December 28th.

C. APPROVAL OF AGENDA

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

D. PROCLAMATIONS

1. A Proclamation honoring the life and work of Mrs. Agnes Wilcox was read and presented to her husband.

Mayor Welsch informed Mr. Wilcox that an Amended Proclamation would be provided to him after all of the necessary corrections had been made.

E. APPROVAL OF MINUTES

1. September 25, 2017, Study Session minutes, were moved by Councilmember Jennings, it was seconded by Councilmember McMahon, and the motion carried unanimously.
2. October 23, 2017, Regular Session minutes, were moved by Councilmember McMahon, it was seconded by Councilmember Jennings, and the motion carried unanimously.

F. APPOINTMENTS to BOARDS & COMMISSIONS

1. Irene Chaudhry is nominated to the Plan Commission replacing Rosalind Williams, by Councilmember Glickert, it was seconded by Councilmember Jennings.

Citizen's Comments

Cirri Moran, 6652 Kingsbury, University City, MO - (Chairman)

Ms. Moran expressed her support for Ms. Rosalind Williams, a current member of the Plan Commission. She stated she was dismayed to learn that Ms. Williams was being summarily replaced at this juncture, without advance notice, instead of waiting until the normal appointment period. Ms. Williams is a professional city planner who has worked for both the Cities of Ferguson and Kirkwood; therefore, her input on this commission has been vital. Commissions need more people like Ms. Williams to step up and give their skills and passions to help this City meet the critical challenges ahead, and those individuals who do step up should not be dismissed out-of-hand.

Ms. Moran then read the following statement from fellow Plan Commission Member, **Judith Gainer, 721 Harvard, University, City, MO - (2nd Ward)**, into the record:

"I want to make public the concerns I expressed privately to Councilmember Glickert about the new appointment to the Plan Commission. Rosalind Williams, a professional city planner from Ward 2, is being replaced by a third representative from Ward 3. I don't know the new appointee, so my concerns are not with the person, but rather, with larger issues related to this appointment. Namely, first and foremost, the Plan Commission will lose the expertise of Ms. Williams' professional knowledge and valuable experience, a unique perspective that, it seems to me, is being squandered." (Ms. Gainer's letter was read in its entirety and made a part of the minutes of this meeting.)

Helen Fuller, 7365 Colgate, University City, MO

Ms. Fuller stated she was here tonight to speak on behalf of Rosalind Williams. Based on her understanding, it is customary for a seated member of a commission to be asked if they would like to serve for a second term on their specific commission, and she has always believed this to be a courteous and sensible practice. However, Ms. Williams was not asked about her desire to serve a second term, in spite of the fact that she has been a conscientious, hardworking and extremely knowledgeable member of the Plan Commission. Ms. Fuller suggested that Council extend this common sense courtesy to Ms. Williams by asking her to serve a second term because to not do so, would be a grave mistake.

Kathy Straatmann, 6855 Plymouth Avenue, University City, MO - (2nd Ward)

Ms. Straatmann stated her belief is that a uniformed and consistent procedure for all is vital in order to have the most efficient, professional, and productive use of Boards and Commissions, as well as the most effective outcomes for the good of U City's citizens. For that reason, she would ask Council to reconsider Ms. Williams' appointment and adhere to the process that should be followed for selecting individuals to serve on Boards and Commission.

Gloria Nickerson, 7576 Blackberry, University City, MO - (2nd Ward)

Ms. Nickerson stated although her comments will be in support of Ms. Williams, her main point is premised on the following letter, dated August 6, 2010, and directed to Mayor Shelley Welsch. *"Dear Mayor Welsch, please be advised that I represent Gloria Nickerson with regard to her appointment as a member of the Economic Development Retail Sales Tax Board.*

It is my understanding that Ms. Nickerson was appointed by former Mayor Joe Adams, and approved by the City Council in an open Board Meeting, in March of 2010. She was sworn in by the City Clerk prior to Mayor Joe Adams leaving office on April 20, 2010.

I understand that you believe there has been some violation of the Sunshine Law. I am hopeful that you have contacted the City Attorney, John Mulligan, to discuss this matter. If you believe that there is a violation of the Sunshine Law and this appointment has no validity, then you need to seek the appropriate redress in St. Louis County Circuit Courts."

Ms. Nickerson stated that during this same time period Ms. Williams was also a member of the EDRST Board, so she is very familiar with the quality of work she is capable of performing. However, when she read tonight's agenda and learned that Ms. Williams had not even been asked whether she would like to remain on the Plan Commission, it dredged up these unpleasant memories of her own experience. Consequently, she would like to pose two questions that she hopes can be answered at tonight's meeting:

1. What are the rules or procedures with respect to making Board and Commission appointments?
2. Are these rules and/or procedures available for review by the public?

Mayor Welsch informed Ms. Nickerson that this portion of the agenda does not allow for questions and answers, nevertheless, her questions would be addressed at a later time.

Patricia McQueen, 1132 George Street, University City, MO

Ms. McQueen stated she became infuriated after learning that Ms. Williams was being replaced. She stated that her personal records revealed the initiation of what appeared to be a process; Ms. Williams was nominated on December 9, 2013; sworn in on January 13, 2014, but that seems to be where the process stopped, because Ms. Williams was never informed that she was going to be removed from the Plan Commission. Ms. McQueen stated U City is at a pivotal point where she believes it would be beneficial for the new City Manager to work with citizens like Ms. Williams, who accepted the responsibility to see that the plans for the Olive/1-70 interchange came to fruition in order to achieve economic development and stabilization in the 3rd Ward. She asked that Council take another look at this motion because at this point their proposed actions merely demonstrate the City's lack of transparency, consistency, courtesy, and failure to implement sound policies and procedures.

Jeff Hales, 7471 Kingsbury, University City, MO

Mr. Hales stated that as someone who has served on the City's Boards and Commissions, and attended Council meetings on a regular basis, he is fully aware of the difficulties associated with recruiting citizens to serve. He stated that he has witnessed Ms. Williams' performance and has no doubt she possesses the qualifications, skills, and passion to be a member of the Plan Commission. So to remove Ms. Williams and appoint Ms. Chaudhry under this set of circumstances is not fair to either of these residents. Mr. Hales urged Council to think about the citizens who volunteer to do the work of the City by showing up month after month to serve on these Boards and Commissions, and then act in a manner that exhibits decency and consideration.

Bobette Patton, 8639 Spoon Drive, University City, MO

Ms. Patton expressed her understanding of the City's appointment process and stated that although she has no idea why Ms. Williams was not given the opportunity to continue to serve on the Plan Commission, or why the 2nd Ward is not being represented in the way that it should be, tonight's actions are simply wrong. As this City anticipates the coming of a new year, Ms. Patton informed Council that the residents of U City are anticipating better decisions, and better results, than those that have been demonstrated in the past.

Suzanne Greenwald, 836 Barkley Square, University City, MO

Ms. Greenwald stated in 2008, Mayor Welsch; then a member of Council, appointed Ms. Williams to the EDRST Commission. In 2013 Councilmember Glickert appointed Ms. Williams to the Plan Commission; thank you Mayor Welsch and Councilmember Glickert for your wise decisions.

At no cost, U City benefitted from the services of a professional with a Master's Degree in Urban Planning and a 40-year career as the Director of Planning for several municipalities. As a member of the Plan Commission, Ms. Williams chaired several subcommittees, was instrumental in developing the Comprehensive Plan, and most importantly, was known as someone always willing to do the tedious research and ask the hard questions. Yet, here we are today, discovering that Ms. Williams received no oral communication; no letter, or even an expression of appreciation. The Federal Government no longer practices grace and civility, so her question to Councilmembers Glickert and Jennings is straightforward; must we follow suit? Ms. Greenwald stated while she is uncertain of the motivation behind this action, it is certainly not in the best interest of U City.

Rosalind Williams, Chamberlain, University City, MO

Ms. Williams acknowledged that she had never been asked to serve a second term on the Plan Commission, and was surprised when she learned that she was going to be replaced at tonight's meeting. She stated that she volunteered to serve on the Plan Commission based on her concern for U City, and believes that she make positive contributions during her tenure. So, had she been asked about her interest in being reappointed, she would have expressed her absolute desire to continue serving. Ms. Williams noted that her departure will leave only two experienced commission members with knowledge about the new Comprehensive Plan, which she does not believe would be in the best interest of the City.

Council's Comments

Councilmember Carr stated this is an extraordinary situation which does not involve the candidates, but rather, the process utilized in making these appointments. As previously noted, had she not called Ms. Williams to inform her about the actions being taken tonight, Ms. Williams would have had no idea she was being removed, since neither Councilmember Jennings; Council Liaison for the Plan Commission, nor Councilmember Glickert; who made her original appointment, ever contacted Ms. Williams to discuss her interest in serving a second term.

With regard to Board and Commission reappointments, Council has long operated in a manner that relies on the Council Liaison to inquire about a member's interest in being reappointed prior to making a new appointment. And as a courtesy, Council's practice has been to accept recommendations offered by Council Liaisons, regardless of an individual Councilmember's political or personal preference. Councilmember Carr stated this incident reminds her of a similar incident involving Ms. Nickerson who was unilaterally removed from the EDRST Board by Mayor Welsch in 2011. That was a shame then, and this is a shame now, especially since Councilmember Jennings was advised of Ms. Williams' eligibility at the time he presented his new appointment to the Interim City Clerk. So at this point in time, she would like to offer Councilmembers Jennings and Glickert the opportunity to provide an explanation for their actions.

(Councilmember Jennings elected to provide no explanation.)

Councilmember Glickert stated this is a very sensitive issue, and therefore, would provide no further response to Councilmember Carr's comments.

Councilmember Carr stated during her conversation with Councilmember Jennings she posed the following questions, to which he responded "No".

1. Was your decision related to Ms. Williams' performance?
2. Did Ms. Williams exhibit poor attendance at meetings?
3. Was Ms. Williams ill-prepared at the meetings?
4. Did Ms. Williams fail to participate in the meetings?
5. Were actions exhibited by Ms. Williams deemed to be inappropriate?

Thereafter, Councilmember Carr stated Councilmember Jennings informed her that his rationale was based on his preference to have a specific resident from Ward 3 appointed to the commission. And when she reminded Councilmember Jennings that this was not his appointment to make, he responded that his hope was that after Councilmember Glickert had had an opportunity to meet with his candidate he would be amenable to making the appointment; which he did. Ms. Williams is probably the most qualified resident to ever be appointed to the Plan Commission. So is this how we treat our citizens who are willing to serve in this City?

Councilmember Carr stated the result of Councilmember Glickert's unwillingness to reappoint Ms. Williams to this vital commission that is often the last stop for questions and readjustments, prior to a recommendation being presented to Council, means that:

- Ward 2 will be grossly underrepresented
- After the terming out of Ms. Moran in January, remaining members, with the exception of Mr. Miller, will have less than one year experience
- There will be a deficit in long-range planning experience
- There will be a deficit of institutional knowledge

For their willingness to serve this City, Councilmember Carr proposed that Council show their respect and appreciation to both Ms. Chaudhry and Ms. Williams, by agreeing to the following motion: To postpone this appointment until the first meeting in January, at which time Ms. Chaudhry and Ms. Williams can be appointed to fill the vacant positions on the Plan Commission. The motion was seconded by Councilmember Smotherson.

Councilmember Crow praised Ms. Moran for her eloquent presentation and thanked everyone who came out tonight in support of Ms. Williams. He stated in his opinion, none of this makes any sense; could have been avoided, and as such, he would like to extend his heartfelt apology to both Ms. Williams and Ms. Chaudhry. With all of the vacancies on the City's Boards and Commissions the difficulty of getting residents to serve; especially someone as qualified as Ms. Williams, is quite obvious. And while ensuring that a balance of all three wards is achieved on the City's Boards and Commissions is important, Council's ability to maintain its customary practices in order to fulfill the obligation owed to citizens willing to serve in these positions is far more paramount.

Councilmember Crow stated to answer the questions posed by Ms. Nickerson; it is customary for Council to reappoint members when they are willing to serve. And it is also customary for Council to respect an appointment made by one of their colleagues. But since these customs are clearly in conflict tonight, he applauds the efforts made by Councilmember Carr's to resolve this quandary that Council should have never been placed in.

Mayor Welsch stated that in deference to Councilmember Glickert, she does not believe he deserves to be attacked since he had been informed that the position was open. And although she is not aware of why Councilmember Jennings failed to discuss this with Ms. Williams prior to requesting a new appointment, he had informed her that it was a sensitive issue he preferred not to discuss on the record, and that he had made the decision based on his belief that it would be in the best interest of the City. So while she will agree with the explanations provided by Councilmembers Crow and Carr regarding Council's practice for reappointments, she does not believe either of their decisions was politically motivated.

Roll Call Vote Was:

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

Nays: Councilmember Jennings.

Mayor Welsch stated the retroactive reappointments listed below are being done as a matter of housekeeping and record tracking.

1. Denise Anderson is nominated for reappointment to the Board of Adjustment, retroactive back to 7/7/2016 by Councilmember Jennings.
2. Christine Albinson is nominated for reappointment to the Board of Appeals retroactive back to 8/1/2016 by Councilmember Glickert.
3. Winifred Sullivan is nominated for reappointment to Arts and Letter, retroactive back to 1/2/2014 by Councilmember Smotherson.
4. Myra Vandersall and Stephanie Schlaifer are nominated for reappointment to Arts and Letter, retroactive back to 1/2/2015 by Councilmember Smotherson.
5. Marian Reed and Frederick Fehr are nominated for reappointment to Arts and Letter, retroactive back to 1/2/2016 by Councilmember Smotherson.
6. Nicole Thomas and Wilmetta Toliver-Diallo are nominated for reappointment to Arts and Letter, retroactive back to 1/2/2017 by Councilmember Smotherson.
7. Patricia McQueen is nominated for reappointment to CALOP, retroactive back to 9/9/2015 by Councilmember McMahon.
8. Robert Frazier is nominated for reappointment to L.C.R.A, retroactive back to 3/18/2016 by Mayor Welsch.
9. Wayne Flesh is nominated for reappointment to the Senior Commission, retroactive back to 11/25/2016 by Councilmember Carr.
10. Beth Skelton is nominated for reappointment to Urban Forestry, retroactive back to 1/1/2016 by Councilmember McMahon.

Point of Information: Councilmember Carr questioned whether Council was required to vote on these retroactive appointments? Mayor Welsch stated they could be voted on if Council so desired. Councilmember Carr requested that Council take a vote. Mayor Welsch asked for a motion to approve the aforesaid reappointments.

Councilmember Carr moved to approve, it was seconded by Councilmember Glickert and the motion carried unanimously.

G. SWEARING IN TO BOARDS & COMMISSIONS

1. Timothy Dugan was sworn in to the Green Practices Commission at tonight's meeting.
2. Carl Hoagland was sworn in to the Park Commission at tonight's meeting.
3. Kevin Taylor was sworn in to the Park Commission at tonight's meeting.

4. Margaret Holly was sworn in to the Plan Commission on October 24th in the Interim City Clerk's office.
5. Gloria Nickerson was sworn in to the Senior Commission November 6th in the City Clerk's office.

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

I. PUBLIC HEARINGS

J. CONSENT AGENDA

K. CITY MANAGER'S REPORT

1. Recommended approval of a Conditional Use Permit /HopCat - 6315 Delmar (*food & beverage (non-retail) with outdoor patio*)

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

Citizen's Comments

Jeff Hales, 7471 Kingsbury, University City, MO

Mr. Hales stated after realizing that tonight's packet did not contain minutes of the Plan Commission's meeting, he thought it might be in everyone's best interest if he brought some of the concerns raised at that meeting to Council's attention.

- The removal of eight parking spaces located behind the building and its impact on the Loop
- A Traffic Study created by the CBB Company that was not reviewed by the Traffic Commission

Mr. Hales stated his main concern moving forward, is the removal of parking spots in an area where he thinks a broad look should be taken with respect to traffic and parking. He stated that the applicant's justification for removal was based on their intent to lease spaces in the City Garage. And since it has been noted that this garage is currently underutilized, one idea to generate revenue would be to eliminate the management contract with St. Louis Parking and install an automated system where Loop businesses could validate parking for their customers.

Council's Comments

Councilmember Carr stated although she does have a few questions, she would like to preface her statements by stating that she is in support of this development.

She stated that when the Trolley eliminated six spaces in the Loop they were asked to replace them. So shouldn't the same hold true in this case, whether it's the sole responsibility of the business or a shared responsibility between the City and business? It also looks like the City does have something to the effect of shared parking, and yet, she had been unable to find anything in the code referencing this process. Councilmember Carr stated that she had talked with Mr. Adams and his staff in an attempt to ascertain the specific terms of these leases and discovered that they did not have this information since City uses a management company to handle the leases. She stated since the lease will be developed at a later time, she has no intention of holding this recommendation up until she receives an answer, but would ask Mr. Adams if he could provide her with a legal opinion on whether this meets the Loop parking requirements in the Zoning Ordinances?

So before the permits are issued she thinks Council should get an answer to these questions because if HopCat is as successful as she thinks it will be, there is going to be a lot more demand for parking in the Loop.

Mr. Adams stated Ms. Riganti had informed him that in this instance the parking spaces being removed were on private property. Whereas the parking spaces removed by the Trolley had been on public property and therefore, required to be replaced. He advised Councilmember Carr that all of her questions had been referred to the City Attorney in order to provide her with a more definitive answer.

Councilmember Crow stated that in spite of the fact that he also has questions, he too was pleased to have this business in U City.

1. Can this recommendation be rescheduled until after Council has received answers to their questions?
2. Has it been the practice to lease parking spaces in the City Garage?
3. What is the number of leased spots available in the garage?

Mr. Adams stated that the Riverfront Times had leased spaces in the past.

Mary Welsch stated that United Provisions might also be leasing some spaces.

Andrea Riganti, Director of Community Development, stated the City had established a precedent of providing lease agreements to several businesses within the Loop. However, she would note that these agreements are currently being developed in consultation with Mr. Mulligan. And in terms of shared parking, between 8 a.m. and 6 p.m. spaces are utilized by several offices, leaving them free to be used again, in the evening.

Ms. Riganti informed Council that a representative from HopCat was in attendance at tonight's meeting, and could address the scheduling question posed by Councilmember Crow.

Kevin Kozak, a partner in Barfly Ventures, the parent company of HopCat, stated they are currently tracking to start as soon as possible, so his only question is how long Council anticipated delaying the issuance of their Building Permit?

Councilmember Crow stated that in this case, it would depend on when Council received the answers to their questions. However, typically, recommendations are presented again in two weeks, at the next Council meeting.

Voice vote on the motion to approve carried unanimously.

2. Recommended approval of the Leaf Collection Contract / St. Louis Composting

Councilmember Glickert moved to approve, it was seconded by Councilmember Jennings.

Councilmember Carr stated that the Recommendation talks about a three-year contract to be voted on en mass. But with the announcement of a new City Manager, she would like to amend the motion and request that the contract be approved for a one year period to allow the new City Manager an opportunity to review the contract and make recommendations. It was seconded by Councilmember Glickert and the amended motion carried unanimously. Voice vote to approve the original Recommendation, as amended, carried unanimously.

3. America Recycles Day - November 15 - (Informational)

Mayor Welsch thanked staff for the work they do in the area of recycling.

4. Recommended approval of the Ackert Walkway Improvements – Transportation Alternatives Program Agreement

Councilmember Carr moved to approve, it was seconded by Councilmember McMahon.

Councilmember Carr expressed her excitement about the grant for Ackert Park; a park that long gets neglected, and for which she receives a ton of complaints from constituents. Therefore, she would like to thank staff for their hard work in locating this grant. Voice vote on the motion to approve carried unanimously.

5. Recommended Approval of the FY18 Annual Tree Trimming – Gamma Tree Experts

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

6. Recommended Approval of the Site Plan - Hawthorne

Councilmember Jennings moved to approve, seconded by Councilmember Smotherson.

Councilmember Carr stated there were several recommendations by the Traffic Commission, and would like to ask Ms. Riganti, through Mr. Adams, whether these recommendations had been considered, and if Council would be advised about any revisions to the construction entrance.

Councilmember Smotherson stated Matt had provided him with a copy of Pinnacle's rationale for why they would be unable to make a separate entrance and exit for construction. And that it had also been made clear by Mr. Hales, Chair of the Traffic Commission, that Pinnacle would be required to use the Hanley entrance to Carlton since it only impacts three or four houses. Councilmember Smotherson stated he was satisfied with the company's explanation and would make this information available to anyone who would like to read it.

Mayor Welsch asked Ms. Reese if she would make copies of this information to be shared with Council.

Voice vote on the motion to approve carried unanimously.

L. UNFINISHED BUSINESS

BILLS

1. **Bill 9337** - AN ORDINANCE ADOPTING REGULATIONS FOR CONSIDERATION OF STORMWATER QUALITY AND MANAGEMENT IN SITE DESIGN BY AMENDING CHAPTER 405, SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS, ARTICLE VI, LAND DEVELOPMENT REGULATIONS AS PROVIDED HEREIN. Bill Number 9337 was read for the second and third time.

Councilmember Carr moved to approve, it was seconded by Councilmember Glickert

Roll Call Vote Was:

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

Nays: None.

(Post-Construction Land Disturbance Requirements)

- 2. Bill 9338** - AN ORDINANCE AMENDING SCHEDULE III OF THE TRAFFIC CODE, TO REVISE TRAFFIC REGULATION AS PROVIDED HEREIN. Bill Number 9338 was read for the second and third time.

(Parking Restrictions – 6600-6800 Kingsbury Blvd., 500 Melville Ave., 500 Kingsland Ave., Trinity Ave.) –corrected

Councilmember Glickert moved to approve, it was seconded by Councilmember Crow.

Roll Call Vote Was:

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

Nays: None.

- 3. Bill 9339** – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, DECLARING 1351 N. HANLEY AVENUE A BLIGHTED AREA AND APPROVING A REDEVELOPMENT PLAN FOR THE AREA. Bill Number 9339 was read for the second and third time.

Councilmember Jennings moved to approve, it was seconded by Councilmember Glickert.

Councilmember Smotherson asked who would be responsible for approving the tax abatement application referenced in Attachment B? Ms. Riganti stated that Attachment A, which outlines the tax abatement process, states that City Council will review and approve the Blight Analysis and Redevelopment Plan, and the Land Clearance Redevelopment Authority (LCRA) will be the agency; as per Chapter 99 of the State Statute, that reviews the tax abatement application. However, what is before Council is the developer's request, so at this point, nothing has been voted on or approved by the LCRA. Councilmember Smotherson asked whether it was customary to ask for a ten-year, 100%, and a five-year, 50% tax abatement? Ms. Riganti stated that the applicant has been made aware of U City's allowable term, which is either eight or ten years, versus the City of St. Louis' allowable term of fifteen years. Councilmember Smotherson stated his preference would be more in line with the ten-year allowable term. Referencing the following language, *"The kitchen is expected to have granite countertops and bathrooms should have ceramic tile,"* Councilmember Smotherson stated he would like to see the language express exactly what will be included, rather than a hypothetical.

Matthew Masiel, 7777 Bonhomme Avenue, Suite 2010, St. Louis, MO

Mr. Maisel stated while they are doing everything possible to include the nicest amenities they can afford, at this stage, they are not far enough along in the budgetary process to say exactly what amenities will be provided.

Councilmember Smotherson stated his hope is that Council will be informed well ahead of time about what their final decision will be with regard to these amenities.

Roll Call Vote Was:

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

Nays: None.

**M. NEW BUSINESS
RESOLUTIONS**

BILLS

Introduced by Councilmember Glickert

1. **Bill 9340** -AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING MINIMUM REQUIREMENTS AND STANDARDS FOR THE USE OF EXPLOSIVES AND EXPLOSIVES MATERIALS TO PROTECT HEALTH, SAFETY AND WELFARE WITHIN THE CITY OF UNIVERSITY CITY, MISSOURI; PROVIDING FOR THE ISSUANCE OF PERMITS; MAKING OF INSPECTIONS; COLLECTION OF PERMIT AND INSPECTION FEES; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF THROUGH THE ADOPTION OF THE EXPLOSIVES CODE OF THE COUNTY OF SAINT LOUIS, MISSOURI AS THE EXPLOSIVES CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI. Bill Number 9340 was read for the first time.

Introduced by Councilmember Jennings

2. **Bill 9341** - AN ORDINANCE APPROVING A FINAL PLAT FOR A MAJOR SUBDIVISION OF A TRACT OF LAND TO BE KNOWN AS MAGNOLIA TOWNHOMES: DELMAR HEIGHTS LOTS 17, 18, AND 19 IN BLOCK 4 BOUNDARY ADJUSTMENT PLAT AND PART OF A 15 FOOT WIDE ALLEY IN BLOCK 4 OF DELMAR HEIGHTS. Bill Number 9341 was read for the first time.

(7634 Delmar Boulevard & 565 N. Central Avenue (PC 17-08))

Introduced by Councilmember Carr

3. **Bill 9342** – AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING MINIMUM REGULATIONS FOR CONTROLLING EROSION, AND SEDIMENT FROM LAND DISTURBANCE ACTIVITIES AT CONSTRUCTION SITES WITHIN THE CITY OF UNIVERSITY CITY, MISSOURI; PROVIDING FOR THE ISSUANCE OF PERMITS; MAKING OF INSPECTIONS; COLLECTION OF PERMIT AND INSPECTION FEES; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF THROUGH THE ADOPTION OF THE LAND DISTURBANCE CODE OF THE COUNTY OF SAINT LOUIS, MISSOURI AS THE LAND DISTURBANCE CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI AS IT PERTAINS TO MAJOR LAND DISTURBANCE. Bill Number 9342 was read for the first time.

Introduced by Councilmember Smotherson

4. **Bill 9343** - AN ORDINANCE AMENDING SCHEDULE III OF THE TRAFFIC CODE, TO REVISE TRAFFIC REGULATION AS PROVIDED HEREIN. *(1000 block of Purcell)* Bill Number 9343 was read for the first time.

Introduced by Councilmember McMahon

5. **Bill 9344** – AN ORDINANCE TO AMEND CHAPTERS 100 AND 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI RELATED TO SELF-PREEMPTION AND REGULATION OF SMALL WIRELESS COMMUNICATION FACILITIES. Bill 9344 was read for the first time.

N. COUNCIL REPORTS/BUSINESS

1. Boards and Commission appointments needed
Mayor Welsch announced the appointments that were needed.
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions, and Task Force minutes
4. Other Discussions/Business

O. CITIZEN PARTICIPATION (continued if needed)

P. COUNCIL COMMENTS

Councilmember Glickert stated that on October 28th and 29th, Vernon's Barbeque and Catering won 1st Place in the turkey category; 2nd place in beef brisket; 4th place in beef ribs; 4th place in overall kosher, and 6th place in chicken, at the Kansas City's Barbeque Societies' 2017 Dallas Kosher Championship.

Mayor Welsch stated she thinks they should have come in first, in the brisket category.

Councilmember Crow stated he is very pleased that Council voted unanimously to hire Gregory Rose as the new City Manager. His contract has been made available for public inspection and it is Council's hope that Mr. Rose will be joining U City prior to year-end. Mr. Rose comes to U City from Maricopa, Arizona; Hyattsville, Maryland; North Las Vegas, Nevada, and served as the Assistant City Manager for four years in University City, MO. He has a Master's of Public Administration from the University of Texas, and a Bachelor of Science. Councilmember Crow stated that Council is also pleased and grateful for all that the Interim City Manager, Charles Adams, has done, and continues to do for the City.

He stated as many know, Mayor Welsch puts out a Sunday evening missive, but the one he has elected to highlight came out on October 29, 2017.

- **She was very appreciative that Mr. Walker agreed to take part in the mediation; something he did not have to do.** He stated that it is clear in the comments made by Mayor Welsch that she does not agree with this settlement.
- **The bit of background which starts on November 28th, when Councilmember McMahon was sworn in, and then goes on to attack the members of Council who suspended Mr. Walker with pay.** He stated that what she omitted is that on November the 17th, Mr. Walker, through his attorney, sent Council a letter demanding a half million dollars in damages and also threatened that a lawsuit would be filed. Mr. Walker also charged three members of Council with defamation and discrimination.
- **Mr. Mulligan has charged more than \$100,000 in legal fees for his representation in the Walker matter.** He stated if someone can produce a document that states Mr. Mulligan charged the City \$100,000 in the Lehman Walker matter, he would certainly like to see it. If not, then he believes the Mayor owes Mr. Mulligan an apology.
- **"Oh, and we have been without a professional City Manager running the City for almost one year."** He stated he is appalled that anyone would make such an offensive statement about Mr. Adams, who came out of retirement after 40 years of service with U City, at the request of Council, and has done an incredible job. In fact, he hopes there will be a transition plan that allows Mr. Adams to remain as a member of staff on a temporary basis.
- **"The lies that are being said about Mr. Walker; and they are lies with no basis in fact."** He stated if Mayor Welsch can find one instance where he has lied about Lehman Walker, she needs to show it to him.

- **Mr. Walker is credited with decreasing the City's taxes to the lowest rate in seven years.** He stated perhaps residents should thank the assessor for reassessing property, because that's why the tax rates really went down. And if Mr. Walker can get credit for that, then Mr. Adams should also get credit for the rates that just went down.
- **Mr. Walker spent 5 million dollars for a new Fire Department.** He stated his belief is that President Obama provided the City with TARP funds that made this construction possible.
- **Mr. Walker is also credited with 100 million dollars of development in U City.** He stated that's great if you also include Washington University.
- **Mr. Walker conducted the police officer negotiations in less than two meetings.** He stated that this simply did not happen in two meetings.
- **Mr. Walker is also credited with successfully outsourcing the City's ambulance services.** He stated that he thinks the majority of people in this audience would take issue with how successful this outsourcing has been.

Councilmember Crow stated his hope is that he and his colleagues can move past all of this, and thinks the question that citizens are really asking is what have been the Mayor's accomplishments?

As it relates to this Council, there has clearly been no surprises; when Councilmember McMahan was elected Council said there would be a change in the administration; that there would be a nationwide search for a new City Manager; that there would be a new City Clerk and a new City Attorney; that the budget would be passed, and that Council would vehemently oppose the proposal presented by MDS. All of these promises have been methodical, professionally, and successfully carried out. And once the new City Manager comes on board Council will begin to work on EMS and the Police Station.

Councilmember Smotherson stated both he and Councilmember Carr had attended the MSD Board/Trustee meeting on November 9th, and he would like to provide the Interim City Manager with the information he provided to MSD. He stated that he wished to personally thank three residents, Nick, Tim, and Richa, for the information they provided to assist him in his presentation.

Councilmember Smotherson thanked Mr. Adams for his service, and the professionalism he displayed through his actions, advice, and even manner of dress. Councilmember Smotherson stated he would also like to thank Ms. Williams for her service and commitment.

Councilmember Carr stated that she too would like to thank Ms. Williams, who has been a great resource to the City on various levels; which has been attested to by all of the residents who came out to speak on her behalf.

Councilmember Carr stated that she spoke extemporaneously during the MSD meeting so she has no written information to provide. However, she had taken something off of MSD's website regarding the Deer Creek sewage/storage tunnel, which they have estimated spending 300 million dollars on. She stated MSD was very clear that in order to eliminate any disturbance to the communities of Clayton, Ladue, Richmond Heights, and Shrewsbury, they had elected to go underground. A consideration she had asked MSD to afford to U City.

She stated that when Council asked Mr. Adams to step in as the Interim City Manager, she was hoping for a caretaker; someone who knew the City and could maintain its stability while Council searched for a new manager. But what this City got with Mr. Adams and Ms. Reese far exceeded her expectations. She informed both employees that she could never thank them enough for their service.

Councilmember Carr stated she would like to extend the same appreciation to Mr. Mulligan for his legal support and attendance at every Council meeting, at no charge to the City.

Councilmember Carr stated she is now handing the baton over to Councilmember Glickert, to initiate the search for a new City Clerk. And while her hope is that Ms. Reese will remain, the end results cannot be determined until the process gets underway.

Councilmember Glickert stated he already has a job description and a human relations person in place, so he is ready to go and will keep Council apprised of his actions.

Councilmember McMahon stated it appears as though his colleagues are using the day he was sworn in as some type of line of demarcation and he does not want to take more credit than he should. However, what he did talk about when he ran for office were the changes that needed to be made. Councilmember McMahon stated he thinks Council is making those changes, and one of those changes really hit home tonight, with regard to how the City's Boards and Commissions are respected. He stated he relies on the people who serve on these Boards and Commission because more often than not, they are much smarter than he is. So he truly appreciates the three commissions he is a liaison to.

He stated that another aspect of the change he talked about was the need for everyone to work together. So he is proud to say that the search process for the City Manager was a pleasant experience where every member worked towards a common goal that has now been achieved.

Councilmember McMahon stated that in order to continue in this vein, there is a need to make certain that discussions conducted during Closed Sessions remain in Closed Session, and perhaps, a need to review individual copies of the Civility Pledge that each member took when they were sworn into office.

He stated he would also like to thank Mr. Adams, Ms. Reese, and Mr. Mulligan, for stepping up to serve during the breach and doing so, exceedingly well.

Mayor Welsch made the following announcement:

- The Prop P Town Hall meeting will be held at the U City Public Library on Wednesday, November 15th, at 6 p.m. This meeting is an opportunity for residents to provide their suggestion on how these funds should be expended, so she would encourage everyone to attend.

Q. ADJOURNMENT 8:12

Mayor Welsch thanked everyone for their attendance and closed the City Council meeting at 8:12 p.m.

LaRette Reese
Interim City Clerk

13 November 2017

Thank you all for the opportunity to speak in favor of Rosalind Williams remaining on the Plan Commission. I was disappointed and dismayed to hear that Rosalind would not be reappointed for a second three-year term, especially since she has already fulfilled 10 months out of 12 of what would be the first year of a second term. To summarily dismiss her now, without at least waiting until the normal January appointment time would be a mistake. First of all, she is a committed, responsible member of the Plan Commission. She has not shirked her duties in any sense of the word. But most importantly, she is a professional city planner, having worked for both the cities of Ferguson and Kirkwood. Rosalind's input on the commission has been much more than helpful. It has been vital. Her experience and skills are what other cities have paid for....and we are getting it free-of-charge. In addition, to summarily replace her without notice, is not only wrong, it is disrespectful of the time and efforts she has spent over the past 3 years and 10 months for the benefit of University City...her City, our City....a City that prides itself on its core resources....our citizens. Is this a way to treat our most valuable resources? We need more people like Rosalind to step up and give of their skills and passions to help our city meet the critical challenges ahead. We shouldn't dismiss them out of hand.

Thank you for the opportunity to speak on her behalf.

Cirri Moran, Chairman, University City Plan Commission
6652 Kingsbury

Judith Gainer
721 Harvard

To the Mayor, Members of the Council and fellow citizens:

I want to make public the concerns that I expressed privately to Mr. Glickert about the new appointment to the Plan Commission.

Rosalind Williams, a professional city planner from Ward 2, is being replaced by a third representative from Ward 3. I don't know the new appointee, so my concerns are not with the person but rather with larger issues related to this appointment. Namely...

First and foremost, the Plan Commission will lose the expertise of Ms. Williams' professional knowledge and valuable experience—a unique perspective that, it seems to me, is being squandered. She is more than willing to continue to serve and, given her ongoing commitment to University City and the work of the Plan Commission, replacing her makes no sense!

Secondly, the new appointment is from Ward 3. The makeup of the commission with this new appointment will be as follows: Three people from Ward 1, three people from Ward 3, and only 1 person, a newbie, from Ward 2! On this lopsided commission, I will be the only representative from Ward 2, and I have only been on the commission for a few months. Ms. Williams participation on the committee has been a model as I have worked to grow into the role.

Finally, I am saddened by the process by which this change has been effected. It is the responsibility of the Council liaison, Mr. Jennings, to inform Ms. Williams that she was being replaced. To date no one in an official capacity has provided the courtesy of notifying Ms. Williams.

In summary, it has been decided that the knowledge and experience of a seasoned professional is not needed on the Plan Commission, that Ward 2 does not deserve equal representation on the Commission, and that the process by which this change is being made is sorely lacking in the most basic courtesies.

It is my understanding that it is customary for a seated member of a City Commission to be asked if they will serve a 2nd term on that commission. I have always believed that to be both a courteous and sensible practice. No matter how compatible the Commissioner's skill set is to the task of their appointed Commission, it takes time to learn a new job.

This has not been the case with Rosalind Williams, member of the City's Plan Commission. She was not asked to serve a second term as a member of the Plan Commission. Ms. Williams has been conscientious, hardworking and extremely knowledgeable. Someone has made a GRAVE MISTAKE!

I suggest we slow this process down and extend Ms. Williams the Common-sense courtesy of asking her to serve a second term on the Plan Commission.

Good evening

I was made aware that I would not be re-appointed for a second term on the Planning Commission by Council member Paulette Carr about a week ago.

I was not contacted by anyone to determine if I wanted to continue to serve on the Planning Commission. I was surprised to find out that I would be replaced at this Council Meeting.

I volunteered to serve on the Planning Commission because I care about the City. I believe I have positively contributed during my tenure on the Commission.

I believe my departure at this time with four newly appointed planning commissioners out of just seven, is not in the best interest of the City. It would leave only two members with any experience on the commission and involvement in the new comprehensive plan deliberations, that will be up for approval by the commission soon.

If asked, I would have responded that I would like to continue to serve a second term on the planning commission.

Thank you for your time.

A handwritten signature in black ink, appearing to read "Paul Carr", with a long horizontal flourish extending to the right.

Introduction.

Good afternoon, my name is Bwayne Smotherson, I live at 1243 Purdue Ave in University City. I am also a City Councilman representing the 3rd Ward.

The reason for my presence before you are to make sure you the Trustee board of MSD, were aware of the affect the two public meetings held by your staff on Oct 25th and 30th had on not only myself but also the residents that attended. First, I want to be up front and honest with you and tell you my impression of those meetings so that we're clear about where I stand. I stated:

My personal opinion is that I believe their presentation to the public was a waste of your time. MSD left us with no answers to questions that concern our lives and future. I know that the MSD engineers are smart people and have an idea of what they want to do. They already know what is operationally, financially and fundamentally feasible.

But it's not just my opinion I wanted you to hear, I also wanted you to hear some of the responses I received from residents that attended those meetings.

Stacy Clay

Councilman Smotherson I was also disappointed in the presentation. It seems the only information MSD should be lacking at this point is public input (after all no one should know more about building sewage mitigation infrastructure than MSD) yet they claim there are other pieces of information they need before making a decision. They failed to identify what those other pieces of information are, at least at the second meeting. The decision-making process is not clear at all.

Read Nick Goldner

Lastly, I want to use the new development as an example. The developer came to the city with this great plan that would not only benefit his business but also our city. We were able thru discussion make his plan even better for the both of us. His company and our city.

You (MSD) came to U City with 2 cheapest options that only benefited you and your obligation. We resisted. Now my hope is with the recent 14 options you presented, I hope we can meet somewhere in the middle which means options A, B and E are out. Both you and our city can sit down and work out what works best for US.

**Attn: MSD Board of Trustees
C/O Bwayne Smotherson**

Dear MSD Board of Trustee Members;

I trust that this letter finds you all well. I am writing regarding the community forum held by members of your MSD team for the proposed Project Clear projects that will be impacting University City.

I have been a member of the community at Glenside Place for a little over two years, and in that time have been welcomed into the neighborhood by people that have been living there their whole lives. This is a small, quiet, minority neighborhood, that will be greatly impacted by the impending Project Clear constructions. Due to my concern for the project, I attended the community meeting at Mandarin House on Monday, October 30. I was immediately taken aback by the **lack of care** that the MSD employees had for our situation: we were in attendance because our homes were in danger of being taken away, or there would be construction for years in our yards, or the resulting water tanks (above ground or below) would be obstructive and detract from our homes and our lives.

Upon opening the floor to the community, the MSD employees that were running the forum told us, "We will be here all night, as long as it takes to get your questions answered." From that point on, they were completely non-responsive to questions. Many people asked a simple question: will you listen to our voices? The MSD employee consistently told us that the last piece of information that they needed in order to start narrowing down project site options was input from the community, but refused to tell us how our input would be collated or utilized. When pushed for answers, the employees became aggressive, **interrupting** community members while they were in the middle of a sentence, saying, "Take it how you will," or "I don't know what answer you are looking for, but I answered your question, that's my answer."

The issue that these employees were not able to address still stands. There were many members of the community at this forum, all simply asking how their input and feedback about each of the Project Clear sites would be considered. We want to know that if the community as a **majority** feels like certain aspects of the project (the presence or absence of above-ground tanks, the proximity to homes, the presence of easements or construction detours, etc.) **matter more than others** (ease of approval, cost of project, etc.), that these concerns will be directly represented by the "short list" of project sites. We want to know that if our property is directly adjacent to a project site, that you acknowledge that our homes property value will **decrease**, and that we will **not** be compensated for it. The employees that represented your board at this meeting deflected this issue at every turn: they **refused** to state that our concerns would be appropriately addressed. As the community that this project will **directly affect**, it is imperative that we know that when we give you, the board, as well as your employees, our feedback, that they are not going into the garbage bin. The way we were treated at the community forum on Monday did **not** make us feel like our concerns were being listened to. In fact, we all left feeling disrespected, ignored, and overlooked.

Thankfully, this is a strong-willed and deeply caring community that did not stop asking questions, even though the MSD employees were becoming **more aggressive and belligerent** as the night

went on. The rudeness shown by these people was shocking, especially when the forum was desperately trying to get them to understand our point of view. As the forum continued, and it became clear that every community member was going to speak about how this would negatively affect us; one of the MSD employees stated that, "To keep things moving forward, let's try to keep each person to five minutes." I do not imply that I know how to run a community forum, but I do know that the intention of this was to determine how our community feels. Not only was this incredibly rude and demeaning, but then, one of your MSD employees sat next to the microphone, took out his phone, and started **timing** each person. University City community members pointed out the man to the MSD employees running the question session, and only then, when they were physically called out for their disrespect, did they tell him to stop, because they knew how bad that looked.

Board members, you are going to do what is best for the area as a whole, as is your job. But this forum left me incredibly disappointed at the disrespect with which my community was treated. This is not Clayton, or Ladue, where people with money and privilege can tell you to walk away, and you can listen to them because you have a backup plan. This community is not one that can be taken advantage of, or disregarded due to the wills of others.

Whatever your decision is, we need to be treated with **respect**, and our voices need to be heard. I urge you to include us in the decision-making process. I am more than happy to serve as a point of contact for my neighborhood, if for nothing more than to be another voice in the room, reminding you that there is a side to the story that you do not otherwise see; particularly from the employees you had representing you at Monday's forum.

Please, be in contact with us. Let our voices be heard. With transparency and respect from you, we can find the best solution for our community.

Sincerely yours,



Richa Rathore
Doctoral Candidate
Washington University School of Medicine in St. Louis
(414) 699-7552
richarathore [at] hotmail.com

Dear MSD Board of Trustees,

I am deeply disappointed in the leadership, compassion, knowledge and answers given to the University City community. The leadership at the info session for the MSD Project Clear initiative showed a level of incompetence and arrogance that made my neighbors and myself deeply distrustful of the process. We do not believe that MSD has our best interest at heart. We do not believe that our opinions matter. We do not believe that our concerns are being taken seriously. We do not believe in the process you have put into place to determine which plan is the right choice for our community.

MSD is not transparent about their methodology to determine what proposal is short listed and ultimately chosen. It demonstrates to the community that MSD does not care about us. We have no guarantee that our voices are heard and we have no assurances that MSD's decision will be based on facts and data. We have no way of independently verifying MSD's claims, nor do we have any way to ensure that the answers given to us are factual. While our politicians and elected officials may be wonderful people, there is still a level of distrust in the community.

We expect that MSD will put members of our community, not just politicians or bureaucrats associated with the city, to be directly involved in the meetings meant to select a short list and to ultimately decide which plan is chosen for our community.

We expect that MSD will conduct home valuation studies to determine what impact 3 years of construction and permanent placement of a water treatment facility will have on our homes and our neighborhood.

We expect that MSD will make decisions that reflects the desires of the community.

We expect that MSD will be able to provide answers to our questions that actually answer our questions.

We expect that MSD will treat our community with respect.

So far, none of those expectations have been meet.

Our community is active, it cares about its members and until we believe that our concerns have been heard, do not expect us to just go along with your plan.

Sincerely,



Nick Goldner



Mr. Matt Masiel
Screaming Eagle Development
1401 S. Brentwood Blvd. Suite 750
St. Louis, Missouri 63144

November 13, 2017

RE: Hawthorne School Logistics

Dear Matt,

Pinnacle has been reviewing numerous scenarios to best serve the area and meet the project's needs. Attached is a logistics plan that we have been studying that indicates construction access, public access, signage, and construction boundaries. As the scope further develops this plan may change some notably where we will need to make site utility connections.

As you can see from the plan the best route for access is to come off of Carleton Avenue. The Hanley turnaround area (seen below in Exhibit A) may be used for construction parking but due to numerous factors we believe this is not the best location for full construction access.



Exhibit A: Looking South at the East side of the school towards Carleton Ave.

First of all you will notice the power lines. The power lines prohibit delivery trucks from entering as clearance is limited here due to the incline of the hill. The alternative is to relocate the power which can be costly and still this is not clear where it would be located and to what property. Secondly, the sidewalk is used by the public daily. Although there will be some

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www.pinnaclecontracting.com



construction along the sidewalk, we want to prevent our crossing of it to a minimum so that there is not a public safety issue. There will be some site utility connections where temporary sidewalks may be required. We can post signage and will take safety precautions to help navigate pedestrian traffic during those times. Lastly, the hill presents a challenge for large vehicles to get up the incline and trees will also have to be removed. We want to minimize the damage to any of the existing trees. If we come from the Hanley side, this will require at least two trees to be removed.

In conclusion, the Carleton Avenue entrance presents itself with the least obstacles and safest routes for vehicles. By using signage and communicating with our subcontractors and the local community we can help alleviate concerns.

Thank you for this opportunity and we look forward to working with your team to make this a successful project for all concerned. If you have any further questions please feel free to give me a call.

Sincerely,

Tim McLaughlin
Vice President of Operations

Notice of Public Hearing
November 27, 2017

Notice is hereby given that the City Council of University City will hold a public hearing on **Monday, November 27, 2017 at 6:30 pm** in the 5th Floor Council Chambers of City Hall, 6801 Delmar Boulevard, to consider the proposal for Text Amendments to the Zoning Code Division 10 relating to telecommunication facilities (PC 17-14). Please contact Andrea Riganti at 314-505-8516 with questions about the proposed text amendments. Persons with disabilities who require special arrangements to attend the public hearing should contact LaRette Reese at 314-505-8531 at least 5 days prior to the meeting. All interested parties are invited to attend.

CITY OF UNIVERSITY CITY
LaRette Reese
Interim City Clerk



Council Agenda Item Cover

MEETING DATE: November 27, 2017

AGENDA ITEM TITLE: Adopting St. Louis County Explosives Code

AGENDA SECTION: Unfinished Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

The City of University City desires to adopt code and contract with St. Louis County for enforcement services for Major Land Disturbance permitting. A requirement for contracting with the County for Land Disturbance permitting is adopting the St. Louis county Explosives Code and contracting with St. Louis County for Explosives Code enforcement. This applies to the manufacture, storage, sale, transportation or use of explosives and blasting agents in the County. It does not apply to the discharge of small arms ammunition when discharged in connection with hunting or target shooting or other lawful uses connected with firearms.

This code has been reviewed and approved by University City Public Works and Parks, Community Development, Fire and Police departments.

RECOMMENDATION:

Staff recommends approving an ordinance adopting the St. Louis County Explosives Code

ATTACHMENTS:

- Draft Ordinance for adopting St. Louis County for Explosives Code
- St. Louis County Explosives Code

INTRODUCED BY: _____

DATE: _____

BILL NO. 9340

ORDINANCE NO. _____

AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING MINIMUM REQUIREMENTS AND STANDARDS FOR THE USE OF EXPLOSIVES AND EXPLOSIVES MATERIALS TO PROTECT HEALTH, SAFETY AND WELFARE WITHIN THE CITY OF UNIVERSITY CITY, MISSOURI; PROVIDING FOR THE ISSUANCE OF PERMITS; MAKING OF INSPECTIONS; COLLECTION OF PERMIT AND INSPECTION FEES; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF THROUGH THE ADOPTION OF THE EXPLOSIVES CODE OF THE COUNTY OF SAINT LOUIS, MISSOURI AS THE EXPLOSIVES CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI.

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

Section 1. The Explosives Code, as adopted by County of Saint Louis, Missouri through last amendatory ordinance 18,693, and approved November 12, 1997 by the County of Saint Louis, Missouri is hereby adopted as the Land Disturbance Code of the City of University City Missouri, a copy of which is attached hereto, as if fully set out herein.

Section 2. All ordinances, parts of ordinances or provisions of the Municipal Code of the City of University City, Missouri in conflict with any provisions of this ordinance are hereby repealed.

Section 3. This ordinance, and the code adopted hereby, shall be in full force and effect from and after its passage and approval.

PASSED and ADOPTED THIS _____ DAY OF _____, 2017.

MAYOR

ATTEST:

INTERIM CITY CLERK

CERTIFIED TO BE CORRECTED AS TO FORM:

CITY ATTORNEY

CHAPTER 711 THE EXPLOSIVES CODE
 TABLE INSET:

Section	
711.010	Citation of Chapter
711.020	Definitions
711.025	Contracting with Municipalities for Code Enforcement
711.030	Explosives Control Advisory Board--Creation, Duties
711.040	Scope
711.050	Exception--Military or Governmental Use
711.060	Exception--Amount of Explosives
711.070	Permit--Storage of Explosives--Requirements
711.080	Permit Shall Be Granted--When
711.090	Storage of Explosives
711.100	Types of Storage Facilities
711.110	Inspection of Storage Facilities
711.115	Storage Records to Be Kept
711.120	Removal of Explosive Materials
711.130	Location of Storage Facilities
711.132	Construction of Type 1 Storage Facilities
711.134	Construction of Type 2 Storage Facilities
711.136	Construction of Type 3 Storage Facilities
711.138	Construction of Type 4 Storage Facilities
711.140	Construction of Type 5 Storage Facilities
711.143	Smoking and Open Flames
711.146	Storage of Blasting Caps
711.150	Storage Within Types 1, 2, 3, and 4 Facilities
711.160	Transportation of Explosives in County--Duties of Consignee
711.170	Failure to Remove Explosives on Arrival--Unlawful
711.180	Transportation of Explosives--General Provisions
711.190	Transportation Vehicles--Requirements

711.200	Permit to Explode or Blast Required, Blaster's License
711.210	Application for Permit to Blast--Requirements
711.220	Blasting--Rules and Regulations
711.230	Blasting Agents--Transportation, Storage and Use
711.240	Building Used for Mixing of Blasting Agents--Location
711.250	Buildings Used for Mixing or Blasting Agents--Construction
711.270	Transportation of Blasting Agents
711.280	Use of Blasting Agents
711.290	Records
711.300	Fees
711.310	Hours During Which Blasting Prohibited
711.320	Permits--Licenses--Duration
711.330	Right of Inspection
711.335	Inspection of Fire or Accident Scene
711.340	Violation on Inspection--Notice of Violator
711.350	Conflict With State or Federal Regulation of Explosives--Suspension
711.360	Reckless and Wanton Handling of Explosives--Prohibited
711.365	Stolen Explosives
711.370	Sale to Minors--Prohibited
711.375	Theft or Loss of Explosives
711.380	Vendor to Keep Record of Sales--Duties
711.390	Penalties
711.400	Right to Appeal

711.010 Citation of Chapter.-- This chapter shall be known and may be cited as "The Explosives Code."

(O. No. 2703)

711.020 Definitions.-- When used in this chapter:

(1) *County* unless otherwise specified shall mean that part of St. Louis County outside of incorporated cities and towns and villages.

(2) *Director*: Shall mean the Director of Public Works of St. Louis County, Missouri, and shall include his authorized agents.

(3) *Explosives* and *explosive materials* when used herein shall mean gunpowder used for blasting, all forms of high explosives, fuses, detonators and other detonating agents, smokeless powders, and any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion containing any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing, that ignition by fire, by friction, by concussion, by percussion, by detonation of, by any part of the compound or mixture may cause such a sudden generation of highly heated gasses that the resultant gas pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb; but explosives shall not include small arms ammunition, gasoline, kerosene, or oils, greases or other petroleum products intended for lubrication purposes. For the purposes of this ordinance, explosives shall be classified as Class A, high explosives and Class B, low explosives and said classifications shall be as follows:

Class A, high explosives: Those explosives possessing detonating qualities such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, smokeless powder, blasting caps and detonating primers.

Class B, low explosives: Those explosives not otherwise specified herein as Class A Explosives, including, but not limited to, explosives presenting a flammable hazard such as propellant explosives and photographic flash powder.

(4) *Blasting agent*: Shall mean any material or mixture consisting of a fuel and oxidizer intended for blasting, not otherwise classified herein as an explosive, in which none of the ingredients are classified as explosives provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

(5) *Blasting Cap No. 8*: A No. 8 test blasting cap is one containing two (2) grams of a mixture of eighty (80) percent mercury fulminate and twenty (20) percent potassium chlorate or a cap of equivalent strength.

(6) *Pyrotechnics*: Shall mean and include any combustible or explosive composition or manufactured articles designated and prepared for the purpose of producing audible or visual effects which are commonly referred to as fireworks.

(7) *Person*: Shall mean any individual, firm, co-partnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee or personal representative thereof.

(8) *Singular* and *plural*: Words used in the singular number shall include the plural and in the plural the singular.

(9) *Small arms ammunition*: Shall mean any shotgun, rifle, pistol or revolver cartridge.

(10) *Scaled distance* shall mean the actual distance (in feet) to the nearest structure, divided by the square root of the maximum explosive weight (in pounds) per eight-millisecond (or greater) delay. If delay intervals less than eight (8) milliseconds are employed or if instantaneous blasting is employed, scaled distance shall be computed by dividing the actual distance (in feet) by the square root of the total explosive weight in pounds.

(11) *Uncontrolled structures* shall mean any building not owned or controlled by the explosives user.

(O. No. 17057, 6-6-94)

711.025 Contracting with Municipalities for Code Enforcement.-- The Director of Public Works, with the approval of the County Executive of St. Louis County, is hereby authorized to

contract with municipalities within St. Louis County, Missouri, to provide appropriate Explosives Code enforcement and further to collect fees for applicable permits, licenses and inspections issued or made pursuant to such contracts. Contracts shall be approved by the Director of Public Works and shall be approved as to legal form by the County Counselor. No contract shall be entered into until the municipality desiring to contract with St. Louis County for Explosives Code enforcement shall first have duly adopted appropriate legislation authorizing said contract (a certified copy to be attached to and made a part of the contract) and duly adopted an Explosives Code identical in substance to this code.
(O. No. 18693, 11-12-97)

711.030 Explosives Control Advisory Board--Creation, Duties.-- There is hereby created an Explosives Control Advisory Board, composed of three (3) resident freeholders holding no other County Office who shall be appointed by the County Executive, subject to confirmation by the Council. Of the members appointed first, one (1) shall serve a term of one (1) year, one (1) a term of two (2) years, and one (1) a term of three (3) years, but thereafter all members shall serve for a term of three (3) years except those appointed to fill a vacancy occurring during the term of a member. Each of those appointed shall have had at least five (5) years' experience in the handling, manufacture, or use of explosives. The Explosives Control Advisory Board shall meet at least once a month and at such other times as may be set by the Board, or at the request of the Director and as may be determined by the Board, for the purpose of assisting and advising with the Director in connection with the provisions of this chapter.
(O. No. 2703)

711.040 Scope.-- This chapter shall apply to the manufacture, storage, sale, transportation or use of explosives and blasting agents in the County. It shall not apply to the discharge of small arms ammunition when discharged in connection with hunting or target shooting or other lawful uses connected with firearms.
(O. No. 2703)

711.050 Exception--Military or Governmental Use.-- Nothing contained in this chapter shall be construed as applying to the regular military or naval forces of the United States, the duly authorized Militia of the State, the Police or Fire Departments or to regular employees of the County in the proper performance of their official duties.
(O. No. 2703)

711.060 Exception--Amount of Explosives.-- It shall be unlawful for any person to possess, store, stock or hold for resale, any amount of explosives, blasting agents or blasting caps unless such person has first obtained a written permit therefore from the Director as hereinafter provided, except for the following items and amounts:

- (1) Thirty (30) pounds of smokeless powder and one thousand (1,000) small arms primers for hand loading of small arms ammunition.
- (2) Thirty (30) pounds of explosives or blasting agents in industrial research laboratories and laboratories of technical institutes, colleges, universities and similar institutions.
- (3) Pyrotechnics which shall be governed by other ordinances of the County.

(O. No. 10039, 1-9-81)

711.070 Permit--Storage of Explosives--Requirements.-- Application for such permit to possess, store, stock or hold for sale those items specified in Section 711.070 hereof shall be made to the Director at the Courthouse on forms provided and shall contain the following information:

- (1) Name of applicant.
- (2) Address of residence.
- (3) Place of business.
- (4) Occupation.
- (5) Age.
- (6) Experience in the use of explosives and such other information relative thereto as the Director may prescribe or require.
- (7) Maximum amount of each kind of explosives, blasting agents or blasting caps applicant intends to store or stock at any one time and the location and type of construction of the magazine or storage place of same.

(O. No. 10039, 1-9-81)

711.080 Permit Shall Be Granted--When.-- A person shall be entitled to a permit to store or stock explosives or blasting agents in the County who has met the following requirements:

- (1) Filed an application as provided in Section 711.070 hereof.
- (2) Secured whatever construction, occupancy or other permits which the applicant may otherwise be required by law to obtain.
- (3) Obtained a proper storage facility for the storage of such explosives as the same may be required by this chapter.

(O. No. 10038, 1-9-81)

711.090 Storage of Explosives.-- 1. No person shall store any explosive materials in a manner not in conformity to this chapter.

2. Any change, addition, or modification to an approved storage facility shall not be made unless authorized by a new permit under Section 711-080.

(O. No. 10039, 1-9-81)

711.100 Types of Storage Facilities.-- For purposes of this chapter, there shall be five (5) types of storage facilities. These types, together with the classes of explosive materials which shall be stored therein, are as follows:

(a) *Type 1 storage facilities.* Permanent storage facilities for the storage of high explosives, subject to the limitations prescribed by sections 711.130 and 711.146. Other classes may also be stored therein.

(b) *Type 2 storage facilities.* Portable indoor and outdoor storage facilities for the storage of high explosives, subject to the limitations prescribed by sections 711.130, 711.134(b) and 711.146. Other classes may also be stored therein.

(c) *Type 3 storage facilities.* Portable outdoor facilities for the temporary storage of high explosives while attended (for example, a "day-box"), subject to the limitations prescribed by sections 711.130 and 711.146. Other classes may also be stored therein.

(d) *Type 4 storage facilities.* Facilities for the storage of low explosives, subject to the limitations prescribed by sections 711.130(b), 711.138(b) and 711.146. Blasting agents may also be stored therein.

(e) *Type 5 storage facilities.* Facilities for the storage of blasting agents, subject to the limitations prescribed by sections 711.130(a) and (c), 711.140(b), and 711.146.
(O. No. 10039, 1-9-81)

711.110 *Inspection of Storage Facilities.*-- Any person storing explosive materials shall open and inspect his storage facilities at intervals not greater than three (3) days to determine whether the explosives therein are intact and to determine whether there has been unauthorized entry or attempted entry into the storage facilities or the unauthorized removal of facilities or their contents.
(O. No. 10039, 1-9-81)

711.115 *Storage Records to Be Kept.*-- Records shall be kept of all Class A high explosives when such are kept in or on any premises in the portions of the County covered by this chapter or when stored in facilities licensed under the terms of this chapter. Such records shall consist of:

- a. Quantities of all materials entering or leaving the facility.
- b. Dates and times of all material entering or leaving the facility or premise.
- c. A description, brand name and serial number(s) of all involved material.
- d. Names of the person(s) removing any involved material and the reason for the removal.
- e. Any other information that the Director may require in a written notification to the licensee or permittee.

Such written records shall be kept at or near the storage facility and shall be available at all times to the Director or his agent.
(O. No. 10039, 1-9-81)

711.120 *Removal of Explosive Materials.*-- All explosive materials must be kept in storage facilities meeting the standards prescribed by this chapter unless they are:

- (a) In the process of manufacture, or
- (b) Being physically handled in the operating process of a licensee or user, or
- (c) Being used, or
- (d) Being transported to a place of storage or use by a permittee or by a person who has lawfully acquired explosive materials in the manner required by this chapter.

(O. No. 10039, 1-9-81)

711.130 *Location of Storage Facilities.*-- (a)(1) Except as otherwise provided in this chapter, storage facilities in which any explosive materials are stored shall be located at minimum distances from inhabited buildings, passenger railways, public highways, and from other storage facilities in which explosive materials are stored as specified in the American Table of Distances (Appendix A). Provided, that this table shall not apply to any indoor storage facility. When a storage facility is not barricaded, the distances shown in the American Table of Distances shall be doubled. For purposes of this paragraph, a storage facility shall be deemed barricaded when it is effectually screened from inhabited buildings, passenger railways, public highways, and other storage facilities in which explosive materials are stored either by a natural or artificial barricade of such height that a straight line from the top of any side wall of the storage facility to the eave line of such other inhabited building or storage facility, or to a point twelve (12) feet above the center of a passenger railway or public highway, will pass through such intervening barricade.

(2) If any two (2) or more storage facilities are separated from each other by less than the distances specified in Appendix A, then such two (2) or more storage facilities, as a group, shall be considered as one storage facility, and the total quantity of explosive materials stored in such group shall be treated as if stored in a single facility and shall comply with the minimum of distances specified in Appendix A from other storage facilities, inhabited buildings, passenger railways, and public highways.

(b) Storage facilities in which low explosives are stored shall be located at minimum distances from inhabited buildings, passenger railways, public highways, and from other storage facilities in which explosive materials are stored as specified in the table of distances for storage of low explosives as set forth in 27 CFR Section 181.199. Provided, that this table shall not apply to any indoor storage facility. The distances shown therein shall not be reduced by the presence of barricades.

(c) Ammonium nitrate and storage facilities in which blasting agents are stored shall be located at minimum distances from storage facilities containing high explosives or blasting agents as specified in the Table of Recommended Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents as set forth in 27 CFR Section 181.200.

(O. No. 10039, 1-9-81)

711.132 Construction of Type 1 Storage Facilities.-- A type 1 storage facility shall be a permanent structure: a building, an igloo or Army-type structure, a tunnel, or a dugout. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated.

(a) *Buildings.* All building-type storage facilities shall be constructed of masonry, wood, metal, or a combination of these materials and shall have no openings except for entrances and ventilation. Ground around such storage facilities shall slope away for drainage.

(1) *Masonry wall construction.* Masonry wall construction shall consist of brick, concrete, tile, cement block, or cinder block and shall be not less than six (6) inches in thickness. Hollow masonry units used in construction shall have all hollow spaces filled with well-tamped coarse dry sand or weak concrete (a mixture of one (1) part cement and eight (8) parts of sand with enough water to dampen the mixture while tamping in place). Interior walls shall be covered with a nonsparking material.

(2) *Fabricated metal wall construction.* Metal wall construction shall consist of sectional sheets of steel or aluminum not less than number 14 gauge, securely fastened to a metal framework. Such metal wall construction shall be either lined inside with brick solid cement blocks, hardwood not less than four (4) inches in thickness, or shall have at least a six-inch sand fill between interior and exterior walls. Interior walls shall be constructed of or covered with a nonsparking material.

(3) *Wood frame wall construction.* The exterior of outer wood walls shall be covered with iron or aluminum not less than number 26 gauge. An inner wall of nonsparking material shall be constructed so as to provide a space of not less than six (6) inches between the outer and inner walls, which space shall be filled with coarse dry sand or weak concrete.

(4) *Floors.* Floors shall be constructed of a nonsparking material and shall be strong enough to bear the weight of the maximum quantity to be stored.

(5) *Foundations.* Foundations shall be constructed of brick, concrete, cement block, stone, or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the buildings shall be enclosed with metal.

(6) *Roof.* Except for buildings with fabricated metal roofs, the outer roof shall be covered with no less than number 26 gauge iron or aluminum fastened to seven-eighth-inch sheathing.

(7) *Bullet-resistant ceilings or roofs.* Where it is possible for a bullet to be fired directly through the roof and into the storage facility at such an angle that the bullet would strike a point below the top of inner walls, storage facilities shall be protected by one of the following methods:

(i) A sand tray shall be located at the tops of inner walls covering the entire ceiling area, except that necessary for ventilation, lined with a layer of building paper, and filled with not less than four (4) inches of course dry sand.

(ii) A fabricated metal roof shall be constructed of three-sixteenth-inch plate steel lined with four (4) inches of hardwood. (For each additional one-sixteenth-inch of plate steel, the hardwood lining may be decreased one (1) inch.)

(8) *Doors.* All doors shall be constructed of one-fourth-inch plate steel and lined with two (2) inches of hardwood. Hinges and hasps shall be attached to the doors by welding, riveting or bolting (nuts on inside of door). They shall be installed in such a manner that the hinges and hasps cannot be removed when the doors are closed and locked.

(9) *Locks.* Each door shall be equipped with two (2) mortise locks; or with two (2) padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock; or with a mortise lock that requires two (2) keys to open; or a three-point lock. Locks shall be five-tumbler proof. All padlocks shall be protected with one-fourth-inch steel caps constructed so as to prevent sawing or lever action on the locks or hasps. All doors shall be kept locked at all times, except during placement and removal of stocks of explosives, or during repairs to storage facilities.

(10) *Ventilation.* Except at doorways, a two-inch air space shall be left around ceilings and the perimeter of floors. Foundation ventilators shall be not less than four (4) by six (6) inches. Vents in the foundation, roof, or gables shall be screened and offset.

(11) *Exposed metal.* No sparking metal construction shall be exposed below the top of walls in the interior of storage facilities, and all nails therein shall be blind-nailed or countersunk.

(b) *Igloos, Army-type structures, tunnels, and dugouts.* Igloo, Army-type tunnel, and dugout storage facilities shall be constructed of reinforced concrete, masonry, metal, or a combination of these materials. They shall have an earth mound covering of not less than twenty-four (24) inches on the top, sides and rear. Interior walls and floors shall be covered with a nonsparking material. Storage facilities of this type shall also be constructed in conformity with the requirements of paragraph (a)(4) and paragraphs (a)(8) through (11) of this section.

(O. No. 17057, 6-6-94)

711.134 Construction of Type 2 Storage Facilities.-- A type 2 storage facility shall be a box, a trailer, a semitrailer or other mobile facility. It shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated. Except as provided in paragraph (c) of this section, hinges and hasps shall be attached to the covers or doors in the manner prescribed in Section 711.132(a)(8) and the locking system shall be that prescribed in Section 711.132(a)(9).

(a) *Outdoor storage facilities.* Outdoor storage facilities shall be at least one (1) cubic yard in size and supported in such a manner so as to prevent direct contact with the ground. The sides, bottoms, tops, and covers or doors shall be constructed of one-fourth-inch steel and shall be lined with two (2) inches of hardwood. Edges of metal covers shall overlap sides at least one inch. The ground around such storage facilities shall slope away for drainage. When unattended, vehicular

storage facilities shall have wheels removed or shall be otherwise effectively immobilized by kingpin locking devices or other methods approved by the Director.

(b) *Indoor storage facilities.* No indoor facility for the storage of high explosives shall be located in a residence or dwelling. When located in a warehouse, wholesale, or retail establishment, such storage facilities shall be provided with substantial wheels or casters to facilitate removal therefrom. No more than two (2) indoor storage facilities shall be kept in any one (1) building. Two (2) storage facilities may be kept in the same building only when one (1) is used for the storage of blasting caps, squibs, or similar items and the other facility is used for the storage of other high explosives. Each storage facility shall be located on the floor nearest the ground level and within ten (10) feet of an outside exit. Indoor storage facilities within one building shall be separated by a distance of not less than ten (10) feet. No indoor storage facility shall contain a quantity of high explosives in excess of fifty (50) pounds or more than five thousand (5,000) blasting caps. Indoor facilities shall be of wood or metal construction as prescribed in paragraphs (b)(1) or (2) of this section.

(1) *Wood construction.* Wood indoor storage facilities shall have sides, bottoms, and covers or doors constructed of two-inch hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than number 20 gauge. Nails exposed to the interior of such facilities shall be countersunk.

(2) *Metal construction.* Metal indoor storage facilities shall have sides, bottoms, and covers or doors constructed of number 12 gauge metal and shall be lined inside with a nonsparking material. Edges of metal covers shall overlap sides at least one inch.

(c) *Cap boxes.* Storage facilities for blasting caps in quantities of one hundred (100) or less shall have sides, bottoms, and covers constructed of number 12 gauge metal and lined with a nonsparking material. Hinges and hasps shall be attached thereto by welding. A single five-tumbler proof lock shall be sufficient for locking purposes.

(O. No. 10039, 1-9-81)

711.136 Construction of Type 3 Storage Facilities.-- A type 3 storage facility shall be a "day-box" or other portable facility. It shall be constructed in the same manner prescribed for type 2 outdoor storage facilities in Section 711.134(a), except that it may be less than one cubic yard in size, and shall be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and well ventilated. Hinges, hasps, locks, and lock protection shall be in conformity with the requirements of Section 711.132(a)(8) and (9). The ground around such storage facilities shall slope away for drainage. No explosive materials shall be left in such facilities if unattended. The explosive materials contained therein must be removed to types 1 or 2 storage facilities for unattended storage.

(O. No. 10039, 1-9-81)

711.138 Construction of Type 4 Storage Facilities.-- A type 4 storage facility may be a building, an igloo or Army-type structure, a tunnel, a dugout, a box, a trailer, or a semi-trailer or other mobile facility and shall be fire-resistant, weather-resistant, and theft-resistant. It shall be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. The walls and floors of such storage facilities shall be lined with a nonsparking material. The doors or covers shall be metal or solid wood covered with metal. The foundations, locks, lock protection, hinges, hasps, and interior shall be in conformity with the requirements of Section 711.132(a)(5), (8), (9), and (11).

(a) *Outdoor storage facilities.* The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or shall be otherwise effectively immobilized by kingpin locking devices or other methods approved by the Director.

(b) *Indoor storage facilities.* No indoor facility for the storage of low explosives shall be located in a residence or dwelling. When located in a warehouse, wholesale, or retail establishment, such storage facilities shall be provided with substantial wheels or casters to facilitate removal therefrom. No more than one indoor storage facility shall be kept in any one building. It shall be located on the floor nearest the ground level and within ten (10) feet of an outside exit. No indoor storage facility shall contain a quantity of low explosives in excess of fifty (50) pounds.

(O. No. 10039, 1-9-81)

711.140 Construction of Type 5 Storage Facilities.-- A type 5 storage facility may be a building, an igloo or Army-type structure, a tunnel, a dugout, a bin, a box, a trailer, or a semitrailer or other mobile facility and shall be theft-resistant. The doors or covers thereof shall be solid wood or metal. The hinges, hasps, locks, and lock protection shall be in conformity with the requirements of Section 711.132 (a)(8) and (9).

(a) *Outdoor storage facilities.* The ground around such storage facilities shall slope away for drainage. When unattended, vehicular storage facilities shall have wheels removed or shall be otherwise effectively immobilized by king-pin locking devices or other methods approved by the Director.

(b) *Indoor storage facilities.* No indoor storage facility for the storage of blasting agents shall be located in a residence or dwelling.

(O. No. 10039, 1-9-81)

711.143 Smoking and Open Flames.-- Smoking, matches, open flames, and spark-producing devices shall not be permitted in, or within fifty (50) feet of, any outdoor storage facility.

(O. No. 10039, 1-9-81)

711.146 Storage of Blasting Caps.-- Blasting caps shall not be stored with other explosive materials in the same storage facility.

(O. No. 10039, 1-9-81)

711.150 Storage Within Types 1, 2, 3, and 4 Facilities.-- (a) Explosive materials within a storage facility shall not be placed directly against interior walls. Any devices constructed or placed within a storage facility shall not interfere with ventilation.

(b) Containers of explosive materials shall be stored by being laid flat with top sides up. Corresponding classes, grades, and brands shall be stored together within a storage facility in such a manner that class, grade, and brand marks are easily visible upon inspection. Stocks of explosive materials shall be stored so as to be easily counted and checked.

(c) Except with respect to fiberboard containers, containers of explosive materials shall not be unpacked or repacked inside a storage facility or within fifty (50) feet thereof, and shall not be unpacked or repacked in close proximity to other explosive materials. Containers of explosive materials shall be securely closed while being stored.

(d) Tools used for opening or closing containers of explosive materials shall be of nonsparking materials, except that metal slitters may be used for opening fiberboard containers. A wood wedge and a fiber, rubber, or wooden mallet shall be used for opening or closing wood containers of explosive materials. Metal tools other than nonsparking transfer conveyors shall not be stored in any storage facility containing high explosives.
(O. No. 10039, 1-9-81)

711.160 Transportation of Explosives in County--Duties of Consignee.-- When explosives or blasting agents are brought into the County by railroad or other conveyance or means of transportation, for delivery to a consignee, the person in charge of such delivery for such railroad or public conveyance shall notify the consignee immediately upon arrival of such explosives at a railroad station or any other place customarily used by public conveyance for receipt and delivery of shipments, and if said consignee does not remove said explosives from said location within twenty-four (24) hours after such notification, then the person in charge of such railroad station or other conveyance shall immediately notify the Director, and shall remove said explosives beyond the limits of the County, or to a magazine authorized by the Director. The time allowance may be extended by special written permission from the Director, when the Director determines that conditions beyond the control of the consignee prevent the consignee from complying with the provisions of this section.
(O. No. 2703)

711.170 Failure to Remove Explosives on Arrival--Unlawful.-- It shall be unlawful for any owner, consignee, agent or employee thereof, having been notified of the arrival of the shipment of explosives as provided in Section 711.160 above, to fail to remove or cause the removal of said explosives within twenty-four (24) hours after receipt of said notice or by the time set by the Director, to some place meeting the requirements of this ordinance.
(O. No. 2703)

711.180 Transportation of Explosives--General Provisions.--

1. Explosives shall not be transported through any prohibited vehicular tunnel, subway or over any prohibited bridge, roadway or elevated highway.
2. No person shall smoke, carry matches or any other flame-producing device, or carry any firearms or loaded cartridges while in or near a motor vehicle transporting explosives; or drive, load or unload such vehicle in a careless or reckless manner.
3. Explosives shall not be carried or transported in or upon a public conveyance or vehicle carrying passengers for hire.
4. Explosives may be loaded into and transported on any truck and a full trailer attached thereto provided that there shall be no more than one truck and one trailer comprising the combination.
5. Explosives shall not be transferred from one vehicle to another within the County without first informing the Director and the St. Louis County Police Department. In the event of breakdown or collision, the Director and the St. Louis County Police Department shall be promptly notified to help safeguard such emergencies. Explosives shall be transferred from the disabled vehicle to another only when proper and qualified supervision is provided.
6. It shall be unlawful for any person to transport, haul or otherwise convey blasting caps on the streets and highways of the County on the same vehicle with explosives except that not more than fifty (50) pounds of explosives and not more than twenty-five (25) blasting caps may be

transported on the same vehicle if the blasting caps are transported in a container approved by the Director.
(O. No. 2703)

711.190 Transportation Vehicles--Requirements.-- 1. Vehicles used for transporting explosives shall be strong enough to carry the load without difficulty and be in good mechanical condition. If vehicles do not have a closed body, the body shall be covered with a flame-proof and moistureproof tarpaulin or other effective protection against moisture and sparks. All vehicles used for the transportation of explosives shall have tight floors and any exposed spark-producing metal on the inside of the body shall be covered with wood or other nonsparking materials to prevent contact with packages of explosives. Packages of explosives shall not be loaded above the sides of an open-body vehicle.

2. Every vehicle used for transporting explosives shall be marked or placarded on both sides, front and rear with the word "Explosives" in letters not less than three (3) inches in height in contrasting and clearly readable colors. In addition to such marking or placarding, the vehicle may display, in such a manner that it will be readily visible from all directions, a red flag eighteen (18) inches by thirty (30) inches, with the word "Explosives" painted, stamped or sewed thereon in white letters at least six (6) inches in height.

3. Every motor vehicle used for transporting explosives shall be equipped with one of the following minimum fire extinguishing units:

- (1) One 2A 40BC fire extinguishing unit; or
- (2) Two (2) 2A 20BC fire extinguishing units.

Only extinguishers listed or approved by Underwriters' Laboratories, Inc., Underwriters' Laboratories of Canada, Factory Mutual Laboratories or by some other nationally recognized fire equipment testing laboratory, shall be deemed suitable for use on explosive-carrying vehicles. Extinguishers shall be filled and ready for immediate use and located near the driver's seat. Extinguishers shall be examined periodically by a competent person.

4. All motor vehicles used for transporting explosives shall meet the following requirements for safe transportation of explosives:

- (1) Fire extinguishers shall be filled and in working order.
- (2) All electrical wiring shall be completely protected and securely fastened to prevent short circuiting.
- (3) Chassis, motor, pan and underside of body shall be reasonably clean and free of excess oil and grease.
- (4) Fuel tank and feed line shall be secure and have no leaks.
- (5) Brakes, lights, horn, windshield wipers and steering apparatus shall function properly.
- (6) Tires shall be checked for proper inflation and defects.
- (7) The vehicle shall be in proper condition in every other respect and acceptable for handling explosives.

5. Vehicles transporting explosives shall only be drive by, and be in charge of, a driver who is physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use or under the influence of intoxicants or narcotics, and not less than twenty-one (21) years of age. He shall be familiar with the traffic regulations, state laws and the provisions of this chapter.

6. Except under emergency conditions, no vehicle transporting explosives shall be parked before reaching its destination, even though attended, on any public street adjacent to, or in

proximity to, any bridge, tunnel, dwelling, building or place where people work, congregate or assemble.

7. No spark-producing metal, spark-producing metal tools, oils, matches, firearms, electric storage batteries, flammable substances, acids, oxidizing materials or corrosive compounds shall be carried in the body of any motor truck and/or vehicle transporting explosives.

8. Vehicles transporting explosives shall avoid congested areas and heavy traffic. Where routes through congested areas have been designated, such routes shall be followed.

9. Delivery shall only be made to authorize persons and/or into authorized magazines or approved temporary storage or handling areas.

(O. No. 10039, 1-9-81)

711.200 Permit to Explode or Blast Required, Blaster's License.-- 1. It shall be unlawful, without first having received a permit from the Director, to explode or cause to be exploded, any gunpowder, dynamite, giant powder, gun cotton or other explosive for the purpose of blasting out rock, gravel, earth or other like substance within the County.

2. No person shall use or detonate explosives unless he is in possession of a valid license, obtained from the Director, to use explosives for blasting purposes. This license shall be known as a blaster's license. For the purpose of this chapter, the Director is authorized to publish qualifications necessary for an applicant to obtain a blaster's license. Such qualifications shall take into consideration age, training, education, and experience in the knowledge and use of explosives and shall include a written examination. A license shall be issued by the Director to any applicant meeting the requirements set forth by the Director for such a license.

3. The handling of explosives may be performed by other employees provided the work is done under the direct supervision of the person holding the permit to use explosives and providing such employees are at least twenty-one (21) years of age.

4. The person possessing a valid blaster's license shall be in charge of all blasting operations. If there is more than one person possessing such a license on any one operation, one will be designated as being blaster in charge and shall be responsible for the entire operation.

(O. No. 2703)

711.210 Application for Permit to Blast--Requirements.-- Application for a permit to use explosives shall be made to the Director at the Courthouse on forms provided and shall contain the following information:

(1) Name of applicant.

(2) Address of residence.

(3) Place of business.

(4) Occupation.

(5) Age.

(6) The location where the blasting is to be done, the type of blasting material to be used in each charge, the number and location of charges and the manner in which the material is to be detonated.

(7) The time and date of blasting when requested by the Director.

(8) The name, age and address of the blaster or blasters who shall be the person or persons who shall actually detonate or have actual charge of the detonation of any explosive or blasting agent.

(9) Blaster's license number.

(10) When blasting operations are conducted on a continuous basis, such as quarry blasting and construction work, the Director may, in lieu of (6), above, direct that the applicant furnish the location where blasting is to be done, the type of blasting material generally used, the approximate frequency of detonations based on past performance and the manner in which the explosives are to be detonated.

In addition to the above information, there shall be attached to the application for a permit to blast, the following: A certificate of liability insurance in the minimum amount of five hundred thousand dollars (\$500,000.00) for injury to persons and property resulting from the blasting operations. Such insurance shall be carried in a firm or corporation which has been duly licensed or permitted to carry on such business in the State of Missouri and shall be kept and maintained continuously in force and effect for the duration of the blasting permit.

(O. No. 10039, 1-9-81)

711.220 Blasting--Rules and Regulations.-- All blasting operations within the County shall be conducted in strict accordance with the following rules and regulations and it shall be unlawful for any person to fail to observe and follow said rules and regulations when blasting. In the event there is a violation of said rules and regulations, the Director shall have the power and it shall be his duty to revoke the blasting permit issued in connection with the operation, revoke the license of the blaster in charge, all in accordance with the terms of this chapter, and in addition, the violator or violators may be punished as otherwise provided by this chapter for violations thereof.

(1) Blasting operations shall be carried on with the smallest possible number of persons present.

(2) All drill holes shall be of sufficient size so that the cartridges of explosives can be easily inserted to the bottom of the hole without forcing or ramming.

(3) Explosives should not be removed from the original wrapper before being loaded into bore holes except when irregularities of the hole make it impossible to load whole cartridges with safety or in block-holing where small charges are desirable. This rule shall not apply to free running explosives.

(4) Excessive ramming should be avoided in loading or tamping explosives in a bore hole and wooden tools only, with no exposed metal parts, shall be used for this purpose. In tamping, only hardwood rods without metal parts, other than non-ferrous metal ferrules for extending the length thereof, shall be used.

(5) When loading free running or bulk explosives, a bronze, wooden or heavy paper funnel should be used unless the explosives can be poured directly from a container into the hole in such a manner as to prevent scattering of loose explosives around the collar of the hole.

(6) When priming with electric caps, said caps shall be tested with a blasting galvanometer after being loaded but before the hole is stemmed. Primers shall be made up just prior to loading. The cap must be properly embedded in the cartridge and the primer seated in the charge without rough handling.

(7) When firing with a blasting machine, the blasting machine shall be located at a safe distance to be determined by the blaster.

(8) When firing by means of a blasting machine, the leading wires shall be kept short-circuited until the shot is ready for firing and shall not be connected to the blasting machine until immediately before the time of firing and shall be disconnected from the blasting machine and short-circuited immediately after firing.

- (9) Electric detonators and blasting circuits shall be tested only by means of a blasting galvanometer designed for this purpose.
- (10) Before firing any blast, all means of access to the danger zone (the extent of which shall be determined by the blaster, but in no case to be closer to the explosion than the blaster himself), shall be effectively guarded to exclude all unauthorized personnel. When practical, the blaster shall then sound a warning of sufficient intensity and duration to be distinctly audible to all persons within the danger zone and all such persons shall retire beyond the danger zone. The danger zone shall then be examined by the blaster to make certain that all persons have retired therefrom to a place of safety. No blast shall be fired while any person is in the danger zone.
- (11) When the point of explosion is within three hundred (300) feet of a roadway, the blaster shall, just prior to the blast, designate a sufficient number of employees of the operator, each carrying a red warning flag, to stop all vehicular and pedestrian traffic on each possible route of travel within three hundred and fifty (350) feet of the point of explosion until the blast has been fired.
- (12) No person shall return to the danger zone until permitted to do so by the blaster as announced by audible or visual signal.
- (13) Immediately following the blast the area shall be examined by the blaster for evidence of misfired charges.
- (14) All misfires shall be reported at once to the superintendent or manager who shall then determine the safe and proper method of disposal. The unexploded charge shall be detonated if such can be accomplished without risk of injury to personnel or damage to property. If repriming is necessary, any stemming present in the hole may be removed by a jet of water. The jetting tool should be of non-sparking metal, rubber or plastic. If electric blasting caps are used for in-the-hole initiation, an air jet should not be used.
- (15) Drilling in any hole that is known to contain or have contained explosives is prohibited until complete neutralization is effected.
- (16) A complete record shall be kept by the blaster showing all misfires and method of disposal.
- (17) In case a charge fires but does not bring down the burden, it is permissible to reload the bore hole, if in suitable condition, but only after the temperature of the hole has been reduced by water or otherwise to not more than one hundred fifty (150) degrees Fahrenheit.
- (18) Each blast hole shall be stemmed to the collar or to a point high enough to provide efficient confinement of the charge and to minimize the chance of injury to personnel from flying material. Block holes shall contain at least eighty-five (85) percent of stemming material. For toe holes, the collar stemming shall in no case be less than one-third the depth of the hole.
- (19) When electric blasting caps are transported in a motor vehicle, equipped with a radio transmitter, they shall either be in their original package or stored in a closed metal box that is lined with a cushioning material such as wood or sponge rubber. When the electric caps are being placed into or removed from the box, the transmitter shall not be used.
- (20) Unless otherwise expressly authorized in writing by the Director, all blasting operations shall be conducted at no less distance from any fixed or mobile radio transmitter than indicated in the following table:

Minimum Distance

*From Blasting
Operations Using*

*Transmitter Power Electric Blasting
Output in Watts Caps, in Feet*

5--25 . . .	100
25--50 . . .	150
50--100 . . .	220
100--250 . . .	350
250--500 . . .	450
500--1,000 . . .	650
1,000--2,500 . . .	1,000
2,500--5,000 . . .	1,500
5,000--10,000 . . .	2,200
10,000--25,000 . . .	3,500
25,000--50,000 . . .	5,000
50,000--100,000 . . .	7,000

When it can be demonstrated by means of approved tests that electric blasting may be carried out at lesser distances from the transmitter than required by the table shown, the Director may allow a variation from the requirements of said table.

When blasting operations are located near highways or other public ways, signs shall be erected at least five hundred (500) feet from the blast areas reading: "BLAST AREA-SHUT OFF ALL TWO-WAY RADIOS". The letters of these signs shall be not less than four (4) inches in height on a contrasting background.

(21) In no case shall drilling be conducted closer than twenty-five (25) feet to a loaded hole or a hole that is being loaded.

(22) Holes shall be checked prior to loading to determine depth and condition. Holes may be checked with a dolly or tamping block or by visual inspection with the aid of a mirror. After any explosives have been loaded, all measuring shall be done with a cloth tape or non-ferrous measuring device and lead plumb bob, or a wooden tamping pole or wooden dolly free of exposed metal parts.

(23) Under no circumstances shall the amount of explosives taken within three hundred (300) feet of a potential point of explosion exceed the amount estimated by the blaster as necessary for the blast. Such explosives shall be stacked in piles at least twenty-five (25) feet from the nearest holes being loaded and at such distances apart, as provided in Section 32, that any premature explosion will not be likely to propagate from one (1) pile to another.

(24) The explosives containers, if any, shall be opened at the pile and carried up to the hole, one (1) case or unit at a time for immediate loading or placed at a loading station not less than six (6) feet from the hole except that not more than one hundred (100) pounds of explosives shall be allowed at the loading station at any one time. All empty explosives containers (boxes, bags, crates, etc.) shall be properly disposed of, daily, in a safe manner.

(25) Explosives shall be distributed in such a manner that the distances from storage piles to the allowable maximum quantity of one hundred (100) pounds of explosives at the loading station or between such one hundred pound-loading station piles shall not be less than the quantities shown in the following quantity-distance table:

<i>Pounds of Explosives</i>	<i>Distance Between Piles of Explosives in Feet</i>
up to 50 . . .	21
100 . . .	25

200 . . .	32
300 . . .	37
400 . . .	41
500 . . .	44
750 . . .	50
1,000 . . .	55
1,500 . . .	64
2,000 . . .	70
2,500 . . .	75
5,000 . . .	96
10,000 . . .	123

(26) Drill holes shall not be sprung when they are less than one hundred (100) feet from the nearest hole containing explosives. Holes that have been sprung shall not be charged with explosives until the maximum temperature in any portion of such holes has been reduced to one hundred fifty (150) degrees Fahrenheit. Where possible, water is to be used for cooling purposes.

(27) When loading a blast primed with detonating fuse, the detonator or detonators required for firing the blast shall not be brought within fifty (50) feet of the hole area nor attached to the detonating fuse until all persons, except the blaster and his assistants, have been cleared from the danger zone.

(28) In all blasting where the firing of any one (1) hole is likely to break into or damage another hole in the vicinity or where the firing of any hole may propagate the charge in a loaded hole in the vicinity, all holes which have been loaded shall be included and fired in the blast.

(29) Water standing in blast holes should be bailed out, if possible, or the holes shall be loaded with an explosive of adequate water resistance.

(30) Blasting crews shall consist of the minimum number of experienced men to do the work in an efficient manner and should be organized carefully and each man assigned to definite tasks to avoid confusion.

(31) A blast shall be planned before the loading is started. The planned charge for each hole shall be recorded prior to the blast.

(32) The condition of each hole to be loaded and the amount, height, and position of the explosives charge or charges placed in the hole shall be recorded on a loading chart prior to the blast.

(33) Members of loading crews engaged in loading blast holes should be prohibited from wearing hobnail or steel-plated shoes to avoid striking sparks on rocks.

(34) Large dynamite cartridges may be dropped in blast holes only when the hole is free from obstructions to the depth at which the cartridge is to rest.

(35) Large dynamite cartridges shall not be dropped in blast holes containing excessive water until the charge is above the water level.

(36) Large dynamite cartridges that have been wedged in a blast hole shall not be tamped with a dolly. After pouring water into the hole, attempts to dislodge or pierce them shall be made with a spear-shaped wooden tamping block or a small-diameter wooden pole.

(37) Rough or ragged holes and holes partly closed by an obstruction that cannot be readily removed shall be loaded with cartridge dynamite lowered with a rope, with free running powder or dynamite cut in small pieces.

(38) When loading a long line of holes with more than one (1) loading crew, the crews shall be separated by the greatest practical distance which can be maintained as the loading operations

progress and which is consistent with efficient operation and supervision of the crews. Every effort shall be made to keep the loading crews a minimum of twenty-five (25) feet apart and to prevent the simultaneous loading of adjacent holes.

(39) Excessively large amounts of explosives shall not be delivered to the loading area at one (1) time. If deliveries of explosives are made by truck, the quantity permitted at or near the loading operations shall be limited to one (1) truck load. Other trucks loaded with explosives shall wait or be unloaded in separate safe places away from the loading operations.

(40) Explosives should be delivered first to the holes farthest from the truck to avoid driving or walking among piles of explosives.

(41) Explosives in excess of immediate requirements when removed from the main storage magazine and delivered in the vicinity of a blasting operation, shall be stored in a Class II magazine.

(42) The required stemming or tamping material shall be placed by each hole before the delivery of explosives to the holes is started. Stemming material shall be screened or free from excessively coarse pieces.

(43) Stemming shall be placed in each hole to avoid damage to the detonating fuse or leg wires of electric detonators.

(44) A single hole or any number of holes in a row should not be fired when adjacent to or near one (1) or more other holes which are loaded and which are not intended to be fired.

(45) All detonating fuses shall be covered with adequate stemming where physically possible to reduce noise.

(46) The detonating fuse shall extend from the hole a distance of one (1) or two (2) feet more than sufficient to compensate for any subsidence, should be drawn taut and made secure on the top where it will not interfere with loading operations or come in contact with explosives on the ground.

(47) The detonating fuse shall be checked each time before stemming material is used to see that it has not been broken; if it has, it shall be repaired before proceeding.

(48) When a detonating fuse is used, main or trunk line splices shall be factory splices or tight square knots. No splices or knots shall be used in the drill hole.

(49) All branch line connections and all connections in the main line other than splices shall be tight and at right angles.

(50) The main or trunk line shall be laid out free of kinks or coils and all connections shall be inspected before firing the blast.

(51) When connecting an electric blasting cap to detonating fuse, a connector for the purpose shall be used in accordance with the Director's instructions. The cap may also be securely taped to the detonating fuse.

(52) Caps shall not be brought to the loading area nor attached to the detonating fuse until all is in readiness to fire the blast.

(53) Plain detonating fuse may be used for trunk lines or in shallow drill holes, but reinforced or wire protected types shall be used in deep or ragged holes.

(54) Toe hole blasting is defined as the removing of ledges or high bottoms that remain after a main or primary shot or blast using moderate quantities of explosives loaded in small diameter holes. In toe hole blasting, the charge of explosives shall be pushed to the end of the hole with a wooden pole using care not to block the hole or suitable free-running blasting agents may be blown into the hole with an approved pneumatic loader.

(55) Secondary blasting is defined as the reduction of oversize material by the use of explosives to facilitate shovel operations or to be accompanied by the crusher. It shall include mud-capping and blockholing. In secondary blasting, wherever practicable, oversize fragments shall be reduced to shovel or crusher size by use of the drop-ball method, except as otherwise directed by the Director.

(56) Charges of explosives shall be confined in all cases (drill holes) by suitable, inert stemming material.

(57) No person, except the blaster and any others directly engaged in loading block holes, shall be permitted within the immediate area while loading is being performed. Loading of any block hole shall be completed in one continuous operation including insertion of the primer and the stemming.

(58) Blast matting (which may include earth) shall be required when blast operations and/or geological conditions create fly rock that could damage or injure persons or property, or at the decision of the Director.

(59) In all blasting operations, except as hereinafter otherwise provided, the maximum peak particle velocity of any one (1) of three (3) mutually perpendicular components of the ground motion in the vertical and horizontal directions shall not exceed two (2) inches per second.

(60) Instrumentation shall be in good operating condition and be properly calibrated with a current (within one (1) year of date of use) calibration sticker affixed to each instrument. If an instrument(s) is found to be not operating properly or out of calibration, blasting operations shall be halted until the appropriate repairs or recalibration are performed or a proper instrument(s) is provided. Seismograph operator shall be trained in the use of that instrument(s).

(61) Seismographic instrumentation shall be required on any blast site where the nearest uncontrolled structure or public utility is located within a scaled distance of sixty-five (65) (as defined in Rule 69) or at the request of the Director. An uncontrolled structure is defined as any occupied building not owned or controlled by the explosives user. The seismograph shall be placed at or near the closest uncontrolled structure(s).

(62) Blasting operations without instrumentation will be considered as being within the limits set forth in this subsection if at a specified location on at least five (5) blasts instrumentation has shown that the maximum peak particle velocity at the specified location is fifty (50) percent or less of the limit set forth in this subsection, and with written permission from the Director, provided, that for all future blasts the scaled distance is equal to or greater than the scaled distance for the instrumental blast. However, if a scaled distance less than thirty-five (35) is employed, a seismograph is required regardless of the seismic readings of previous blasts.

"Scaled distance" means the actual distance in feet divided by the square root of the maximum explosive weight in pounds that is detonated per delay period for delay intervals of eight (8) milliseconds or greater. If delay intervals less than eight (8) milliseconds are employed or if instantaneous blasting is employed, scaled distance shall be computed by dividing the actual distance in feet by the square root of the total explosive weight in pounds. When blasting operations are contemplated which would result in ground vibrations that would have a particle velocity of any one (1) of three (3) mutually perpendicular components in excess of two (2) inches per second, blasting operations may proceed after receiving written consent from the property owner or owners affected and the Director.

(63) (A) Airblast shall be controlled so that it does not exceed the maximum limits specified below at any uncontrolled structure (as defined in rule 68(A)).

Lower frequency limits of

<i>measuring system, Hz (+ 3dB)</i>	<i>Maximum level in dB</i>
0.1 Hz or lower--flat response . . .	134 peak
2 Hz or lower--flat response . . .	133 peak
6 Hz or lower--flat response . . .	129 peak
C-weighted, slow response.....	105 peak dBc

(B) All measuring systems used shall have a flat frequency response of at least 200 Hz at the upper end.

(C) The permittee may satisfy the provisions of this section by meeting any of the four (4) specifications in the chart in Rule 73 of this section; provided however, the 0.1 Hz or lower-flat response or C-weighted slow response can only be used if approved by the Director.

(64) When blasting in the vicinity of uncontrolled structures (as defined in Rule 59(A)) the explosives user will determine the structures lying within a scaled distance of thirty-five (35). The distance will be determined by the following:

$$D = 35 (W^2)$$

Where D is the distance limit and W is the maximum charge weight per 8 ms delay interval. The explosives user will make a good faith effort to contact the owners of structures within the distance limit and offer to have a pre-blast inspection performed on their structure at no cost to the owner.

(O. No. 17057, 6-6-94)

711.230 **Blasting Agents--Transportation, Storage and Use.**-- Unless otherwise set forth in this chapter, blasting agents shall be transported, stored and used in the same manner as explosives. (O. No. 2703)

711.240 **Buildings Used for Mixing of Blasting Agents--Location.**-- Buildings or other facilities used for mixing blasting agents shall be located, with respect to inhabited buildings, passenger railroads and public highways in accordance with the American Table of Distance (Appendix "A").

(1) Any oxidizer stored at a closer distance to the blasting agent storage area than as provided in (2) below shall be added to the quantity of blasting agents to calculate the total quantity involved for application of the aforementioned Table.

(2) Minimum intra-plant separation (distances between mixing units and the oxidizer) storage areas and blasting agent storage areas shall be determined by competent persons and these distances shall be approved by the Director.

(O. No. 2703)

711.250 **Buildings Used for Mixing of Blasting Agents--Construction.**-- 1. Buildings used for the mixing of blasting agents shall conform to the requirements of this section unless otherwise specifically approved by the Director.

(1) Buildings should preferably be of noncombustible construction or sheet metal on wood studs.

(2) The layout of the mixing building shall be such as to provide physical separation between the finished product storage and the mixing and packaging operation.

- (3) Floors in storage areas and in the processing plant should be of concrete. Isolated fuel storage shall be provided to avoid contact between molten oxidizer and fuel in case of fire.
 - (4) The building shall be well ventilated.
 - (5) Heat shall be provided exclusively from a unit outside the building.
 2. The design of the mixer should minimize the possibility of frictional heating, compaction, and especially, confinement. Open mixers are preferable to enclosed mixers. Bearings and gears should be protected against the accumulation of oxidizer dust. All surfaces should be accessible for cleaning. Mixing and packaging equipment should be constructed of materials compatible with the fuel-oxidizer composition. Mobile equipment, such as ready-mix concrete trucks, shall not be used for blending fuels with oxidizers while in transit on public highways. The provisions of this section shall be considered when determining blasting agent composition. The sensitivity of the blasting agent shall be determined by means of a No. 8 test blasting cap at regular intervals and after every change in ingredients or composition, or as may be requested by the Director.
 3. Oxidizers of small particle size, such as crushed prills or fines, may be more sensitive and hazardous than the ordinary prills and should be handled with greater care.
 4. No liquid fuel with higher volatility than that of No. 2 diesel fuel (minimum flash point of 145 degrees Fahrenheit, ASTM closed-up procedure) shall be used.
 5. Crude oil and crankcase oil should not be used because they may contain light ends that offer increased vapor-explosion hazards or gritty particles that tend to sensitize the resulting blasting agent.
 6. If solid fuels are used, they shall be chosen so as to minimize dust-explosion hazard.
 7. Metal dusts (aluminum powder, etc.), peroxides chlorates, or perchlorates shall not be used unless such operations are conducted in a manner approved by the Director.
 8. Unusual compositions shall not be attempted except under the supervision of competent personnel equipped to determine the overall hazard of the resulting compositions.
 9. All electrical switches, controls, motors and lights, if allocated in the mixing room, should conform to the requirements of Article 502, Class II, Division 2 of the Electrical Code of St. Louis County; otherwise they should be located outside the mixing room. The frame of the mixer and all other equipment that may be used shall be electrically bonded and provided with a continuous path to the ground.
 10. Washdown facilities should be provided. An automatic water-deluge system with adequate capacity is recommended to protect mixers and the finished-explosives storage area in the plant. Floors shall be constructed so as to eliminate open floor drains and piping into which molten materials could flow and be confined in case of fire. The floors and equipment of the mixing and packaging room shall be washed down frequently to prevent accumulation of oxidizers or fuels and other sensitizers. The entire mixing and packaging plant shall be washed down periodically to prevent excessive accumulation of dust.
 11. Smoking or open flames shall not be permitted in or within fifty (50) feet of any building or facility used for the mixing of blasting agents.
 12. Empty oxidizer bags shall be disposed of daily in a safe manner.
 13. Not more than one day's production of blasting agents or the limit determined by the American Table of Distances (Appendix A), whichever is less, shall be permitted in or near the mixing and packaging plant or area. Larger quantities shall be stored in separate warehouses or magazines.
- (O. No. 2703)

711.270 Transportation of Blasting Agents.-- 1. When blasting agents are transported in the same vehicle with explosives, all of the requirements of Section 711.180 of this chapter shall be complied with.

2. Vehicles transporting blasting agents shall only be driven by and be in charge of a driver at least twenty-one (21) years of age who is capable, careful, reliable and in possession of a valid motor vehicle operator's license. Such a person shall also be familiar with the State vehicle and traffic laws.

3. No sparking metal, sparking metal tools, oils, matches, firearms, acids or other corrosive liquids shall be carried in the bed or body of any vehicle containing blasting agents.

4. No person shall be permitted to ride upon, drive, load or unload a vehicle containing blasting agents while smoking or under the influence of intoxicants or narcotics.

5. It is prohibited for any person to transport or carry any blasting agents upon any public vehicle carrying passengers for hire.

6. Vehicles transporting blasting agents shall be in safe operating condition at all times.

7. When offering blasting agents for transportation on County roads and highways, they shall be packaged in a manner to render them safe for transportation and handling and marked or labeled so as to be readily identifiable.

(O. No. 2703)

711.280 Use of Blasting Agents.-- Persons using blasting agents shall comply with all of the applicable provisions of this chapter for the use of explosives.

(O. No. 2703)

711.290 Records.-- 1. A record known as a log shall be kept for every primary blast in an approved manner and for such other blasting as the Director may require.

2. A blasting record, known as a log, shall be kept on the site of any blasting operations. This log shall be made available to the Director or his authorized agents upon demand. This record shall be maintained available for inspection for a period of six (6) months after such blasting operations are completed.

3. Minimum recorded data shall be as follows:

(a) Plan of the involved portion of the blasting site showing location of holes and spacing of holes.

(b) A cross-section of each hole showing overburden; burden at top of face and toe; height of face; depth of hole; kind and quantity of explosives including distribution of explosives load as deck charges, or otherwise as appropriate; length and kind of stemming material.

(c) Drilling record showing unusual joint or seam conditions in the rock.

(d) Amount of explosives used (weight).

(e) Kind of blasting caps, distribution of instantaneous or short-period delay blasting caps, or both; delay interval used; order of firing by switch.

(f) Comments by blaster in charge regarding character of breakage; height of breakage; length of throw; effectiveness of shot; unusual results of effects.

(g) Weather conditions including direction and approximate velocity of wind; atmospheric temperature; relative humidity; cloud conditions.

(h) Date and time of firing of blast.

(i) Name of person in responsible charge of loading and firing; blaster's permit number.

(j) Name and location of blasting site.

(k) Signature and title of person making report.

4. Any falsification, alterations or misrepresentation of any records of blasting operations will be cause for suspension or revocation of blasting permits and blaster's license.

(O. No. 2703)

711.300. Fees. --The fee for an annual blaster's license shall be fifty dollars (\$50.00).

The fees for blasting and storage of explosives permits required by this chapter shall be as prescribed in Sections 1100.210, 1100.220 and 1100.230, SLCRO 1974 as amended.

(O. No. 22015, 9-14-04)

711.310 Hours During Which Blasting Prohibited.-- It shall be unlawful for any person to explode, or cause to be exploded, any gunpowder, dynamite, giant powder, gun cotton or other explosives as herein defined for any purpose during the hours of 6:00 p.m. to 8:00 a.m., except that a special permit to use explosives during the hours of 6:00 p.m. to 8:00 a.m. may be issued by the Director when the Director determines that conditions beyond the control of the person seeking a special permit prevent such person from using explosives during regular hours permitted.

(O. No. 2703)

711.320 Permit--Licenses--Duration.-- 1. Blaster's licenses shall expire at the expiration of twelve (12) months from date of issuance, but may be renewed at the discretion of the Director without written examination.

2. Permits to store explosives or blasting agents shall expire at the expiration of twelve (12) months from date of issuance, or when location of magazine is changed.

3. Permit to blast shall expire on the date specified on the permit issued by the Director, but may be extended by the Director.

4. All permits and licenses issued pursuant to this chapter may be suspended by the Director for good cause shown as hereinafter provided.

(O. No. 2703)

711.330 Right of Inspection.-- 1. The Director or any authorized police officer, may, at any reasonable time, inspect premises, buildings and installations used for storage or sale of explosives or blasting agents, or any premises on which blasting operations are being conducted for the purpose of determining whether the provisions of this chapter are being complied with.

2. The Director or any authorized police officer may, during normal business hours, enter and inspect the premises, including places of storage, of any licensed importer, licensed manufacturer, licensed manufacturer-limited, licensed dealer, or permittee for the purpose of inspecting or examining any documents and records required to be kept by such person by law and any explosive materials kept or stored by such person.

3. Any person who shall hinder or obstruct the Director or any police officer in the performance of his official duties shall be guilty of a violation of the provisions of this chapter and upon conviction thereof, shall be punished as provided in Section 711.390.

(O. No. 10039, 1-9-81)

711.335 Inspection of Fire or Accident Scene.-- The Director or any authorized police officer

may inspect the site of any accident or fire in which there is reason to believe any explosive materials were involved. The Director or any authorized police officer may, at any reasonable time, enter into or upon any property where explosive materials have been used or are suspected of having been used, or have been found in an otherwise unauthorized location.
(O. No. 10039, 1-9-81)

711.340 Violation of Inspection--Notice to Violator.-- 1. If upon inspection by the Director or his agents, a violation of this chapter is found to exist, the Director shall file with the person holding the permit a notice citing the violation and ordering its correction. If such order is not complied with within the time period specified in the notice, which may require immediate compliance, the Director may suspend any permit or license issued to the person involved. Nothing herein relating to revocation of permits shall be construed to abrogate or suspend any proceedings against or prosecution of the violator which may be instituted against the violator under the provisions of this chapter.

2. Immediately after the suspension of the permit to store or to blast, the Director shall give the permittee written notice of the complaint or charge and shall fix the date for a hearing to be held within five (5) days of said notice, at which hearing the permittee shall have the right to counsel and to produce witnesses and other evidence in his behalf. For the purpose of said hearing, the Director is empowered to issue subpoenas and all necessary processes, administer oaths and take testimony at said hearing. All evidence offered at the hearing shall be preserved by the Director and oral testimony shall be recorded verbatim.

3. If the Director shall, after such hearing, decide that the operation for which the permit was issued was in violation of any provision of this chapter, he may revoke any permit or license of the person involved permanently or for such lesser period of time as he shall determine.
(O. No. 10039, 1-9-81)

711.350 Conflict With State or Federal Regulation of Explosives--Suspension.-- During such time as any provision herein shall conflict with any State or Federal statute or regulation, such provision herein conflicting shall be suspended.
(O. No. 2703)

711.360 Reckless and Wanton Handling of Explosives--Prohibited.-- No person shall load, unload or otherwise handle explosives in a reckless and wanton manner, thereby endangering the life, limb or property of any person.
(O. No. 2703)

711.365 Stolen Explosives.-- No person shall, with the intent of depriving the owner of lawful possession thereof, use, possess, receive, conceal, transport, sell or dispose of any stolen explosive materials knowing or having reasonable cause to believe such materials were stolen.
(O. No. 2703)

711.370 Sale to Minors--Prohibited.-- It shall be unlawful for any person to sell, vend, give away or otherwise supply any explosive as defined herein in any quantity to any person under the age of twenty-one (21) years.
(O. No. 2703)

711.375 Theft or Loss of Explosives.-- Any person who has knowledge of the theft or loss of any explosive materials shall immediately report such theft or loss to the Director and the St. Louis County Police Department.
(O. No. 10039, 1-9-81)

711.380 Vendor to Keep Record of Sales--Duties.-- Every person who has a permit to store, stock or store for resale explosives as defined herein shall be required to maintain a bound ledger and shall record or cause to be recorded therein the following information in connection with every sale, vending or other disbursement of explosives:

- (1) Name of vendee.
- (2) Address of vendee.
- (3) Date and time of sale.
- (4) Type of explosive.
- (5) Quantity of explosive.

Such record shall be open to inspection by the Director or his agent during usual business hours. No licensed user of explosives or blasting agents shall be allowed to resell explosives or blasting agents except by the written authorization of the Director.
(O. No. 2703)

711.390 Penalties.-- Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisoned in the County Jail not to exceed one year or both and each such violation shall constitute a separate offense. In addition to the penalties prescribed herein, the County Executive may take such other action, either legal or equitable, that he deems necessary in order to execute and enforce the provisions of this chapter.
(O. No. 2703)

711.400 Right to Appeal.-- 1. Any applicant, permittee or other person aggrieved by any order of the Director issued pursuant to this chapter, except the revocation of a permit which is covered elsewhere in this chapter, may file an appeal with the Director within ten (10) days of such order, and the Director shall fix a time and place for hearing to be held not less than five (5) days nor more than ten (10) days of the filing of appeal at which hearing the permittee shall have the right to counsel and to produce witnesses and other evidence in his behalf. For the purpose of said hearing, the Director is empowered to issue subpoenas and all necessary processes, administer oaths and take testimony at said hearings. All evidence offered at the hearing shall be preserved by the Director and oral testimony shall be recorded verbatim.

2. The decision and action of the Director at the hearing to revoke the permit shall be reviewable in a court of competent jurisdiction by a writ of certiorari filed by the permittee so affected or by any other person aggrieved by the action of the Director, within ten (10) days after said decision in writing has been made and forwarded to said permittee.

(O. No. 2703)

APPENDIX A

The American Table of Distances for storage of Explosives as revised and approved by the Institute of Makers of Explosives, September 30, 1955, which is a part hereof and is designated herein as Appendix A reads and provides as follows:

Quantity-Distance Tables

*American Table of Distances for Storage of Explosives **

TABLE INSET:

<i>Explosives</i>		<i>Distances in Feet When Storage in Barricaded **</i>			
<i>Pounds Over</i>	<i>Pounds Not over</i>	<i>Inhabited Buildings</i>	<i>Passenger Railways</i>	<i>Public Highways</i>	<i>Separation of Magazines</i>
2	5	70	30	30	6
5	10	90	35	35	8
10	20	110	45	45	10
20	30	125	50	50	11
30	40	140	55	55	12
40	50	150	60	60	14
50	75	170	70	70	15
75	100	190	75	75	16
100	125	200	80	80	18
125	150	215	85	85	19
150	200	235	95	95	21
200	250	255	105	105	23
250	300	270	110	110	24
300	400	295	120	120	27
400	500	320	130	130	29
500	600	340	135	135	31
600	700	355	145	145	32
700	800	375	150	150	33
800	900	390	155	155	35
900	1,000	400	160	160	36
1,000	1,200	425	170	165	39
1,200	1,400	450	180	170	41

1,400	1,600	470	190	175	43
1,600	1,800	490	195	180	44
1,800	2,000	505	205	185	45
2,000	2,500	595	220	190	49
2,500	3,000	580	235	195	52
3,000	4,000	635	255	210	58
4,000	5,000	685	275	225	61
5,000	6,000	730	295	235	65
6,000	7,000	770	310	245	68
7,000	8,000	800	320	250	72
8,000	9,000	835	335	255	75
9,000	10,000	865	345	260	78
10,000	12,000	875	370	270	82
12,000	14,000	885	390	275	87
14,000	16,000	900	405	280	90
16,000	18,000	940	420	285	94
18,000	20,000	975	435	290	98
20,000	25,000	1,055	470	315	105
25,000	30,000	1,130	500	340	112
30,000	35,000	1,205	525	360	119
35,000	40,000	1,275	550	380	124
40,000	45,000	1,340	570	400	129
45,000	50,000	1,400	590	420	135
50,000	55,000	1,460	610	440	140
55,000	60,000	1,515	630	455	145
60,000	65,000	1,565	645	470	150
65,000	70,000	1,610	660	485	155
70,000	75,000	1,655	675	500	160
75,000	80,000	1,695	690	510	165
80,000	85,000	1,730	705	520	170

85,000	90,000	1,760	720	530	175
90,000	95,000	1,790	730	540	180
95,000	100,000	1,815	745	545	185
100,000	110,000	1,835	770	550	195
110,000	120,000	1,855	790	555	205
120,000	130,000	1,875	810	560	215
130,000	140,000	1,890	835	565	225
140,000	150,000	1,900	850	570	235
150,000	160,000	1,935	870	580	245
160,000	170,000	1,965	890	590	255
170,000	180,000	1,990	905	600	265
180,000	190,000	2,010	920	605	275
190,000	200,000	2,030	935	610	285
200,000	210,000	2,055	955	620	295
210,000	230,000	2,100	980	635	315
230,000	250,000	2,155	1,010	650	335
250,000	275,000	2,215	1,040	670	360
275,000	300,000	2,275	1,075	690	385

*As revised and approved by the Institute of Markers of Explosives, September 30, 1955.

**"Barricaded" means that a building containing explosives is effectually screened from a magazine, building, railway, or highway, either by a natural barricade, or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine, or building, or to a point 12 feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade. "Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves. "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of 3 feet.

Note: When a building containing explosives is not barricaded, the distances shown in the Table shall be doubled.

NOTES TO AMERICAN TABLE OF DISTANCES FOR STORAGE OF EXPLOSIVES

Note 1. "Barricaded" means that a building containing explosives is effectually screened from a magazine, building, railway or highway, either by a natural barricade or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or building or to a point 12 feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.

Note 2. "Natural barricade" means natural features of the ground, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

Note 3. "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of 3 feet.

Note 4. When a building containing explosives is not barricaded, the distances shown in the Table shall be doubled.

Note 5. When 2 or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways and highways, and in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines", except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines from magazines containing other explosives. If any 2 or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such 2 or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum distances specified from other magazines, inhabited buildings, railways and highways.

Note 6. The permanent storage of more than 300,000 pounds of commercial explosives in one magazine or in a group of magazines which is considered as one magazine is not permitted except by specific approval of the Director.

Note 7. This Table applies only to the manufacture and permanent storage of commercial explosives. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives. For storage in connection with transportation, see Section 711.180.

Note 8. All types of blasting caps in strengths through No. 8 cap shall be rated at 1 1/2 pounds of explosives per 1,000 caps. For strength higher than No. 8 cap, consult the Director.

(O. No. 2703)



Council Agenda Item Cover

MEETING DATE: November 27, 2017

AGENDA ITEM TITLE: Major Subdivision – Final Plat – Subdivide a 0.518-acre tract of land into five (5) lots in the “MR” – Medium Density Residential District (PC 17-08)

AGENDA SECTION: Unfinished Business

COUNCIL ACTION: Passage of Ordinance required for Approval

CAN THIS ITEM BE RESCHEDULED? : No

BACKGROUND REVIEW: The Plan Commission recommended approval of the proposed Major Subdivision Final Plat (Magnolia Townhomes) at their October 25, 2017 meeting. This agenda item requires a public hearing at the City Council level and consideration for the passage of an ordinance. The first reading should take place on November 13, 2017. The second and third readings and passage of the ordinance could occur at the subsequent November 27, 2017 meeting.

Attachments:

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

RECOMMENDATION: Approval



Plan Commission

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

October 27, 2017

Ms. LaRette Reese, Interim City Clerk
City of University City
6801 Delmar Boulevard
University City, MO 63130

RE: Major Subdivision – Final Plat – 7634 Delmar Boulevard & 565 N. Central
Avenue (PC 17-08)

Dear Ms. Reese,

At its regular meeting on October 25, 2017 at 6:30 pm in the Heman Park Community Center, 975 Pennsylvania Avenue, University City, Missouri, 63130, the City Plan Commission considered the application by Mark Mehlman with Magnolia Townhomes, LLC to subdivide a 0.518-acre tract of land into five (5) lots in the “MR” – Medium Density Residential District.

By a vote of 7 to 0, the Plan Commission recommended approval of said Major Subdivision Final Plat.

Sincerely,

Cirri Moran, Chairperson
University City Plan Commission

INTRODUCED BY: _____

DATE: _____

BILL NO. 9341

ORDINANCE NO. _____

AN ORDINANCE APPROVING A FINAL PLAT FOR A MAJOR SUBDIVISION OF A TRACT OF LAND TO BE KNOWN AS MAGNOLIA TOWNHOMES: DELMAR HEIGHTS LOTS 17, 18, AND 19 IN BLOCK 4 BOUNDARY ADJUSTMENT PLAT AND PART OF A 15 FOOT WIDE ALLEY IN BLOCK 4 OF DELMAR HEIGHTS.

WHEREAS, Mark Mehlman of Magnolia Townhomes LLC submitted for approval a final subdivision plat of a tract of land to be known as Magnolia Townhomes: Delmar Heights Lots 17, 18, and 19 in Block 4 of a Boundary Adjustment Plat and Part of a 15 foot wide alley in Block 4 of Delmar Heights; and

WHEREAS, at its meeting on October 25, 2017, the University City Plan Commission reviewed the final plat for the major subdivision, determined that the final plat is in substantial compliance with the requirements of the University City Municipal Code, and recommended to the City Council of University City approval of the final plat; and

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

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

Section 1. Attached, marked Exhibit "A" and made a part hereof is a final subdivision plat of a tract of land to be known as Magnolia Townhomes: Delmar Heights Lots 17, 18, and 19 in Block 4 of a Boundary Adjustment Plat and Part of a 15 foot wide alley in Block 4 of Delmar Heights; which subdivides a tract of land into five (5) attached single-family and townhome dwellings; and

Section 2. It is hereby found and determined that the final plat for the major subdivision is in full compliance with the University City Municipal Code, including Sections 405.380 and 405.390.D.(1) – (9). Accordingly, the final plat for the major subdivision marked Exhibit "A" is hereby approved.

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

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

PASSED this _____ day of _____, _____.

MAYOR

ATTEST:

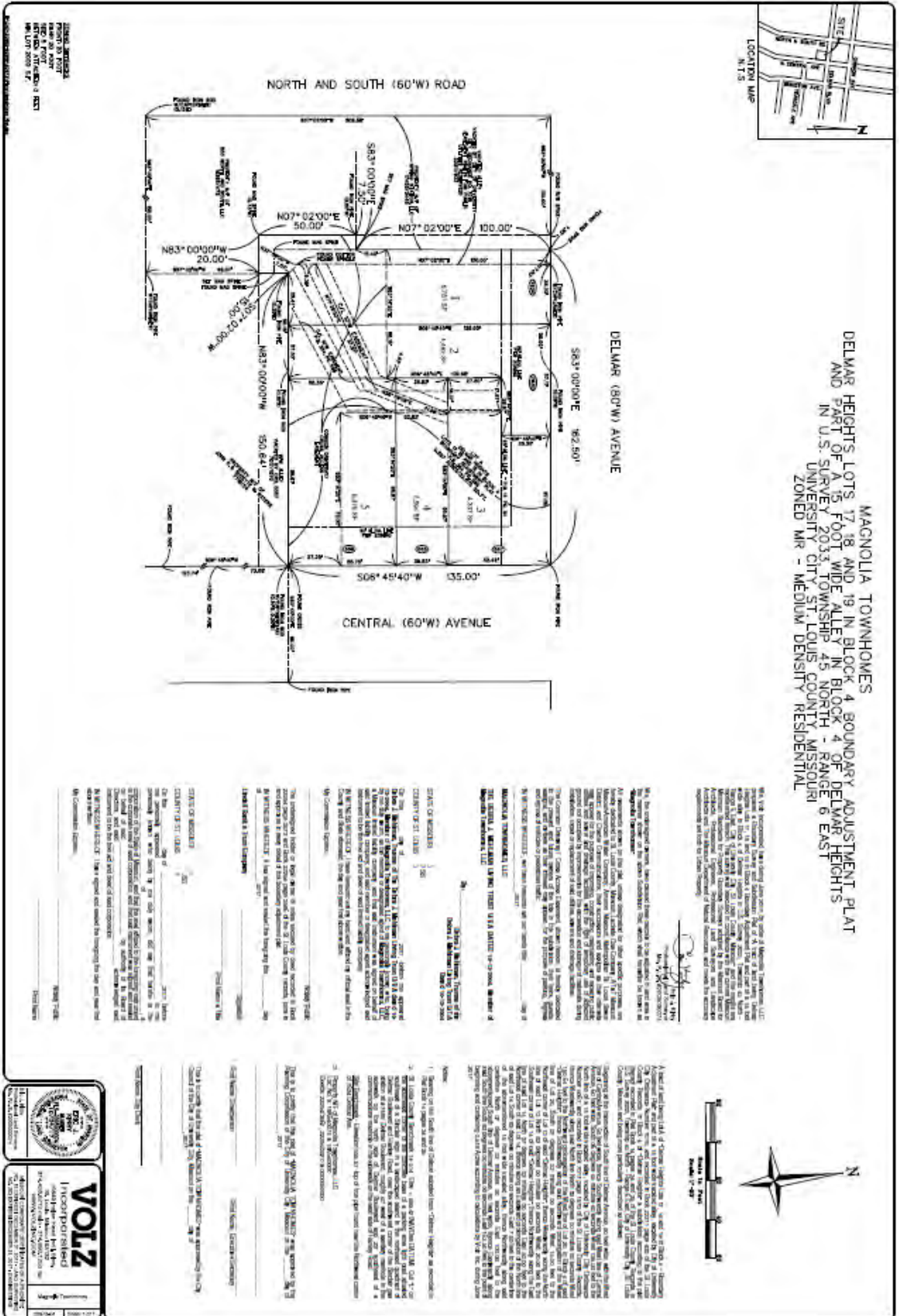
INTERIM CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY

DRAFT

EXHIBIT "A"
 (Full-Size Plat on Record at Department of Community Development)





Department of Community Development

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

STAFF REPORT

MEETING DATE: October 25, 2017

FILE NUMBER: PC 17-08

COUNCIL DISTRICT: 1

Location: 7634 Delmar Boulevard and 565 N. Central Avenue
(southwest corner of Delmar Blvd. and N. Central Ave.)

Applicant: Magnolia Townhomes, LLC (c/o Mark Mehlman)

Property Owner: Magnolia Townhomes, LLC

Request: **Major Subdivision – Final Plat** to subdivide a tract of land into five (5) lots in the “MR” – Medium Density Residential District (attached single-family and townhouse dwellings)

COMPREHENSIVE PLAN CONFORMANCE

Yes No No reference

STAFF RECOMMENDATION

Approval Approval with Conditions in Attachment Denial

ATTACHMENTS:

A. Final Plat and project information

Existing Zoning:	“MR” – Medium Density Residential District
Existing Land Use:	Attached single-family and townhouse dwellings under construction (previously approved)
Proposed Zoning:	No change – “MR” District
Proposed Land Use:	No change – Attached single-family and townhouse dwellings under construction (previously approved)

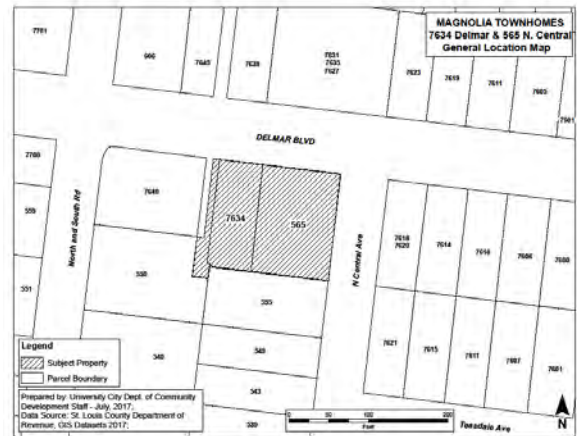
Surrounding Zoning and Land Use:

North: “MR”-Medium Density Residential District	Multi-Family dwellings
“LC”-Limited Commercial District	Commercial and parking lot
East: “MR”-Medium Density Residential District	Apartments and single-family residences
South: “SR”-Single-Family Residential District	Single-Family residences
West: “LC”-Limited Commercial District	Restaurant with drive-through / Dry Cleaner

Existing Property/Background

The subject property, approximately 0.518 acres in area, is under construction for one attached single-family dwelling and one three-unit townhouse dwelling, totaling five units, based on a site plan approved by City Council; an approved vacation of the alley right-of-way adjacent to the western property boundary by City Council; and a boundary adjustment plat; all in late 2016.

Subsequent to considering the recommendation of Plan Commission and a public hearing, the City Council approved via Ordinance #7041 a Zoning Code Text Amendment proposal on May 22, 2017, including allowance of each attached single-family unit and town house dwelling unit on its own individual lot.



The current request is to subdivide the 0.518-acre tract of land into five (5) lots for each of the two attached single-family units and the three townhouse units to be on its own individual lot in the “MR” – Medium Density Residential District. This is considered a Major Subdivision as it involves the creation of more than four (4) lots. A Preliminary Plat for this action was approved by Plan Commission on July 26, 2017. A Final Plat is now being submitted for consideration. All pre-requisites to Final Plat submittal have been met. Specifically, as per 405.280 and 405.290, the Improvement Plans for this project have been approved.

Applicant’s Request

The current request is to subdivide the 0.518-acre tract of land into five (5) lots for each of the two attached single-family units and the three townhouse units to be on its own individual lot in the “MR” – Medium Density Residential District. This is considered a Major Subdivision as it involves the creation of more than four (4) lots.

Process – Required City Approvals

Staff Review. Staff reviewed the plat as per Section 405.390.B: Staff Review.

1. Completeness of submittal. Upon receipt of final plat and associated documents, the Zoning Administrator shall review the documents to determine acceptability for submission. If the Administrator determines the submittal is complete, then the submittal shall be date stamped.
2. Distribution. As soon as practical after acceptance of the final plat submittal, the Zoning Administrator shall distribute copies of the final plat to the Director of Community Development, Director of Public Works and Parks, Fire Chief and other City staff as appropriate.
3. Staff review. The Zoning Administrator shall review the final plat, and solicit comments from other City staff on said plat, to determine compliance with the approved preliminary plat, including any conditions of approval placed on the preliminary plat, and consistency with the approved improvement plans. The staff findings shall be submitted to the Plan Commission.

No comments were received from other City Departments. Community Development Department comments are included in this report.

Plan Commission. Section 405.380 of the Subdivision and Land Development Regulations requires that the Plan Commission shall approve or disapprove of the Final Plat. No public hearing is required.

City Council. As soon as practical after the Plan Commission makes its recommendation, the final plat shall be forwarded to the City Council for its consideration. Upon determination that the final plat is in full compliance with the requirements hereof, the Council shall adopt an ordinance approving such final plat.

Analysis

Staff determined that the Final Plat meets all requirements of 405.380 of the Subdivision and Land Development Regulations. It is in substantial conformance with the approved preliminary plat.

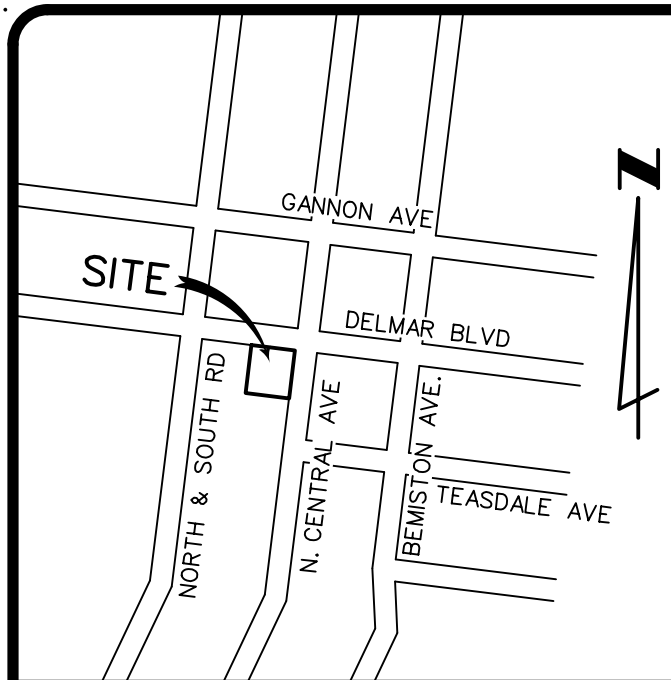
In its review, as per 405.390.C. Plan Commission is to:

1. The Plan Commission shall review the final plat at the meeting scheduled for review of the final plat. The Plan Commission shall make a determination whether the final plat is in substantial compliance with the approved preliminary plat. The Commission shall recommend to the City Council approval or disapproval of the final plat. A vote of disapproval shall be accompanied by reasons for such action in the meeting minutes.
2. The Plan Commission shall take action on the final plat within sixty (60) days of its consideration of said plat. Otherwise, the final plat shall be deemed as recommended for approval by the Commission, except that the Commission, with the consent of the applicant, may extend this sixty (60) day period.

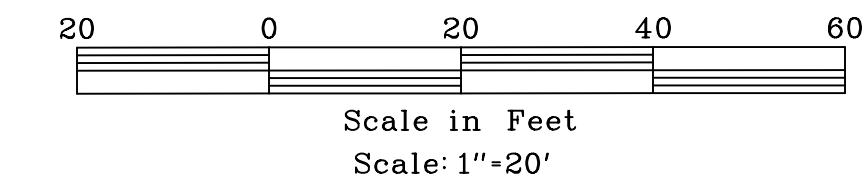
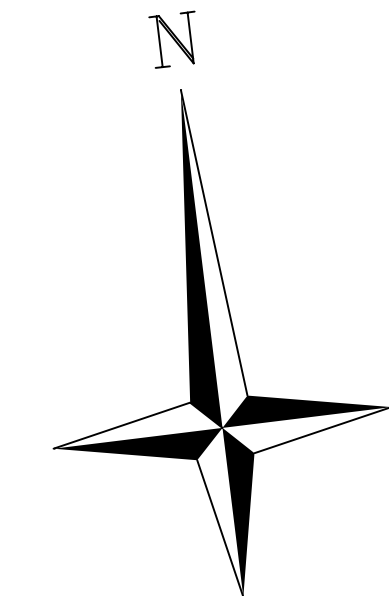
Conclusion/Recommendation

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

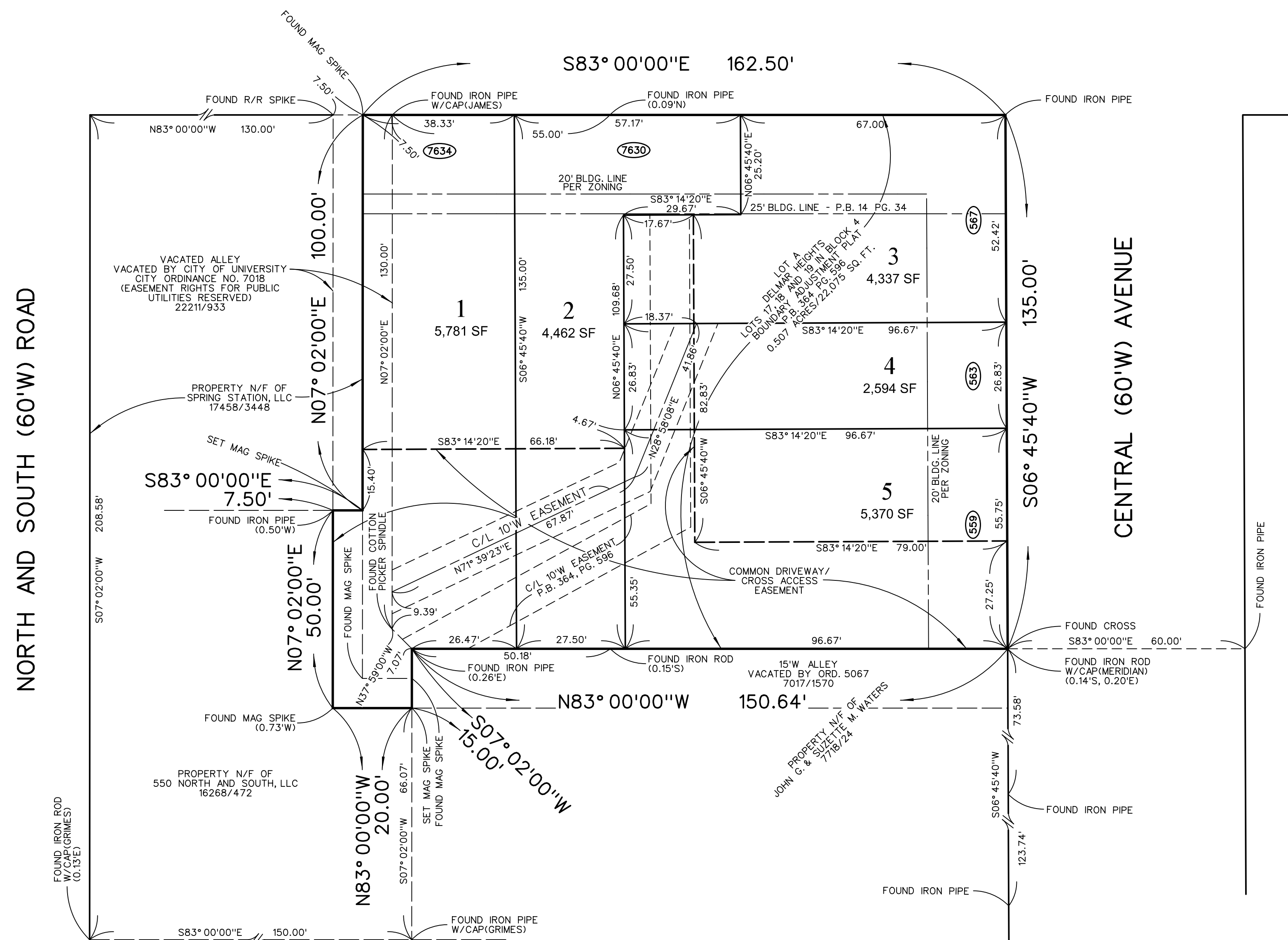
MAGNOLIA TOWNHOMES
 DELMAR HEIGHTS LOTS 17, 18 AND 19 IN BLOCK 4 BOUNDARY ADJUSTMENT PLAT
 AND PART OF A 15 FOOT WIDE ALLEY IN BLOCK 4 OF DELMAR HEIGHTS
 IN U.S. SURVEY 2033, TOWNSHIP 45 NORTH - RANGE 6 EAST
 UNIVERSITY CITY, ST. LOUIS COUNTY, MISSOURI
 ZONED MR - MEDIUM DENSITY RESIDENTIAL



LOCATION MAP
N.T.S.



DELMAR (80'W) AVENUE



We, Volz Incorporated, have during June 2017, by order of Magnolia Townhomes, LLC, prepared a Boundary Survey and Subdivision Plat of "A tract of land being Delmar Heights Lots 17, 18 and 19 in Block 4 Boundary Adjustment Plat and part of a 15 foot wide alley in Block 4 of Delmar Heights in U.S. Survey 2033, Township 45 North - Range 6 East, City of University City, St. Louis County, Missouri" and the results are represented hereon. This survey was executed in compliance with the current Missouri Minimum Standards for Property Boundary Surveys adopted by the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects and The Missouri Department of Natural Resources, and meets the accuracy requirements set forth for Urban Property.

Eric J. Kirby
 Eric J. Kirby
 Professional Land Surveyor
 Mo. P.L.S. #2005000074

We, the undersigned owners, have caused these parcels to be adjusted in land area in the manner shown on the above Subdivision Plat, which shall hereafter be known as "Magnolia Townhomes".

All easements shown on this plat, unless designated for other specific purposes, are hereby dedicated to St. Louis County, Missouri; Laclede Gas Company; AT&T Missouri; Missouri-American Water Company; Ameren Missouri; Metropolitan St. Louis Sewer District; and Charter Communications; their successors and assigns as their interests may appear for the purpose of improving, constructing, maintaining and repairing public utilities and sewer and drainage facilities, with the right of temporary use of adjacent ground not occupied by improvements for the excavation and storage of materials during installation, repair or replacement of said utilities, sewers and drainage facilities.

The Common Driveway / Cross Access Easement, shown hereon, is hereby dedicated to the present and future owners of the lots in this subdivision, their heirs, guests, assigns, and invitees as their interest may appear, for the purpose of parking, ingress and egress of vehicles or pedestrian traffic.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 2017.

MAGNOLIA TOWNHOMES, LLC

THE DEBRA J. MEHLMAN LIVING TRUST U/T/A DATED 10-12-2004, Member of Magnolia Townhomes, LLC

By: _____
 Debra J. Mehlman, Trustee of the
 Debra J. Mehlman Living Trust U/T/A
 Dated 10-12-2004

STATE OF MISSOURI)
) SS
 COUNTY OF ST. LOUIS)

On this _____ day of _____, 2017, before me appeared Debra J. Mehlman, Trustee of The Debra J. Mehlman Living Trust U/T/A dated 10-12-2004, Member of Magnolia Townhomes, LLC, to me personally known, who, being by me duly sworn, as the member or designated agent of Magnolia Townhomes, LLC, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company; and said member or designated agent acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

My Commission Expires: _____

Notary Public

The undersigned holder or legal owner of notes secured by deed recorded in Book 22254 page 3573 and Book 22254 page 3586 of the St. Louis County records, joins in and approves in every detail of this boundary adjustment plat.

IN WITNESS WHEREOF, it has signed and sealed the foregoing this _____ day of _____, 2017.

Lindell Bank & Trust Company

Signature

Print Name & Title

STATE OF MISSOURI)
) SS
 COUNTY OF ST. LOUIS)

On this _____ day of _____, 2017, before me personally appeared _____, to me personally known, who being by me duly sworn, did say that he/she is the _____ of _____, a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said _____ by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have signed and sealed the foregoing the day and year first above written.

My Commission Expires: _____

Notary Public

Print Name

A tract of land being Lot A of "Delmar Heights Lots 17, 18 and 19 in Block 4 - Boundary Adjustment Plat" and part of a 15 foot wide vacated alley, vacated by City of University City Ordinance Number 7018, and recorded in Book 22211 page 833 of the St. Louis County Records, in Block 4 of "Delmar Heights" a subdivision according to the plat thereof recorded in Plat Book 14 pages 34 and 35 of the St. Louis County Records, in U.S. Survey 2033, Township 45 North - Range 6 East, City of University City, St. Louis County, Missouri and being more particularly described as follows:

Beginning at the intersection of South line of Delmar Avenue, 80 feet wide, with the West line of Central Avenue, 60 feet wide; thence Southwardly along said West line of Central Avenue, 60 feet wide, South 06 degrees 45 minutes 40 seconds West 135.00 feet to the North line of a 15 foot wide vacated alley, vacated by City of University City Ordinance Number 5067, and recorded in Book 7017 page 1570 of the St. Louis County Records; thence Westwardly along said North line North 83 degrees 00 minutes 00 seconds West 150.64 feet to the Northward prolongation of the West line of Lot 20, in Block 4 of said "Delmar Heights"; thence Southwardly along said Northward prolongation of the West line of Lot 20, South 07 degrees 02 minutes 00 seconds West 15.00 feet to the Northeast corner of Lot 13 of said "Delmar Heights"; thence Westwardly along the North line of said Lot 13 North 83 degrees 00 minutes 00 seconds West 20.00 feet to the Southeast corner of Lot 14 of said "Delmar Heights"; thence Northwardly along the East line of said Lot 14 North 07 degrees 02 minutes 00 seconds East 50.00 feet to the Northeast corner of said Lot 14; thence along an Eastward prolongation of the North line of said Lot 14 South 83 degrees 00 minutes 00 seconds East 7.50 feet to the centerline of the aforementioned 15 foot wide vacated alley; thence Northwardly along said centerline North 07 degrees 02 minutes 00 seconds East 100.00 feet to the aforementioned South line of Delmar Avenue, 80 feet wide; thence Eastwardly along said South line South 83 degrees 00 minutes 00 seconds East 162.50 feet to the point of beginning and containing 0.518 Acres according to calculations by Volz Inc. during June 2017.

Notes:

- Bearing on the South line of Delmar adopted from "Delmar Heights" as recorded in Plat Book 14 pages 34 and 35.
- St. Louis County Benchmark 14-514 Elev. = 595.47(NAVD88 DATUM) Cut "L" on the southeast corner of the concrete base of a parking area light post situated southeast of a Sinclair sign in a landscaped island in the northeast quadrant of Delmar Boulevard and Hanley Road, near the southwest corner of the Sinclair gas station at 7489 Delmar Boulevard, roughly 40' west of a sanitary manhole in the sidewalk on the north side of Delmar Boulevard and 23' southeast of a communications manhole in the sidewalk on the east side of Hanley Road.
 Site Benchmark - Elevation 555.57 top of Iron pipe found near the Northwest corner of 7634 Delmar Ave.
- Property N/F of Magnolia Townhomes, LLC
 Loc. No.'s: 18K640074 & 18K640000
 Deeds: 22254/3567, 22254/3570 & 00000/0000

This is to certify that this plat of "MAGNOLIA TOWNHOMES" was approved by the Planning Commission of the City of University City, Missouri on the _____ day of _____, 2017.

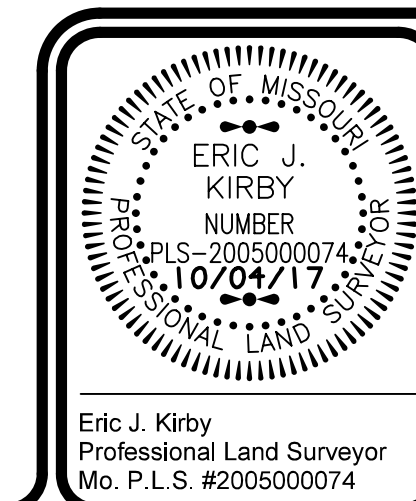
Print Name, Chairperson

Print Name, Executive Secretary

This is to certify that this plat of "MAGNOLIA TOWNHOMES" was approved by the City Council of the City of University City, Missouri on the _____ day of _____, 2017.

Print Name, City Clerk

ZONING SETBACKS
 FRONT: 20 FOOT
 REAR: 20 FOOT
 SIDE: 5 FOOT
 BETWEEN ATTACHED: 0 FEET
 MIN. LOT: 2000 S.F.



Eric J. Kirby
 Professional Land Surveyor
 Mo. P.L.S. #2005000074

MISSOURI CORPORATE CERTIFICATES OF AUTHORITY
 NO. 19 EXPIRES: DECEMBER 31, 2017 - LAND SURVEYING
 NO. 203 EXPIRES: DECEMBER 31, 2017 - ENGINEERING

Magnolia Townhomes
 Sheet 1 of 1
 20973-04



Council Agenda Item Cover

MEETING DATE: November 27, 2017

AGENDA ITEM TITLE: Pre-Construction Land Disturbance – Adopting St. Louis County Land Disturbance Code (Major Land Disturbance)

AGENDA SECTION: Unfinished Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

The St. Louis County Phase II Stormwater Management Plan (SWMP) was developed to improve area water quality by preventing harmful pollutants from being carried by stormwater runoff into local water bodies. The Metropolitan St. Louis Sewer District (MSD) partners with 59 municipalities (co-permittees) to comply with stormwater permit requirements for the St. Louis Metropolitan Small Municipal Separate Storm Sewer System (MS4). This permit is required by the Federal Clean Water Pollution Control Act was issued by the Missouri Department of Natural Resources (MDNR).

Best Management Practices (BMPs) are methods to prevent or reduce the pollutants in stormwater runoff. The SWMP includes BMPs that address potential sources of pollutants in stormwater as required by the federal and state regulations. The implementation of BMPs in the SWMP will satisfy the six Minimum Control Measures (MCMs) required by the Phase II Regulations. The six MCMs are as follows:

1. Public Education and Outreach
2. Public Involvement and Participation
3. Illicit Discharge and Elimination
4. Construction Site Stormwater Runoff Control
5. Post-Construction Stormwater Management
6. Pollution Prevention/Good Housekeeping for Municipal Operations

MCMs 1 – 3 are primarily the responsibility of MSD with each municipality's support. MCMs 4 – 6 are primarily the responsibilities of the municipality.

MCM4 requires municipalities to create an ordinance or other mechanism to require sediment control BMPs at construction sites for projects involving one (1) acre or more of land, or a site involving less than one (1) acre that is part of a proposed development that will ultimately disturb one (1) acre or more (Major Land Disturbance). This would add a land disturbance permit for this size of projects making inspections and compliance measures necessary. Municipalities can create their own land disturbance code and perform their own permitting and compliance, or they can contract with St. Louis County. MCM4 is required to be achieved by December 31, 2017.

This proposal is to adopt the St. Louis County Land Disturbance Code as it pertains to major land disturbance. The code refers to ordinary land disturbance permitting - for projects having between 2,000 ft² and 1 acre of land disturbed, and major land disturbance permitting - for projects with greater than 1 acre of land disturbed. University City would adopt the code as it pertains to major land disturbance only.

This adoption is an interim solution to meet the MS4 permit requirements. Once the MCM4 requirements have been met, the city will be able to move forward with evaluating how to best to implement land disturbance permitting for both major and ordinary land disturbance activities. This will also initiate the evaluation of the municipal code to determine the best way to fully incorporate land disturbance activity requirements. It is proposed to abide by the St. Louis County land disturbance code until recommendations have been vetted by staff the Stormwater Task Force, and City Council.

RECOMMENDATION:

Staff recommends adopting the St. Louis County Land Disturbance Code as it applies to Major Land Disturbance.

ATTACHMENTS:

- Draft Ordinance for adopting St. Louis County Land Disturbance for Major Land Disturbance Permitting
- St. Louis County Land Disturbance Code
- DRAFT 2017 St. Louis county Phase II Stormwater Management Plan

INTRODUCED BY: _____

DATE: _____

BILL NO. 9342

ORDINANCE NO. _____

AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING MINIMUM REGULATIONS FOR CONTROLLING EROSION, AND SEDIMENT FROM LAND DISTURBANCE ACTIVITIES AT CONSTRUCTION SITES WITHIN THE CITY OF UNIVERSITY CITY, MISSOURI; PROVIDING FOR THE ISSUANCE OF PERMITS; MAKING OF INSPECTIONS; COLLECTION OF PERMIT AND INSPECTION FEES; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF THROUGH THE ADOPTION OF THE LAND DISTURBANCE CODE OF THE COUNTY OF SAINT LOUIS, MISSOURI AS THE LAND DISTURBANCE CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI AS IT PERTAINS TO MAJOR LAND DISTURBANCE.

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

Section 1. The Land Disturbance Code as adopted by the County of Saint Louis, Missouri through last amendatory ordinance 25,494 approved on July 31, 2013 by County of Saint Louis, Missouri is hereby adopted as the Land Disturbance Code of the City of University City Missouri as it pertains to major land disturbance, a copy of which is attached hereto, as if fully set out herein.

Section 2. All ordinances, parts of ordinances or provisions of the Municipal Code of the City of University City, Missouri in conflict with any provisions of this ordinance are hereby repealed.

Section 3. This ordinance, and the code adopted hereby, shall be in full force and effect from and after its passage and approval.

PASSED and ADOPTED THIS _____ DAY OF _____, 2017.

MAYOR

ATTEST:

INTERIM CITY CLERK

CERTIFIED TO BE CORRECTED AS TO FORM:

CITY ATTORNEY

ST. LOUIS COUNTY ORDINANCES 1974, AS AMENDED TITLE XI

PUBLIC WORKS AND BUILDING REGULATIONS

CHAPTER 1114 - LAND DISTURBANCE CODE

Section	
<u>1114.100</u>	Chapter 1—Administration
<u>1114.200</u>	Chapter 2—Design Requirements
<u>1114.300</u>	Chapter 3—Inspections
<u>1114.400</u>	Chapter 4—Implementation

1114.100 - Chapter 1—Administration.

SECTION 101.0 SCOPE

101.1 Title: These regulations shall be known as the "Land Disturbance Code" of St. Louis County, Missouri, hereinafter referred to as "this Code."

101.2 Introduction: On construction or land disturbance sites, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Deposits of eroded soil also necessitate maintenance of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat. Construction activities also utilize materials and generate wastes, which if not properly controlled can pollute receiving waters.

101.3 Purpose: The purpose of this Code is to safeguard persons, protect property, and prevent damage to the environment in St. Louis County. This Code will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth in St. Louis County.

101.4 Scope: This Code provides for the safety, health and welfare of the public by regulating and controlling the design, construction, use, and maintenance of any development or other activity that disturbs land surfaces or results in the movement of earth in the unincorporated part of St. Louis County, Missouri or any municipality in St. Louis County contracting with the County for Land Disturbance Code enforcement.

101.5 Definitions: For the purpose of this Code, the following terms, phrases, words, and their derivations shall have the meanings given herein. Where terms are not defined by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Best management practices or BMP: Practices, procedures, methods, devices, or a schedule of activities to reduce the amount of sediment and other pollutants in storm water discharges associated with construction and land disturbance activities.

Board: The Board of Appeals or Building Commission as provided for in Section 4.330, St. Louis County Charter.

Borrow pit or site: An area where material (usually soil, gravel, or sand) is excavated for use at another location.

Clearing: Any activity that removes the vegetative surface cover or destroys the root system.

Code or this Code: The "Land Disturbance Code" of St. Louis County, Missouri, as adopted by St. Louis County Ordinance.

Commercial: A development for or consisting of any type of use other than Residential as defined in this code.

Community garden: A single piece of land gardened collectively by a group of people for the purpose of growing fresh vegetables and similar produce for their own consumption or to donate to others.

Construction site or land disturbance site: A parcel or contiguous parcels, where land disturbance activities are performed as part of a proposed development.

County: St. Louis County, Missouri.

Department of Health : The County Department of Health, acting through its Director, or his/her duly authorized designee.

Department of Highways and Traffic: The County Department of Highways and Traffic, acting through its Director, or his/her duly authorized designee.

Department of Planning: The County Department of Planning, acting through its Director, or his/her duly authorized designee.

Department of Public Works: The County Department of Public Works, acting through its Director, or his/her duly authorized designee.

Disaster: A disaster shall include but not necessarily be limited to flood, windstorm, tornado, severe storm, earthquake, bomb blast, explosion or similar natural or man-made type event. The Code Official shall make the determination whether an event shall be declared a disaster.

Drainage way: Any channel that conveys surface runoff through a site.

Emergency: An event or occasion that requires immediate action in order to preserve or restore the public peace, health, safety or welfare.

Erosion: The wearing away of land surface through the action of wind or water.

Erosion control: Any best management practices (BMP) that prevents or minimizes erosion.

Grading: Reshaping the ground surface through excavation and/or fill of material.

Land disturbance activities : Clearing, grading or any related work which results in removal of the natural site vegetation or destruction of the root zone or otherwise results in leaving the ground surface exposed to soil erosion through the action of wind or water.

Land disturbance, major: Any land disturbance activity involving one (1) acre or more of land, or a site involving less than one (1) acre that is part of a proposed development that will ultimately disturb one (1) acre or more.

Land disturbance, ordinary: Any land disturbance activity involving less than one (1) acre of land.

Land disturbance permit: A permit issued by the authority having jurisdiction authorizing a land disturbance activity at a specific site subject to conditions stated in the permit. A permit may be for any one or more major or ordinary land disturbance activities.

Perimeter control: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing: Clearing a parcel of land in distinct stages, with the stabilization of each phase substantially completed before the clearing of the next.

Qualified professional: A Missouri licensed professional engineer or person who has been tested and certified by an independent organization as having passed an examination in the principles and practices of erosion and sediment control and methods to prepare SWPPPs and who is also knowledgeable in the principles and practices of erosion and sediment control, including the best management practices described in this Code.

Registered design professional: An individual who is registered or licensed to practice his/her respective design profession as defined by the statutory requirements of the professional registration laws of the State of Missouri.

Residential: A development for or consisting of detached single-family dwellings, detached two-family dwellings, or multiple single-family dwellings (townhouses).

Runoff coefficient. The fraction of total rainfall that exits at the outfalls from a site.

Sediment control: Any best management practices that prevent eroded sediment from leaving a site.

Site construction plans: Written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristic of land disturbance activities and related features, elements, and components of a project necessary for obtaining a land disturbance permit.

Special inspections: Inspection requiring special expertise of the erosion and sediment and other pollutant control measures, outfalls, and off-site receiving waters, the purpose of which is to ensure the proper installation, operation, and maintenance of the best management practices (BMP) and to determine the overall effectiveness of the storm water pollution prevention plan (SWPPP) and the need for additional control or corrective measures.

Stabilization : The use of best management practices (BMP) that prevent exposed soil from eroding from a land disturbance site.

Start of construction: The first land disturbance activity associated with a development.

Stockpile: A temporary pile or storage location on a commercial site for materials that can be used as approved fill material under this Code as future on-site fill or as fill at another approved location for proposed development that is in the permit/review approval process.

Storm water pollution prevention plan (SWPPP): A management plan, the purpose of which is to ensure the design, implementation, management and maintenance of best management practices (BMP) in order to reduce the amount of sediment and other pollutants in storm water discharges associated with land disturbance activities, comply with the standards of the County and ensure compliance with the terms and conditions of the applicable state permits, including adherence to the land disturbance program contained in Missouri MS4 NPDES permits.

Water course: A natural or artificial channel or body of water, including but not limited to lakes, ponds, rivers, streams, ditches and other open conveyances that carry surface runoff water either continuously or intermittently.

101.6 Service to municipalities:

101.6.1 Contracting with municipalities: The County Executive, is hereby authorized to contract with municipalities within the County to provide appropriate services to enforce the requirements of this Code, and further to collect fees for applicable permits and inspections issued or made pursuant to such contracts. No contract for services under this Code shall be entered into until the municipality desiring to contract with the County for enforcement of this Code shall:

1. Contract with the County for explosives code enforcement services; and
2. Adopt a code identical in substance to this Code; and
3. Perform the functions associated with the authority and responsibilities of the Department of Planning identified in section 103.1 of this Code, or other mutually agreeable services; and
4. Perform the functions associated with the authority and responsibilities of the Department of Highways and Traffic identified in Section 103.3 of this Code with respect to municipal streets and roadways and flood plain administration and enforcement or other mutually agreeable services.

101.6.2 Municipal zoning approval: Except with respect to property owned or controlled by County, all plans for land disturbance activities within the corporate limits of any municipality that contracts with the County for code enforcement services shall be reviewed and approved by the contracting municipality for compliance with its zoning or other municipal regulatory ordinances or provisions prior to issuance of a County permit under this Code.

SECTION 102.0 APPLICABILITY

102.1 Other laws: The provisions of this Code shall not be deemed to nullify any provisions of County, state or federal law.

102.2 Referenced standards and manuals: The standards and manuals referenced below shall be considered a part of the requirements of this Code. Where conflicts occur between the provisions of County ordinances, including this Code, and the referenced standards and manuals, the provisions of County ordinances shall apply.

1. County's Model Best Management Practices for Land Disturbance - Sediment and Erosion Control Manual.
2. County's Design Criteria for the Preparation of Improvement Plans Manual.
3. County's Standard Specification for Highway Construction Manual.
4. Standard Method 2540 F from the Standard Methods for Examination of Water and Wastewater jointly published by the American Public Health Association (APHA), the American Water Works Association (AWWA), and the Water Environment Federation (WEF).

SECTION 103.0 ENFORCEMENT

103.1 Department of Planning: The Department of Planning shall have the authority and responsibility to perform the following functions related to the enforcement of this Code as associated with major land disturbance permits:

1. Administer the determination, collection and release of land disturbance escrows required by this Code in coordination with the Departments of Public Works and Highways and Traffic.

103.2 Department of Public Works: The Department of Public Works shall have the authority and responsibility to perform the following functions related to the enforcement of this Code:

1. Receive applications for major land disturbance permits;
2. Coordinate the review of major land disturbance permit applications and accompanying documents with the Departments of Planning and Highways and Traffic;
3. Coordinate the issuance of the major land disturbance permit with the Departments of Planning and Highways and Traffic and issue such permits. Such permits may authorize any one (1) or more major land disturbance activity;
4. Inspect commercial land disturbance activities; and residential land disturbance activity associated with permitted construction of buildings or structures;
5. Inspect commercial land disturbance activities within or abutting areas designated one-hundred (100) year flood plain; and
6. Receive applications, perform plan review, inspect and issue of permits for ordinary land disturbance activities relating to best management practices (BMP) to be utilized to control erosion and sedimentation from leaving the site during construction and other land disturbance activities.

103.3 Department of Highways and Traffic: The Department of Highways and Traffic shall have the authority and responsibility to perform the following functions related to the enforcement of this Code:

1. Plan review of major land disturbance activities;
2. Plan review and inspection of land disturbance activities related to construction, repair, maintenance, or condition of roadways and roadway right-of-ways which are maintained by the County;
3. Plan review of land disturbance activities within or abutting areas designated one hundred-year flood plain;
4. Inspect residential land disturbance activities within or abutting areas designated one hundred-year flood plain; and
5. Inspect residential land disturbance activities except activities associated with permitted construction of buildings and structures.

103.4 Protection of adjacent property: No major land disturbance permit or ordinary land disturbance permit shall be issued where the Department of Highways and Traffic and/or the Department of Public Works finds that the proposed land disturbance activity would result in a material change in the amount or pattern of surface water run-off to the substantial injury of neighboring public or private property or right-of-way. All land disturbance activities shall be carried out in such a manner as to minimize inconvenience and harm to adjacent properties and property owners.

103.5 Rule-making authority: County departments having enforcement authority and responsibilities described in Section 103 of this Code shall have the authority, as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this Code, in order to secure the intent thereof, and to designate requirements applicable because of local climatic or other conditions. Such rules and regulations shall not have the effect of waiving requirements specifically provided for in this Code or of violating accepted engineering practices involving the purpose of this Code.

SECTION 104.0 VIOLATIONS

104.1 Unlawful acts: It shall be unlawful for any person, firm or corporation to perform any land disturbance activities, or cause or allow same to be done without obtaining the appropriate permit to do so, or to be otherwise in conflict with or in violation of any of the provisions of this Code.

104.2 Notices of violations: When the Department of Public Works or the Department of Highways and Traffic determines that a violation of this Code exists, the respective Director shall notify the violator. The notification shall be in writing and shall be delivered to the violator or his/her legally authorized representative or mailed to his last known address via first class mail postage prepaid. Any person having been notified that a violation exists and who fails to abate the violation within seven (7) calendar days after notification, shall be subject to the penalties enumerated in this Code.

104.2.1 Notices of violations on highways and traffic projects: The notice of violation will consist of the site storm water pollution prevention plan (SWPPP) construction site inspection report delivered to the contractor by the resident engineer or their assign. Any person having been notified that a violation exists and who fails to abate the violation within seven (7) calendar

days after notification, shall be subject to the penalties enumerated in this Code and/or penalties issued by the Missouri Department of Natural Resources (MDNR) and/or the Environmental Protection Agency (EPA).

104.3 Prosecution of Violation: If the violator does not abate the violation promptly, the Department of Public Works or the Department of Highways and Traffic shall request the County Counselor to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation.

104.4 Violation, penalties: Any person, firm or corporation who shall:

1. Violate any provision of this Code, or
2. Fail to comply with any of the requirements of this Code, or
3. Perform work in violation of the approved construction documents or the storm water pollution prevention plan, or any directive of the Department of Public Works or the Department of Highways and Traffic, or of a permit or certificate issued under the provisions of this Code, or
4. Start any work requiring a permit without first obtaining a permit therefore, or
5. Fail to call for the required County inspections, or
6. Fail to cause or make the special inspector's regular and after-rain inspections or file the required special inspector weekly reports, or
7. Continue any work on or about the site after having been served a stop-work order, except for such work which that person, firm or corporation has been directed to perform to remove a violation or unsafe conditions, or
8. Assist in any violation of this Code, or
9. Maintain any property on which a violation of this Code exists, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

104.4.1 Failure to obtain a permit: In addition to the actions and penalties contained in Sections 104.3 and 104.4 above, County may implement the following procedure when work has been started prior to issuance of a permit required by this Code:

1. Issue a stop work order.
2. Assess an administrative penalty which shall not exceed the greater of five hundred dollars (\$500.00) or one (1) percent of the cost of the land disturbance activities. In making the assessment, the Department will consider whether the violator has previously violated this Code and whether the occupation or experience of the violator indicates that he/she knew or should have known that a permit was required.

104.4.2 Failure to perform special inspections, produce special inspector reports, request inspections, or implement BMP: In addition to the actions and penalties contained in Sections 104.3 and 104.4 above, County may implement the following procedure, when a person fails to conduct special inspections, fails to submit special inspector reports, fails to schedule the required inspections, or fails to implement BMP), including re-establishing permanent vegetation on the site as required by this Code:

1. Issue a violation, and, if the violation is failure to perform special inspections or produce special inspection reports, also issue a stop work order.
2. Assess an administrative penalty which shall not exceed five hundred dollars (\$500.00); except that in addition, assess an administrative penalty of up to one hundred dollars (\$100.00) per day for failure to implement BMP. In making the assessment, the Department will consider whether the violator has previously violated this Code and whether the occupation or experience of the violator indicates that he/she knew or should have known that special inspector inspections, special inspector reports, or County inspections were required, or that BMP were required to be implemented.

104.5 Appeal: Appeals from County actions or penalties imposed pursuant to Section 104.4.1 or 104.4.2 shall be governed by provisions relating to appeals to the Board contained in Section 105.

104.6 Abatement of violation: The imposition of the penalties herein prescribed shall not preclude the County Counselor from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal use of a property or to stop an illegal act.

104.7 Permit suspension or revocation: County may suspend or revoke any permit if the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any County ordinance, including this Code, or any state or federal regulation. In addition, County may suspend or revoke any permit when a land disturbance activity is conducted in violation of the requirements of this Code or the terms of the permit in such a manner as to materially adversely affect the safety, health or welfare of persons, or materially be detrimental or injurious to property or improvements.

104.8 Stop work order: In addition to the stop work orders issued pursuant to sections 104.4.1 and 104.4.2, upon notice from the Department of Public Works or the Department of Highways and Traffic that work on any property is being prosecuted contrary to the provisions of this Code or in an unsafe and dangerous manner, the person performing such work shall stop work immediately. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.

Any person, who shall continue any work in or about the property after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as specified in this Code.

105.0 APPEALS

105.1 Application for appeal: Any person shall have the right to appeal a decision of the Department of Planning, the Department of Public Works or the Department of Highways and Traffic to the Board. The Board shall consist of the members of the Building Commission created in Article IV, Section 4.330 of the St. Louis County Charter.

105.1.1 Filing procedure: All appeals shall be filed in writing with the Department of Public Works. All appeals shall be filed within thirty (30) days after the decision to be appealed is rendered by the departments identified in this section.

105.1.2 Filing fee: All appeals must be accompanied by a fee in the amount specified in Chapter 1100, SLCRO 1974, as amended.

105.2 Notice of hearing on appeal: The Board shall meet upon notice from the Chairman, within thirty (30) days of the filing of an appeal, or at stated periodic meetings.

105.3 Open hearing: All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the County department(s) having enforcement authority and responsibilities described in section 103.0 of this Code, and any person whose interests are affected, shall be given an opportunity to be heard.

105.4 Procedure: The Board shall adopt and make available to the public procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received.

105.5 Board decision: Decisions by the Board to reverse or modify a decision by a Department requires a minimum vote of three members.

105.6 Resolution: The decision of the Board shall be in writing and shall consist of findings of fact and conclusions of law. Copies shall be furnished to the appellant and to the County department(s) having enforcement authority and responsibilities.

105.7 Court review: A party adversely affected by a decision of the Board may appeal to an appropriate court from such decision. Application for review shall be made in the manner and time required by law following the filing of the findings of fact and conclusions of law.

SECTION 106.0 LAND DISTURBANCE PERMITS REQUIRED

106.1 County permit required: Any person who intends to conduct any land disturbance activity must obtain a permit prior to beginning the activity. The type of permit shall be as required by sections 106.1.1 or 106.1.2 in this Code.

Exception: Activities that do not require permits under Section 106.3 of this Code.

106.1.1 Major land disturbance permit: No person shall perform any major land disturbance activity prior to receipt of a major land disturbance permit. Applications for major land disturbance permits shall be filed with the Department of Public Works.

Exception: Activities that do not require permits under section 106.3 of this Code.

106.1.2 Ordinary land disturbance permit: No person shall perform any ordinary land disturbance activity prior to receipt of an ordinary land disturbance permit. Applications for ordinary land disturbance permits shall be filed with by the Department of Public Works.

Exceptions:

1. Activities that do not require permits under section 106.3 of this Code.
2. An ordinary land disturbance Permit is not required for County Highways and Traffic and Parks and Recreation projects; provided erosion and sediment control measures are provided until grass or other vegetation is established or other approved ground cover means are used.

106.1.2.1 County building construction permits and related ordinary land disturbance activities: The Department of Public Works may include ordinary land disturbance activities associated with the construction of a building, structure, or parking lot and installation of associated utilities, sewers, or equipment serving the building, structure, or parking lot authorized by a permit issued under the building, plumbing, electrical, and mechanical codes as an integrated permit for the proposed construction.

106.1.2.2 Land disturbance activities related to emergency work: Where work and associated land disturbance activities must be performed in an emergency situation to protect the health, safety and welfare of the general public, other than disaster response activities described in Item 1 of Section 106.3, the application for permit must be filed within forty-eight (48) hours (two (2) business days). Every person shall immediately report all emergency work to the Department of Public Works, or in the case of work within a roadway to the Department of Highways and Traffic and apply for appropriate permits pursuant to procedures directed by the Department.

106.2 Limitation on transfer of land disturbance permits: Any person who buys land from a person who has been issued a land disturbance permit under sections 106.1.1 or 106.1.2 of this Code must obtain a separate land disturbance permit from County.

Exceptions:

1. Portions of a site having a major land disturbance permit may be transferred to a new land owner provided the original permit holder obtains the approval of the Department of Planning and the Department of Public Works to retain responsibility for the land disturbance activities on the remaining portions of such property not transferred to the land owner.

106.3 Exceptions—Land disturbance permits not required: Land disturbance permits are not required for the activities identified as items 1 and 7 in this section, nor are such permits required for the activities identified in items 2, 3, 4, 5 and 6, provided the activity does not alter, or cause to

be altered, the present surface of the ground: *a)* by any cut or fill at the property line; *b)* by any cut or fill that would permanently divert one drainage area to another drainage area; *c)* by any cut or fill which would deposit mud or harmful silt, or create erosion or damage to adjoining properties; *d)* by any cut or fill that would block or affect an existing swale or drainage path in a manner to cause damming and ponding; *e)* by any cut or fill within a flood plain without a floodplain study being approved by the County, or *f)* by any cut or fill within a creek or waterway channel.

1. Any disaster response activity that is immediately necessary for the protection of life, property, or natural resources.
2. Existing farming, nursery and agricultural operations conducted as a permitted or accessory use.
3. Land disturbance activities involving less than thirty (30) cubic yards of earth/soil moved and less than two thousand (2,000) square feet of disturbed area provided the land disturbance activity is for the improvement of the property. Erosion and sediment control measures shall be provided when necessary, until grass or other vegetation is established or other approved means of ground cover means are used.
4. Land disturbance activities associated with additions to and accessory structures for one- and two-family dwellings.
5. Removal of existing or dying grass or similar vegetation by disturbing not more than ten thousand (10,000) square feet and re-sodding or re-seeding with new landscaping to include preparation of the seed bed; provided erosion and sediment control measures are provided until the grass or other vegetation is established. Any cut or fill in conjunction with the preparation of the seedbed shall not exceed thirty (30) cubic yards.
6. Gardening and similar activities on property occupied by one- or two-family dwellings and community gardens less than two thousand (2,000) square feet in area, provided there is a vegetative buffer around the perimeter of the garden or other approved method to prevent eroded sediment from leaving the site.
7. Land disturbance activities by any public utility for the installation, inspection, repair or replacement of any of its equipment or for its collection or distribution lines or piping systems; provided erosion and sediment control measures are provided until grass or other vegetation is

established or other approved ground cover means are used. This exception does not apply to any land disturbance activity associated with work that requires a building permit or special use permit.

106.4 State of Missouri and other agency permits required: The permit applicant shall obtain a land disturbance permit from the State of Missouri Department of Natural Resources for any site where one (1) acre or more of land will be disturbed before beginning any site work authorized by a County permit. This requirement applies to sites of less than one (1) acre that are part of a proposed development that will ultimately disturb one (1) acre or more.

If permits are also required from other County Departments or from State or Federal agencies, the permit applicant shall obtain the required permits before beginning any site work authorized by a County land disturbance permit.

106.5 Specialized land disturbance permit: A specialized land disturbance permit may be issued for clearing and grubbing, borrow pits or sites, stockpiling of approved fill materials, rough grading, or similar specialized work provided applicant has submitted a SWPPP, adequate plans, and information complying with pertinent requirements of this Code for the advance work. The holder of such specialized permit shall proceed at their own risk with the scope of land disturbance work authorized without assurance that additional land disturbance activities will be approved. If County does not approve additional land disturbance activities, the holder of the specialized permit shall maintain temporary erosion and sediment control measures until permanent engineered BMP are installed, if required, and permanent vegetation on the site is re-established.

106.6 Posting of permit and inspection placard: Work requiring a permit shall not commence until the permit holder posts the permit and inspection placard at the job site for the recording of inspections. The permit and inspection placard shall be placed in a transparent envelope or other approved transparent receptacle that provides weather protection and kept on the site of work in an approved location until the completion of the land disturbance work.

106.7 Expiration: Land disturbance permits shall expire and become invalid under any of the following conditions:

1. Work on the site does not commence within 180 calendar days after issuance of the permit;
2. Work on the site is suspended or abandoned for a period of 180 calendar

days;

3. More than six (6) months has transpired since the issuance of an ordinary land disturbance permit, and no extension has been requested;
4. More than two (2) years have transpired since the issuance of the major land disturbance permit, and no extension has been requested;
5. The deposit agreement required by the Planning Department for the major land disturbance is no longer valid.
6. If requests for extension have not been granted.

The Department of Public Works may issue permits having a longer duration than indicated above for land disturbance activities associated with quarries, sand and gravel dredging operations, and similar long-term specialized borrow pit or site excavation operations. The Department shall collect the permit extension fees that normally would otherwise be collected in accordance with Section 106.7.1, along with fees for any additional inspections that may be required, at the time the permit having a longer duration is issued. Permits issued for longer durations shall have an expiration date. Upon expiration of the longer duration permit the Department of Public Works may grant additional extensions in accordance with Section 106.7.1.

106.7.1 Permit extensions: One (1) or more extensions of time, for periods not to exceed three (3) months each for an ordinary land disturbance and one (1) year each for a major land disturbance, may be granted subject to a permit extension fee at the rate prescribed in Chapter 1100, SLCRO. The request for a permit extension shall be submitted to the County in writing, and justifiable cause demonstrated, by the permit holder at least ten (10) working days before the expiration of the permit. The request shall also include a construction schedule that represents a reasonable good faith effort to complete the land disturbance work and re-establish permanent vegetation in a timely manner.

106.8 Correction of existing violations: The Department of Public Works may withhold issuance of a land disturbance permit if there are unabated written violations against the property until the violations are corrected and abated or proposed to be corrected and abated by the work to be done under the current application for permit.

106.9 Sites declared unsafe: The Department of Public Works may withhold issuance of a land disturbance permit on any site declared unsafe by any federal, state or county agency.

106.10 Permit holder's responsibilities: Should the permit be abandoned and expire, become invalid, or be suspended or revoked, the permit holder shall continue to comply with applicable BMP provisions of this Code including maintaining temporary BMP erosion and sediment control measures until permanent engineered BMP are installed, if required, and/or permanent vegetation is re-established on the site.

SECTION 107.0 LAND DISTURBANCE PERMIT APPLICATIONS

107.1 Permit applications: Applications for land disturbance permits required by this Code shall be in the form prescribed by and accompanied by the site construction plans and documents determined necessary by the County Department(s) responsible for reviewing and issuing the permit. Applications for major land disturbance permits shall include proof that proposed land disturbance and uses have received approvals from the County Department of Planning or zoning approval from the municipality in which the land disturbance activities will occur. The total estimated fee for the activities to be performed by the Departments of Public Works and Highways and Traffic shall be paid in advance. The filing fee shall be credited towards the total permit fee when the permit is issued. Filing fees are non-refundable should the application for permit be denied or cancelled.

107.1.1 Time limitation of application: An application for a permit for any proposed work shall be deemed to have been abandoned one hundred eighty (180) days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that one (1) or more extensions of time for additional periods not exceeding ninety (90) days each may be granted subject to a non-refundable application extension fee at the rate prescribed in Chapter 1100, SLCRO, which shall be paid at the time the extension is granted. An additional inspection fee may also be charged for status inspections to verify work has not started. Application extension fees shall not be credited towards the total permit fee when the permit is issued.

107.2 Site construction plans required: All applications for permits shall be accompanied by site construction plans in the quantity determined by the Departments of Public Works and Highways and Traffic. Site Construction Plans for all Major Land Disturbances and for Commercial Ordinary Land Disturbances shall be prepared by a Registered Design Professional consistent with the professional registration laws of the State of Missouri. The cover or first sheet of the Site Construction Plans shall bear an original embossed or wet ink seal, the date, and original ink signature of the registered design professional. In addition, all other sheets shall bear an original embossed, wet ink, or mechanically reproduced seal of the registered design professional. The title block of the construction plans shall also include the name and address of the registered

design professional that sealed them. Site Construction Plans for Residential Ordinary Land Disturbances may be prepared by the owner or contractor, providing the scope of work is relatively simple and there is no engineering required. A Registered Design Professional shall prepare and seal plans for Residential Ordinary Land Disturbances when the scope of work is complex and/or requires engineering.

107.2.1 Storm water pollution prevention plan required (SWPPP) for major land disturbance permits: All applications for major land disturbance permits shall be accompanied by a storm water pollution prevention plan, prepared for the specific site by or under the direction of a qualified professional as directed by County. Only the components and elements of the storm water pollution prevention plan (SWPPP) that do not require engineering may be prepared by a qualified professional other than a Missouri Licensed Professional Engineer. The storm water pollution prevention plan (SWPPP), when prepared by a Missouri Licensed Professional Engineer, may be incorporated into the site construction plans required by Section 107.2. The site construction plans shall contain a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the storm water pollution prevention plan, and the applicant shall assume and acknowledge responsibility for compliance with this Code and the storm water pollution prevention plan at the site of the permitted activity.

107.3 Required land disturbance escrows for major land disturbance permits: Applicants for major land disturbance permits shall file a land disturbance escrow, naming County as beneficiary, in the form of cash, a letter of credit, or other improvement security in an amount deemed sufficient by the Department of Planning to cover all costs of improvements, landscaping, and maintenance of improvements for such period as specified by the Department of Planning. The land disturbance escrow shall include engineering and inspection costs sufficient to cover the cost of failure or repair of improvements installed on the site.

107.3.1 Release of escrows—Project closure: County will not release any land disturbance escrow to the property owner, site operator or permit holder until all of the following have been completed:

1. All temporary storm water control best management practices (BMP) have been removed and the site has been fully stabilized. A site is considered to be stabilized when perennial vegetation, pavement, buildings, or structures constructed of permanent materials cover all areas that were previously disturbed. Vegetative cover shall be established such that

erosion no longer occurs. This typically requires a minimum of seventy (70) percent fully established plant density over one hundred (100) percent of the disturbed area.

2. All permanent storm water control best management practices (BMP) have been completed.
3. All final inspections/certifications have been completed by each of the government jurisdictions involved in authorizing the project.

108.0 FEES

108.1 Issuance of permits: Land disturbance permits shall not be issued until the fees associated with the permit are paid to the individual County Departments as specified in sections 108.1.1 through 108.1.3 of this Code.

Exception: Individual County departments may defer all or parts of fees to a later stage of site development.

108.1.1 Department of Planning: Fees for the activities of the Department of Planning related to Land Disturbance permits shall be in accordance with the fee rates set forth in Chapter 1003 "Zoning Ordinance" and Chapter 1005 "The Subdivision Ordinance of St. Louis County."

108.1.2 Department of Highways and Traffic: Fees for the activities of the Department of Highways and Traffic related to Land Disturbance permits shall be in accordance with the fee rates set forth in Chapter 1100 "Code Enforcement Fee Schedules" and Chapter 1105 "Department of Highways and Traffic," and in Chapter 1005 "The Subdivision Ordinance of St. Louis County." The Department of Highways and Traffic is authorized to establish and collect inspection fees by estimating the total number of inspection hours required for the completion of the permitted work.

108.1.3 Department of Public Works: Fees for the activities of the Department of Public Works related to land disturbance permits shall be in accordance with the fee rates set forth in Chapter 1100 "Code Enforcement Fee Schedules." In applying the Code Enforcement Fee Schedule, the total estimated cost of land disturbance activities shall include applicable grubbing, site clearing, rough grading, sediment and erosion control measures, excavating, backfill, final grading, concrete flatwork, asphalt pavement, and final landscaping. The Department of Public Works may require a bona fide contract(s) or any affidavit of the owner of the project, in which the applicant and owner verify the total cost of the site improvements related to the permit. The Department of

Public Works is authorized to establish the fee by determining the plan review cost and estimating the total number of inspections required, when in the opinion of the Department of Public Works, the fee resulting from this method more closely relates to the cost of enforcing the requirements of this code. Fees for land disturbance related inspections associated with construction authorized by a building permit shall be assessed to the building permit in accordance with the additional inspection fee rates set forth in Chapter 1100 "Code Enforcement Fee Schedules."

108.2 Refunds: In the case of revocation of a permit or projects where land disturbance activities have begun, no refund shall be permitted. Any excess fee for abandoned projects, where land disturbance work has not started, shall be returned to the permit holder upon written request received not later than twelve (12) months after the date the permit was issued. All application filing fees, application extension fees, plan examination and permit processing fees and all penalties that have been imposed upon the permit holder under the requirements of this Code shall be deducted from the refund or paid by the permit holder prior to any refund being issued.

109.0 STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

109.1 Content—Storm water pollution prevention plan (SWPPP): The design requirements in Chapter 2 of this Code shall be complied with when developing the storm water pollution prevention plan and the plan shall include the following:

- 1) Name, address and telephone number of the site owner and the name, address and telephone number of the individual who will be in overall responsible charge of construction/development activities at the site. When more than one (1) individual is responsible for the entire construction or land disturbance site, the areas of the site over which each individual has control shall be identified.
- 2) Site address or location description and parcel identification number(s). Description of the nature of the land disturbance and construction activities.
- 3) A site map showing the outlines of the total project area, the areas to be disturbed, existing land uses, locations and names of surface water bodies, locations of flood plains, locations of temporary and permanent

best management practices (BMP) and such other information as may be required by the County department(s) having enforcement authority and responsibilities described in section 103.0 of this Code.

- 4) Existing contours of the site and adjoining strips of off-site property and proposed contours after completion of the proposed land disturbance and development, based on United States Geological Survey datum, with established elevations at buildings, walks, drives, street and roads; and information on necessary clearing and grubbing, removal of existing structures, excavating, filling materials brought to the site, spreading and compacting. Existing and proposed contours shall be shown at two-foot elevation intervals. Cross sections may be utilized in lieu of contours as approved by the Department of Highways and Traffic.
- 5) A natural resources map identifying soils, forest cover, and resources protected under other provisions of County Ordinances and a general map with enough detail to identify the location of the construction site and any waters of the United States or wetlands within one (1) mile of the site.
- 6) An estimate of the runoff coefficient of the site prior to disturbance and the runoff coefficient after the construction addressed in the permit application is completed.
- 7) Estimated quantity of land to be disturbed.
- 8) Details of the site drainage pattern both before and after major land disturbance activities.
- 9) Access to construction site.
- 10) Description of best management practices (BMP) to be utilized to control erosion and sedimentation during the period of land disturbance. A table or schedule listing each BMP to be utilized and the quantity or linear footage of each. Each BMP shall be identified as temporary or permanent.
- 11) Description of best management practices (BMP) to be utilized to prevent other potential pollutants such as construction wastes, toxic or hazardous substances, petroleum products, pesticides, herbicides, site litter, sanitary wastes and other pollutants from entering the natural drainage ways during the period of construction and land disturbance.
- 12)

Description of best management practices (BMP) that will be installed during land disturbance to control pollutants in storm water discharges that will occur after land disturbance activity has been completed.

- 13) Location of temporary facilities such as off-street parking, wash-down area for related vehicles, on-site fueling facilities, concrete or asphalt batch plants, and other similar temporary facilities.
- 14) Sources of off-site borrow material or spoil sites, and all information relative to haul routes, trucks and equipment.
- 15) The anticipated sequence of construction and land disturbance activities, including installation of best management practices (BMP), removal of temporary best management practices (BMP), stripping and clearing; rough grading; construction utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date (s) on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- 16) All erosion and sediment control measures necessary to meet the objectives of this Code throughout all phases of construction and after completion of site development. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- 17) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- 18) Provisions for maintenance of control facilities, including easements.
- 19) Plans for responding to any loss of contained sediment to include the immediate actions the permit holder will take in case of a containment failure. This plan must include documentation of actions and mandatory reporting to the Department of Public Works.
- 20) Schedules and procedures for routine inspections of any structures provided to prevent pollution of storm water or to remove pollutants from storm water and of the site in general to ensure all best management practices (BMP) are continually implemented and are effective.

- 21) Description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. During construction, strategies shall be implemented to protect post construction best management practices (BMP).
- 22) Description of any non-storm water discharges and any anticipated dewatering methods.
- 23) A signed and dated certification statement that the SWPPP was prepared in accordance with the requirements and regulations of the County and the Missouri Department of Natural Resources.

109.2 Required plan amendments—Storm water pollution prevention plan (SWPPP): The permit holder shall amend, or shall cause the Special Inspector or preparer of the SWPPP to amend, the storm water pollution prevention plan whenever:

- 1) Design, operation or maintenance of best management practices (BMP) is changed;
- 2) Design of the construction project is changed that could significantly affect the quality of the storm water discharges;
- 3) Site operator's inspections indicate deficiencies in the storm water pollution prevention plan (SWPPP) or any best management practices (BMP);
- 4) Inspections by County or by the Missouri Department of Natural resources indicate deficiencies in the storm water pollution prevention plan (SWPPP) or any best management practices (BMP);
- 5) The storm water pollution prevention plan (SWPPP) is determined to be ineffective in significantly minimizing or controlling erosion or excessive sediment deposits in streams or lakes;
- 6) The storm water pollution prevention plan (SWPPP) is determined to be ineffective in preventing pollution of waterways from construction wastes, chemicals, fueling facilities, concrete truck washouts, toxic or hazardous materials, site litter or other substances or wastes likely to have an adverse impact on water quality;
- 7)

Total settleable solids discharging from a storm water outfall exceeds 2.5 ml/L per Standard Method 2540F for storm events up to but not exceeding the local two-year, twenty-four-hour storm. This limitation does not apply during storm events that exceed the local two-year, twenty-four-hour storm;

- 8) The County or the Missouri Department of Natural Resources determines violations of water quality standards may occur or have occurred.

When any of the above storm water pollution prevention plan (SWPPP) amendments cause engineering design changes, the permit holder shall cause the registered design professional to revise and re-submit the site construction plans to the County for approval. The County may require sampling and reporting as a result of illegal discharges, compliance issues, complaint investigations, or evidence of contamination from activities at the site.

109.3 Permit holder responsibilities for administration of storm water pollution prevention plan (SWPPP): The permit holder shall:

- 1) Notify all contractors and other entities (including utility crews, County employees, or their agents) that will perform work at the site, of the existence of the storm water pollution prevention plan (SWPPP) and what actions or precautions shall be taken while on site to minimize the potential for erosion and the potential for damaging any best management practices (BMP);
- 2) Determine the need for and establish training programs to ensure that all site workers have been trained, at a minimum, in erosion control, material handling and storage, and housekeeping;
- 3) Provide copies of the storm water pollution prevention plan (SWPPP) to all parties who are responsible for installation, operation or maintenance of any best management practices (BMP);
- 4) Maintain a current copy of the storm water pollution prevention plan (SWPPP) on the site during the installation, operation, and maintenance of the best management practices (BMP);
- 5)

Cause regular weekly and after-rain special inspections of the land disturbance site by a County approved special inspector as required by Section 301.2; including notifying the special inspector of any rainfall event causing storm water runoff to leave the construction site;

- 6) Ensure that all off-site borrow-from or haul-to sites and similar construction support activities are properly permitted by the authority having jurisdiction;
- 7) Ensure that dates of major grading activities, construction temporarily or permanently ceased, and stabilization measures initiated are recorded; and
- 8) Ensure that State and County permits are posted at the construction site; and
- 9) Ensure that required County inspections are requested and that the storm water pollution prevention plan (SWPPP) and approved site construction plans, if not maintained on-site, are brought to the site for the Inspector's use during the inspections, including any additional or extra County inspections.

(O. No. 25494, 7-30-13)

1114.200 - Chapter 2—Design Requirements.

SECTION 201.0 GENERAL

201.1 Design: The design of erosion and sediment controls required for land disturbance activities shall comply with the following minimum requirements:

1. Land disturbance, erosion and sediment control practices, and watercourse crossings shall be adequate to prevent transportation of sediment from the site.
2. Materials brought to any site or property under a permit issued under this Code, where said material is intended to be utilized as fill material at the site for land disturbance, erosion or sediment control, shall consist of clean uncontaminated earth, soil, dirt, sand, rocks, gravel or masonry materials or other approved materials.
- 3.

Cut and fill slopes shall be no greater than 3:1 except as approved by the Department of Public Works or the Department of Highways and Traffic to meet other community or environmental objectives.

4. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other County Ordinances.
5. Clearing techniques that retain existing vegetation to the maximum extent practicable shall be used and the time period for disturbed areas to be without vegetative cover shall be minimized to the extent practical.
6. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
7. Phasing shall be required on all sites disturbing greater than thirty (30) acres of land. The size of each phase will be established by the Department of Planning at the time of plan review for the issuance of a major land disturbance permit.

201.2 Erosion control design: Erosion control requirements shall include the following:

1. Permit holder shall install temporary stabilization when soil disturbing activities will cease on any portion of the site and are not planned to resume for a period exceeding fourteen (14) calendar days. Temporary stabilization must be initiated immediately upon knowing the duration is more than fourteen (14) days. Temporary stabilization must be completed within seven (7) calendar days. Final stabilization of disturbed areas must be initiated immediately and completed within seven (7) calendar days whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site. County may grant allowances to the seven-day completion period for temporary and final stabilization due to weather or equipment malfunctions. The use of allowances shall be documented in the SWPPP.
2. If seeding or another vegetative erosion control method is used, it shall become established within two (2) weeks or the site shall be re-seeded or a non-vegetative option employed.
3. Techniques shall be employed to ensure stabilization on steep slopes and

in drainage ways.

4. Soil and material stockpiles must be stabilized or covered at the end of each workday or perimeter controls must be in place to prevent silt from the stockpile from leaving the site.
5. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
6. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
7. Techniques shall be employed to divert upland runoff past disturbed slopes.

201.3 Sediment control design: Sediment control requirements shall include:

1. Settling basins, sediment traps, or tanks and perimeter controls.
2. Settling basins shall be provided for each drainage area within ten (10) or more acres disturbed at one (1) time and shall be sized to contain one-half (0.5) inch of sediment from the drainage area and be able to contain a two-year, twenty-four-hour storm. If the provision of a basin of this size is impractical, other similarly effective best management practices (BMP), as evaluated and specified in the storm water pollution prevention plan (SWPPP), shall be provided.
3. Settling basins shall be designed in a manner that allows adaptation to provide long-term storm water management, as required by the County department(s) having enforcement authority and responsibilities described in Section 103.0 of this Code.
4. Settling basins shall have stabilized spillways to minimize the potential for erosion of the spillway or basin embankment.
5. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

201.4 Watercourse design: Watercourse protection requirements shall include:

- 1.

Encroachment into or crossings of active water courses/riparian areas and wetlands shall be avoided to the maximum extent practicable. All County, state and federal permits and approvals shall be obtained by a permit holder prior to beginning work authorized by a County land disturbance permit.

2. Stabilization of any watercourse channels before, during, and after any in-channel work.
3. If a defined watercourse is to be re-aligned or re-configured, clearing and grubbing activities within fifty (50) feet of the watercourse shall not begin until all materials and equipment necessary to protect the watercourse and complete the work are on site. Once started, work shall be completed as soon as possible. Areas within fifty (50) feet of the watercourse shall be re-contoured and stabilized. Permit holder shall install temporary stabilization when soil disturbing activities will cease on any portion of the site and are not planned to resume for a period exceeding fourteen (14) calendar days. Temporary stabilization must be initiated immediately upon knowing the duration is more than fourteen (14) days. Temporary stabilization must be completed within seven (7) calendar days. Final stabilization of disturbed areas must be initiated immediately and completed within seven (7) calendar days whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site. County may grant allowances to the seven-day completion period for temporary and final stabilization due to weather or equipment malfunctions. The use of allowances shall be documented in the SWPPP.
4. All storm water conveyances shall be designed according to the criteria of the County and the St. Louis Metropolitan Sewer District (MSD) and the necessary permits obtained.
5. Stabilization adequate to prevent erosion shall be provided at the outlets of all pipes and paved channels.
6. Except as otherwise permitted above, stream buffers along flood plain zoned streams and other natural waterways as required by Chapter 1003, County Zoning Code shall not be disturbed.

disturbance activities shall include:

1. A temporary construction access entrance, located to provide adequate sight distance, shall be provided at all land disturbance sites including a wash down area supporting all active sites.
2. The Department of Highways and Traffic may require other measures to ensure that construction vehicles do not track sediment onto public streets or roadways, or be washed with wash effluent channeled directly into storm drains.

201.6 Control of construction materials and waste: Control requirements for construction materials, construction wastes and other wastes generated on site at the land disturbance site, including facilities that process and handle materials and waste such as temporary concrete or asphalt batch plants, temporary recycling or waste incineration facilities, and similar temporary construction material and waste handling facilities shall include provisions, satisfactory to the County department(s) having enforcement authority and responsibilities described in section 103.0 of this Code for:

1. Spill prevention and control facilities for materials such as paint, solvents, petroleum products, chemicals, toxic or hazardous substances, substances regulated under the Resource Conservation and Recovery Act (RCRA) or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and any wastes generated from the use of such materials and substances, including their containers. Any containment systems employed to meet this requirement shall be constructed of materials compatible with the substances contained and shall be adequate to protect both surface and ground water.
2. Collection and disposal of discarded building materials and other construction site wastes, including those listed in section 201.6. 1 above.
3. Litter control.
4. Control of concrete truck washouts.
5. Assurance that on-site fueling facilities will adhere to applicable federal and state regulations concerning storage and dispensers.
- 6.

Provision of sufficient temporary toilet facilities to serve the number of workers on major land disturbance sites as directed by the Department of Health.

7. Assurance that on-site temporary construction materials or waste handling equipment and facilities including, but not limited to, batch plants, recycling or grinding facilities, and temporary incineration equipment also adhere to County Department of Health regulations.

(O. No. 25494, 7-30-13)

1114.300 - Chapter 3—Inspections.

SECTION 301.0 GENERAL

301.1 Department(s) of Public Works and Highways and Traffic—General: The County department(s) having enforcement authority and responsibilities described in section 103.0 of this Code shall make inspections as herein required and shall either approve that portion of the work completed or shall notify the permit holder wherein the work fails to comply with the storm water pollution prevention plan (SWPPP) and/or the Site Construction, Land Disturbance, Erosion and Sediment Control Plan as approved. Plans for land disturbance, stripping, excavating, and filling work bearing the stamp of approval of the County department conducting the review for compliance under this code and/or issuing the permit shall be maintained at the site by the permit holder during the progress of the work. Construction work shall be done in accordance with the approved plans. To obtain inspections, a permit holder shall notify the Department(s) of Public Works or Highways and Traffic as applicable, at least two working days before the following:

- 1) Start of construction;
- 2) Installation of sediment and erosion measures;
- 3) Completion of site clearing;
- 4) Completion of rough grading;
- 5) Completion of final grading;
- 6) Close of the construction season;
- 7) Completion of final landscaping;

Exception 1: Inspections conducted by the Department of Highways and Traffic related to

construction and maintenance of County highways and roadways.

Exception 2: When conditions are not favorable to maintain copies of the approved plans on-site, a sign shall be installed at the entrance to the site listing information pertinent to the location of the storm water pollution prevention plan (SWPPP), approved site construction plans and the twenty-four-hours/seven-day a week phone number of the person in charge of them. The SWPPP and approved site construction plans shall be brought to the site and made available for the inspector's use during the above required inspections and any additional or extra inspections.

301.1.1 Additional inspections: In addition to the required inspections specified above the Departments of Public Works and Highways and Traffic are authorized to perform and charge fees for additional inspections which are reasonably necessary to enforce this Code and the zoning and building construction codes. These inspections may include, but not be limited to, interim status inspections due to length or complexity of project, BMP and subdivision escrow releases, compliance with approved site development plans, excavations for building foundations and underground utilities and sewers, and final finish grading and landscaping related to completion of the building construction project.

301.1.2 Extra inspections: In addition to the inspections otherwise required, the Departments of Public Works and Highways and Traffic are authorized to perform and charge fees for extra inspections or re-inspections which in their judgment are reasonably necessary due to non-compliance with the requirements of this Code, or work not ready or accessible for inspection when requested.

301.2 Permit holder special inspection and report responsibilities—Major land disturbances: The holder of a major land disturbance Permit, or his/her agent, shall cause regular and after-rain inspections of land disturbance sites by a qualified special inspector approved by the County. Inspections shall include examining all erosion and sediment and other pollutant control measures, outfalls, and off-site receiving waters in accordance with the inspection schedule outlined in the approved storm water pollution prevention plan (SWPPP). Inspections must be scheduled at least once per week. When rainfall causes storm water runoff to leave the site, the BMP must be inspected within forty-eight (48) hours after the rain event has ceased during a normal workday and within seventy-two (72) hours on the next business day if the rain event ceases during a non-workday such as on weekends and holidays. The total rainfall measured for that day must be recorded on the inspection report. A properly maintained rain gauge must be kept on site or the storm event information must be obtained from a weather station that is representative of the site location. The purpose of such inspections will be to ensure proper

installation, operation and maintenance of best management practices (BMP) and to determine the overall effectiveness of the storm water pollution prevention plan (SWPPP) and the need for additional control measures. All inspections shall be documented in written form on weekly and after-rain reports with copies submitted weekly to the Department(s) of Public Works or Highways and Traffic. The inspection reports must include the following minimum information:

- 1) Inspector's name and signature;
- 2) Date of inspection;
- 3) Observations relative to the effectiveness of the best management practices (BMP);
- 4) Actions taken or necessary to correct deficiencies; and
- 5) A listing of areas where land disturbance operations have permanently or temporarily stopped.

The special inspector shall immediately notify both the permit holder and the site contractor (s) responsible for any deficiencies identified so that deficiencies can be corrected within seven (7) calendar days of the weekly or after-rain inspection report. If weather conditions make it impossible to correct the problem within seven (7) calendar days, a detailed report of the problem (including pictures) shall be filed with the regular inspection reports. The permit holder shall be responsible for ensuring that the deficiencies are corrected.

The permit holder shall notify the County by the next working day whenever a special inspector is terminated, resigns, or is unable to conduct inspections for whatever reason. The permit holder shall retain a new special inspector from the County's list of approved special inspectors within five (5) calendar days to insure that the regular weekly and after rain inspections required by this section are conducted and reported upon. The permit holder shall notify the County by the next working day whenever a new special inspector is retained. Only a County approved special inspector can be responsible for the inspection of BMP required under this Code.

301.2.1 Verification of permit holder's reports: The Department(s) of Public Works or Highways and Traffic may make and charge fees for extra inspections as deemed necessary to ensure the validity of the reports filed under section 301.2 of this Code or to otherwise ensure proper installation, operation and maintenance of storm water best management practices (BMP) and to determine the overall effectiveness of the storm water pollution prevention plan (SWPPP) and the need for additional control measures.

301.3 Removal from approved list of qualified special inspectors: Failure of the special inspector to conduct required inspections and file accurate valid inspection reports with the County as required by Section 301.2 shall constitute cause to remove the special inspector from the approved list of special inspectors. A special inspector that has been removed from the approved list has the right to appeal to the Board.

(O. No. 25494, 7-30-13)

1114.400 - Chapter 4—Implementation.

SECTION 401 EFFECTIVE DATE OF CODE PROVISIONS

401.1 Effective date of this Code: The provisions of this Code shall become effective ninety (90) days after its approval by the County Executive.

(O. No. 25494, 7-30-13)



PUBLIC EDUCATION



PUBLIC INVOLVEMENT



POST-CONSTRUCTION
MANAGEMENT

ST. LOUIS COUNTY PHASE II STORMWATER MANAGEMENT PLAN

Fall 2017

DRAFT

THIRD
TERM
PERMIT
2017-2021



ILLICIT DISCHARGE
DETECTION



CONSTRUCTION SITE
CONTROLS



MUNICIPAL POLLUTION
PREVENTION

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Stormwater Management Plan Development

On December 14, 2016, the Metropolitan St. Louis Sewer, St. Louis County, and 59 St. Louis County Municipalities were issued a General State Operating Permit MO-R040005 for the MSD Municipal Separate Storm Sewer System. This permit is required by the Federal Clean Water Pollution Control Act and was issued by the Missouri Department of Natural Resources (MDNR). The permit's facility name is "MSD Small MS4 Co-Permit."

This permit requires municipal separate storm sewer systems (MS4s) to implement best management practices (BMPs) via an iterative process to reduce the discharge of pollutants into MS4 to the maximum extent practicable (MEP) for the goal of attainment with Missouri's Water Quality Standards. To meet this requirement, MS4s must develop a stormwater management plan (SWMP) that implements the permit's requirements for the following six minimum control measures:

1. Public Education and Outreach
2. Public Participation and Involvement
3. Illicit Discharge and Elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention and Good Housekeeping

The 2016 Permit allows permittees one year of the effective date to revise their SWMP. To comply with the revised permit conditions, MSD and its co-permittees are submitting this SWMP to the MDNR. The 2012 St. Louis County SWMP that MSD submitted with its permit application is superseded by this document.

Stormwater Management Plan Coordination

A. Applicability

The 1999 Phase II Stormwater Regulations were promulgated to provide appropriate stormwater management for political subdivisions in urbanized areas which were exempted under the 1990 (Phase I) regulations. Appendix 6, Governmental Entities Located Fully or Partially Within an Urbanized Area, of the preamble to the USEPA’s December 8, 1999 rule listed most of the political subdivisions in St. Louis County as entities requiring a Phase II NPDES Permit. University City was added additionally as a co-permittee, based on the population served by separate storm sewers and other relevant factors.

B. Permitting Strategy

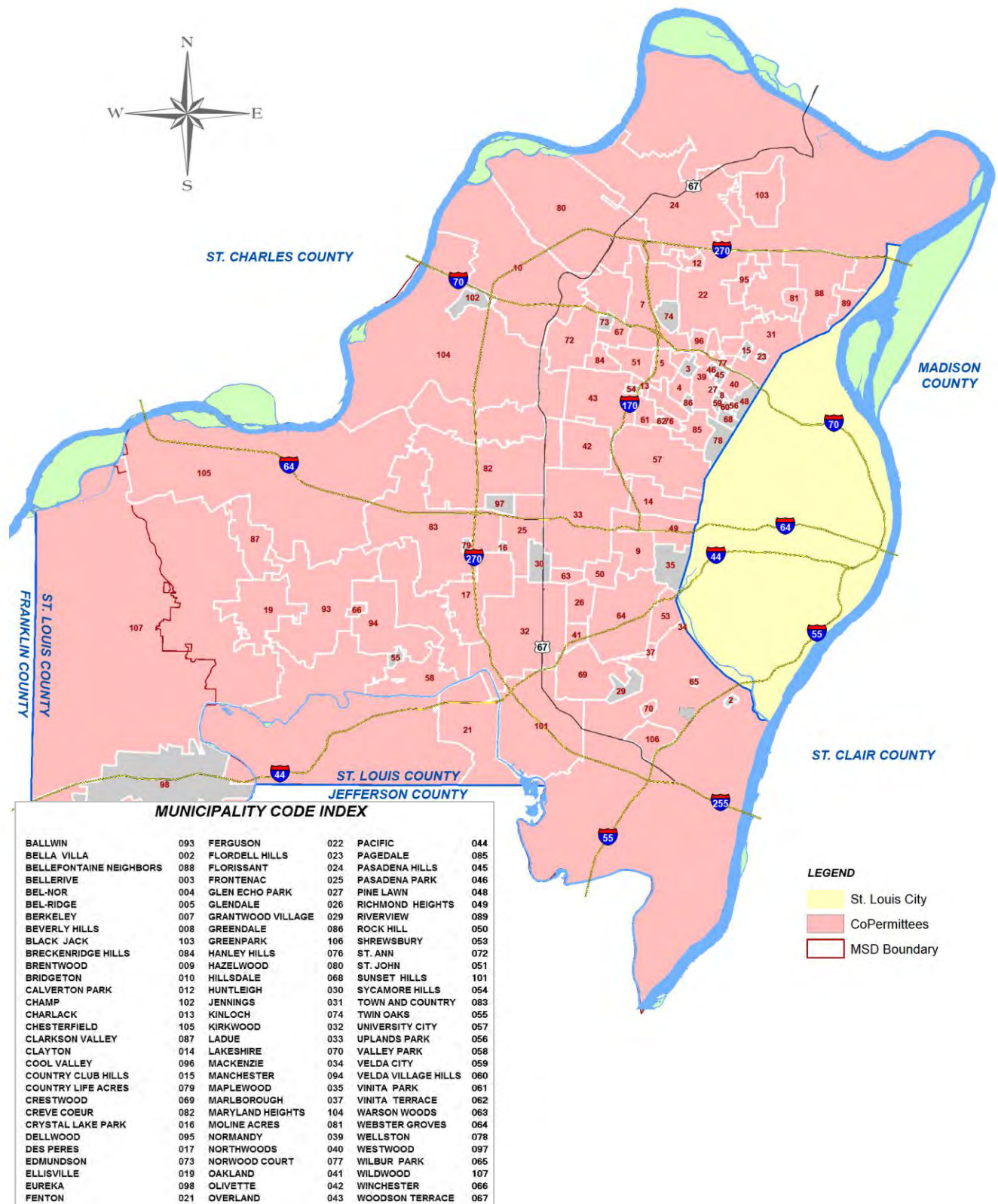
Missouri’s Phase II Stormwater Regulations for small MS4s are contained in 10 CSR 20-6.200. The statute allows regulated Small MS4s to seek coverage under a general permit or under a site-specific permit. MSD and the other regulated political subdivisions in St. Louis County have received the general permit. While MSD and each political subdivision that is regulated by the Phase II regulations and located within MSD’s boundaries has received its own operating permit, all have agreed to coordinate permit compliance activities as co-permittees. The co-permittee strategy encourages cooperation among municipal governments, a watershed approach to reducing pollution, and the sharing of legal, financial, and administrative responsibilities.

Figure 2 on page 3 shows the St. Louis County municipalities and MSD’s boundaries. MSD’s boundaries cover approximately 525 square miles, and will henceforth be referred to as the “Plan Area.” Although there are ninety municipalities located within MSD’s county service area, only fifty-nine and the St. Louis County received the MS4 permit. Two municipalities in St. Louis County, Pacific and Eureka, are located outside of MSD’s service area and are not part of the co-permittee group. Appendix A lists the 61 permitted entities in the group.

Figure 1, Co-permittees Defined

Co-permittee	How Many
Municipalities	59
St. Louis County	1
MSD	1
Total	61

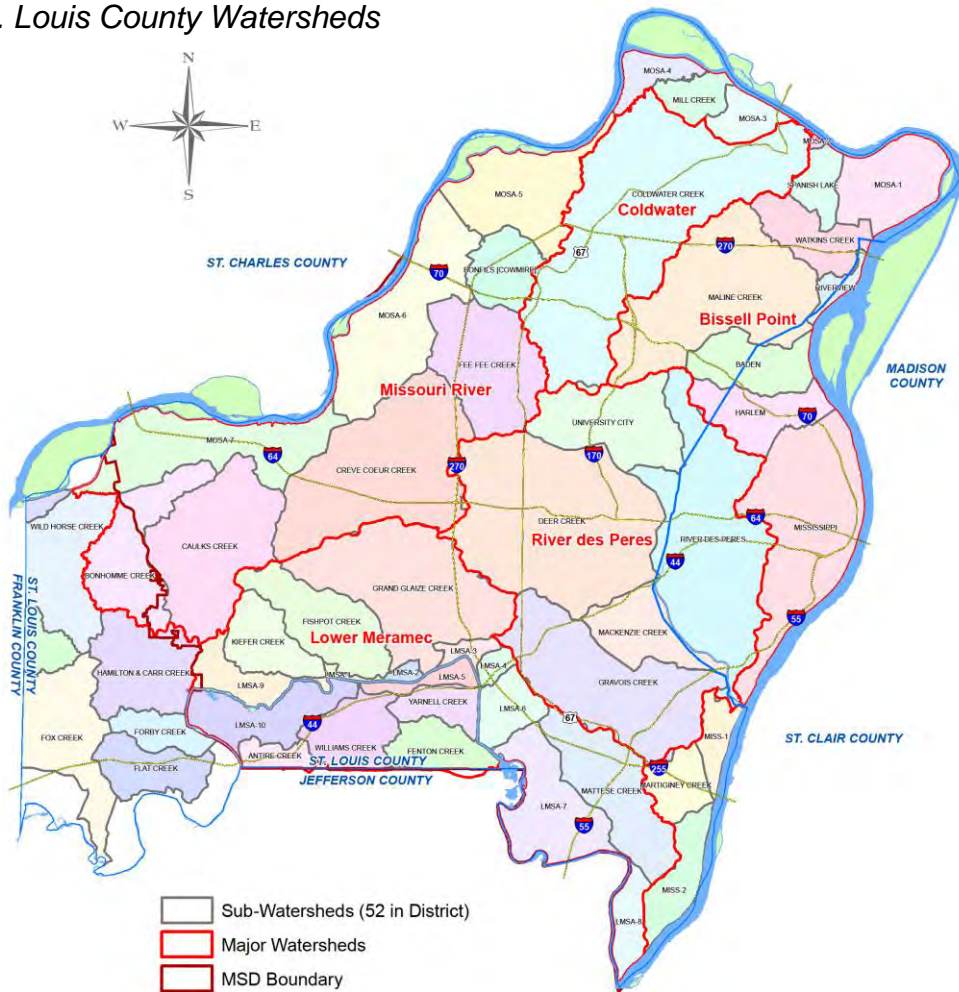
Figure 2, Incorporated Places in St. Louis County



C. Plan Area Watersheds

St. Louis County stormwater drains into three major watersheds: the Mississippi River, the Meramec River, and the Missouri River. All stormwater runoff from the County ultimately enters the Mississippi River. The Mississippi River forms the eastern boundary of the southernmost and northernmost portions of the Plan Area with the remainder entering the western boundary of the City of St. Louis and its combined sewer system. The Meramec River generally forms the southern boundary of the Plan Area except for a portion in the west of the County where the border includes land south of the Meramec River that is drained by its tributaries. The Missouri River forms the northern boundary of the Plan Area. Many small tributaries feed into each of these three major rivers. Figure 3 shows the location of stream tributaries within the major watersheds of the Plan Area.

Figure 3, St. Louis County Watersheds



D. Responsibility

MSD is recognized as the coordinating authority of the SWMP under the St. Louis Metropolitan Small MS4 Stormwater Permit, MO-R040005. Each co-permittee has been assigned responsibility for specific BMPs to comply with the six MCMs related to their governmental purpose. For example,

- Public Education and Outreach (MCM 1) on stormwater impacts and Public Involvement and Participation (MCM 2) can best be coordinated by the MSD, with specific tasks performed with municipal support.
- Since MSD already has responsibility to operate and maintain the separate storm sewer systems in the county, it carries the bulk of the responsibility to comply with the requirements of MCM 3, Illicit Discharge Detection and Elimination.
- St. Louis County and municipalities, who operate land disturbance programs, are largely responsible for implementing BMPs to control pollution from land disturbance activities and compliance with MCM 4 requirements.
- For MCM 5, because MSD is the recognized continuing authority for public sewer extensions within its jurisdictional boundaries and has overall plan review responsibilities for stormwater management, it is responsible for post-construction structural BMPs. St. Louis County and municipalities, who maintain land use and zoning authority, are responsible for implementing post-construction nonstructural BMPs that need to be implemented in conjunction with MSD's efforts.
- All co-permittees are responsible for ensuring their own municipal operations comply with requirements under MCM 6, Pollution Prevention/Good Housekeeping for Municipal Operations.

E. SWMP Responsibility

The person primarily responsible for the SWMP is the MSD Program Manager for Environmental Compliance Programs. Contact information is as follows.

Metropolitan St. Louis Sewer MSD
Engineering Department – Environmental Compliance
Program Manager of Environmental Compliance Programs
c/o Jay Hoskins, P.E.
10 E. Grand Ave.
St. Louis, MO 63147
Phone: 314-436-8757
jshosk@stlmsd.com

Each municipality and St. Louis County also has a person primarily responsible for the SWMP. That contact information is provided in Appendix B.

Watershed Water Quality

Section 303(d) of the Federal Clean Water Act requires states to identify water bodies that do not meet water quality standards (impaired waters) after applying the existing regulations. Table 1 shows Plan Area water bodies with segments on the 2016 303(d) listing.

Table 1: 2016 303(d) listing

Waterbody	Bacteria (E Coli)	Chloride	Other
Antire Creek	X		pH
Bee Tree Lake			Mercury
Black Creek	X	X	
Bonhomme Creek	X		pH
Coldwater Creek	X	X	
Creve Coeur Creek	X	X	Dissolved Oxygen
Deer Creek	X	X	
Fee Fee Creek	X	X	
Fenton Creek	X	X	
Fishpot Creek	X	X	
Grand Glaize Creek	X	X	Mercury
Gravois Creek	X	X	
Gravois Creek	X	X	
Keifer Creek	X	X	
Maline Creek	X	X	
Mattese Creek	X	X	
Meramec River	X		Lead
Mississippi River	X		
River des Peres	X	X	Dissolved Oxygen
Spring Branch	X		
Two mile Creek	X		
Watkins Creek	X	X	
Wildhorse Creek	X		
Williams Creek	X		

MDNR has developed and EPA has approved Total Maximum Daily Loads (TMDLs) to address bacteria (E.Coli) in four watersheds (Table 2). At the time this SWMP was written, MDNR has drafted and put on public notice three additional TMDLs (which have not been approved by EPA).

Table 2: Bacteria (E.Coli) Total Maximum Daily Loads

Water Body	EPA Approval Date	Public Notice Date
Coldwater Creek	7/13/2016	
Creve Coeur Creek	7/13/2016	
Deer & Black Creek		3/17/2017
Fishpot Creek	7/13/2016	
Grand Glaize Creek		3/17/2017
Mailne Creek		3/17/2017
Watkins Creek	7/13/2016	

Minimum Control Measure Number 1, Public Education and Outreach of Stormwater Impacts (MCM1)

A. Permit Requirements

Section 4.2.1.1 of the 2016 Permit requires the permittee to implement a public education program to distribute educational material to the community or conduct equivalent outreach activities about the impact of stormwater discharges on waterbodies and steps the public can take to reduce pollutants in stormwater runoff. As part of the SWMP, the Public Education and Outreach Program shall include the following information at a minimum:

- 4.2.1.1.1 A plan on how target audiences are identified for the public education program who are likely to have significant stormwater impacts (including commercial and industrial entities);
- 4.2.1.1.2 A plan to inform individuals and households about steps they can take to reduce stormwater pollution;
- 4.2.1.1.3 A plan to inform individuals and groups on how to become involved in the SWMP (with activities such as local stream and lake restoration activities);
- 4.2.1.1.4 The outreach strategy, including the mechanisms (e.g., printed brochures, newspapers, media, workshops, etc...) to reach target audiences; and
- 4.2.1.1.5 The pollutant(s) sources that the permittee's education program is designed to address.

Table 3 provides the specific BMPs that will be used to comply with 4.2.1.1.1-4.2.1.1.4. Pollutant sources (4.2.1.1.5) are addressed below.

B. Pollutant Sources

1. Pet Waste

Pet waste left on the ground pollutes stormwater when it rains or snows. Pollutants associated with pet waste include bacteria, ammonia, oxygen demand, and nutrients (nitrogen).

2. Yard Management

Yard waste such as leaves, grass clippings, weeds, brush, and small twigs that are disposed of along a creek or in a storm drain can impact water quality. Yard waste

decaying in creeks decomposes and creates low dissolved oxygen, releases nutrients (nitrogen and phosphorus), and elevated suspended solids.

Stormwater containing fertilizers and pesticides from incorrect application and/or improper storage can also cause environmental problems (e.g., toxicity to aquatic life). Good management of fertilizers application is consistent with the goals of Missouri's Nutrient Reduction Strategy.

3. Individual Sewage Disposal Systems

Commonly known as septic systems, these systems are designed to hold, treat, and dispose of household wastewater. Systems that are not properly installed and regularly serviced allow bacteria, viruses, nutrients, and ammonia to enter groundwater and streams.

4. Winter Deicing and Storage Activities

Significant levels of salt (e.g., sodium chloride and calcium chloride) in waters can occur when salt is applied on roads, parking lots and driveways during deicing activities. Chloride is highly soluble and very mobile in water. High levels of chloride are toxic to aquatic life.

5. Household Hazardous Waste

Many products around the home are hazardous because they contain chemicals that are toxic, corrosive, flammable, or reactive. Though usually safe if used according to the directions, when these products are no longer usable or wanted, they become household hazardous waste. If dumped onto the ground or poured into the storm sewer, household hazardous waste can contaminate groundwater and streams.

6. Land Disturbance

Land disturbance is dredging, clearing, grading, excavating, transporting or filling from construction activities including but not limited to subdivisions, shopping centers, and road projects. Sediment is the primary pollutant from land disturbance activities.

7. Fats, Oils, and Grease

Fats, oil, and grease (FOG) are found in common foods and food ingredients such as meat, fish, butter, cooking oil, gravy, sauces, mayonnaise, and food scraps. There are also "hidden oils," such as salad dressing, syrup, batter and cheese. When FOG is poured down the drain, it can form blockages that restrict wastewater

flow, eventually causing a blockage. Blockages can cause sewer overflows that pollute streams.

8. Swimming Pools

Discharges (drains, overflows, and filter backwash water) of chlorinated pool water and saltwater to a storm sewer or stream contain pollutants such as elevated suspended solids, chlorides, and abnormal pH. These pollutants impact many species of aquatic life.

9. Industrial Activities

Stormwater runoff from industrial facilities can easily become polluted by metals, chemicals, sediment, fertilizers, and trash. When exposed to the atmosphere, many industrial activities contribute to stormwater pollution (such as metal grinding and polishing, vehicle/equipment maintenance, improper disposal of hazardous waste, and more). Wastes, residues, and byproducts from these activities can enter storm drains and streams harming aquatic life and impacting water quality.

Table 3

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria	
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021		
4.2.1.1.1	1	Query MSD Environmental Compliance Pretreatment Information Management System for active industrial entities.	Maintain list of active industrial entities who could have a significant stormwater impact.	MSD	Provide co-permittees with a list of industrial stormwater sources.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	List updated, distributed, and filed.
	2	Query MSD Environmental Compliance Pretreatment Information Management System for approved commercial haul-waste vendors.	Maintain list of active commercial individual waste haulers who could have a significant stormwater impact.	MSD	Provide co-permittees with a list of waste haulers.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	List updated, distributed, and filed.
	3	Query MSD Asset Management System for list of active food service and restaurant establishment facilities.	Maintain list of active food service and restaurant establishments who could have a significant stormwater impact.	MSD	Provide co-permittees with a list of food service and restaurant establishments.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	List updated, distributed, and filed.
	4	Survey trade associations (such as Home Builders Association, Associated General Contractors, American Society of Civil Engineers, and Property Managers) involved with land disturbance, land development, and property management activities.	Maintain list of trade associations with members that could have a significant stormwater impact.	MSD	Provide co-permittees with list of trade associations.	Develop list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	List updated, distributed, and filed.
	5	Query municipal building permit databases for active major land disturbance contractors.	Maintain list of contractors that could have a significant stormwater impact.	All	Provide co-permittees with a list of contractors who are currently engaged in major land disturbance activities.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	Update list and distribute to co-permittees by end of plan year.	List updated, distributed, and filed.
	6	Collect stormwater education survey.	Develop a baseline of water quality and nonpoint source pollution awareness and behaviors, and identify target audiences for future SWMP revisions.	MSD	Develop a baseline of public water quality awareness in service area.	Develop survey questions, complete third party survey, record and analyze findings.	None	None	None	Complete third party survey, record and analyze findings.	Awareness baseline developed.
	7	Develop database of all K-12 public and private school districts in plan area.	Foster nonpoint source pollution and water quality awareness in community.	MSD	Maintain a comprehensive database of schools and contacts, which could be information outlets.	Develop database of schools and contacts by end of plan year	Maintain database of schools and designated contacts.	Maintain database of schools and designated contacts.	Maintain database of schools and designated contacts.	Maintain database of schools and designated contacts.	Database developed. Track schools providing stormwater education.
4.2.1.1.2	8	Develop and distribute stormwater messages for MSD bills and websites. Topics would include littering, pet waste, yard management (including nutrient application), individual sewage disposal systems, winter deicing, swimming pools, and household hazardous waste.	Reach plan area customers with concise messages on MSD bills and websites.	MSD	Greater awareness of best practices to protect water quality.	None	Develop message library by end of the plan year.	Distribute messages on MSD bills and websites. Record number of MSD bills mailed and website pages views/hits.	Distribute messages on MSD bills and websites. Record number of MSD bills mailed and website pages views/hits.	Distribute messages on MSD bills and websites. Record number of MSD bills mailed and website pages views/hits.	Message library developed and representative copies of bills filed. Track number of bills sent with messages. Track number of website page hits and views.

Table 3

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria	
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021		
4.2.1.1.2	9	Maintain and provide library of stormwater education materials.	MSD	Provide education to various audiences.	Maintain adequate supply of existing educational materials that address general awareness and pollutant sources in the SWMP for target audiences, individuals, and households.	Maintain adequate supply of existing educational materials that address general awareness and pollutant sources in the SWMP for target audiences, individuals, and households.	Maintain adequate supply of existing educational materials that address general awareness and pollutant sources in the SWMP for target audiences, individuals, and households.	Maintain adequate supply of existing educational materials that address general awareness and pollutant sources in the SWMP for target audiences, individuals, and households.	Maintain adequate supply of existing educational materials that address general awareness and pollutant sources in the SWMP for target audiences, individuals, and households.	Materials developed and available for distribution.	
	10	Provide presentations and educational materials to families and homeowners.	MSD	Foster nonpoint source pollution and water quality awareness in community.	Increase awareness and positive behavior change.	Provide pet waste brochures to St. Louis County Animal Control quarterly, starting 2017 fourth calendar quarter. St. Louis Animal Control distributes pet waste brochures during adoptions.	Provide pet waste brochures to St. Louis County Animal Control quarterly. St. Louis Animal Control distributes pet waste brochures during adoptions.	Provide pet waste brochures to St. Louis County Animal Control quarterly. St. Louis Animal Control distributes pet waste brochures during adoptions.	Provide pet waste brochures to St. Louis County Animal Control quarterly. St. Louis Animal Control distributes pet waste brochures during adoptions.	Provide pet waste brochures to St. Louis County Animal Control quarterly. St. Louis Animal Control distributes pet waste brochures during adoptions.	Track number of brochures provided to St. Louis County Animal Control.
						Provide pet waste brochures to St. Louis humane society quarterly. Humane Society distributes pet waste brochures during adoptions.	Provide pet waste brochures to St. Louis humane society quarterly. Humane Society distributes pet waste brochures during adoptions.	Provide pet waste brochures to St. Louis humane society quarterly. Humane Society distributes pet waste brochures during adoptions.	Provide pet waste brochures to St. Louis humane society quarterly. Humane Society distributes pet waste brochures during adoptions.	Track number of brochures provided to St. Louis Humane Society.	
						Partner with environmental organization (such as the Missouri Botanical Garden Earthways Center) to offer one education event on stormwater management. Record class attendance.	Partner with environmental organization (such as the Missouri Botanical Garden Earthways Center) to offer at least two education events on stormwater management. Record class attendance.	Partner with environmental organization (such as the Missouri Botanical Garden Earthways Center) to offer at least two education events on stormwater management. Record class attendance.	Partner with environmental organization (such as the Missouri Botanical Garden Earthways Center) to offer at least two education events on stormwater management. Record class attendance.	Classes completed and attendance tracked.	
	MSD	Increase awareness and positive behavior change.	Partner with environmental organization (such as St. Louis Audubon Society Bring Conservation Home) to: 1) support distribution of education material and 2) provide stormwater management education to landowners. Record education material distributed.	Partner with environmental organization (such as St. Louis Audubon Society Bring Conservation Home) to: 1) support distribution of education material and 2) provide stormwater management education to landowners. Record education material distributed.	Partner with environmental organization (such as St. Louis Audubon Society Bring Conservation Home) to: 1) support distribution of education material and 2) provide stormwater management education to landowners. Record education material distributed.	Partner with environmental organization (such as St. Louis Audubon Society Bring Conservation Home) to: 1) support distribution of education material and 2) provide stormwater management education to landowners. Record education material distributed.	Partner with environmental organization (such as St. Louis Audubon Society Bring Conservation Home) to: 1) support distribution of education material and 2) provide stormwater management education to landowners. Record education material distributed.	Education completed. Track type and number of material distributed.			

Table 3

Permit Requirement	BMP Description		BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
						Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.1.1.2	11	Post pet waste signs in parks.	Foster nonpoint source pollution and water quality awareness in community.	St. Louis County and Municipalities	Increase awareness and positive behavior change.	Post pet waste signs in each city and St. Louis County owned park. Record and report on number of pet waste signs posted.	Post pet waste signs in each city and St. Louis County owned park. Record and report on number of pet waste signs posted.	Post pet waste signs in each city and St. Louis County owned park. Record and report on number of pet waste signs posted.	Post pet waste signs in each city and St. Louis County owned park. Record and report on number of pet waste signs posted.	Post pet waste signs in each city and St. Louis County owned park. Record and report on number of pet waste signs posted.	Track number of parks and posted pet waste signs.
4.2.1.1.3	12	Maintain database of community partners with water pollution education interests.	Know partners that can work with MSD to Foster nonpoint source pollution and water quality awareness in community. See MCM 2 for utilization.	MSD	Provide participation opportunities, in MCM2, to individuals and groups.	Develop database of individuals, partners, and activities. Distribute activities list to individuals and groups.	Update database of individuals, partners, and activities. Distribute activities list to individuals and groups.	Update database of individuals, partners, and activities. Distribute activities list to individuals and groups.	Update database of individuals, partners, and activities. Distribute activities list to individuals and groups.	Update database of individuals, partners, and activities. Distribute activities list to individuals and groups.	List updated, distributed, and filed. See also material distribution, presentation, and MCM2 BMPs.
4.2.1.1.4	13	Provide educational materials to industrial entities, waste haulers, and food service and restaurant establishments.	Foster nonpoint source pollution and water quality awareness in community	MSD	Increase awareness and positive behavior change.	Provide educational materials to industrial entities and waste haulers. Distribute fats, oils, and grease brochure at MSD food service and restaurant establishment inspections. Distribute IDD brochure at MSD, pretreatment inspections. Record number of material distributed.	Provide educational materials to industrial entities and waste haulers. Distribute fats, oils, and grease brochure at MSD food service and restaurant establishment inspections. Distribute IDD brochure at MSD, pretreatment inspections. Record number of material distributed.	Provide educational materials to industrial entities and waste haulers. Distribute fats, oils, and grease brochure at MSD food service and restaurant establishment inspections. Distribute IDD brochure at MSD, pretreatment inspections. Record number of material distributed.	Provide educational materials to industrial entities and waste haulers. Distribute fats, oils, and grease brochure at MSD food service and restaurant establishment inspections. Distribute IDD brochure at MSD, pretreatment inspections. Record number of material distributed.	Provide educational materials to industrial entities and waste haulers. Distribute fats, oils, and grease brochure at MSD food service and restaurant establishment inspections. Distribute IDD brochure at MSD, pretreatment inspections. Record number of material distributed.	Material distribution completed. Track number of material distributed.
	14	Provide presentations and educational materials to trade associations, schools, and watershed groups	Foster nonpoint source pollution and water quality awareness in community	MSD	Increase awareness and positive behavior change within trade associations that is topical to their industry.	Permittee group will offer one meeting with trade associations. Record materials distributed	Permittee group will offer one meeting with trade associations. Record materials distributed	Permittee group will offer one meeting with trade associations. Record materials distributed	Permittee group will offer one meeting with trade associations. Record materials distributed	Permittee group will offer one meeting with trade associations. Record materials distributed	Meetings completed. Track number of meetings and material distributed. Records saved in MSD files.
				Co-permittees	Increase awareness and positive behavior change	MSD will distribute education material at a minimum of 6 requested presentations or information booths. Record event material distributed and attendance.	MSD will distribute education material at a minimum 6 requested presentations or information booths. Record event material distributed and attendance. All permittees that distribute material at events will report material distributed and estimated attendance.	MSD will distribute education material at a minimum 6 requested presentations or information booths. Record event material distributed and attendance. All permittees that distribute material at events will report material distributed and estimated attendance.	MSD will distribute education material at a minimum 6 requested presentations or information booths. Record event material distributed and attendance. All permittees that distribute material at events will report material distributed and estimated attendance.	MSD will distribute education material at a minimum 6 requested presentations or information booths. Record event material distributed and attendance. All permittees that distribute material at events will report material distributed and estimated attendance.	Events completed. Track number of events and material distributed. Records saved in copermittees files.

Table 3

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.1.1.4	15 Partner with community organizations to provide stormwater information to a broad audience.	Foster nonpoint source pollution and water quality awareness in community.	MSD	Increase awareness and positive behavior change.	Develop and distribute stormwater information at a St. Louis area sports venue.	Develop and distribute stormwater information at a St. Louis area sports venue.	Develop and distribute stormwater information at a St. Louis area sports venue.	Develop and distribute stormwater information at a St. Louis area sports venue.	Develop and distribute stormwater information at a St. Louis area sports venue.	Track type and number of material distributed.
				Increase awareness and positive behavior change.	Host Information booth and record what and how many material distributed at St. Louis Earth Day in Forest Park.	Host Information booth and record what and how many material distributed at St. Louis Earth Day in Forest Park.	Host Information booth and record what and how many material distributed at St. Louis Earth Day in Forest Park.	Host Information booth and record what and how many material distributed at St. Louis Earth Day in Forest Park.	Host Information booth and record what and how many material distributed at St. Louis Earth Day in Forest Park.	Track type and number of material distributed.
				Increase awareness and positive behavior change.	None	Host Information booth and record what and how many material distributed at St. Louis Home and Garden Show.	Host Information booth and record what and how many material distributed at St. Louis Home and Garden Show.	Host Information booth and record what and how many material distributed at St. Louis Home and Garden Show.	Host Information booth and record what and how many material distributed at St. Louis Home and Garden Show.	Track type and number of material distributed.
				Increase awareness and positive behavior change.	Develop and distribute stormwater information at a St. Louis area amusement or recreation venue.	Develop and distribute stormwater information at a St. Louis area amusement or recreation venue.	Develop and distribute stormwater information at a St. Louis area amusement or recreation venue.	Develop and distribute stormwater information at a St. Louis area amusement or recreation venue.	Develop and distribute stormwater information at a St. Louis area amusement or recreation venue.	Track type and number of material distributed.
	16	Develop and advertise videos to be utilized in social media platforms.	Develop concise messages that can be used on MSD and partner social media platforms.	MSD	Provide education to broad audiences	Develop two videos that can be utilized in the desired format	Provide or purchase minimum 10,000 spots per year. Record number of plays.	Provide or purchase minimum 10,000 spots per year. Record number of plays.	Provide or purchase minimum 10,000 spots per year. Record number of plays.	Provide or purchase minimum 10,000 spots per year. Record number of plays.

Minimum Control Measure Number 2, Public Involvement and Participation (MCM2)

A. Permit Requirements

Section 4.2.2.1 of the 2016 Permit requires the permittee to implement a public involvement/participation program that provides opportunities for public involvement in the development and oversight of the permittee's SWMP, and provides opportunities for public involvement of the permittee's renewal application. The public involvement/participation program shall, at a minimum, include the following:

- 4.2.2.1.1 A public notice period to allow the public to review the SWMP and renewal application prior to the submission of the SWMP and renewal application to the Department. It is recommended that the public review period is at least 10 (ten) business days;
- 4.2.2.1.2 A notice of public meeting, if needed, regarding the SWMP and renewal application. It is recommended that the notice should be at least 72 hours prior to the meeting;
- 4.2.2.1.3 A plan to target all potentially affected stakeholder groups, including but not limited to, commercial and industrial businesses, trade associations, environmental groups, homeowner associations and educational organizations;
- 4.2.2.1.4 If the permittee utilizes a stormwater management panel/committee, then the permittee shall provide opportunities for citizen representatives on the panel/committee;
- 4.2.2.1.5 If appropriate, volunteer monitoring or stream/lake clean-up activities; and
- 4.2.2.1.6 Provide opportunities and work with citizen volunteers willing to educate others about the permittee's SWMP.

B. BMP Development

Specific implementation of the public involvement and participation best management practices are presented in Table 4.

Table 4

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria	
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021		
4.2.2.1.1	17 Post SWMP on MSD's website for 30 days. Announce the SWMP is available to review, using e-mail and social media.	Provide opportunity for input on the SWMP.	MSD	Comply with permit requirement for public notice.	Revised SWMP posted on MSD stormwater section and social media platforms for 30 days. Revised SWMP e-mailed to stakeholders	None	None	None	None	4th term SWMP posted on MSD stormwater section and social media platforms for at least 10 days. Revised SWMP e-mailed to stakeholders	SWMP e-mailed and posted on MSD website/social media platforms. Record all comments to the SWMP.
4.2.2.1.2	18 Hold a meeting at MSD's office. Provide advance notice on MSD's website and by e-mail.	Provide opportunity for input on the SWMP.	MSD	Comply with permit requirement for public meeting.	Revised SWMP public meeting notice posted on MSD stormwater section at least 72 hours before meeting.	None	None	None	None	4th term SWMP public meeting notice posted on MSD stormwater section at least 72 hours before meeting.	SWMP meeting announcement posted on MSD website. File meeting minutes.
4.2.2.1.3	19 Maintain a list of outlets to provide information. Send letter or e-mail inviting comment in advance of finalizing SWMP.	Maintain contact with stakeholder organizations and their leadership.	MSD	Provide education and participation opportunities to target audiences.	Send a letter or e-mail to contacts on list, offering opportunity to comment on the revised SWMP.	Review and update list annually.	Review and update list annually.	Review and update list annually.	Review and update list annually.	Send a letter or e-mail to contacts on list, offering opportunity to comment on the 4th term SWMP.	List developed and communication sent.
4.2.2.1.4	20 Invite citizens to provide representation on the steering committee, with goal of including 2 citizens on steering committee	Provide opportunity for input on the SWMP	MSD	Provide participation opportunities to interested citizens	Send a letter or e-mail invitation to at least 10 citizen contacts. Based on interest, select 2 parties to participate on the committee.	None	None	Send a letter or e-mail invitation to at least 10 citizen contacts. Based on interest, select 2 parties to participate on the committee.	None	SWMP notification opportunities developed.	
4.2.2.1.5	21 Participate in at least one cleanup event annually.	Foster nonpoint source pollution and water quality awareness in community.	All	Prevent disposal of wastes in waterways. Increase awareness and positive behavior change.	MSD will organize with partner organizations one or more annual stream or neighborhood clean-up events to cover the Plan Area. Each co-permittee will participate with a planned event, or participate in their own stream or neighborhood clean-up activity in the community. Record participation activity.	Co-permittee group will provide equipment, in-kind sponsorship, staff support, and/or financial sponsorship, for Confluence Trash Bash, River des Peres Trash Bash, and Operation Clean Stream. Record participation activity.	Co-permittee group will provide equipment, in-kind sponsorship, staff support, and/or financial sponsorship, for Confluence Trash Bash, River des Peres Trash Bash, and Operation Clean Stream. Record participation activity.	Co-permittee group will provide equipment, in-kind sponsorship, staff support, and/or financial sponsorship, for Confluence Trash Bash, River des Peres Trash Bash, and Operation Clean Stream. Record participation activity.	Co-permittee group will provide equipment, in-kind sponsorship, staff support, and/or financial sponsorship, for Confluence Trash Bash, River des Peres Trash Bash, and Operation Clean Stream. Record participation activity.	Co-permittee group will provide equipment, in-kind sponsorship, staff support, and/or financial sponsorship, for Confluence Trash Bash, River des Peres Trash Bash, and Operation Clean Stream. Record participation activity.	Clean-ups completed. Track number of participants and waste amounts collected.

Table 4

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.2.1.5	22 Continue to operate two household hazardous waste drop-off facilities.	Provide safe and economical outlet for household hazardous waste disposal	St. Louis County	Prevent disposal of wastes in waterways. Increase awareness and positive behavior change.	Operate the two household hazardous waste drop-off facilities and record participation and the amount of household hazardous waste collected.	Operate the two household hazardous waste drop-off facilities and record participation and the amount of household hazardous waste collected.	Operate the two household hazardous waste drop-off facilities and record participation and the amount of household hazardous waste collected.	Operate the two household hazardous waste drop-off facilities and record participation and the amount of household hazardous waste collected.	Operate the two household hazardous waste drop-off facilities and record participation and the amount of household hazardous waste collected.	Two locations remain open. Track number of participants and waste amounts collected.
4.2.2.1.6	23 Provide training to educators, watershed group members, and others on how to use the EnviroScape® watershed models.	Engage citizen volunteers on how to educate students on sources of pollution and best practices, providing additional resources.	MSD	Provide additional resources/labor who can help with education on sources of stormwater pollution and best practices	Provide or partner with environmental organization to provide an annual workshop on how to use the model.	Provide or partner with environmental organization to provide an annual workshop on how to use the model.	Provide or partner with environmental organization to provide an annual workshop on how to use the model.	Provide or partner with environmental organization to provide an annual workshop on how to use the model.	Provide or partner with environmental organization to provide an annual workshop on how to use the model.	Classes completed and track attendance.
	24 Provide EnviroScape® watershed models for community use.	Foster nonpoint source pollution and water quality awareness in community.	MSD	Provide opportunity to increase awareness and positive behavior change.	Target 50 presentations, maintain reservation tracking database, and record presentations.	Target 50 presentations, maintain reservation tracking database, and record presentations.	Target 50 presentations, maintain reservation tracking database, and record presentations.	Target 50 presentations, maintain reservation tracking database, and record presentations.	Target 50 presentations, maintain reservation tracking database, and record presentations.	Track number of presentations completed.
	25 Provide storm drain marker instructions and equipment to citizen volunteers.	Foster nonpoint source pollution and water quality awareness in community.	MSD	Provide opportunity to increase awareness and positive behavior change.	Target 500 markers applied and record how many projects completed (markers and door hangers).	Target 500 markers applied and record how many projects completed (markers and door hangers).	Target 500 markers applied and record how many projects completed (markers and door hangers).	Target 500 markers applied and record how many projects completed (markers and door hangers).	Target 500 markers applied and record how many projects completed (markers and door hangers).	Track number of markers and door hangers placed.
	26 Develop storm drain marking GIS map.	Maintain map of marked inlets.	MSD	Provide tool to facilitate participation opportunities.	Develop GIS map layer, develop mapping procedures, record labeled inlets (new and from available past records).	Maintain GIS map layer and record labeled inlets.	Maintain GIS map layer and record labeled inlets.	Maintain GIS map layer and record labeled inlets.	Maintain GIS map layer and record labeled inlets.	GIS map layer completed for use to direct public where they can label inlets.
	27 Provide resources, as available, to citizen volunteer organizations that promote green infrastructure and other healthy water programming.	Foster nonpoint source pollution and water quality awareness in community.	MSD	Provide tools to facilitate education, increase awareness, and positive behavior change.	Develop resource library of existing material (i.e., BMP O&M series brochures, websites). Distribute education material upon request via presentations/information booths and mailings. Record what, when, and who material distributed to.	Update resource library of existing material (i.e., BMP O&M series brochures, websites). Distribute education material upon request via presentations/information booths and mailings. Record what, when, and who material distributed to.	Update resource library of existing material (i.e., BMP O&M series brochures, websites). Distribute education material upon request via presentations/information booths and mailings. Record what, when, and who material distributed to.	Update resource library of existing material (i.e., BMP O&M series brochures, websites). Distribute education material upon request via presentations/information booths and mailings. Record what, when, and who material distributed to.	Update resource library of existing material (i.e., BMP O&M series brochures, websites). Distribute education material upon request via presentations/information booths and mailings. Record what, when, and who material distributed to.	Resource library completed and track number of material distributed.

Minimum Control Measure Number 3, Illicit Discharge Detection and Elimination (MCM3)

A. Permit Requirements

Section 4.2.3.1 of the 2016 Permit requires the permittee to develop, implement, and enforce a program to detect and eliminate illicit discharges, as defined in 10 CSR 20-6.200 and 40 CFR 122.34(b)(3), into the permittee's regulated Small MS4. As part of the SWMP document, the permittee's illicit discharge detection and elimination program shall include the development and implementation of, at a minimum:

- 4.2.3.1.1 A storm sewer map showing the location of all constructed outfalls and the names and locations of all receiving waters of the state that receive discharges from those outfalls. The permittee shall describe the sources of information used for the map(s), and how the permittee plans to verify the outfall locations with field surveys. If already completed, the permittee shall describe how the map was developed and how the map will be regularly updated. The permittee shall make the map information available to the Department upon request;
- 4.2.3.1.2 To the extent allowable under state or local law an effective prohibition, through ordinance or other regulatory mechanism, of non-stormwater discharges into the permittee's storm sewer system and implementation of appropriate enforcement procedures and actions. The permittee shall identify the mechanism (ordinance or other regulatory mechanism) the permittee will use to effectively prohibit illicit discharges into the Small MS4. If the permittee needs to develop this mechanism, describe the permittee's plan and implementation schedule. If the permittee's ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with the permittee's SWMP;
- 4.2.3.1.3 A plan and implementation schedule to detect and address non-stormwater discharges, including discharges from illegal dumping and spills, to the permittee's system;
- 4.2.3.1.4 A dry weather field screening plan for non-stormwater flows and field tests of selected chemical parameters as indicators of discharge sources. The plan shall also address on-site sewage

- disposal systems that flow into the permittee's storm drainage system;
- 4.2.3.1.5 Procedures for locating priority areas which include areas with higher likelihood of illicit connections (e.g., areas with older sanitary sewer lines) or ambient sampling to locate impacted reaches;
 - 4.2.3.1.6 Procedures for tracing the source of an illicit discharge, including the specific techniques the permittee will use to detect the location of the source;
 - 4.2.3.1.7 Procedure for eliminating the illicit discharge;
 - 4.2.3.1.8 A plan to ensure through appropriate enforcement procedures, including fines, and actions that the permittee's illicit discharge ordinance (or other regulatory mechanism) is implemented;
 - 4.2.3.1.9 A plan to inform public employees, businesses and the general public of hazards associated with illegal discharges and improper disposal of waste. The permittee shall describe how this plan will coordinate with all other minimum control measures, monitoring, and TMDL implementation (if applicable);
 - 4.2.3.1.10 A plan to address non-stormwater discharges or flows (i.e., illicit discharges) the permittee identifies as significant contributors of pollutants to the regulated Small MS4 including authorized non-stormwater discharges contained in Section 1.2.2.2 of the permit.¹

B. Applicability

An illicit discharge is any discharge to the stormwater system that is not composed entirely of stormwater, except for discharges pursuant to a state operating permit,

¹ The permittee is authorized to discharge the non-stormwater sources provided the permitting authority has not determined these sources to be substantial contributors of pollutants to the permittee's MS4 that required a separate permit. These include landscape irrigation and lawn watering; rising groundwater; uncontaminated groundwater infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow); uncontaminated pumped groundwater; discharges from potable water sources; foundation or footing drains; air conditioning condensate; springs; uncontaminated water from crawl space pumps; flows from riparian habitat and wetlands; street wash water; discharges or flows from emergency fire-fighting activities; individual residential car washing; and dechlorinated residential swimming pool discharges.

other than stormwater discharge permits and discharges from firefighting activities.²
An illicit discharge or connection may result from:

- Illegal dumping practice (i.e., improper disposal of waste).
- A direct connection from the sanitary sewer to the storm sewer.
- Indirect connection from improper surface discharges to the storm sewer (i.e., hosing down outdoor areas on a parking lot or other impervious surface).

C. Stormwater System

The stormwater system within the MSD service area consists of man-made facilities, structures, and natural watercourses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: sewers, pipes, inlets, conduits and appurtenant features, canals, creeks, channels, catch basins, ditches, streams, rivers, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, levees, and pumping stations.³ MSD maps the entire stormwater system using a geographic information system (GIS).

D. Enforcement

MSD utilizes provisions in its sewer use ordinances to prohibit illicit discharges into the stormwater system. MSD Ordinance No. 12559 adopted December 13, 2007, is used as the legal enforcement tool to control such discharges.

E. BMP Development

Specific illicit discharge detection and elimination best management practices are presented in Table 5.

² 10 CSR 20-6.200(1)(A)(C)7

³ As defined by MSD Ordinance 14393.

Table 5

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.3.1.1	28 Maintain GIS system showing constructed MS4 outfalls and receiving streams.	View outfalls in plan area watersheds.	MSD	Permit compliance.	Maintain map of constructed outfalls on GIS.	Maintain map of constructed outfalls on GIS.	Maintain map of constructed outfalls on GIS.	Maintain map of constructed outfalls on GIS.	Maintain map of constructed outfalls on GIS.	Constructed outfalls mapped.
	29 Use map update work orders to track any modifications to the sewer map.	Keep current information on storm sewer system in plan area watersheds	MSD	Permit compliance.	Maintain work order records of map updates.	Maintain work order records of map updates.	Maintain work order records of map updates.	Maintain work order records of map updates.	Maintain work order records of map updates.	Maps updates completed through work orders.
4.2.3.1.2	30 Enforce MSD ordinance 12559, and other ordinances as required.	Provides MSD legal authority to address illicit discharges.	MSD	Permit compliance.	Enforce MSD Ordinance. Record enforcement actions.	Enforce MSD Ordinance. Record enforcement actions.	Enforce MSD Ordinance. Record enforcement actions.	Enforce MSD Ordinance. Record enforcement actions.	Enforce MSD Ordinance. Record enforcement actions.	Ordinance developed and enforced. Track number of enforcement actions.
4.2.3.1.3	31 Survey all natural channels identified on stormwater GIS map once per 5 years.	Detect and eliminate illicit discharges.	MSD	Identify illicit discharges and take enforcement action as necessary.	Survey 280 miles of storm channels for illicit discharges. Record mileage, findings, and resolutions.	Survey 280 miles of storm channels for illicit discharges. Record mileage, findings, and resolutions.	Survey 280 miles of storm channels for illicit discharges. Record mileage, findings, and resolutions.	Survey 280 miles of storm channels for illicit discharges. Record mileage, findings, and resolutions.	Survey 280 miles of storm channels for illicit discharges. Record mileage, findings, and resolutions.	Track mileage, findings from surveys, and resolutions.
	32 Respond to reports of illegal dumping.	Detect and eliminate illicit discharges .	MSD	Identify illicit discharges and take enforcement action as necessary.	Respond to customer complaints in accordance with the effective version of MSD's SOP for Customer Sewer Maintenance Requests.	Respond to customer complaints in accordance with the effective version of MSD's SOP for Customer Sewer Maintenance Requests.	Respond to customer complaints in accordance with the effective version of MSD's SOP for Customer Sewer Maintenance Requests.	Respond to customer complaints in accordance with the effective version of MSD's SOP for Customer Sewer Maintenance Requests.	Respond to customer complaints in accordance with the effective version of MSD's SOP for Customer Sewer Maintenance Requests.	Track service requests, work orders, and resolutions. Initial response times comply with policy at least 90% of the occurrences.
4.2.3.1.4	33 Maintain operating procedures for field testing and surveying to help identify chemicals indicative of illicit discharge.	Field screening provides for timely and efficient illicit source identification and elimination.	MSD	Provide tools to identify illicit discharges and take enforcement action as necessary.	Maintain field screening plan.	Maintain field screening plan.	Maintain field screening plan.	Maintain field screening plan.	Maintain field screening plan. Review and revise plan as needed.	Standard operating procedures completed and update as needed.
4.2.3.1.5	34 Maintain and annually review findings from channel surveys. Previous findings inspected.	Identify priority areas for potential monitoring and followup.	MSD	Ensures there is followup on potential sources.	Review findings and inspect each as necessary to ensure 1-in-5 year frequency is achieved.	Review findings and inspect each as necessary to ensure 1-in-5 year frequency is achieved.	Review findings and inspect each as necessary to ensure 1-in-5 year frequency is achieved.	Review findings and inspect each as necessary to ensure 1-in-5 year frequency is achieved.	Review findings and inspect each as necessary to ensure 1-in-5 year frequency is achieved.	Annual review of all findings. All finding areas inspected 1-in-5 years, minimum.
	35 Review representative water quality data collected by MSD to prioritize investigation areas.	Use the water quality data that MSD collects to identify sources.	MSD	Identify reaches that are affected by sources. Allows development of a plan for sources.	None	Review water quality data and provide summary report comparing data to channel inspection findings, for 2017 WQ data.	Review water quality data and provide summary report comparing data to channel inspection findings, for 2018 WQ data.	Review water quality data and provide summary report comparing data to channel inspection findings, for 2019 WQ data.	Review water quality data and provide summary report comparing data to channel inspection findings, for 2020 WQ data.	Report submitted and filed.
	36 Develop a tabular database and GIS layer of areas that may utilize individual sewage disposal systems (i.e., septic tanks).	Have a database of areas with individual sewage disposal systems that could be used to assist illicit discharge investigations	All	Efficiently complete illicit discharge investigations	None	Identify possible files, databases, or other information that could contain such information.	Using GIS, identify possible areas for investigation.	Using GIS, identify possible areas for investigation.	None	Database developed.

Table 5

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.3.1.5	37 Develop a tabular database and GIS layer of properties that have participated in the sewer lateral repair program.	Have a database of properties that have participated in the sewer lateral repair program that could be used to assist illicit discharge investigations	All	Efficiently complete illicit discharge investigations	None	None	None	Using GIS, review and survey existing plan area data sources.	Using GIS, review and survey existing plan area data sources.	Database developed.
4.2.3.1.6	38 Maintain operating procedures for tracing illicit discharges from public sewer system.	Timely detect and eliminate illicit discharges within entire plan area	MSD	Have tools to identify illicit discharges and take enforcement action as necessary.	Maintain and implement standard operating procedures.	Maintain and implement standard operating procedures.	Maintain and implement standard operating procedures.	Maintain and implement standard operating procedures.	Maintain and implement standard operating procedures.	Standard operating procedures completed and updated as needed.
4.2.3.1.7	39 Maintain operating procedures for eliminating illicit discharges	Timely elimination of illicit discharges	MSD	Identify illicit discharges and take enforcement action as necessary.	Maintain and implement standard operating procedures. Report number of illicit discharges, resolved and outstanding.	Maintain and implement standard operating procedures. Report number of illicit discharges, resolved and outstanding.	Maintain and implement standard operating procedures. Report number of illicit discharges, resolved and outstanding.	Maintain and implement standard operating procedures. Report number of illicit discharges, resolved and outstanding.	Maintain and implement standard operating procedures. Report number of illicit discharges, resolved and outstanding. Revise procedures as needed.	Track number of illicit discharges, resolved and outstanding. Standard operating procedures completed and updated as needed.
4.2.3.1.8	40 Maintain enforcement plan for addressing illicit discharges.	Timely elimination of illicit discharges.	MSD	Identify illicit discharges and take enforcement action as necessary.	Maintain and implement ordinance.	Maintain and implement ordinance.	Maintain and implement ordinance.	Maintain and implement ordinance.	Maintain and implement ordinance.	SOP completed and updated as needed.
4.2.3.1.9	41 Maintain and distribute brochures, door hangers, and other communication tools that inform about hazards associated with illegal discharges and improper disposal of waste.	Foster stormwater nonpoint source pollution awareness and behavior change in community.	MSD	Provide education and increase awareness and positive behavior change.	Record location and number of brochures and door hangers provided as part of illicit discharge investigations.	Record location and number of brochures and door hangers provided as part of illicit discharge investigations.	Record location and number of brochures and door hangers provided as part of illicit discharge investigations.	Record location and number of brochures and door hangers provided as part of illicit discharge investigations.	Record location and number of brochures and door hangers provided as part of illicit discharge investigations.	Number of educational material tracked. Analyze MCM1 education survey.
					None	Review "location and numbers" to determine if modifications to MCM 1 activities is needed.	None	None	Review "where and numbers" to determine if modification to MCM 1 activities is needed.	Number of educational material tracked. Analyze MCM1 education survey.
4.2.3.1.10	42 Provide public outreach communications tools (brochures, etc.) to sources of non-stormwater discharge that could be substantial contributors of pollutants into the MS4, such as street cleaning, residential car washing, and residential swimming pools	Foster stormwater NPS pollution awareness and behavior change in community	MSD	Provide education and increase awareness and positive behavior change	Record location and number of brochures and door hangers provided as part of IDD investigations.	Record location and number of brochures and door hangers provided as part of IDD investigations.	Record location and number of brochures and door hangers provided as part of IDD investigations.	Record location and number of brochures and door hangers provided as part of IDD investigations.	Record location and number of brochures and door hangers provided as part of IDD investigations.	Number of educational material tracked. Analyze MCM1 education survey.

Minimum Control Measure Number 4, Construction Site Stormwater Runoff Control (MCM4)

A. Permit Requirements

Section 4.2.4.1 of the 2016 Permit requires the permittee to develop, implement and enforce a program to reduce pollutants in any stormwater runoff to their regulated Small MS4 from construction activities that result in land disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre shall be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. As part of the SWMP, the permittee's construction site stormwater runoff control program shall include the development and implementation of, at a minimum:

- 4.2.4.1.1 An ordinance or other regulatory mechanism to require operators to implement erosion and sediment control BMPs at construction sites; to include sanctions designed to ensure compliance, to the extent allowable under state or local law; and
 - 4.2.4.1.1.1 If the permittee needs to develop this mechanism, the permittee shall describe the plan and scheduled implementation. If the permittee's ordinance or regulatory mechanism is already developed, the permittee shall include a copy of the relevant sections with the permittee's SWMP.
- 4.2.4.1.2 Requirements for construction site operators to control construction-site waste that may cause adverse impacts to water quality, such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste;
- 4.2.4.1.3 Procedures for the permittee to consider and review all pre-construction site plans for potential water quality impacts;
- 4.2.4.1.4 Procedures for the permittee receive and consider information submitted by the public, including coordination with the permittee's public education and involvement programs;
- 4.2.4.1.5 Procedures for the permittee to inspect sites and enforce control measures, including prioritization of site inspection; and
 - 4.2.4.1.5.1 The permittee shall inspect (or require inspection of) any structure that functions to prevent pollution of stormwater or to remove pollutants from stormwater and ensure that all BMPs

are implemented and effective; and a monitoring plan with implementation schedules shall be referenced in the SWMP document.

- 4.2.4.1.6 A plan designed to ensure compliance with the permittee's erosion and sediment control regulatory mechanism, including the sanctions and enforcement mechanisms the permittee will use to ensure compliance and procedures for when certain sanctions will be used. Possible sanctions include non-monetary penalties (such as stop work orders), fines, bonding requirements, and/or permit denials for non-compliance.

B. Applicability

Within the Plan Area, construction and land disturbance activities are performed by private entities, as well as by MSD, St. Louis County, and many of the municipal co-permittees. Land disturbance activities conducted by the co-permittees are handled in-house or with the use of a contractor.

As a result of the first Phase II permit, each Plan Area co-permittee has amended its existing construction and land disturbance program or developed a new program (Appendix C), which includes adoption of appropriate Phase II compliant policies, procedures, and ordinances to reduce pollutants from construction activities that result in a land disturbance of equal to or greater than 1 acre in size. Activities conducted by private entities are subject to the land disturbance permitting requirements of the co-permittee, depending upon the governmental jurisdiction within which the site is located. In addition to any local approvals, every construction site operator must also obtain a separate MDNR permit for any land disturbance activities affecting an area of one acre or more. Regardless of the status of local approvals, land disturbance activities on such sites may not commence prior to the issuance of a state land disturbance permit.

C. Municipality Implementation Options

Each incorporated municipality has the authority and responsibility to perform construction permitting and inspection services as a basic element of the police powers afforded municipal governments in Missouri. Each has implemented a Phase II compliance land disturbance program to regulate construction within their jurisdiction.

Some municipalities provide full permitting and inspection services with their own resources. These municipalities have implemented the project reviews, permitting,

inspection, complaint response, and other activities needed to implement the permit's land disturbance program.

A second option many municipalities have taken is to adopt St. Louis County's ordinance and contract with St. Louis County for Code Enforcement. The County contracts for permitting (including plan review and construction authorization documents) and code enforcement, including periodic and critical event inspections. The County contract requires the construction site operator to gain zoning approval from the municipality for a project before a county permit is issued. In addition, the municipality issues its final occupancy permits only after the Department of Public Works has completed all construction inspections. In all cases the ordinance authority and any penalties for non-compliance are the responsibility and authority of the individual municipal governments.

D. BMP Development

Specific construction site stormwater runoff control best management practices are presented in Table 6.

Table 6

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.4.1.1	43 Maintain list of regulatory mechanisms and active land disturbance programs.	Ensure co-permittee land disturbance programs are implemented.	MSD	Permit compliance.	Record each copermittees ordinance or other regulatory mechanism.	Record each copermittees ordinance or other regulatory mechanism.	Record each copermittees ordinance or other regulatory mechanism.	Record each copermittees ordinance or other regulatory mechanism.	Record each copermittees ordinance or other regulatory mechanism.	Track number of copermittees programs.
4.2.4.1.1.1	44 Verify regulatory authority.	Ensure existing co-permittee land disturbance programs have authority.	MSD	Permit compliance	Record each copermittees ordinance or other regulatory mechanism in the SWMP.	Record each copermittees ordinance or other regulatory mechanism in the SWMP.	Record each copermittees ordinance or other regulatory mechanism in the SWMP.	Record each copermittees ordinance or other regulatory mechanism in the SWMP.	Record each copermittees ordinance or other regulatory mechanism in the SWMP.	Track copermittees programs information. See Appendix C
4.2.4.1.2	45 Maintain written procedures and guidance materials for operators to follow.	Prevent land disturbance related waste from leaving the land disturbance area.	St. Louis County and Municipalities	Waste sources contained by BMPs	Record each copermittees written procedure	Record each copermittees written procedure	Record each copermittees written procedure	Record each copermittees written procedure	Record each copermittees written procedure	Track procedures completed.
4.2.4.1.3	46 Maintain written procedures and guidance materials for permittees to follow.	Require development pre-construction planning See also MCM5.	St. Louis County and Municipalities	Appropriate sediment and erosion BMPs installed	Record each copermittees written procedure	Record each copermittees written procedure	Record each copermittees written procedure	Record each copermittees written procedure	Record each copermittees written procedure	Track procedures completed.
4.2.4.1.4	47 Maintain written procedures to receive (i.e., public complaint hotline) respond to, and track public inquiries and complaints.	Provide timely customer response to complaints from land disturbance related waste leaving the land disturbance area.	St. Louis County and Municipalities	Permittees will follow procedures to ensure timely and appropriate responses.	Notification to start recording each copermittees complaints/follow-up written procedure name in year 2	Record each copermittees complaints/follow-up written procedure name	Record each copermittees complaints/follow-up written procedure name	Record each copermittees complaints/follow-up written procedure name	Record each copermittees complaints/follow-up written procedure name	Track procedures completed.
				Reduce pollution leaving site by demonstrating timely response occurred.	Notification to start recording each copermittees number of complaints and follow-up actions in year 2	Record each copermittees number of complaints and follow-up actions	Record each copermittees number of complaints and follow-up actions	Record each copermittees number of complaints and follow-up actions	Record each copermittees number of complaints and follow-up actions	Track number of copermittees complaint investigations (formal and informal).
	Maintain written procedures to receive (i.e., public complaint hotline) respond to, and track public inquiries and complaints.	Provide timely customer response to complaints from land disturbance related waste leaving the land disturbance area.	MSD	Reduce pollution leaving site by demonstrating timely response occurred.	Record number of findings, complaints, and response actions	Record number of findings, complaints, and response actions	Record number of findings, complaints, and response actions	Record number of findings, complaints, and response actions	Record number of findings, complaints, and response actions	Track number of MSD MCM3 land disturbance findings. See also MCM3

Table 6

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.4.1.5	48 Maintain written procedures and checklists for permittees to follow during SWPPP inspections.	To ensure BMPs properly installed and maintained.	St. Louis County and Municipalities	St. Louis County and municipalities will inspect that appropriate sediment and erosion BMPs are installed.	Record each copermitees written procedure and checklist.	Record each copermitees written procedure and checklist.	Record each copermitees written procedure and checklist.	Record each copermitees written procedure and checklist.	Record each copermitees written procedure and checklist.	Track procedures completed.
4.2.4.1.5.1	49 Inspect land disturbance sites and as specified in land disturbance program ordinance.	To ensure BMPs properly installed and maintained.	St. Louis County and Municipalities	St. Louis County and municipalities will inspect that appropriate sediment and erosion BMPs are installed.	Notification to start recording each copermitees number of inspections at each active land disturbance site in year 2.	Record each copermitees number of inspections at each active land disturbance site.	Record each copermitees number of inspections at each active land disturbance site.	Record each copermitees number of inspections at each active land disturbance site.	Record each copermitees number of inspections at each active land disturbance site.	Inspection records support program compliance.
4.2.4.1.6	50 Maintain written procedures for enforcement actions.	Provide authority to implement program.	St. Louis County and Municipalities	St. Louis County and municipalities will follow enforcement procedures when needed.	Record each copermitees number of formal enforcements. Notification to include informal actions in year 2.	Record each copermitees number of informal and formal enforcements.	Record each copermitees number of informal and formal enforcements.	Record each copermitees number of informal and formal enforcements.	Record each copermitees number of informal and formal enforcements.	Track number of informal and formal enforcements

Minimum Control Measure Number 5, Post-Construction Stormwater Management in New Development and Redevelopment (MCM5)

A. Permit Requirements

Section 4.2.5.1 of the 2016 Permit requires the permittee to develop, implement and enforce a program to address the quality of long-term stormwater runoff from new development and redevelopment projects that disturb equal to and greater than one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the permittee's regulated Small MS4. The permittee's program shall ensure that controls are in place that have been designed and implemented to prevent or minimize water quality impacts. As part of the SWMP document, the post-construction runoff control program shall include the following information, at a minimum:

- 4.2.5.1.1 An ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state or local law. If the permittee needs to develop a mechanism, the permittee shall describe the plan and a schedule for implementation. If the permittee's ordinance or regulatory mechanism is already developed, the permittee shall include a copy of the relevant sections with the SWMP document;
- 4.2.5.1.2 A plan to ensure adequate long-term operation and maintenance of selected BMPs, including, as appropriate, types of agreements between the permittee and other parties such as post-development landowners or regional authorities;
- 4.2.5.1.3 Strategies to minimize water quality impacts, which include a combination of structural and/or non-structural BMPs appropriate for the permittee's community, including but not limited to the assessment of site characteristics at the beginning of the construction site design phase to ensure adequate planning for stormwater program compliance. The goal of this approach is to arrive at designs that protect sensitive areas, minimize the creation of stormwater pollution, and utilize BMPs that effectively remove stormwater pollution. This can be achieved by reasonably mimicking pre-construction runoff conditions on all affected new development

projects, or the permittee may achieve this goal through a method more appropriate for its community;

4.2.5.1.4 An inspection plan with implementation schedules for post-construction BMPs;

4.2.5.1.5 The permittee shall inspect or require the inspection of post-construction stormwater BMPs to ensure that all BMPs are implemented and effective.

B. BMP Development

Both structural and non-structural BMPs have a role in effectively addressing stream impairment and water quality. A milestone activity of the SWMP will be to continue implementing Plan Area wide requirements for stormwater facilities on development projects over 1 acre. MSD requires all stormwater facilities to be provided and designed in accordance with provisions contained in the “Rules and Regulations and Engineering Design Requirements for Sanitary Sewer and Stormwater Drainage Facilities,” as amended. These Rules and Regulations include requirements for BMPs for stormwater control and watershed protection to be incorporated into the project design. These rules and regulations are implemented under the authority of MSD Ordinance 9030, and the Rules and Regulations implementing the Phase II BMPs were adopted by the MSD Board of Trustees in Resolution 2630. The Rules and Regulations include stormwater design criteria for:

- Water quality treatment of the project disturbed area, or equivalent, using the 90th percentile daily rainfall depth or continuous simulation modeling indicating 90% of all annual rainfall is treated by the BMP.
- Reducing runoff volume to pre-construction levels on new development sites. New development sites include those with less than 20% impervious area and/or where prior land use activities have not impaired the site and utilization of natural processes like infiltration are still possible. A BMP’s ability to adequately reduce runoff is assessed based on average annual rainfall or continuous simulation modeling over a typical year. Runoff is defined as water discharged to the MS4 by overflow (bypass) and/or by underdrain piping (e.g., treated water that does not infiltrate).
- Extended detention storage and release of the 1-year 24-hour storm to reduce channel erosion, as appropriate for the site.

MSD applies these water quality design criteria on projects within the Plan Area that discharge to waters of the state or drainage areas tributary to a stormwater outlet.

MSD applies the water quality design criteria on projects within the flood control levee MSDs. Projects located within flood control levee MSDs may utilize regional water quality plans approved by MSD. These regional plans may adopt a modified 3-pronged approach: at the source, in master channels, and in flood storage basin structures, as reviewed and responded to by MDNR in a letter dated May 10, 2011.

To be considered an effective BMP for stand-alone treatment of the water quality volume, the BMP shall demonstrate a minimum removal efficiency of 80% total suspended solids and have an acceptable longevity rate in the field (i.e., be maintainable). MSD maintains an online BMP Toolbox on its website for developers and engineers who submit post-construction BMP plans to MSD and co-permittees. The Toolbox helps navigate a user through the technical and procedural paths to post-construction stormwater BMPs design, installation and maintenance.

MSD, St. Louis County, and the Plan Area municipalities will continue to approve development plans only after ensuring the development meets all applicable requirements. St. Louis County and municipalities enforce ordinances related to land use BMPs in their planning and zoning function. St. Louis County and each municipality has implemented procedures to ensure that all applicable private and public development projects involving stormwater management are reviewed and approved by MSD. MSD enforces sewer and drainage design requirements mandating structural and non-structural post-construction BMPs. MSD will continue to issue permits for and inspect the construction of all structural BMPs.

An executed maintenance agreement is required with all projects where BMPs are required to comply with the permit, and where MSD is not performing BMP maintenance. All structural BMPs located on private property (i.e., all parcels that are assigned a locator identification number by the St. Louis County assessor's office) will be maintained by the property owner(s), and MSD will enforce the maintenance through a Maintenance Agreement that is recorded with the property deed. MSD will also require a maintenance agreement be executed for BMPs located within right-of-way and for which MSD is not performing routine maintenance, although these agreements cannot be recorded with the right-of-way property.

MSD maintains responsibility under the Plan to ensure BMPs are maintained and MSD will continue to inspect BMPs to ensure adequate operation. MSD has enforcement authority to ensure owners maintain their post construction BMPs in MSD Ordinance 12559, Article IV, Part C. MSD BMP inspections will be conducted at a minimum of once every three years for each BMP, or an alternate frequency deemed appropriate for the BMP type, and MSD will continue enforcement compliance using MSD Ordinance 12559.

Specific best management practices for post-construction stormwater management in new development and redevelopment are presented Table 7.

Table 7

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.5.1.1	51 Follow MSD ordinances 9030 and 12559, MSD Rules and Regulations, and County and Municipal Ordinances.	Requires developers and plan reviewers to implement appropriate strategies and controls to address post-construction run-off.	MSD	New and redevelopment projects that disturb greater than or equal to one acre will implement BMPs.	Implement Ordinance and Design Rules.	Implement Ordinance and Design Rules.	Implement Ordinance and Design Rules.	Implement Ordinance and Design Rules.	Implement Ordinance and Design Rules.	Ordinance and Design Rules completed and implemented.
			St. Louis County and Municipalities	New and redevelopment projects that disturb greater than or equal to one acre will implement BMPs.	Implement ordinance to regulate and enforce post-construction strategies.	Implement ordinance to regulate and enforce post-construction strategies.	Implement ordinance to regulate and enforce post-construction strategies.	Implement ordinance to regulate and enforce post-construction strategies.	Implement ordinance to regulate and enforce post-construction strategies.	Ordinance completed and implemented.
4.2.5.1.2	52 Follow plan review process for executing maintenance agreements environmental compliance inspection process for long term maintenance.	To ensure long-term operation of BMPs.	MSD	BMPs will function correctly.	Develop and Implement maintenance agreement for each project, unless BMP maintained by MSD.	Develop and Implement maintenance agreement for each project, unless BMP maintained by MSD.	Develop and Implement maintenance agreement for each project, unless BMP maintained by MSD.	Develop and Implement maintenance agreement for each project, unless BMP maintained by MSD.	Develop and Implement maintenance agreement for each project, unless BMP maintained by MSD.	All MSD approved projects, with BMPs that are not maintained by MSD, have maintenance agreement. Annual internal review of 5 projects.
					Implement MSD BMP Enforcement and Response Plan.	Update & implement MSD BMP Enforcement and Response Plan.	Implement MSD BMP Enforcement and Response Plan.	Implement MSD BMP Enforcement and Response Plan.	Implement MSD BMP Enforcement and Response Plan.	Plan updated. See below for description of metrics used.
4.2.5.1.3	53 Utilize matrix of BMPs on BMP toolbox. Maintain existing strategies	Requires developments to implement appropriate strategies and controls to address post-construction run-off.	MSD	Implement BMPs to MEP.	Developments will utilize BMPs and design requirements as listed on the BMP toolbox. List water quality (WQ) and channel protection (CPv) requirements.	Update BMP toolkit, as needed. Developments will utilize BMPs and design requirements as listed on the BMP toolbox. List WQ and CPv requirements.	Developments will utilize BMPs and design requirements as listed on the BMP toolbox. List WQ and CPv requirements.	Developments will utilize BMPs and design requirements as listed on the BMP toolbox. List WQ and CPv requirements.	Developments will utilize BMPs and design requirements as listed on the BMP toolbox. List WQ and CPv requirements.	Development projects follow rules. Toolbox is complete and updated as needed. Annual internal review of 5 projects.
					54 Copermittees will review and update parking ordinances and/or policies, as needed	Reduce impervious parking areas and reduce barriers to incorporating green infrastructure into parking areas.	Ballwin, Bellefontaine Neighbors, Black Jack, Bridgeton, Chesterfield, Creve Coeur, Des Peres, Ellisville, Fenton, Frontenac, Kirkwood, Ladue, Manchester, Maryland Heights, Olivette, Overland, Sunset Hills, St. Louis County, Town and Country, Wildwood	Optimize use of impervious areas in parking	None	None

Table 7

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria	
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021		
4.2.5.1.3	55	Maintain optional conceptual review process.	Provides developers with plan review assessment of appropriate strategies and controls to address post-construction run-off.	MSD	Identify opportunities for water quality protection early in the development project planning phase.	Record number of developments that are charged for utilizing the conceptual review service.	Record number of developments that are charged for utilizing the conceptual review service.	Record number of developments that are charged for utilizing the conceptual review service.	Record number of developments that are charged for utilizing the conceptual review service.	Record number of developments that are charged for utilizing the conceptual review service.	Number of conceptual reviews.
	56	Site Design Guide Available	Provide developers and plan reviewers a way to implement BMP	MSD	Protect sensitive areas, minimize stormwater pollution, and utilize effective BMPs.	Site Design Guidance document available.	Site Design Guidance document available.	Site Design Guidance document available.	Site Design Guidance document available.	Site Design Guidance document available.	Site Design Guidance available for public use.
	57	Use pre-condition assessment with early stage project planning.	Requires developers and permittees to assess conditions early.	All	Protect sensitive areas, minimize stormwater pollution, and utilize effective BMPs.	Have process requiring pre-construction planning by MSD Site Design Guidance or equivalent procedure.	Have process requiring pre-construction planning by MSD Site Design Guidance or equivalent procedure.	Have process requiring pre-construction planning by MSD Site Design Guidance or equivalent procedure.	Have process requiring pre-construction planning by MSD Site Design Guidance or equivalent procedure.	Have process requiring pre-construction planning by MSD Site Design Guidance or equivalent procedure.	Process available, process used. Annual (starting in year 2) review audit of up to 5 projects.
4.2.5.1.4 & 4.2.5.1.5	58	Inspect all water quality BMPs and use key performance indicators to demonstrate compliance.	To ensure long-term operation of BMPs.	MSD	BMPs constructed and maintained to function properly.	Implement construction inspection requirements, as defined in rules and regulations.	Implement construction inspection requirements, as defined in rules and regulations.	Implement construction inspection requirements, as defined in rules and regulations.	Implement construction inspection requirements, as defined in rules and regulations.	Implement construction inspection requirements, as defined in rules and regulations.	Annual internal review of 4 projects.
						Schedule and track BMP three year inspections.	Schedule and track BMP three year inspections.	Schedule and track BMP three year inspections.	Schedule and track BMP three year inspections.	Schedule and track BMP three year inspections.	All BMPs are inspected once per 3 years, minimum.
						Implement Enforcement Response Plan and track number of BMP enforcement actions	Implement Enforcement Response Plan and track number of BMP enforcement actions	Implement Enforcement Response Plan and track number of BMP enforcement actions	Implement Enforcement Response Plan and track number of BMP enforcement actions	Implement Enforcement Response Plan and track number of BMP enforcement actions	Report number of enforcement actions taken. Enforcement action taken within 45 days of notice of problem, 90% of the time.
						Require and track BMP owner annual reports	Require and track BMP owner annual reports	Require and track BMP owner annual reports	Require and track BMP owner annual reports	Require and track BMP owner annual reports	Report number of annual reports received and outstanding.

Minimum Control Measure Number 6, Pollution Prevention Good Housekeeping for Municipal Operations (MCM6)

A. Permit Requirements

Section 4.2.6.1 of the small MS4 general permit requires the permittee to develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. As part of the SWMP, the pollution prevention/good housekeeping program shall include the following information, at a minimum:

- 4.2.6.1.1 A government employee training program to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance. The permittee shall describe any existing, available material the permittee plans to use such as those available from EPA, the state, or other organizations. The permittee shall describe how this plan will coordinate with all other minimum control measures, monitoring and TMDL implementations where applicable;
- 4.2.6.1.2 A list of all municipal operations that are impacted by this operation and maintenance program. The permittee shall also include a list of industrial facilities that the permittee owns or operates that are subject to NPDES permits for discharges of stormwater associated with industrial activity that ultimately discharge to the permittee's MS4. The permittee shall include the permit number or a copy of the No Exposure Exemption Certification (if applicable) for each facility. NPDES permitted facilities not owned or operated by the permittee are not required to be part of the list;
- 4.2.6.1.3 Maintenance BMPs, maintenance schedules, and long-term inspection procedures for controls to reduce floatable and other pollutants to the permittee's regulated Small MS4;
- 4.2.6.1.4 Controls for reducing or eliminating the discharge of pollutants from street, roads, highways, municipal parking lots, maintenance and storage yards, waste transfer station, fleet or maintenance shops with outdoor storage areas, and salt/sand

- storage locations and snow disposal areas the permittee operates;
- 4.2.6.1.5 Procedures for the proper disposal of waste removed from the permittee's Small MS4 and areas of jurisdiction, including dredged material, accumulated sediments, floatables and other debris;
- 4.2.6.1.6 Procedures to assess impacts of water quality for new flood management projects, if applicable. Flood management projects are those projects developed or designed to reduce flooding.
- 4.2.6.2 All paints, solvents, petroleum products and petroleum waste products (except fuels) under the control of the permittee shall be stored so that these materials are not exposed to stormwater. Sufficient practices of spill prevention, control, and/or management shall be provided to prevent any spill of these pollutants from entering waters of the state. Any containment system used to implement this requirement shall be constructed of materials compatible with the substances contained and shall also prevent the contamination of groundwater.

B. BMP Development

The scope of municipal operations varies widely among the 60 entities involved in this SWMP. Municipal operations range from very small municipalities, having no municipal facilities other than a few blocks of local streets, to the county government, having responsibility for regional highways, parks, high rise municipal buildings, major construction activities, fleet maintenance operations, airport and all the other various operations of a major county government. Because of this broad variation in activities, selection of appropriate BMPs to satisfy the permit requirements will vary considerably among the co-permittees. Training programs will be similarly varied. Each co-permittee identified and listed their operations that are impacted by the MS4 permit requirements referenced in Section A above and have supplied the required information as part of their MS4 permit application. Implementation of an Operation and Maintenance Program using a program model is required by each co-permittee. The program model is based on the following common municipal operations:

- General Housekeeping and Operation and Maintenance
- Vehicle/Equipment Repair and Maintenance Operations

- Vehicle/Equipment Washing
- Facility Repair, Remodeling and Construction
- Cleaning and Maintenance of Roadways, Highways, Bridges, and Parking Facilities
- Maintenance of Parks, Green Spaces, Trails, and Landscaping
- Cleaning and Maintenance of Drainage Channels, Storm Sewers, and Inlet Structures.
- Operation and Maintenance of Recycling Facilities
- Water Quality Impact Assessment of Flood Management Projects

Specific BMPs for pollution prevention/good housekeeping for municipal operations best management practices are presented in Table 8.

Table 8

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.6.1.1	59 Provide annual training to all MSD, municipal, and St. Louis County employees who work in municipal operations impacted by stormwater.	To prevent and reduce stormwater pollution from municipal operations.	All	Training program exists, and updated to coordinate.	Maintain training program.	Maintain training program.	Maintain training program.	Maintain training program.	Review training program and update as needed.	Track number of training programs completed and implemented. Year 5 review documented.
				Co-permittee employees will be offered MSD annual training opportunities.	Hold 4 training events and record attendance.	Hold 4 training events and record attendance.	Hold 4 training events and record attendance.	Hold 4 training events and record attendance.	Hold 4 training events and record attendance.	Track training events completed and attendance.
4.2.6.1.2	60 List all operational facilities that are subject to MCM 6. List all operational facilities that are subject to No Exposure certification.	Identify copermitees industrial discharges not covered under a separate NPDES operating permit	All	Facilities listed in written operation and maintenance program.	Notification to complete list in operation and maintenance program plan in year 2.	Maintain current list in operation and maintenance program plan.	Maintain current list in operation and maintenance program plan.	Maintain current list in operation and maintenance program plan.	Maintain current list in operation and maintenance program plan.	List completed
				Maintain No Exposure certification status, as applicable.	Notification to review certification status of each facility and renew as necessary by end of year 2.	Review certification status of each facility, renew as necessary, and record application/expiration dates.	Review certification status of each facility, renew as necessary, and record application/expiration dates.	Review certification status of each facility, renew as necessary, and record application/expiration dates.	Review certification status of each facility, renew as necessary, and record application/expiration dates.	No Exposure Exemption Certification applications completed before expiration dates.
4.2.6.1.3	61 Maintain written Operation and Maintenance Program.	To ensure BMPs properly installed and maintained.	All	Confirm appropriate BMPs implemented and functioning correctly	Record inspection dates and locations.	Record inspection dates and locations.	Record inspection dates and locations.	Record inspection dates and locations.	Record inspection dates and locations.	Inspection completed and track number of inspections.
				Written operation and maintenance program in place. Program reflects practice.	Implement Operation and Maintenance program.	Implement Operation and Maintenance program. MSD will take the lead to update the February 2005 dated Operation and Maintenance Program model template for co-permittees.	Implement Operation and Maintenance program. MSD will distribute the revised Operation and Maintenance Program model template and ask co-permittees to review and consider the need to update their operation and maintenance programs.	Implement Operation and Maintenance program.	Implement Operation and Maintenance program.	Model Operation and Maintenance Program template complete and track number of co-permittee programs implemented.
	62 Maintain written inspection checklist template for performing inspections .	To ensure BMPs properly installed and maintained.	MSD	Confirm appropriate BMPs implemented and functioning correctly .	Checklist available for copermitees. Provide checklist at MSD annual training events.	Checklist available for copermitees. Provide checklist at MSD annual training events.	Checklist available for copermitees. Provide checklist at MSD annual training events.	Checklist available for copermitees. Provide checklist at MSD annual training events.	Checklist available for copermitees. Provide checklist at MSD annual training events.	Inspection checklist template completed and distributed at annual MSD training.

Table 8

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.6.1.4	63 Install BMPs (e.g., rain gardens and permeable pavement) with construction of municipal facilities and roadways, where feasible.	Provide pollutant controls with projects.	All	Reduce discharge of pollutants from project areas.	Project plans include BMPs. Permittees build BMPs. Permittees maintain and report on BMP condition.	Project plans include BMPs. Permittees build BMPs. Permittees maintain and report on BMP condition.	Project plans include BMPs. Permittees build BMPs. Permittees maintain and report on BMP condition.	Project plans include BMPs. Permittees build BMPs. Permittees maintain and report on BMP condition.	Project plans include BMPs. Permittees build BMPs. Permittees maintain and report on BMP condition.	Permittees build BMPs with projects, where feasible. Permittees report on BMP status in annual report, starting in year 2.
	64 Track salt application rates. Set baseline key performance indicator of salt application rates.	To prevent and reduce stormwater pollution from deicing operations.	St. Louis County and Municipalities	Salt application rates documented	Record BMPs and application rates.	Record BMPs and application rates.	Record BMPs and application rates.	Record BMPs and application rates.	Record BMPs and application rates.	Analyze salt application rate data annually for application trends. Consider also stream water quality data.
				Use alternative deicing approaches to reduce chloride load, where feasible.	Track copermittees use of alternative deicing approaches.	Track copermittees use of alternative deicing approaches.	Track copermittees use of alternative deicing approaches.	Track copermittees use of alternative deicing approaches.	Track copermittees use of alternative deicing approaches.	Report annually on the number of permittees utilizing alternative deicing approaches.
4.2.6.1.5	65 Maintain written Operation and Maintenance Program.	To prevent and reduce stormwater pollution from municipal operations.	All	Written operation and maintenance program in place. Program reflects practice.	Implement Operation and Maintenance program.	Implement Operation and Maintenance program. MSD will take the lead to update the February 2005 dated Operation and Maintenance Program model template for co-permittees.	Implement Operation and Maintenance program. MSD will distribute the revised Operation and Maintenance Program model template and ask co-permittees to review and consider the need to update their operation and maintenance programs.	Implement Operation and Maintenance program.	Implement Operation and Maintenance program.	Model Operation and Maintenance Program template complete and track number of co-permittee programs implemented.
4.2.6.1.6	66 Maintain written guidelines for MSD to follow when preparing preliminary engineering project studies.	To assess water quality impacts for new flood management projects.	MSD	Written guidelines in place.	Implement guidelines for preparing preliminary engineering project studies.	Implement guidelines for preparing preliminary engineering project studies.	Implement guidelines for preparing preliminary engineering project studies.	Implement guidelines for preparing preliminary engineering project studies.	Implement guidelines for preparing preliminary engineering project studies.	Guidelines for preparing preliminary engineering project studies complete and implemented.

Table 8

Permit Requirement	BMP Description	BMP Purpose	Responsible Person	Expected Result of BMP	Measurable Goals, Milestones, and Dates					BMP Evaluation Process/Criteria
					Permit Year 1, 2017	Permit Year 2, 2018	Permit Year 3, 2019	Permit Year 4, 2020	Permit Year 5, 2021	
4.2.6.1.6	67 Maintain written Operation and Maintenance Program.	To assess and mitigate water quality impacts for new flood management projects.	All	Written operation and maintenance program in place. Program reflects practice.	Implement Operation and Maintenance program.	Implement Operation and Maintenance program. MSD will take the lead to update the February 2005 dated Operation and Maintenance Program model template for co-permittees.	Implement Operation and Maintenance program. MSD will distribute the revised Operation and Maintenance Program model template and ask co-permittees to review and consider the need to update their operation and maintenance programs.	Implement Operation and Maintenance program.	Implement Operation and Maintenance program.	Model Operation and Maintenance Program template complete and track number of co-permittee programs implemented.
4.2.6.2	68 Maintain written Operation and Maintenance Program.	To prevent and reduce stormwater pollution from municipal operations.	All	Written operation and maintenance program in place. Program reflects practice.	Implement Operation and Maintenance program.	Implement Operation and Maintenance program. MSD will take the lead to update the February 2005 dated Operation and Maintenance Program model template for co-permittees.	Implement Operation and Maintenance program. MSD will distribute the revised Operation and Maintenance Program model template and ask co-permittees to review and consider the need to update their operation and maintenance programs.	Implement Operation and Maintenance program.	Implement Operation and Maintenance program.	Model Operation and Maintenance Program template complete and track number of co-permittee programs implemented.

Appendix A

St. Louis County SWMP Co-permittees

1. City of Ballwin
2. City of Bellefontaine
3. City of Bel-Ridge
4. City of Berkeley
5. City of Black Jack
6. City of Breckenridge Hills
7. City of Brentwood
8. City of Bridgeton
9. City of Calverton Park
10. City of Charlack
11. City of Chesterfield
12. City of Clarkson Valley
13. City of Clayton
14. City of Cool Valley
15. City of Crestwood
16. City of Creve Coeur
17. City of Dellwood
18. City of Des Peres
19. City of Ellisville
20. City of Fenton
21. City of Ferguson
22. City of Florissant
23. City of Frontenac
24. City of Glendale
25. City of Green Park
26. City of Hazelwood
27. City of Jennings
28. City of Kirkwood
29. City of Ladue
30. City of Lakeshire
31. City of Manchester
32. City of Maryland Heights
33. City of Moline Acres
34. City of Normandy
35. City of Northwoods
36. City of Oakland
37. City of Olivette
38. City of Overland
39. City of Pagedale
40. City of Richmond Heights
41. City of Rock Hill
42. City of Shrewsbury
43. City of St. Ann
44. City of St. John
45. City of Sunset Hills
46. City of Town & Country
47. City of University City
48. City of Valley Park
49. City of Vinita Park
50. City of Warson Woods
51. City of Webster Groves
52. City of Wildwood
53. City of Winchester
54. City of Woodson Terrace
55. St. Louis County
56. Town of Norwood Court
57. Village of Bel-Nor
58. Village of Hanley Hills
59. Village of Marlborough
60. Village of Riverview
61. Metropolitan St. Louis Sewer District (coordinating authority for implementation of SWMP)

Appendix B

St. Louis County SWMP Co-permittees Contact Information

Co-permittee	First Name	Last Name	Title	Phone
City of Ballwin	Gary	Kramer	Director of Public Works	(636) 227-2185
City of Bellefontaine Neighbors	Deni	Donovan	City Clerk	(314) 867-0076
City of Bel-Ridge	Cary	Herndon	Public Works Supervisor	(314) 267-6846
City of Berkeley	Debra	Irvin	Municipal Services Manager	(314) 400-3705
City of Black Jack	Vijay	Bhasin	Director of Public Works	(314) 355-0400
City of Breckenridge Hills	George	Mudd	Building Inspector	(314) 427-6868
City of Brentwood	Dan	Gummersheimer	Building Official	(314) 963-8643
City of Bridgeton	Robert	Gunn	Director of Public Works	(314) 739-7665
City of Calverton Park	James	Paunovich	Chairman, Board of Trustees	(314) 524-1212
City of Charlack	Peter	Daub	Director of Public Works	(314) 427-4715
City of Chesterfield	James	Eckrich	PW Director/City Engineer	(636) 537-4764
City of Clarkson Valley	Michele	McMahon	City Clerk	(636) 227-8607
City of Clayton	Spencer	Litteken	Civil Engineer	(314) 290-8575
City of Cool Valley	Deborah	Jones	City Clerk	(314) 521-3500
City of Crestwood	James	Gillam	Director of Public Works	(314) 729-4722
City of Creve Coeur	Matt	Wohlberg	City Engineer	(314) 442-2084
City of Dellwood	Marvin	Crumer	Public Services Director	(314) 869-8686
City of Des Peres	Stephen	Meyer	Director of Public Works	(314) 835-6130
City of Ellisville	John	Collins	City Engineer	(636) 227-9660
City of Fenton	Dan	Howard	Project/Code Enforcement Mgr	(636) 349-8155
City of Ferguson	Matthew	Unrein	Director of Public Works	(314) 524-4721
City of Florissant	Tom	Goldkamp	Civil Engineer	(314) 839-7643
City of Frontenac	Jeff	Wappelhorst	Building Commissioner	(314) 994-0646
City of Glendale	Jaysen	Christensen	City Administrator	(314) 965-3600
City of Green Park	James	Mello	City Administrator	(314) 894-7336
City of Hazelwood	Nikki	Miller	Project Manager	(314)513-5031
City of Jennings	William	Kaeshamer	Director of Public Works	(314) 381-7184
City of Kirkwood	Chris	Pflasterer	Assistant Public Works Director	(314) 822-5819
City of Ladue	Anne	Lamitola	Director of Public Works	(314) 993-5665
City of Lakeshire	Tony	Seher	Mayor, City of Lakeshire	(314) 605-3578
City of Manchester	Bob	Ruck	Director of Public Works	(636) 227-1385
City of Maryland Heights	Cliff	Baber	Construction Manager	(314) 738-2258
City of Moline Acres	Dennis	DeShay	Public Works Director	(314) 868-2433
City of Normandy	Rodney	Jarrett	Director of Public Works	(314) 267-3695
City of Northwoods	Lillian	Eunice	City Administrator	(314) 385-8000

Co-permittee	First Name	Last Name	Title	Phone
City of Oakland	Deborah	LeMoine	City Administrator	(314) 416-0026
City of Olivette	Bruce	McGregor	Director of Public Works	(314) 993-0252
City of Overland	Jason	McConachie	City Administrator	(314) 952-1952
City of Pagedale	Craig	Lovings	Public Works Director	(314) 803-9204
City of Richmond Heights	Chris	Boyd	Director of Public Works	(314) 655-3670
City of Rock Hill	Al	Hayden	Director of Parks & Recreation	(314) 561-4304
City of Shrewsbury	Tony	Wagner	Public Works Superintendent	(314) 645-7441
City of St. Ann	Shawn	Seymour	Director of Public Services	(314) 447-1650
City of St. John	James	Phillips	Director of Public Works	(314) 427-8700
City of Sunset Hills	Bryson	Baker	Director of Public Works	(314) 849-3400
City of Town & Country	Craig	Wilde	Director of Public Works	(314) 587-2824
City of University City	Jennifer	Wendt	Project Manager	(314) 505-8562
City of Valley Park	Gerald	Martin	Director of Public Works	(636) 225-8930
City of Vinita Park	Gerald	French	Public Works Director	(314) 428-7373
City of Warson Woods	Michael	Dell'Orco	Acting City Engineer	(314) 965-3100
City of Webster Groves	Michael	Harney	Building Commissioner	(314) 963-5317
City of Wildwood	Rick	Brown	Director of Public Works	(636) 405-2024
City of Winchester	Barbara	Beckett	City Administrator	(636) 391-0600
City of Woodson Terrace	Doug	Zaiz	Director of Public Works	(314) 427-2600
St. Louis County	Ray	Gawlik	Storm Water Manager	(314) 615-8157
Town of Norwood Court	Dennis	Callahan	Town Clerk & Attorney	(314) 764-4500
Village of Bel-Nor	Christina	Buchek	Mayor	(314) 973-8866
Village of Hanley Hills	Dorothy	Matthews	Administrative Assistant	(314) 725-0909
Village of Marlborough	Joy	Drennan	Village Administrator	(314) 962-5055
Village of Riverview	Phil	Crimi	Street Department Supervisor	(314) 868-0700

Appendix C

MCM4 Co-permittee Ordinance and Regulatory Mechanism

Co-Permittee Name	Reported Phase II Land Disturbance Program	St. Louis County Code Enforcement Agreement
City of Ballwin	Ord. 04-07	No
City of Bellefontaine	Ordinance #2079	No
City of Bel-Ridge	Ord. 2006-4 Ord. 415.010	No
City of Berkeley	Ord. 3809	No
City of Black Jack	Ord 971	Yes
City of Breckenridge Hills	Ord 1100	No
City of Brentwood	Ordinance 4010	No
City of Bridgeton	Storm Water Management Program (Ordinance #05-43)	No
City of Calverton Park	Ordinance 662	Yes
City of Charlack	Ord. 08-611	Yes
City of Chesterfield	Ord. No. 2801; Chap 31 of Municipal Code	No
City of Clarkson Valley	Ord 08-003	No
City of Clayton	Ord. 5965 Chapter 430	No
City of Cool Valley	Ordinance 1128	Yes
City of Crestwood	Ordinance 3889, Grading and excavating ordinance.	No
City of Creve Coeur	Ordinance 5043	No
City of Dellwood	Ordinance 1170	Yes
City of Des Peres	Ord. 2260, enacted 11-10-2003	No
City of Ellisville	Ordinance 2769	No
City of Fenton	Ord 3389	Yes
City of Ferguson	Ord # 7-225	No
City of Florissant	Ord 7358	No
City of Frontenac	Ordinance 2010-1621	No
City of Glendale	Ord 09-10	Yes
City of Green Park	Ord 445-Land Disturbance Code	Yes
City of Hazelwood	Ord 3910-07	No
City of Jennings	Ord. 2149	No
City of Kirkwood	Ordinance 9174	No
City of Ladue	Ordinance 1950	No
City of Lakeshire	Ordinance 862	No
City of Manchester	Ordinance 09-1967	Yes
City of Maryland Heights	Ordinance 2008-3037	No
City of Moline Acres	Ord 993	Yes
City of Normandy	Ordinance 594	No
City of Northwoods	07-02 Art. D	No

Co-Permittee Name	Reported Phase II Land Disturbance Program	St. Louis County Code Enforcement Agreement
City of Oakland	Ordinance 735	Yes
City of Olivette	Ord 2277, Ord 2370, Ord 2395, Ord 2426, Ord 2470	No
City of Overland	2008-29	No
City of Pagedale	Ordinance 1321	Yes
City of Richmond Heights	Ord. 4965	No
City of Rock Hill	Ord 535	Yes
City of Shrewsbury	Ord 2444	No
City of St. Ann	Ord. 2533	No
City of St. John	Ordinance No. 907	No
City of Sunset Hills	Ordinance 1613	No
City of University City	Ordinance # 7060	Yes
City of Town & Country	Ord 4034	No
City of Valley Park	Ord 1473	No
City of Vinita Park	Ord 21578	No
City of Warson Woods	Ordinance 1305	No
City of Webster Groves	Ord 8591	No
City of Wildwood	Ord 1488	No
City of Winchester	City Ordinance 961	No
City of Woodson Terrace	Ord 1692	Yes
St. Louis County	Ordinance # 25,494	No
Town of Norwood Court	Ord 314	Yes
Village of Bel-Nor	Ord 859	Yes
Village of Hanley Hills	Ordinance 948	Yes
Village of Marlborough	Ordinance 05-422	Yes
Village of Riverview	Ord 07-18	No



Council Agenda Item Cover

MEETING DATE: November 27, 2017

AGENDA ITEM TITLE: Street Closure on Purcell Ave. south of Etzel Ave. intersection

AGENDA SECTION: Unfinished Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

The Traffic Commission received a traffic request to permanently close Purcell Avenue at Etzel Avenue southbound on July 12, 2017. This request stated that a complete closure would bring less traffic through the neighborhood, safety for residential children, litter control and a crime deterrent. The residents have complained about vehicles speeding through the area and making it very dangerous for residents including children.

At the Traffic Commission meeting held on July 12, 2017 reference made by the commissioners that an emergency temporary street closure could be granted upon approval from the City Manager and the City's emergency departments. Also at the meeting the police department's representative agreed to run radar on the street and have the speed trailer deployed.

This area had previously seen radar examinations by the police department and a speed trailer placed in early spring of this year. The results documented minimal violations. Following the July Traffic commission meeting the police department placed the speed trailer on the block a second time as the police representative agreed to do. The results came back with minimal violations recorded.

Following the police departments investigations, Staff meet with Police and Fire Departments to discuss the street closure. At the meeting we looked at the overall layout of the area and how the street closure would affect operations and emergency response. With an agreement from all three departments it was decided that the street closure was not justified. With a street closure at this location we would be looking at Solid Waste collection routing changes and risk because of the location of carts, risk of drivers backing up, and possible decrease in level of service. The Fire Department would have to learn new routes, would increase response times in the area, and difficulty getting a fire engine in and out the area. The Police Department would see an increase in response time along with learning new routes for emergencies.

At the October 11, 2017 Traffic Commission Meeting the item was placed on the agenda for discussion, at that meeting staff presented to the petitioner an option of a one way street option for the block, at that time we were unable to come to an agreement with all parties.

INTRODUCED BY:

DATE:

BILL NO: 9343

ORDINANCE NO. _____

AN ORDINANCE AMENDING SCHEDULE III OF THE TRAFFIC CODE, TO REVISE TRAFFIC REGULATION AS PROVIDED HEREIN.

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

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

Section 2. Schedule XII of the University City Municipal Code is hereby amended to add the 1000 Block of Purcell Avenue at the Intersection of Etzel Avenue, at the Northwest property line of 1098 Purcell Avenue and the Northeast property line of 1099 Colby Avenue, to be edited to the Traffic Code as the "Schedule" – Schedule XII, as follows:

Traffic Schedules

Schedule XII: Closed Street Intersections

Table XII-A Closed Street Intersections - Barricades

The following areas are "**Closed Street Intersections**" and are regulated as set forth in table XII-A this Code: Closed Street Intersections - Barricades

Street	Block	Scope
Purcell Avenue	1000	Closed Street

* * *

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

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

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

PASSED THIS _____ day of _____ 2017

MAYOR

ATTEST:

INTERIM CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY

DRAFT

RECOMMENDATION:

Staff recommendation is as reviewed and described in the above section.

ATTACHMENTS:

- Draft Ordinance for the referenced permanent street closure



Council Agenda Item Cover

MEETING DATE: November 27, 2017

AGENDA ITEM TITLE: Text Amendment – Zoning Code Text Amendment pertaining to Division 10 relating to telecommunication facilities (PC 17-14)

AGENDA SECTION: Unfinished Business

COUNCIL ACTION: Passage of Ordinance required for Approval

CAN THIS ITEM BE RESCHEDULED? : No

BACKGROUND REVIEW: The Plan Commission recommended approval of the proposed Text Amendment at their October 25, 2017 meeting. This agenda item requires a public hearing at the City Council level and consideration for the passage of an ordinance. The first reading should take place on November 13, 2017. The public hearing, and second and third readings and passage of the ordinance could occur at the subsequent November 27, 2017 meeting.

Please refer to Attachment 2: Staff Report to Plan Commission, dated October 20, 2017, for background and a summary of the proposed text amendment.

Attachments:

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

RECOMMENDATION: Approval



Plan Commission

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

October 27, 2017

Ms. LaRette Reese, Interim City Clerk
City of University City
6801 Delmar Boulevard
University City, MO 63130

RE: Text Amendment – Zoning Code Text Amendment pertaining to Division 10
relating to telecommunication facilities (PC 17-14)

Dear Ms. Reese,

At its regular meeting on October 25, 2017 at 6:30 pm in the Heman Park Community Center, 975 Pennsylvania Avenue, University City, Missouri, 63130, the City Plan Commission considered a Text Amendment to Division 10 of the Zoning Code, relating to telecommunication facilities.

By a vote of 7 to 0, the Plan Commission recommended approval of said Text Amendment.

Sincerely,

Cirri Moran, Chairperson
University City Plan Commission



Department of Community Development

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

MEMORANDUM

TO: Plan Commission Members

FROM: Andrea Riganti, Director of Community Development

DATE: October 20, 2017

SUBJECT: October 25, 2017 Plan Commission meeting – Proposed Text Amendments relating to telecommunications facilities

CC: Charles Adams, Interim City Manager
Andrew Stanislav, Planner

At the upcoming Plan Commission meeting, members will consider text amendments to the zoning code pertaining to small wireless and telecommunications facility. This code revision is an interim solution to a complete overhaul of Section 400.1380 Division 10 of the Zoning Code. It is being presented at this time to meet a timeline outlined at the September 25, 2017 City Council study session, and accommodate requests from potential small wireless and telecommunications facility applicants. Due to this schedule, and the need to make revisions to the draft between the Study Session and Plan Commission meeting, there was not adequate time to convene the Code Review Committee.

Background. Over the past several years, there have been changes to telecommunications regulations at the Federal and State level. These changes should be incorporated into local regulations for legal conformity. In October 2016, the City engaged special counsel to review Division 10 and make recommendations for code revisions. It was determined that a complete overhaul is necessary. However, given the extent of complete revisions necessary, and the continued interest from small wireless providers to locate in University City, in August 2017, it was determined that a “fast-track” interim solution be considered. This approach was subsequently presented to City Council, who requested that the revisions be presented to Plan Commission as soon as possible. These code revisions will define a process where none exists, impose appropriate conditions, and be in conformance with state and federal regulations.

The revisions to the Zoning Code on this matter do not apply to City Right of Way (ROW). Revisions to the ROW code are simultaneously being proposed, and are to be reviewed by City Council.

The draft ordinance is attached, and the proposed changes are summarized below:

1. Enacts Three Definitions to Wireless Code:

- a. Small Wireless Facility: Provides strict definition of small wireless, including (1) must be located on existing poles or similar replacement pole, (2) all equipment mounted above 8’ when located in public or private right-of-way (“ROW”), (3) no more than 4 cu. ft. (comprised of 12 sq. ft. excluding certain features), (4) same color as pole, (5) cannot exceed 6’ above structure, etc. Includes provision that authorizes modification to the requirements under certain circumstances to provide some flexibility.
- b. Disguised Support Structure: Replaces existing definition with more detailed strict definition; to meet definition, must be something normally found in that area and must be proportionate in

size and appearance to the structure it is disguised as so reasonable person would not know it is a wireless facility. Requires a covenant to run with the land to protect the disguised nature of the structure.

- c. Existing Structure: Makes clear that the structure must have existed and was not constructed to get around rules; does not include a tower or disguised support structure.

2. Wireless Code Addition of Administrative Approval:

- a. Fast Track Small Wireless: Allows small wireless in all zoning districts meeting: (1) small wireless definition and (2) the applicable provisions of current wireless code (400.1400) (such as no lighting, security measures, etc.) to be installed with the approval of Director of Community Development without the need for a Conditional Use Permit. Requires a setback when Director of Community Development determines such is necessary for the specific location.
- b. Disguised Support Structure: Allows disguised support structures meeting (1) the disguised definition and (2) applicable sections of wireless code (400.1400) to be installed with the approval of Director of Community Development without the need for Conditional Use Permit. This could authorize a wireless facility that in appearance looks like a light standard found in the area. Requires setback equal to one and a half times the height of the structure.

3. Misc. Provisions:

- a. Preemption Language: Designed to help protect the City from facial challenges concerning any provision in its Code that might conflict with state or federal law by enacting a provision, which provides that any provision that is or becomes in conflict with federal or state law shall be deemed automatically superseded/preempted and interpreted to comply with such law.
- b. Enforcement Provision: Provides an argument to have City attorney fees covered when the City expends public funds to enforce its ordinances and provides penalties for those who holdover or are otherwise on City property without a valid lease or authorization.

Staff recommends the Plan Commission make a recommendation for approval of the proposed Text Amendments as set forth in Attachment A. The Plan Commission's recommendation would be forwarded to City Council. A formal public hearing would be held at the City Council level.

INTRODUCED BY:

DATE: _____, 2017

BILL NO. 9344

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTERS 100 AND 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI RELATED TO SELF-PREEMPTION AND REGULATION OF SMALL WIRELESS COMMUNICATION FACILITIES.

WHEREAS, various new state or federal statutes and regulations continue to be enacted, supplemented, promulgated, amended, as well as subjected to judicial challenge and invalidation regarding regulation of certain communications providers, services, and operations as they pertain to local rights-of-way, zoning regulations, and other municipal authority; and

WHEREAS, despite the uncertainty created by these circumstances, the City Council desires to continue to at all times ensure compliance with such changing applicable law, and, therefore, finds it in the best interest of the public to amend the Municipal Code of the City of University City (“Code”) to be deemed to conform with any changes in state or federal law that may be validly enacted and lawfully applicable; and

WHEREAS, the City Council desires to enact a self-preempting provision to ensure that such self-preemption applies to any provisions of the Code that may be affected by the frequently-changing legal requirements imposed on cities until such provisions are amended or repealed, when appropriate; and

WHEREAS, the City has been granted the authority to enact legislation to regulate the construction, placement, and operation of telecommunications towers and antennas pursuant to its zoning powers established in Chapter 89 RSMo. and additionally pursuant to its general and specific police powers established by statute (including Chapters 67 and 392 RSMo.); and

WHEREAS, the City desires to establish regulations for true small wireless facilities; and

WHEREAS, a duly noticed and published public hearing was held regarding the proposed amended regulations in conformity with all requirements of Section 89.060 of the Missouri Revised Statutes and the Code, and the Planning and Zoning Commission has reviewed the amended regulations and given a recommendation of _____; and

WHEREAS, after review of the Planning and Zoning Commission’s recommendation, the City Council finds it in the best interest of the City to amend and update its Code.

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

DRAFT

Section 1. The whereas clauses are hereby specifically incorporated herein by reference.

Section 2. Article II of Chapter 100, General Code Provisions, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact a new Section to read as follows:

Section 100.085. Self-Preemption.

No provision of this Code shall apply to any circumstance in which such application shall be unlawful under superseding federal or state law and furthermore, if any section, subsection, sentence, clause, phrase, or portion of this Code is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

Section 3. That Section 400.1380, Definitions, of Division 10 of Article V of Chapter 400, Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures, of the Code of Ordinances of the City of University City, Missouri is hereby amended to repeal the existing definition of “Disguised Support Structure” and to enact three new definitions to read as follows:

DRAFT

DISGUISED SUPPORT STRUCTURE. Any freestanding, man-made structure designed for the support of Antenna, the presence of which is camouflaged or concealed as an appropriately placed and designed architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure. Such structures may include but are not limited to clock towers, campaniles, observation towers, light standards, flag poles, and artificial trees. For purposes of this definition, a structure “camouflaged or concealed as an appropriately-placed and designed architectural or natural feature” shall meet the following additional criteria: (1) it is consistent with and contributes to and does not detract from the character and property values and use of the area and neighborhood in which it is located, (2) it does not contain distorted proportions, size, or other features not typically found on the type of structure or feature to which it is designed to replicate, (3) it cannot be identified as an Antenna Support Structure by persons with reasonable sensibilities and knowledge, (4) its equipment, accessory buildings, or other aspects or attachments relating to the Disguised Support Structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated, and (5) it is of a height, design, and type that would ordinarily occur at the location and neighborhood selected. Any Disguised Support Structure shall have as a condition of approval, unless expressly exempted in the approval, an obligation and corresponding covenant recorded on the property that runs with the land to the benefit of the City on behalf of the public, prohibiting modifications to the Disguised Support Structure that eliminate or are materially detrimental to the disguise, unless such proposed modification is approved by a duly authorized zoning or conditional use approval approved in the same manner as required for an original construction of such Disguised Support Structure. If the applicant does not wish to have such a covenant, the application shall not qualify as a Disguised Support Structure, unless

another mechanism is proposed and approved to ensure that the disguise is not subsequently eliminated or materially detrimentally altered.

EXISTING STRUCTURE - Any structure capable of supporting an Antenna, Small Wireless Facility and associated equipment (other than a Tower or Disguised Support Structure) in full conformance with the design and other requirements of this Division and is: (1) existing prior to the date of all applicable permit applications seeking City authorization for installation of such facilities thereon and (2) not built or installed in anticipation of such specific installation or erected as a means to evade approvals applicable to a non-existing structure.

SMALL WIRELESS FACILITY - An Antenna and associated equipment of: (1) no more than four (4) cubic feet in volume (comprised of no more than twelve (12) square feet of exterior surface area (excluding the surface width equal to the width of the support structure or pole to which it is mounted) on an imaginary enclosure around the perimeter thereof, excluding cable or cable conduit of four inches (4”) or less); (2) located with the consent of the owner on an Existing Structure such as an electrical transmission tower, water tower, utility pole, building, or street light ; (3) not exceeding six feet (6’) above the top of the Existing Structure for a total height not exceeding forty-five (45’) feet (nor taller more than 6’ above the average of similar poles within 300’ feet); (4) a similar color to the Existing Structure; (5) any portion above the Existing Structure shall be concealed and of the same dimensions and appearance so as to appear to be a natural extension of the Existing Structure; provided that up to two (2) rod antenna less than two inches (2”) in diameter and a height of not more than thirty-four (34”) may be located exposed directly over the Existing Structure in lieu of an enclosure or concealment; and (6) shall not emit noise audible from the building line of any residential zoned or used property. Volume shall be the measure of the exterior displacement of the Small Wireless Facility.

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Section 4. That Division 10 of Article V of Chapter 400, Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures, of the Code of Ordinances of the City of University City, Missouri is hereby amended to enact a new subdivision M to division 2 of subsection B of Section 400.1400 to read as follows:

B. . . .

2. *Findings Required.* In addition to any other determinations specified by Article XI, the Plan Commission shall make findings as to the following based upon evidence submitted with the application or presented during the public hearing by the applicant or others. A recommendation by the Commission to approve or deny an application shall be based upon substantial evidence which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. The written record shall include the Commission’s comments on each of the following required findings:

...

(M) Notwithstanding anything herein, no finding required by this Division shall be made or considered if it is preempted or unlawful to be made or considered under applicable law under the

circumstances at issue, and no other consideration that is now or may hereafter preempted by applicable law shall be considered by the Commission or deemed considered, notwithstanding any such otherwise applicable reference thereto in this Code.

Section 5. That Division 10 of Article V of Chapter 400, Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures, of the Code of Ordinances of the City of University City, Missouri is hereby amended to enact a new to division 20 of subsection C of Section 400.1400 to read as follows:

C. . . .

20. Safety Fall Zones Required. In addition to other requirements herein, and unless otherwise provided or required by law, no Tower shall be located within the distance equal to one and one-half (1 ½) of the height of such Tower from any public rights-of-way, sidewalk or street, alley, parking areas, playground, or other building, and from the property line of any adjacent property. Towers shall be reasonably designed to reduce the potential damage to persons or property from falling ice or equipment from the Tower or from wind damage or structural failure.

Section 6. That Division 10 of Article V of Chapter 400, Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures, of the Code of Ordinances of the City of University City, Missouri is hereby amended to (1) repeal the references to “disguised support structure” in Subsection 400.1400.C.1 & C.3 and to enact a new Section 400.1405, Administrative Approval, to read as follows:

DRAFT

Section 400.1405. Administrative Approval

A. Administrative Approval. The placement of Disguised Support Structures and Small Wireless Facility and associated equipment fully conforming with this Section and provisions of Section 400.1400 are permitted in all zoning districts as an Administrative Approval only as follows:

1. Administrative Approval Defined. For purposes of this Section, an Administrative Approval shall mean an approval by the Director of Community Development without requirement for a Conditional Use Permit for the types of facilities specified in this Section 400.1405, otherwise complying with all provisions of Section 400.1400, except as expressly waived or authorized to be waived in this Section.

2. Disguised Support Structures – The construction of a Disguised Support Structure, provided that all related equipment shall be placed underground or concealed within the structure. Equipment may be placed in an appropriately concealed cabinet if the Disguised Support Structure is incidental to an industrial, commercial, or other non-residential use and fits with the natural built environment or the Disguised Support Structure. Landscaping or other improvements may be required for Disguised Support Structures if needed to implement an approved disguise. A Disguised Support Structure including any portions thereon shall be separated from the property line of any adjacent property and from any sidewalk, playground,

right-of-way, or other building at least a horizontal distance equal to one and one-half (1½) the height of the Disguised Support Structure.

3. *Fast-track “Small Wireless Facility” Approval.* Small Wireless Facilities may be approved in any district and location otherwise permitted for wireless facilities under the following simplified administrative process and requirements:

a. *General Requirements.* A Small Wireless Facility may be approved administratively by submission of an application, including showing specifications, dimensions, photos, or drawings of completed installation, and property owner consent (“Owner Consent”). Owner Consent shall minimally include (1) written consent by all fee simple owners of the underlying real estate (or where located in street Rights-of-Way, the Rights-of-Way owner thereof), including when the proposed location is also in a utility easement and (2) written consent of the owner of the structure on which such Facility is to be placed. The applicant is responsible also to obtain and include the written consent of any other real property interest owner that is required to lawfully use that location for the proposed use. A fully complying Small Wireless Facility shall be exempt from wireless facility setback requirements 400.1400.C.3, the safety fall zones under 400.1400.C.20, as well as from the landscaping and parking requirements set forth in Subsections 400.1400.C.17 and 400.1400.C.18, unless determined by the Director of Community Development as inapplicable or partially applicable to the specific location to ensure safety or to prevent interference, visibility degradation or obstruction. Provided the applications are complete and address the requirements of this Section, the Director of Community Development shall endeavor to expedite Small Wireless Facility applications and may combine multiple applications/locations at one time in a single approval.

b. *Additional requirements for location on public ways.* In addition to all other applicable requirements, when a Small Wireless Facility is located on a utility pole, street light, or similar structure over or directly adjacent to public or private streets, sidewalks, or other pedestrian or vehicle ways, (1) the height of all portions of the Small Wireless Facility shall be located at least eight feet (8’) above ground level; (2) no ground equipment shall be permitted; and (3) no portions of the Small Wireless Facility shall extend horizontally from the surface of the pole or structure more than sixteen inches (16”). Location, placement, and orientation of the Small Wireless Facility shall, to the extent feasible, minimize the obstruction or visibility from the closest adjacent properties unless otherwise required by the City for safety reasons.

c. *Modifications; waivers.* The Director of Community Development may for good cause shown by the Applicant increase any one or more of the maximum specifications qualifying as a “Small Wireless Facility” stated in the definition located in 400.1380 by up to fifty percent (50%) if the carrier demonstrates that it: (1) does not in any location nationally use equipment capable of

meeting the specifications and the purpose of the equipment and (2) cannot feasibly meet the requirements. The City Council may further waive one or more of the requirements to qualify for Small Wireless Facility approval upon good cause shown by the applicant including as required by applicable law and provided a showing that the waiver is the minimum necessary to accomplish the purposes of this Section. The burden of proof for any waiver shall be wholly on the applicant and must be shown by clear and convincing evidence. The Director of Community Development may also, upon good cause shown, allow an Existing Structure to be replaced with a structure of materially the same height and appearance (including a width not generally not greater than ten percent (10%) wider), if the purposes of this Code are otherwise fully satisfied, including that the replacement structure is fits in with the built environment.

B. *Application procedures.* Applications for Administrative Permits shall be made on the appropriate forms to the Director of Community Development consistent with the requirements of this Section. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

1. Applicant shall submit along with its completed application form:

a. A deposit of one thousand five hundred dollars (\$1,500.00); any amount not used by the City shall be refunded to the applicant upon written request after a final decision.

b. A detailed site plan, in accordance with Section 400.2600 and based on a closed boundary survey of the host parcel, shall be submitted indicating the exact location of the facility, all dimensions and orientations of the facility and associated equipment, in addition to all existing and proposed improvements including buildings, drives, walkway, parking areas, and other structures, public right-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the Existing Structure, if applicable;

c. Proof of owner consent;

d. Certified structural analysis showing the structure has sufficient strength to support itself and the proposed equipment; and

e. All other information necessary to show compliance with the applicable requirements of this Section and Division 10 of Chapter 400.

2. The application shall be reviewed by the Director of Community Development to determine compliance with the above standards, including specifically design, location, safety,

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and appearance requirements and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.

3. In reviewing an application, the Director of Community Development may require the applicant to provide additional information, including technical studies. An application shall not be deemed complete until satisfaction of all application requirements and submission of all requested information as provided herein.

4. The Director of Community Development shall issue a decision on the permit within the time-frame permitted by applicable law. The Director of Community Development may deny the application or approve the application as submitted or with such modifications or conditions as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens and property values consistent with and to affect the purposes of this Section and applicable provisions of Section 400.1400. The Director of Community Development may consider the purposes of this Section and the factors established in Section 400.1400 for granting a Conditional Use Permit as well as any other considerations consistent with Division 10 of Chapter 400. A decision to deny an application shall be made in writing and state the specific reasons for the denial.

C. *Historic Landmarks and Districts.* Unless otherwise required by law, no approval shall be issued for any Wireless Communications Facility within three hundred feet (300') of a Historic Preservation District or National or Local Historic Landmark unless the Director of Community Development, Historic Preservation Commission and City Council determine such approval would create no significant negative visual impact or otherwise have a significant negative impact on the historic character and quality of any such District or Landmark. For collocation on any historic structure as defined in Section 253.115 RSMo., in addition to all other applicable time requirements, there shall be a thirty-day (30) time period before approval of an application during which one or more public hearings on collocation to a certified historic structure are held including as required by RSMo. § 67.5094. In addition to all other approvals required, for all sites located within a Historic Preservation District, a Certificate of Appropriateness shall also be required as well as a hearing as provided for in Sections 400.1590, 400.1600, and the ordinance establishing the specific Historic Landmark or District.

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Section 7. This Ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED AND APPROVED THIS ___ DAY OF _____ 2017.

By: _____
MAYOR

ATTEST:

INTERIM CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY

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Council Agenda Item Cover

MEETING DATE: November 27, 2017

AGENDA ITEM TITLE: Right-of-Way Management Code Section and General Provisions Code Amendment relating to telecommunication facilities

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

Over the past several years there have been changes to telecommunications regulations at the Federal and State level. These changes should be incorporated into local regulations for legal conformity. As a follow-up to a City Council Study Session on this topic on September 25, 2017 amendments are hereby proposed to the City's Right-of-Way Management section of the Code (Section 505.220) and General Provisions (Chapter 100) of the Code as outlined in the below summary and contained in the attached draft ordinance:

1. New Subsection C of 505.220:
 - a. Agreement and Fee: Codifies City requirement for an agreement to be in place (franchise for traditional utilities (gas, water, electric), license for incidental uses of the ROW, and ROW use agreement for all other uses) to place facilities in the ROW. Codifies grandfathered linear foot fee of 1.98 per linear foot per year and enacts \$200 per month antenna fee for antennas located in the ROW, with credit in accordance with § 67.1846 RSMo.
 - b. Miscellaneous: The new subsection C also:
 - Requires separate authorization from City to attach to City facilities;
 - Requires separate lease with City for placement on public land (such as City parks);
 - Makes clear ROW user's use of the ROW is non-exclusive and that the user is solely liable for any damages to facilities or other property caused by their use of the ROW; and
 - Requires ROW users to indemnify the City and be responsible for costs, comply with all state, federal, and City laws, including building, safety, and zoning regulations, and provides no cause of action against the City for damages.
2. New Subsection O and P of 505.220:
 - a. Use of Existing Facilities: Requires use of existing facilities in the ROW to protect the ROW resource and reduce interference and obstructions while maximizing the public's ability to use and license the appropriate private and public uses of the

ROW. Provides a procedure to file for exception to this rule when facilities are not available or feasible to be used.

- b. Wireless Antennas and Facilities: Requires all wireless facilities to meet requirements of ROW code as well as all other requirements applicable to wireless facilities and subjects the same to conditions related to location, design, height, appearance, safety, interference, and building and zoning regulations. Requires the use of existing structures but allows exception when good cause is shown. Authorizes small wireless facilities to be approved for placement in ROW by Public Works Director and Park Director in any district if it meets the definition of small wireless within the zoning code and other requirements including cannot obstruct or cause a safety concern, only one facility per structure, no ground equipment, etc. Enacts compensation for antenna facilities at \$200 per attachment on City poles and \$200 per attachment on third-party structures with credit in accordance with § 67.1846 RSMo.
3. New Subsection F of 505.220:
 - a. Insurance: Updates the City's current insurance requirements including increasing amount to the sovereign immunity limits and requires City to be named as an additional insured with equivalent coverage of the insured.
4. Miscellaneous Optional Provisions (Chapter 100):
 - Enforcement Provisions: Provides ordinance authority where lawful and applicable for reimbursement of costs and City attorney fees when the City expends public funds to enforce its ordinances and provides penalties for those who holdover or are otherwise on City property without a valid lease or authorization.

RECOMMENDATION:

Staff recommends City Council approval of the Right-of-Way Management Code Section and General Provisions amendments to the Municipal Code as proposed.

ATTACHMENTS:

- Draft Ordinance for amending the Right-of-Way Management Code Section and General Provisions of the Municipal Code

INTRODUCED BY:

DATE: _____, 2017

BILL NO. 9345

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 100 AND 505 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI RELATED TO REGULATIONS FOR RIGHT-OF-WAY MANAGEMENT AND ENFORCEMENT REGULATIONS.

WHEREAS, the City of University City, Missouri (“City”) has specifically been granted authority including Section 67.1830 RSMo. to establish permitting requirements for structures or equipment for wireless communication facilities in the public right-of-way (“ROW”) and the City desires to reaffirm its intent to regulate and enforce permitting requirements for the wireless communication facilities in the ROW; and

WHEREAS, the City Council’s legislative findings include that: (a) the ROW is a unique and physically limited resource; (b) the ROW is critical to the travel and transportation of persons and property in the City; (c) the ROW is intended for public uses and must be managed and controlled consistent with that intent and can be partially occupied by Facilities and public service entities to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; (d) to avoid disruption of the market and policy or requirement for a level playing field established by Section 67.5094 RSMo. regarding ownership of underlying land in approving wireless locations, wireless facilities in the ROW should not be subject to preferential zoning or compensation requirements so as not to distort the marketplace for such commercial activities; and (e) such findings require adoption of specific additional regulations to ensure coordination of users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of a maximum most efficient number of Right-of-Way Users that will serve the public interest; and

WHEREAS, the City has been granted the authority to enact legislation to regulate the construction, placement, and operation of telecommunications towers and antennas pursuant to its zoning powers established in Chapter 89 RSMo. and additionally pursuant to its general and specific police powers established by statute (including Chapters 67, and 392 RSMo.); and

WHEREAS, the City is a “grandfathered” City authorized to impose linear foot fees and antenna fees pursuant to Section 67.1846 RSMo. because the City had, prior to May 1, 2001, one or more ordinances reflecting a policy of imposing a linear foot fee on public Right-of-Way Users; and

WHEREAS, consistent with state and federal law and the City Council’s legislative findings, the City Council desires to enact new regulations for small wireless facilities within the ROW and other pedestrian and vehicular ways; and

WHEREAS, the City is authorized to protect the taxpayer and public funds from incurring expenses resulting from violators of laws or contracts or other obligations to the City including such as relating to use of the city facilities or other City property, and the Council desires to amend the Municipal Code of the City of University City to ensure the regulations for

use of public property and facilities are clear and that recovery of costs are available in the event that the City is forced to incur such expenses.

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

Section 1. The whereas clauses and findings therein are hereby specifically incorporated herein by reference.

Section 2. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact a new subsection C to read as follows:

C. Agreement Required; User Fee.

1. *Right-of-Way Use Agreement, License, or Franchise Required.* Except where otherwise authorized or required by applicable law, no Person may own, control, lease, maintain, use, or install Facilities in the Right-of-Way without a valid Franchise, License, or Right-of-Way Use Agreement with the City as provided herein and as follows:
 - (1) *Franchise.* A Franchise shall be obtained in conformance with all applicable Franchise procedures for any Right-of-Way User seeking to use the Right-of-Way for the purpose of providing, transporting or distributing electricity, gas, water, steam, lighting, energy, or sewer service to any Person or area within the City's limits and boundaries.
 - (2) *Right-of-Way Use Agreement.* A Right-of-Way Use Agreement shall be required for all other Right-of-Way Users, except as provided herein or otherwise required by law. A Right-of-Way Use Agreement shall conform to all applicable laws and requirements, including as provided herein, but shall not be subject to procedures applicable only to Franchises.
 - (3) *License for Incidental Uses.* Persons desiring to install an incidental use, which includes installation of temporary structures or minor incidental uses in the Right-of-Way, such as driveway aprons, ingress or egress facilities, and similar incidental uses, that utilize a small area of the Right-of-Way and serves the principal structure, may be permitted without a Franchise or Right-of-Way Use Agreement pursuant to a License issued by the Director of Public Works and Parks. The Director of Public Works and Parks shall have discretion to establish such application, requirements, and conditions applicable to such uses consistent with the purposes of this Chapter or as otherwise established by law. Any Person granted a License hereunder shall be subject to the applicable requirements of this Chapter. Unless otherwise stated in the License, a License shall be for an indefinite term and shall be revocable at any time on written notice in the public interest by the City.
2. *Application Required.* An application for a Franchise or Right-of-Way Use Agreement, shall be provided to the City on City forms and shall include all such information as is required by this Section and as determined necessary by the Director of Public Works and Parks. An

application deposit of \$500.00 is hereby established and shall be submitted with the application, which shall be utilized to at least partly offset the City's costs in reviewing and issuing an agreement, consistent with applicable law; any amount not used by the City for its actual lawfully reimbursable costs will be refunded upon request after execution of a Right-of-Way Use Agreement or Franchise. If applicable, the applicant shall be obligated to reimburse the City for its reasonable expenses associated with the review, negotiation, and adoption of an appropriate Right-of-Way Use Agreement or Franchise that may reasonably exceed the application deposit amount. The Right-of-Way User shall be responsible for accurately maintaining the information in the application during the term of any Franchise or Right-of-Way Use Agreement and shall be responsible for all costs incurred by the City due to the failure to provide or maintain as accurate any application information required herein.

3. *Condition Precedent to Right-of-Way Permit.* Unless otherwise required by applicable law, no Right-of-Way permit may be issued unless such person has a valid Franchise or Right-of-Way Use Agreement with the City.
4. *Grant and Nature of Approval; terms.* The authority granted by the City in any Right-of-Way Use Agreement, License or Franchise shall be for non-exclusive use of the Right-of-Way. Such grant does not in any way limit the continuing authority of the City through the proper exercise of its statutory powers to adopt and enforce ordinances necessary to provide for the health, safety, and welfare of the public. The City specifically reserves the right to grant, at any time, such additional agreements or other rights to use the Right-of-Way for any purpose and to any other Person, including itself, as it deems appropriate, subject to all applicable laws. The granting of any Right-of-Way Use Agreement, License or Franchise shall not be deemed to create any property interest of any kind in favor of the Right-of-Way User nor shall it create any relationship of agency, partnership, joint venture, or employment between the parties. All Franchises and Right-of-Way Use Agreements shall be approved by ordinance or resolution of the City Council on a non-discriminatory basis provided that the Person is in compliance with all applicable requirements.
5. *No Warranty.* The City makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of Facilities on any particular segment of Right-of-Way and shall not be liable for any damage therefrom. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon the Right-of-Way User. The Right-of-Way User shall be solely liable for any damages to Facilities or other property due to excavation or other Right-of-Way work performed prior to obtaining the location of all Facilities within the work area. The Right-of-Way User shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed Facilities without the approval of the owner of the Facilities.
6. *Use of City or Third-Party Facilities.* No Right-of-Way Use Agreement, License, or Franchise shall grant the right to use Facilities owned or controlled by the City or a third party, and no such use shall occur, without the express written consent of such party (on file with the City and subject to other applicable requirements), nor shall any Right-of-Way Use Agreement, License, or Franchise excuse such Person from first obtaining a pole attachment agreement or other express consent for such right or use before locating on the Facilities

controlled or owned by the City or a third party.

7. *Lease Required for Public Lands.* Unless otherwise provided, use or installation of any Facilities in non-Right-of-Way public property of the City shall be permitted only if a lease agreement or other separate written approval has been negotiated and approved by the City with such reasonable terms as the City may require, and subject to Charter Chapter C, Article XI, Section 98, limiting the use of designated Public Park or Recreational Facility in Section 115.270.

8. *Right-of-Way User Fees.*

(1) *User Fee.* Unless otherwise established by the City Council or applicable law, each Right-of-Way User shall pay to the City as compensation for the use of the public way, and including as referenced in Section 505.220.G.4, a user fee as follows:

- a. *Linear Foot Fee:* a monthly payment of \$.165 per linear foot of Facilities located in the Right-of-Way, for an annual amount of one dollar and ninety-eight cents (\$1.98) per linear foot of Facilities in the Right-of-Way; and
- b. *Antenna Fee:* a \$200.00 fee per month for each antenna in the Right-of-Way, if applicable to the user;

provided that all Right-of-Way Users shall be entitled to a credit against the user fee due hereunder equal to the payment(s) from such Right-of-Way User in accordance with Section 67.1846 RSMo.; provided, however, such credit cannot exceed the amount due under this subsection and may not be carried forward or back to any other time period and a credit shall not apply to any taxes paid under protest or otherwise paid with qualification unless so required by law.

(2) *Bundled Services.* The Right-of-Way User expressly acknowledges and agrees that to the extent it markets bundled services, including combination of goods or services, it will fairly reflect to the City an appropriate and reasonable division of services among the various services offered based on the actual value of each separate service. Whether or not the Right-of-Way User separates services on a subscriber's bill, it will provide to the City notice of any such allocation sufficient for City verification. Should the Right-of-Way User engage in billing or payment practices that, in the reasonable determination of the City, do not fairly reflect a fair and appropriate allocation, the City may nullify such allocation and require payment applicable to the full receipts.

(3) *Timing of Payment of User Fees.* Unless otherwise agreed to in writing, all Right-of-Way User fees shall be due and payable every month of each calendar year within thirty (30) days after the end each such month. A credit of the applicable gross receipts tax for that same period may be taken against the linear foot payment for that month.

(4) *Interest of Late Payments and Under Payments.* If any Right-of-Way User fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest on the

payment and interest on the unpaid balance shall accrue from the due date until received, at the rate of one and one-half percent (1.5%) of the total amount past due or at such other lower rate as may be required by applicable law.

- (5) *Fee Statement; Retroactive Adjustments.* Each Right-of-Way User fee payment shall be accompanied by a statement, certified as true, showing the manner in which the Right-of-Way User fee was calculated including the total number of feet of Right-of-Way occupied by the Right-of-Way User's Facilities and number of antennas in the Right-of-Way, the per foot linear foot rate applied, any credit or adjustment taken (including setting forth the prior month's gross revenue and describing what revenues or receipts were included and excluded in the fee paid), and the payment of the user fee made. If any fee statement is determined to understate the fee owed, then such additional amount owed shall be made with a corrected statement, including interest on said amount as provided herein. No refund, credit or offset shall be granted for any claimed payment or overstatement of the amount due or certification of facilities reported, provided that a corrected payment or reported may be filed within the time for the original time for payment
- (6) *No Accord and Satisfaction.* No acceptance by the City of any use fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any use fee payment be construed as a release of any claim of the City.
- (7) *Maintain Records.* Right-of-Way Users shall at all times maintain complete and accurate books of account and records of the business, ownership, and operations of the Right-of-Way User with respect to the Facilities in a manner that allows the City to determine whether the Right-of-Way User has properly calculated its user fee in compliance with this Section. Should the City reasonably determine that the records are not being maintained in such manner, the Right-of-Way User shall correct the manner in which the books and/or records are maintained so that the Right-of-Way User comes into compliance with this Section. All financial books and records which are maintained in accordance with FCC regulations and the regulations of any governmental entity that regulates utilities in Missouri, and generally accepted accounting principles shall be deemed to be acceptable under this Section. Such books and records shall be maintained for a period of at least three (3) years.
- (8) *Right of Inspection.* The City or its designated representatives shall have the right to inspect, examine, or audit, during normal business hours and upon seven (7) calendar days' notice, all documents, records, or other information that pertains to the Facilities within the Right-of-Way and/or Right-of-Way User's user fee obligations. In addition to access to the records of Right-of-Way User for audits, upon request, Right-of-Way User shall provide reasonable access to records necessary to verify compliance with the terms of this Section.
- (9) *Fees and Compensation not a Tax.* The fees and costs provided for in this Section, and any compensation charged and paid for the use of the Right-of-Way as provided for in this Section, are separate from, and additional to, any and all federal, state, City or other

local taxes as may be levied, imposed, or due.

9. *No Cause of Action Against the City.* A Right-of-Way User shall have no damages remedy or monetary recourse whatsoever against the City for any loss, cost, expense, or damage arising from any of the provisions or requirements of any ROW Use Agreement, License, Franchise, or other written authorization or because of the enforcement thereof by said City, or from the use of the Rights-of-Way. Nothing herein shall preclude the Right-of-Way User from seeking injunctive or declaratory judgment relief against the City where such relief is otherwise available and the requirements therefor are otherwise satisfied.
10. *Compliance with Laws.* Each Right-of-Way User shall comply with all applicable federal and state laws and regulations and rules as well as all City ordinances, resolutions, rules, and regulations heretofore and hereafter adopted or established. Right-of-Way Users shall at all times be subject to the lawful exercise of the police powers of the City, including but not limited to all police powers regarding zoning, supervision of the restoration of the Rights-of-Way, building and safety regulations, and control of the Rights-of-Way. Installation of all Facilities in the Rights-of-Way are subject to and must be in compliance with all zoning, safety, and building code requirements. For applications for installation of wireless Facilities in the Rights-of-Way, (1) the most restrictive adjacent underlying zoning district classification shall apply unless otherwise specifically zoned and designated on the official zoning map, and (2) no application shall be submitted for approval without attaching the City's consent to use the Rights-of-Way for the specific construction application in accordance with Chapter 67 RSMo.
11. *Indemnification.* Every Right-of-Way User, as a condition of use of the Rights-of-Way, shall at its sole cost and expense fully indemnify, protect, defend (with counsel for the City acceptable to the City) and hold harmless the City, its municipal officials, officers, employees, and agents, from and against any and all claims, demands, suits, proceedings, and actions, liability, and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, arising, directly or indirectly, in whole or in part, from the action or inaction of the Right-of-Way User, its agents, representatives, employees, contractors, subcontractors, or any other person for whose acts the Right-of-Way User may be liable, in constructing, operating, maintaining, repairing, restoring or removing facilities, or use of the Rights-of-Way or the activities performed, or failed to be performed, by the Right-of-Way User under this Section or applicable law, or otherwise, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of the City, its elected officials, officers, employees, agents, or contractors. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not, under any circumstances, relieve the person from the duty to defend against liability or its duty to pay any judgment entered against the City or its agents.
12. *Right-of-Way User Responsible for Costs.* The Right-of-Way User shall be responsible for all reasonable costs borne by the City that are directly associated with Right-of-Way User's installation, maintenance, repair, operation, use, and replacement of its Facilities in the Rights-of-Way that are not otherwise accounted for as part of a permit fee, to the extent

permitted by law. All such costs shall be itemized and the City's books and records related to these costs shall be made available upon request of the Right-of-Way User.

Section 3. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact two new subsections O and P to read as follows:

O. Use of Existing Facilities Required; Exceptions. All new Facilities or structures shall collocate on available existing poles or within existing conduit, trenches, or other Facilities to minimize unnecessary use of Right-of-Way space, reduce potential existing or future interference and obstructions, and to reduce the cost to the public or others therefrom, and to maximize the public's ability to use and license appropriate private or public uses of the Right-of-Way in the public interest (except where preempted by law or where good cause is established as determined by the City applying these objectives). Where existing poles or Facilities are available, or exist at or near the proposed use, unless otherwise approved, the Applicant must either use such Facilities or file a written request verified by the Applicant for exception specifying the specific reasons why such Facilities are not available or feasible to be used and addressing the objectives hereof. Any secondary use of decorative pedestrian lighting poles, other than approved signage or banners, by a Right-of-Way User shall generally be prohibited unless the City Council approves a waiver in the public interest.

P. Wireless Antennas and Facilities. Pursuant to City authority, including Section 67.1830(f) RSMo., and to properly manage the limited space in the City's Right-of-Way, minimize obstructions and interference with the use of the Right-of-Way by the public, and to ensure public safety, preserve property values, and enforce the public policy to maintain neutrality as to ownership of wireless locations, while also seeking to facilitate delivery of broadband technologies to City residents and businesses, wireless Facilities shall be permitted in the Right-of-Way only in compliance with the requirements applicable to other Facilities and users in the Right-of-Way, and subject to the supplemental requirements set forth in this Section for wireless antennas and Facilities. Any wireless Facilities authorized in the Right-of-Way shall be only as authorized in a binding approved Right-of-Way Use Agreement, pole attachment agreement, or other written authorization with the City and subject to approval, denial, or condition relating to location, design, height, appearance, safety, specifications for use of City structures, and such zoning, building, or other regulations, including specifically Division 10 of Article V of Chapter 400, except as may be limited by law.

1. *General Conditions.* Any wireless Facility in the Right-of-Way shall be authorized only for entities that have a current and unexpired lawful ROW Agreement or Franchise with the City pursuant to 505.220.C.1, and shall be subject to conditions relating to the location (including prohibited or limited locations), design, height, appearance, safety, radio-frequency, and other interference issues as may be lawfully imposed by the City where necessary or appropriate to protect the public, and to conform to policies and interests of the public as may be set forth in special district plans, historic areas, or other policies as may be reasonably adopted by the City to address changing infrastructure, technology, and uses of the Right-of-Way and/or City Facilities.

2. *“Fast-Track” Small Wireless Collocation.* Any wireless Facility meeting the requirements of a “Fast-Track Small Wireless Facility” as defined by Sections 400.1380 and 400.1405 of the Zoning Code, may be authorized to use and be located in the Right-of-Way with approval of the Director of Public Works and Parks subject to the following additional requirements:
 - (1) Only one Small Wireless Facility shall be permitted per existing structure in the Right-of-Way;
 - (2) No ground equipment shall be authorized, unless placed underground;
 - (3) No Small Wireless Facility shall be located in a manner which obstructs or causes a safety concern for vehicle or pedestrian traffic; and
 - (4) If the proposed structure the Applicant proposes to locate its Small Wireless Facility is not structurally sound, but the Director of Public Works and Parks finds such to be a desired location, the Director of Public Works and Parks can require the Applicant to install a new substantially similar structure at its cost.
3. *New Structures.* Wireless Facilities shall not be permitted in the Right-of-Way on new structures, provided that if evidence warranting an exception is provided by the Applicant pursuant to Section 505.220.O, the City Council may grant an exception authorizing a new structure for a wireless Facility if it also determines on a non-discriminatory basis such proposed application is in the public interest in light of the purposes of this Section and Subsection, and provided such use and location has received prior, separate zoning authorization as required by and in compliance with Division 10 of Article V of Chapter 400, to the extent permitted by law. In such circumstances where any new wireless structure application is permitted in the Right-of-Way, such use shall be subject to reasonable regulations or conditions and including any applicable specifications, compensation, and other terms established by the City in such approval or agreement as necessary or appropriate to preserve the purposes of this Section and Subsection.
4. *All other Wireless in Right-of-Way.* Any wireless Facility located on an Existing Structure, as defined by Section 400.1380 but not meeting the requirements of *subsections 1. General Conditions or 2. Small Wireless Collocation*, above, may be approved, subject to conditions as may be imposed consistent with the purposes of this Section, only upon approval by the Council upon a determination by the Council that such wireless Facility is: (1) in the public interest to provide a needed service to persons within the City, (2) cannot feasibly meet all of the requirements of a “Small Wireless Facility” but varies from such requirements to the minimum extent necessary, (3) does not negatively impact appearance or property values in light of the location, design, and circumstances to be approved, (4) does not create any reasonable safety risk, and (5) complies with all zoning, Right-of-Way, and other applicable requirements.
5. *Wireless Facility Compensation Requirements.* Unless otherwise established by the City Council or applicable law, compensation to the City for use of City Right-of-Way or structures for wireless facilities, in addition to any linear foot or other required compensation and conditions, including as authorized by § 67.1846 RSMo., Section 505.220.C.8. above, and as otherwise may be provided, shall be as follows unless

otherwise lawfully provided for in the agreement authorizing such use:

- (1) City Structures. If a wireless facility is to be located on a City owned structure acceptable for such use by the City, a pole attachment agreement, or other written authorization shall be required with terms including insurance, indemnification, and a monthly payment of \$200.00 per attachment or such other compensation as may be lawfully provided for in such agreement or authorization;
- (2) Third-Party Structures. If a wireless facility is to be located on a structure owned by a third-party approving of such use, such facility shall pay a user fee to the City relating to use of the Right-of-Way, in the amount of the Antenna fees provided in Section 505.220.C.8(1).

6. *Application Requirements.* Any application including one or more wireless Antennas or Facilities shall include all requirements for (1) installation of any Facilities in the Right-of-Way as set forth in this Section, (2) the requirements of this Subsection, and also include (3) requirements for installation of wireless Antennas and Facilities set forth in the Uniform Wireless Communications Infrastructure Deployment Act (§§ 67.5090 *et. seq.* RSMo.) or other applicable law including written proof of consent of landowner (copy of the Right-of-Way Agreement) and of structure owner (document authorizing use of the structure).

Section 4. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended by repealing subsection F and to enact a new subsection F to read as follows:

F. *Liability Insurance.* Except as provided in this section, each Right-of-Way User shall provide, at its sole expense, and maintain during the term of an agreement or franchise, commercial general liability insurance with a reputable, qualified, and financially sound company licensed to do business in the State of Missouri, and unless otherwise approved by the City, with a rating by best of not less than "A," that shall protect the Right-of-Way User, the City, and the City's officials, officers, and employees from claims which may arise from operations under an agreement or franchise, whether such operations are by the Right-of-Way User, its officers, directors, employees and agents, or any subcontractors of the Right-of-Way User. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from all Right-of-Way User operations, products, services or use of automobiles, or construction equipment. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall be at least two million eight hundred dollars (\$2,800,000.00), but in no event less than the individual and combined sovereign immunity limits established by RSMo § 537.610 for political subdivisions; provided that nothing herein shall be deemed to waive the City's sovereign immunity. An endorsement shall be provided which states that the City is listed as an additional insured and stating that the policy shall not be cancelled or materially modified so as to be out of compliance with the requirements of this section, or not renewed without thirty (30) days' advance written notice of such event being given to the Director of Public Works and Parks. If the person is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts. The

insurance requirements in this section or otherwise shall not apply to a Right-of-Way User to the extent and for such period during an agreement or franchise as Right-of-Way User is exempted from such requirements pursuant to RSMo § 67.1830(6)(a) and has on file with the city clerk an affidavit certifying that Right-of-Way User has twenty-five million dollars (\$25,000,000.00) in net assets and is otherwise, therefore, so exempted unless otherwise provided by agreement or franchise. The City reserves the right to waive any and all requirements under this section when deemed to be in the public interest.

A copy of the liability insurance certificate, or other proof of compliance if otherwise requested by the City shall be delivered by the Right-of-Way User to the city clerk.

Section 5. Article IV of Chapter 100, General Code Provisions, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact two new Sections to read as follows:

Section 100.200 Enforcement; Attorneys' Fees.

The City shall be entitled to enforce any provision of this Code through all remedies lawfully available, and any person determined judicially to have violated the terms of this Code shall further be liable to pay the City's costs and attorneys' fees in enforcing such Code provisions. Additionally, any user of City services, right-of-way or other City facilities or property, shall, as a condition of such use or continued use, to the full extent permissible by law, be liable to pay the City's costs and attorneys' fees incurred in enforcing any lawful requirement applicable to such use, whether arising in contract, statute, ordinance, or other enforceable duty as to such use.

Section 100.210 Violation; Remedies, Unauthorized Holdover.

Any person who fails to hold and maintain a current and valid agreement with the City to use the City's land or facilities has no right to holdover and shall be subject to the provisions and City remedies of this subsection in addition to all other remedies and penalties as may otherwise exist in applicable law. Any claimed holdover right shall be deemed void and terminated upon expiration of a valid use agreement unless the City has affirmatively in writing authorized the holdover, or as otherwise may be required by law. Where an agreement, lease, or other agreement for use of public land or facilities expires, and in addition to any penalties or other requirements therein, the licensee during any period without a valid agreement shall, during any period of unauthorized use: (1) indemnify the City from any liability arising from the use, (2) pay any damages and costs of the City from such use, including attorneys' fees incurred in enforcing this ordinance, and (3) make payment of compensation in the amount of two times the monthly rent of the last expired agreement, if a holdover, and two times the market rental value reasonably determined by the City, if no prior agreement, until a valid agreement is executed with the City or the attachments and/or use is fully removed, the property restored and all obligations to the City satisfied. Unless otherwise provided in an unexpired agreement, Licensee shall also be responsible for interest on all amounts owed and at a rate of one and one-half percent per month. Nothing in these provisions, remedies or compensation requirements, or acceptance or enforcement thereof by the City, shall be deemed to accept or authorize any use of public property without a required agreement, or after the expiration of such agreement, or

otherwise in violation of applicable requirements.

Section 6. This Ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED AND APPROVED THIS ___ DAY OF _____ 2017.

By: _____
MAYOR

ATTEST:

INTERIM CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY

DRAFT



Council Agenda Item Cover

MEETING DATE: November 27, 2017

AGENDA ITEM TITLE: Ackert Walkway Improvements – Transportation Alternatives Program – Passage of Enabling Ordinance

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED?: Yes

BACKGROUND REVIEW:

The City of University City applied for federal funds through the Missouri Highways and Transportation Commission and administered by East West Gateway Council of Governments and the Missouri Department of Transportation for improvements to Ackert Walkway. These improvements include upgrading the inefficient and inadequate lighting along the path and providing ADA accessibility to and from the Leland Avenue and Westgate Avenue adjacent to Ackert Park. Detailed signage is also proposed, including wayfinding, directional, and bike route signs. The proposed improvements support the City's current Americans with Disabilities Act (ADA) transition plan, as well as the Parkview Gardens Park Plan adopted in February 2010. In addition, the lighting upgrades increase the city's energy efficiency which result in cost savings for the City.

A Missouri Highways and Transportation Commission Program Agreement was approved by City Council for Ackert Walkway Improvements project at the November 13, 2017 Council meeting.

The Missouri Department of Transportation also requires that the City Council pass an enabling ordinance to execute the above referenced "Missouri Highways and Transportation Commission Program Agreement" between The Federal Highway Administration, Department of Transportation and the City of University City. A draft ordinance is attached for this purpose.

The Grant amount is \$265,661. Federal participation is 80% of the project cost, and City participation is 20% of the project cost, equivalent to \$66,415. The funding will be available for Federal fiscal year 2018 through 2019.

RECOMMENDATION:

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

ATTACHMENTS:

- Missouri Highways and Transportation Commission TAP- Program Agreement (approved by University City Council on November 13, 2017)
- City's applicable enabling ordinance

CCO Form: FS25
Approved: 04/95 (MGB)
Revised: 03/17 (MWH)
Modified:

CFDA Number: 20.205
CFDA Title: Highway Planning and Construction
Award name/number: TAP – 5402(617)
Award Year: 2018
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
TRANSPORTATION ALTERNATIVES FUNDS
PROGRAM AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of University City (hereinafter, "City").

WITNESSETH:

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

(1) PURPOSE: The United States Congress has authorized, in Fixing America's Surface Transportation Act (FAST); 23 U.S.C. §101, §106 and §213; SAFETEA-LU §1404 funds to be used for transportation alternatives activities. The purpose of this Agreement is to grant the use of such transportation alternatives funds to the City.

(2) LOCATION: The transportation alternatives funds which are the subject of this Agreement are for the project at the following location: Along Ackert Walkway from 300' North of Delmar Boulevard to Vernon Avenue. The proposed improvements include 4" concrete sidewalk repair, upgraded lighting, detailed signage, pavement markings, and improved ADA compliant curb ramps and landings.

The general location of the project is shown on attachment marked "Exhibit A" and incorporated herein by reference.

(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. The City may not be eligible for future Transportation Alternatives Funds if the City does not meet the reasonable progress policy.

(4) 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.

(5) 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.

(6) 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.

(7) 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, creed, 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, creed, 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 (7) 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.

(8) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(9) 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.

(10) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

(11) 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 Federal Highway Administration (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.

(12) 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.

(13) 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 this 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 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 by 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.

(14) MAINTENANCE OF DEVELOPMENT: The City shall maintain the herein contemplated improvements without any cost or expense to the Commission. All maintenance by the City shall be done for the safety of the general public and the esthetics of the area. In addition, if any sidewalk or bike trails are constructed on the Commission's right-of-way pursuant to this Agreement, the City shall inspect and maintain the sidewalk or bike trails constructed by this project in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalk or bike trails. If the City fails to maintain the herein contemplated improvements, the Commission or its representatives, at the Commission's sole discretion shall notify the City in writing of the City's failure to maintain the improvement. If the City continues to fail in maintaining the improvement, the Commission may remove the herein contemplated improvement whether or not the improvement is located on the Commission's right of way. Any removal by the Commission shall be at

the sole cost and expense of the City. Maintenance includes but is not limited to mowing and trimming between shrubs and other plantings that are part of the improvement.

(15) PLANS: The City shall prepare preliminary and final plans and specifications for the herein improvements. The plans and specifications shall be submitted to the Commission for the Commission's review and approval. The Commission has the discretion to require changes to any plans and specification prior to any approval by the Commission.

(16) 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. The federal share for this project will be 80 percent not to exceed \$265,661. 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.

(17) 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. The City shall repay any progress payments which involve ineligible costs.

(18) 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.

(19) PERMITS: The City shall secure any necessary approvals or permits from any federal or state agency as required for the completion of the herein improvements. If this improvement is on the right of way of the Commission, the City must secure a permit from the Commission prior to the start of any work on the right of way. The

permits which may be required include, but are not limited to, environmental, architectural, historical or cultural requirements of federal or state law or regulation.

(20) INSPECTION OF IMPROVEMENTS AND RECORDS: The City shall assure that representatives of the Commission and FHWA shall have the privilege of inspecting and reviewing the work being done by the City's contractor and subcontractor on the herein project. The City shall also assure that its contractor, and all subcontractors, if any, maintain all books, documents, papers and other evidence pertaining to costs incurred in connection with the Transportation Alternatives Program Agreement, and make such materials available at such contractor's office at all reasonable times at no charge during this Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection by the Commission, FHWA or any authorized representatives of the Federal Government and the State of Missouri, and copies shall be furnished, upon request, to authorized representatives of the Commission, State, FHWA, or other Federal agencies.

(21) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES: A person may offer to donate funds, materials or services in connection with this project. Any donated funds, or the fair market value of any donated materials or services that are accepted and incorporated into this project shall be credited according to 23 U.S.C. §323.

(22) DISADVANTAGED BUSINESS ENTERPRISES (DBE): The Commission will advise the City of any required goals for participation by disadvantaged business enterprises (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.

(23) 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.

(24) 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.

(25) FINAL AUDIT: The Commission may, in its sole discretion, 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.

(26) OMB AUDIT: 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.

(27) 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.

[Remainder of Page Intentionally Left Blank]

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 OF UNIVERSITY CITY

By _____

Title _____

Title _____

ATTEST:

ATTEST:

Secretary to the Commission

By _____

Title _____

Approved as to Form:

Approved as to Form:

Commission Counsel

Title _____

Ordinance No _____

Exhibit A - Location of Project

2017 TAP - Ackert Walkway Improvements

PHOTOVIEW 1



Exhibit B – Project Schedule

Project Description: TAP-5402(617)

This project is located along Ackert Walkway from 300' North of Delmar Boulevard to Vernon Avenue. The proposed improvements include 4" concrete sidewalk repair, upgraded lighting, detailed signage, pavement markings, and improved ADA compliant curb ramps and landings.

PROJECT DEVELOPMENT SCHEDULE *Many stages can occur concurrently.			
Activity Description	State Date (MM/YYYY)	Finish Date (MM/YYYY)	Time Frame (Months)
Receive notification letter	10/2017	10/2017	1
Execute agreement (project sponsor and DOT)	10/2017	12/2017	2
Engineering services contract submitted and approved*	12/2017	3/2018	3
Obtain environmental clearances (106, CE-2, etc.)	3/2018	4/2018	1
Public meeting/hearing	3/2018	5/2018	2
Develop and submit preliminary plans	5/2018	8/2018	3
Preliminary plans approved	8/2018	9/2018	1
Develop and submit right-of-way plans			
Review and approval of right-of-way plans			
Submit and receive approval for notice to proceed for right-of-way acquisition (A-Date)*			
Right-of-way acquisition			
Utility coordination	10/2018	12/2018	2
Develop and submit PS&E	12/2018	3/2019	3
District approval of PS&E/advertise for bids*	3/2019	5/2019	2
Submit and receive bids for review and approval	5/2019	6/2019	1
Project implementation/construction	6/2019	9/2019	3
* Finish date must match fiscal year for each milestone shown in bold text .			

*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 a Supplemental Agreement is required to modify this date.

Exhibit C - Required Contract Provisions Federal-Aid Construction Contracts

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, 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.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

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, 29 CFR 1625-1627, 41

CFR 60 and 49 CFR 27) 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 provisions of the Americans with 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 contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its 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, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program 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 minorities and women.

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 minorities and women

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 minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women 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, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such 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 its 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 their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

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. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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 employees who are minorities and women 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 good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 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 good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith 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 contracting agency 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 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 qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. 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 contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. 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. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. 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 the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

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

(1) The number and work hours 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; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency 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](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control,

where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics 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 issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, 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 29 CFR 5.5(a)(4). 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. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) 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.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), 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 Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The 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.

(3) In the event the contractor, the laborers or mechanics to be employed in the 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. The Wage and Hour 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.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. 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 shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as 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.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor 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, so 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 contracting agency 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.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents 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. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) 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 shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division

Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each 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 Regulations, 29 CFR part 3;

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

(3) 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 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, 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 FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action 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.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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 U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or 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 Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen 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 worker 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 on 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 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's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

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 journeymen 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 determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

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 U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman 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 wage rate on the wage determination which provides for less than full fringe benefits for apprentices. 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.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor 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. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. 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.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be

subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 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 U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the 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 or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the

standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages.

The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys 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 (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

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 contracting agency. 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 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased 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 or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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 or propose 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 VI 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 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 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 contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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 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. 3704).

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.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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, Form FHWA-1022 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:

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 under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier 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 first tier 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 first tier 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 contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier 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," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first 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 entering into this transaction.

g. The prospective first tier 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 Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

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 is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective 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.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment 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;

(3) 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 (a)(2) of this certification; and

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

b. Where the prospective 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 Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

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," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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 exceeding the \$25,000 threshold.

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 is responsible for ensuring

that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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 Participants:

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 participating in covered transactions 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.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is 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 its bid or proposal that the participant 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 AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

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 the participant 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, the participant 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 one 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 provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

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

CFDA Number: 20.205
CFDA Title: Highway Planning and Construction
Award name/number: TAP-5402(617)
Award Year: 2018
Federal Agency: Federal Highway Administration, Department of Transportation

CITY OF UNIVERSITY CITY

ORDINANCE NO. _____

BILL NO: **9346**

An Ordinance to authorize the City Manager to execute a contract between the City of University City and the Missouri Highway and Transportation Commission providing for the *Ackert Walkway Improvements*.

Be it ordained by the City Council of University City as follows:

Section 1. That the City Manager is hereby authorized to execute on behalf of the City of University City a contract with the Missouri Highway and Transportation Commission providing for the *Ackert Walkway Improvements*.

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

Section 3. This ordinance shall be in full force and effect from and after the date of its passage and approval. Read three times, passed and approved on the day of _____, 20 _____.

APPROVED AS TO FORM

City Attorney

Mayor

Attest:

Interim City Clerk



Council Agenda Item Cover

MEETING DATE: November 27, 2017

AGENDA ITEM TITLE: Compensation for City Manager effective December 28, 2017

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED? : No

BACKGROUND REVIEW:

Section 1. Effective December 28, 2017, the compensation for the position of City Manager shall be an annual base salary of one hundred seventy thousand dollars (\$170,000.00) as provided in Section 3 of the Employment Agreement dated November 13, 2017 between the City and Gregory Rose, plus all other compensation provided in the Employment Agreement, which is attached and incorporated by reference.

Section 2. The compensation fixed for the City Manager under Ordinance No. 7044 shall be repealed effective December 28, 2017.

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

RECOMMENDATION:

Approval

ATTACHMENTS:

- Bill fixing the compensation for the City Manager effective December 28, 2017
- Employment Agreement

INTRODUCED BY: _____

DATE: _____

BILL NO.: 9347

ORDINANCE NO.: _____

AN ORDINANCE FIXING THE COMPENSATION TO BE PAID FOR THE POSITION OF CITY MANAGER.

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

Section 1. Effective December 28, 2017, the compensation for the position of City Manager shall be an annual base salary of one hundred seventy thousand dollars (\$170,000.00) as provided in Section 3 of the Employment Agreement dated November 13, 2017 between the City and Gregory Rose, plus all other compensation provided in the Employment Agreement, which is attached and incorporated by reference.

Section 2. The compensation fixed for the City Manager under Ordinance No. 7044 shall be repealed effective December 28, 2017.

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

PASSED and ADOPTED this ____ day of December, 2017.

MAYOR

ATTEST:

INTERIM CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY

EMPLOYMENT AGREEMENT

This Agreement is made and entered into on the 13th day of November, 2017, by and between the City of University City, Missouri, a municipal corporation (hereafter called the "Employer" or the "City"), and Gregory Rose (hereinafter called "you" or "your"), an individual who has education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics.

SECTION 1: Term

This Agreement shall remain in full force and effect until terminated by the Employer or you as provided in Section 7, 8, or 9 of this Agreement.

SECTION 2: Duties and Authority

A. The Employer agrees to employ you as the City Manager to perform the duties prescribed by the City Charter and ordinances and to perform such other duties as the City Council may require of you.

B. As the City Manager you agree to faithfully perform your duties in compliance with the City Charter and ordinances, state and federal law, and all applicable Employer directives, policies and rules, as they exist or may hereafter be amended.

SECTION 3: Compensation

A. Base Salary: The Employer agrees to pay you an annual base salary of one hundred seventy thousand dollars (\$170,000.00) payable in installments at the same time that other City employees are paid.

B. Your annual base salary shall be increased to reflect any future cost-of-living adjustments generally provided to other City employees.

SECTION 4: Health, Disability and Life Insurance Benefits

The Employer shall provide health, disability, and life insurance for you consistent with other City employees. Employee will be able to purchase additional life insurance through the City's provider at his expense to extent such insurance is available to purchase.

SECTION 5: Vacation and Sick Leave

A. Upon commencing employment, you shall be credited with four weeks (20 days) of vacation and two weeks (10 days) of sick leave.

B. As of July 1, 2018, vacation and sick leave will be accrued based on the employment practices for other City employees with the exception of the vacation leave allocation, which shall remain at four weeks (20 days) until the number of years of service exceeds the distribution of four weeks of vacation.

SECTION 6: Retirement

A. Upon commencing employment, the Employer agrees to enroll you into the applicable state or local retirement system. You shall pay into the appropriate retirement system at the same rate as other City employees, and the City will make all the appropriate contributions as necessary.

B. For each month during the term of this Agreement, the Employer shall contribute to an ICMA RC 457 retirement plan for your benefit an amount equal to six percent (6%) of your base salary.

SECTION 7: Termination

A. For the purposes of this Agreement, termination shall occur if and when the majority of the City Council votes to terminate you at a duly authorized meeting. Your employment may be terminated with or without cause.

B. Termination with cause shall include termination due to: (1) gross negligence in the performance of your duties; (2) insubordination by you; (3) a material breach of this Agreement, (4) failure to maintain your membership with the ICMA or a breach of the ICMA Code of Ethics; (5) your conviction or adjudication of guilty of, or pleading guilty or no contest to, a felony, or a misdemeanor involving dishonesty or moral turpitude; (6) malfeasance in office, bribery or other corrupt practice; or (7) serious misconduct.

C. Termination without cause shall mean termination for any reason other than termination with cause or resignation by you.

D. If the Employer, citizens, or legislature acts to amend any provisions of the City Charter pertaining to the role, powers, duties, authority, or responsibilities of your position and thereby substantially changes the form of government, you shall have the right to declare that such amendments constitute termination without cause.

Section 8: Severance

A. Severance compensation shall be paid to you when your employment is terminated without cause as defined in Section 7.

B. If you are terminated without cause during the first twenty-four months of employment, the Employer shall provide a severance payment equal to two years salary at the current rate of pay.

C. If you are terminated without cause after the first twenty-four months through the forty-eighth month of employment, the Employer shall provide a severance payment equal to nine months salary at the current rate of pay.

D. If you are terminated without cause after the forty-eighth month of employment, the Employer shall provide a severance payment equal to six months salary at the current rate of

pay.

E. If you resign your employment with the City or are terminated with cause, you will not be entitled to any severance or continued payment of health insurance premiums.

F. If you are terminated without cause, the Employer will pay your COBRA payments for the first six months following termination, which will include any dependents.

G. Severance shall be paid into the established ICMA RC 457 plan to the extent allowable by law; the remainder shall be paid in a lump sum within thirty days, unless otherwise agreed to by the Employer and you.

H. The Employer agrees to appropriate sufficient funds to pay its financial obligations to you pursuant to the terms of Paragraphs 3, 4, 6, and 8 of this Agreement.

Section 9: Resignation

In the event that you voluntarily resign your position with the Employer, you shall provide a minimum of sixty days' notice unless the parties agree otherwise. If you voluntarily resign your position with the Employer, you will not be entitled to severance.

Section 10: Performance Evaluation

A. It shall be a goal of the Employer to annually review your performance using a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by you and the Employer. In the event the parties do not mutually agree, then the Employer shall determine the process, form, criteria, and format for the evaluation.

B. This process shall generally include the opportunity for both parties to prepare a written evaluation, meet and discuss the evaluation, and present a written summary of the evaluation results.

C. The final, written evaluation shall generally be completed and delivered to you

approximately thirty days following the evaluation meeting.

D. In the Employer's discretion your performance may be reviewed upon your request or otherwise at anytime.

SECTION 11: Hours of Work

It is recognized that you must devote a great deal of time beyond normal office hours on behalf of the Employer. To that end, you shall be allowed to establish an appropriate work schedule. Whenever you travel, you shall announce your travel plans to the City Council within a reasonable time in advance of travel.

SECTION 12: Moving and Relocation Expenses

A. You shall establish a residence within the corporate boundaries of University City and thereafter maintain your residence within the corporate boundaries of University City during your tenure of office.

B. The Employer shall reimburse you for your moving and relocation expenses in an amount not to exceed eighteen thousand dollars (\$18,000), to cover temporary housing, not more than two trips to University City for you and your spouse to secure permanent housing, and moving your household furnishings and personal property to University City.

C. If you resign your position with the Employer within eighteen months of the effective date of this Agreement, you shall repay Employer the reimbursed moving and relocation expenses on a pro rata basis commensurate with the percentage of the eighteen-month period you have completed.

SECTION 13: Other Terms and Conditions of Employment

A. Except as otherwise provided in this Agreement, you shall be entitled to the benefits enjoyed by other City employees as provided in the City Charter, ordinances, personnel

rules, and administrative regulations, or by practice.

B. You are entitled to an insured and maintained City vehicle to use in the performance of your duties as City Manager, or at your election a vehicle allowance of three hundred fifty dollars (\$350) per month. You are also entitled to a wireless smart phone for City business and de minimis personal use.

C. The Employer shall reimburse you for your professional development expenses to attend two MCMA conferences and one ICMA conference annually. The Employer shall reimburse you to attend other conferences, short courses and seminars as allowed by the City's budget.

D. You may participate in outside teaching and consulting services with prior approval of the City Council.

E. The Employer shall defend, save harmless and indemnify you against any tort, professional liability claim, demand, or other legal action, whether groundless or otherwise, brought against you in your individual or official capacity as an employee of the Employer and arising out of an alleged act or omission occurring in the performance of your duties as City Manager, except that Employer will not indemnify you for any intentional, reckless or grossly negligent conduct or any criminal conduct.

F. The Employer shall reimburse you for the actual cost of those incidental expenses necessarily incurred by you while in attendance at local meetings or seminars related to your employment with the City.

SECTION 14: Notices


Any notice to the Employer shall be given to the Mayor and all other members of the City Council. Any notice to you shall be given to you or your designated representative. You may designate an address for mail.


SECTION 15: General Provisions

A. This Agreement sets forth and establishes the entire understanding between you and the Employer relating to your employment by the Employer. The parties, by mutual written Agreement, may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.

B. This Agreement shall be binding on the Employer and you as well as your heirs, assigns, executors, personal representatives and successors in interest.

C. This Agreement shall become effective on December 28, 2017.

By:  _____
Gregory Rose

City of University City, Missouri
By:  _____
Mayor Shelley Welsch
For the City and the Council

Date of Execution: 11/6/2017

Date of Execution: 11-13-2017

**Plan Commission
September 27, 2017 Meeting Minutes**

The Plan Commission held their regular meeting at the Heman Park Community Center located at 975 Pennsylvania Avenue, University City, Missouri on Wednesday, September 27, 2017. The meeting commenced at 6:30 pm.

1. Roll Call

Voting Members Present

Cirri Moran (Chairperson)
Michael Miller
Judith Gainer
Rosalind Williams

Voting Members Absent (excused)

Cynthia Head
Andrew Ruben
Ellen Hartz

Non-Voting Council Liaison Present

Rod Jennings

Staff Present

Andrea Riganti, Director of Community Development
Andrew Stanislav, Planner

2. Approval of Minutes

2.a. August 23, 2017 Plan Commission meeting

A motion was made by Ms. Gainer to approve the August 23, 2017 meeting minutes. The motion was seconded by Mr. Miller. Mr. Miller proposed a change to Page ten of eleven under “Public Comments,” third comment, correcting a misspelling on the fifth line of text. The motion carried unanimously.

3. Public Hearings – None

4. Hearings – None

5. Old Business – None

6. New Business

6.a. Minor Subdivision – Final Plat – PC 17-11 – Proposed subdivision of an existing two family dwelling into two individual condominium units – Period Restoration, LLC (c/o Randy Renner, Manager) – 7430 Delmar Boulevard

Ms. Riganti explained the proposal and showed slides of the site and surrounding properties. She stated that the final plat approval recommendation from the Plan Commission, in this case, was more of a housekeeping item to subdivide the newly constructed two-family

dwelling into two condominium units. This subdivision is solely concerned with the form of ownership of the units.

Legal representative of the applicant, Kevin Williams with Carmody MacDonald, provided a summary of the project. Mr. Williams stated that this matter was merely adhering to the City's Code regarding subdivisions, noting the relative simplicity of the proposed minor subdivision of a recently constructed building, focusing solely on the ownership of the units.

Questions / Comments / Discussion by Plan Commission:

- Has the condo association already been established? Mr. Williams stated that it has been established and provided an overview of the applicable state statutes and processes.

Ms. Riganti stated that staff recommended approval of the proposed minor subdivision, noting that this item focused solely on dwelling ownership, which complies with the current MR – Medium Density Residential Zoning District, and nothing further.

Public Comments – None

A motion was made by Mr. Miller to recommend approval of the proposed Final Plat for a Minor Subdivision at 7430 Delmar Boulevard. The motion was seconded by Ms. Williams and carried unanimously by a vote of 4-0. The recommendation will be forwarded to City Council for a public hearing and consideration of final approval.

6.b. REVISED – Final Development Plan Amendment PC 17-07 – Proposed amendment to the final development plan for a partial redevelopment of a property in the “PD” Planned Development District – Rosemann & Assoc. – 8348-8350 Delcrest Drive (Crown Center for Senior Living)

Ms. Riganti explained the process regarding the revised Final Development Plan Amendment for Crown Center and why it was before Plan Commission again. She stated that the Final Development Plan Amendment was first presented to the Plan Commission during the July 26, 2017 meeting. It has since been revised due to subsequent concerns of public notification and adequate buffering proposed received from Dan Wald, property owner of 8400 Delmar Boulevard adjacent to the north of Crown Center. Mr. Wald vocalized these concerns at the City Council meeting on August 14, 2017, as well as the August 23, 2017 Plan Commission meeting. As a reminder, Ms. Riganti stated that the matter of buffering was a concern of staff. Staff did not provide a recommendation to the Plan Commission at the July 26, 2017 meeting regarding the proposed buffering, instead requesting that Plan Commission do so as per their authority under the Planned Development zoning district. The Plan Commission recommended approval of the application, with the condition that additional buffering solutions be provided such as heavy planting of specific tree species. Plan Commission's recommendation was presented to City Council on August 14. However, since that meeting, the applicant has revised the siting of the northern building so that it is 30 feet from the property line to the north. This revision was presented to City Council for a first ordinance reading on September 25, 2017. The

second and third readings of this ordinance would occur at the next City Council meeting. Ms. Riganti stated that given this revision, the Final Development Plan Amendment for Crown Center for Senior Living was before the Plan Commission as per a recommendation by the City Attorney. The Plan Commission may vote if they so wish.

Mr. Riganti explained the revised proposal and showed slides of the site and surrounding properties. She compared the site plans of the original and the revised submissions, and stated that staff recommended approval.

David Lang, a former volunteer board member of Crown Center and legal counsel for the proposed redevelopment, stated that Crown Center had met with Dan Wald and Preston Amos, potential buyer of Mr. Wald's property at 8500 Delmar Boulevard, and C.B. Richard Ellis, real estate brokers, on August 24, 2017 to discuss the proposed redevelopment project. He stated that they had decided to revise the site plan of the redevelopment so that the north most point of the proposed building would be 30 feet south of the north property line. He stated that Mr. Wald confirmed that he had accepted the proposed revision.

Mr. Lang further explained the extensive notification process to nearby property owners and residents via receipt mail using taxing addresses and entities that own property as by the Secretary of State website. He stated that they did not receive receipts from Dan Wald or the property owner of 8351 Delcrest Drive, the daycare east of Crown Center, and had sent further notification to their personal residences. He stated that they also sent notice to the Secretary of State, and that if the receipts from the notices sent to the property owner addresses are returned in the future, they would adhere to the Missouri State Statute. Mr. Lang provided staff with a document of copies of the notification receipts sent (attached to the minutes as part of the record).

Questions / Comments / Discussion by Plan Commission:

- The Commission questioned the new phasing of the revised Final Development Plan Amendment. Mr. Lang confirmed the new phasing scheme with the site plan slides. He further stated that residents will be able to stay in the existing Tallin building and then moved into the new first phase of the redevelopment before construction on the second phase commences.
- How do you know that the property owner of the daycare did not receive notice? Mr. Lang stated that the owner of the daycare is Ferris Capital Group, of which Preston Amos is involved. He stated that Mr. Amos mentioned that he did not receive notification at Crown Center's meeting with Dan Wald on August 24, 2017.
- Are you satisfied with the new site plan? Mr. Lang stated that there are pros and cons to each site plan, although they are pleased with the new revisions. It was also confirmed that there was no reduction of parking spaces in the revised site plan.

Ms. Riganti was asked to restate the process associated with the revised Final Development Plan Amendment. She stated that the first reading of the ordinance adopted by City Council was September 25, 2017, which will be followed by a second and third reading at a subsequent City Council meeting. She further stated that the revision of the Final

Development Plan Amendment was brought before the Plan Commission as recommended by the City Attorney and after the ordinance was introduced so that the process was not delayed further.

Public Comments – None

A motion was made by Ms. Gainer to recommend approval of the revised Final Development Plan Amendment at 8350 Delcrest Drive. The motion was seconded by Mr. Miller and carried unanimously by a vote of 4-0.

7. Other Business

7.a. Public Comments

8. Reports

8.a. Code Review Committee Report – None

8.b. Comprehensive Plan Committee Report

Ms. Riganti stated that CPAC would be meeting the following morning at City Hall for an update on the consultant's progress.

8.c. Council Liaison Report

Council Liaison Rod Jennings stated that Mr. Lang had presented the same information tonight regarding notification of the Crown Center redevelopment at the September 25, 2017 City Council meeting. He also stated that City Council is discussing the establishment of an Architecture Review Board to replace the existing Infill Review Board and that they will be interviewing applicants for City Manager.

8.d. Department Report

Ms. Riganti explained the purpose and intent of the Infill Review Board, stating that it is triggered for new construction on lots that are vacant or where a dwelling has been demolished. The Infill Review Board only meets if a petition is filed with staff from the notified residents. Ms. Riganti stated that the department is looking into the establishment of an Architecture Review Board as Councilmember Jennings noted in his update. Additionally, she stated that staff is working on a text amendment regarding an update on telecommunications matters and notified the Plan Commission of the most recent Map Amendment and Conditional Use Permit approvals from City Council.

9. Adjournment

The meeting adjourned at 7:15 pm.

Historic Preservation Commission
October 19, 2017 Meeting Minutes
Approved 11-16-17

The Historic Preservation Commission (HPC) held a meeting in the Heman Park Community Center located at 975 Pennsylvania Avenue, University City, Missouri on Thursday, October 19, 2017. The meeting commenced at 6:30 pm.

1. Roll Call

Voting Members Present

Donna Marin, Chairperson
Bill Chilton
Donna Leach
Robert Klahr

Voting Members Absent

Esley Hamilton, Vice-Chairperson
Mark Critchfield
Sandy Jacobson

Non-Voting Members Present

Michael Glickert, Council Liaison

Staff Present

Andrea Riganti, Director of Community Development
Andrew Stanislav, Planner

2. Approval of Minutes

2.a. August 17, 2017 Historic Preservation Commission meeting minutes

A motion was made by Mr. Chilton to approve the August 17, 2017 meeting minutes as written. The motion was seconded by Ms. Leach and carried unanimously.

3. Old Business – None

4. New Business

4.a. File Number: HPC 17-04 – 524 Trinity Avenue – Review of a Conditional Use Permit application in the University City Civic Complex Historic District for the proposed COCA expansion and renovation project per Section 400.1550(5) of the Zoning Code (Local Historic District)

Ms. Riganti explained the proposal and showed slides with contextual information. She described the broader Zoning processes of this proposal and explained the Commission members' role in reviewing the Conditional Use Permit application. The proposed modifications of the setback and height requirements are permitted under a Conditional Use Permit in the "PA" – Public Activity District. She explained that Traffic Commission will also view this proposal from a traffic-related purview at a later date since they did not vote upon initial consideration at their October 11, 2017 meeting.

Applicant Jeff Ryan with Christner, Inc. was present to explain the proposal. He reviewed elements of the previous design review presentation to the Historic Preservation Commission and noted that the design has not changed since that meeting. In regards to the Conditional Use Permit request, Mr. Ryan stated that the North side of the proposal meets the required 25-foot setback, while the East and South sides of the proposal require modifications in order to reflect the existing non-conforming setbacks of the original Mendelsohn building, which were established by an existing Conditional Use Permit. He further stated that the proposal is supported by neighbors of COCA upon presenting the proposed expansion at a previous date. Mr. Ryan also presented a contextual analysis of the height and distance between existing buildings in the neighborhood to demonstrate the compatibility of the proposed expansion with the fabric of the neighborhood. Additionally, the height of the proposed expansion is lower than the maximum height of the existing Mendelsohn building.

Questions / Comments and Discussion by Historic Preservation Commission

- What is the height of the existing addition that will be demolished as part of the proposed expansion? The height of the existing addition is approximately the height of the Mendelsohn building.
- Have you showed the proposed plans to nearby residents? Yes, they were shown the proposed plans about two to three weeks prior, and their responses were positive.
- In regards to the existing addition constructed in 2004, hasn't this process happened already once before? Yes, a Conditional Use Permit was previously obtained to modify the setbacks and height of the 2004 addition.
- Commission members clarified that the existing addition will be demolished and further inquired about any modifications to the historic structure. Mr. Ryan confirmed the demolition and stated that areas of disrepair will be addressed. He further stated that considering the proposed expansion abuts the existing historic structure, certain areas near the proposed expansion, such as a staircase window, need to be altered to address engineering related concerns although the spirit of the original design will be respected. Some interior features are also proposed to be restored.

Public Comments – None.

A motion was made by Ms. Leach to approve the plans as presented. The motion was seconded by Mr. Chilton and carried unanimously.

5. Other Business

5.a. Public Comments

There were no further public comments.

6. Reports

6.a. Council Liaison Report

Councilmember Glickert provided an update on the City Manager position, stating that ultimately two candidates were selected from 52 total applicants; however, one of the final two candidates decided to withdraw. He stated that the Council anticipates announcing a new City Manager in mid-November. Councilmember Glickert stated that a social gathering will be held for the public to meet the potential new City Manager and further stated that the City Clerk position will be addressed once the City Manager position has been filled. Mr. Glickert announced two public meetings at which the MSD storage tanks would be discussed: Wednesday, October 25 at 6:30 p.m. or Monday, October 30, 2017 – 6:30 p.m. Both are held at the Mandarin House Banquet Hall - 8004 Olive Boulevard and people need only attend one meeting.

6.b. Department Report: Update from staff

Ms. Riganti provided an update on the consideration of establishing an Architectural Review Board in University City. She explained the role of the current Infill Review Board and stated that City Council has requested a study on potentially replacing this Board with an Architectural Review Board following the appointment of a City Manager. Ms. Riganti provided an update on the Loop Trolley stating that the development company is still addressing the City's concerns and hopes to begin testing soon. She further stated that the RFP for Olive Boulevard and I-170 is still in negotiations with the development company that responded, and a consultant will be hired by the City to study the proposed area on qualifications and conditions in anticipation for a request of public incentives.

Ms. Marin asked staff to ensure that the HPC agenda and materials were placed on the City's website in a timely manner. Ms. Riganti agreed to do so.

7. Adjournment

There being no further business, the meeting adjourned at 7:00 pm.

Board of Adjustment
October 16, 2017 Meeting Minutes
Approved 11-20-17

A Board of Adjustment meeting was held on Monday October 16, 2017 at the Heman Park Community Center located at 975 Pennsylvania Ave., University City, Missouri. The meeting commenced at 6:30 pm.

Members Present

Charles Marentette, Chairperson
Roger McFarland, Vice-Chairperson
Denise Anderson
Brian Burkett

Members Absent (excused)

Gary Nelling
John Owens

Non-Voting Members Present

Rod Jennings, Council Liaison

Staff Present

Andrea Riganti, Director of Community Development
Andrew Stanislav, Planner

1. Approval of Minutes

The minutes from the September 18, 2017 Board of Adjustment meeting were approved.

2. Case # BOA 17-05 – 8742 Teasdale Avenue

Mr. Marentette introduced the variance request to construct a rear laundry room addition at a legal non-conforming single family dwelling at 8742 Teasdale Avenue, maintaining a minimum rear yard setback from the laundry addition of 23 feet in lieu of 30 feet from the southeastern property limit, as required by Section 400.160.B of the Zoning Code for the residential lot in the “SF” – Single Family Residential District.

Mr. Marentette read the standards for granting a variance as per Section 400.2950 of the Zoning Code into the record. He asked if there were exhibits to be entered into the record. Ms. Riganti entered the following exhibits: the zoning code, the variance application and the public hearing notification.

Mr. Marentette swore in Mr. Bob Schirmer, with RSI Kitchen and Bath, 9700 Manchester Rd, St. Louis, MO 63119, who requested a variance on behalf of Amy Norris and Mary Jo Towle, property owners of 8742 Teasdale Avenue, to construct a rear laundry room addition at a legal non-conforming single-family dwelling, maintaining a minimum rear yard setback from the laundry addition of twenty-three (23) feet in lieu of thirty (30) feet from the southeastern property limit, as required by Section 400.160.B of the Zoning Code for the residential lot in the “SR” – Single Family Residential District.

Mr. Schirmer explained the request and stated that the proposed laundry room addition would be an enclosure of an existing rear porch, with the rear wall to be increased eighteen (18) inches to be flush with the existing rear wall of the kitchen in order to accommodate the appliances. The existing footprint of the structure would remain yet be extended eighteen (18) inches into the rear yard. He stated that the dwelling as it currently exists is not compliant with the Zoning Code due to an irregular pie-shaped lot. The required thirty (30)

foot rear yard setback, if in compliance with the Zoning Code, would extend to the interior of the property owner's existing kitchen. Since the proposed addition would maintain a similar, although slightly larger, footprint than the existing porch, there would be no detrimental impact on adjacent property owners. Due to the unique shape of the lot caused by an irregular rear property line in comparison to other neighborhood lots, there was not enough room to construct a laundry room addition in compliance with the required setbacks.

Public Comments

- Amy Norris, property owner of 8742 Teasdale Avenue, was sworn in by Mr. Marentette. Ms. Norris stated that the proposed addition was intended to allow the other occupant, Mary Jo Towle, and herself to remain residents of the home by alleviating the physical hardship of accessing their basement due to health related concerns. She further stated additional personal and medical reasons for why the proposed addition is necessary in order for them to reside in the home well into the future. Ms. Norris also confirmed the minimal enlargement of the existing space to be enclosed and explained that alternative orientations of the appliance within the existing footprint were not viable.

Having no additional requests to speak, the public hearing portion of the case was closed.

Mr. Marentette asked Ms. Riganti for the staff opinion. Ms. Riganti stated that staff had no objection to the variance request.

Mr. Marentette and Ms. Anderson both visited the site but did not speak with the property owners. Mr. Burkett and Mr. McFarland did not visit the site. Board members discussed the proposal and agreed that the request met the hardship requirements set forth in the Zoning Code. There was discussion of the hardship caused by the irregular pie shape of the lot as similar to others throughout the community. The Board members agreed that the request for a variance was reasonable given the circumstances.

Mr. Marentette called for a roll call vote. The variance request was approved by a vote of four (4) to zero (0).

2. Case # BOA 17-04 – 6920 Olive Boulevard

Mr. Marentette introduced the variance request of Jackson Gnaedinger with Collective Solutions, LLC, for a variance on behalf of MCW RD University City Square, LLC c/o Desco Group, property owner of 6920 Olive Boulevard, to construct an 80-foot unipole-style telecommunication facility with associated ground equipment and screening, maintaining 1) a minimum distance of 99 feet in lieu of 200 feet from Vernon Avenue; and 2) a minimum distance of 140 feet in lieu of 200 feet from the closest property in the "PA" – Public Activity District (6860 Vernon Avenue) as required by Section 400.1400.C.3 of the Zoning Code at a location on the subject property in the "GC" – General Commercial District.

Mr. Marentette read the standards for granting a variance as per Section 400.2950 of the Zoning Code into the record. He asked if there were exhibits to be entered into the record. Ms. Riganti entered the following exhibits: the zoning code, the variance application and the public hearing notification.

Mr. Marentette swore in Eric Martin, Bryan Cave, One Metropolitan Square, 211 North Broadway, Suite 3600, St. Louis, MO 63102, legal representative of the applicant. Mr. Martin presented prepared slides explaining the request in relation to the Zoning Code,

flood map, and aesthetics of the proposed telecommunication facility. He stated that the proposed unipole would not be obtrusive and would not generate any light or noise pollution as well as any additional traffic. Mr. Martin stated that the proposed site was virtually the only site to accommodate the tower that was not located in the flood plain with the exception of the entrance to the Schnuck's grocery store. The proposed setback from Vernon Avenue was 99 feet in lieu of the required 200 feet, and the proposed setback from the nearest property in the "PA" – Public Activity District was clarified to be 159 feet in lieu of the required 200 feet as per the Zoning Code. Mr. Martin stated that the proposed distance was adequate in terms of an established fall-area for the unipole in situations of emergency if the tower should fall, as the newer unipole towers are designed to collapse in on themselves. He also stated that the proposed setback distances were appropriate as to not create an obtrusion or visual concern from nearby properties.

Public Comments

- Yvonne Redmond, property owner of 6840 Vernon Avenue, stated that she is the property owner and resident of the dwelling directly east of the "PA" – Public Activity zoned property across Vernon Avenue from the proposed unipole location. She wanted to know the distance between the proposed unipole and her home, which was determined to be 262 feet. She was assured that the unipole will not generate any noise or light from Mr. Martin
- Ray Gamble, property owner of 6834 Chamberlain Court, stated that he was concerned regarding any effects of the unipole, visual or otherwise, that may impact his property. Given the estimated distance of Mr. Gamble's property from the proposed unipole location, it was anticipated that there should not be any impacts.
- Juanna Figueroa, property owner of 6832 Vernon Avenue, stated that she was most concerned with any side effects relating to health, property values, and interference with her current services. She stated that the unipole was not a concern when she purchased her home and does not view it as fair to have this particular unipole in sight from her front yard.

The Board members asked Mr. Martin if other locations had been considered for the unipole. Mr. Martin could not speak to this as he was not part of that process although mentioned that the location was driven through a search ring process. The Board was also interested in the facts and statistics that support why this tower was needed in the proposed location. Mr. Gnaedinger explained that network coverage and capacity were both issues in the area that needed addressed; the size of the search ring and coverage areas could not be provided by the applicant as evidence to the selection of the proposed site. It was also determined that T-Mobile, the intended user of the unipole, would benefit from the granting of a variance. The applicant was encouraging co-location at the unipole.

Having no additional requests to speak, the public hearing portion of the case was closed at 7:25 p.m.

Mr. Marentette asked Ms. Riganti for the staff opinion. Ms. Riganti stated that staff had concerns regarding the variance, and found that the applicant did not adequately provide evidence supporting standards for granting a variance as per 400.2950.1, 2, and 3 of the Zoning Code. Specifically, the applicant did not present evidence that the condition is unique to the property or ordinarily found in the same zoning district; a hardship upon the property owner would be constituted; and the variance would not adversely affect the adjacent properties or public health, safety, order, convenience or general welfare of the community.

Mr. Marentette, Mr. McFarland, Ms. Anderson, and Mr. Burkett all visited the site but did not speak with anyone. Board members discussed the proposal and considered the Standards for Granting a Variance set forth in the Zoning Code. There was concern regarding the site selection, and that other locations had not be considered prior to choosing this site. In their presentation, the applicant focused solely on the subject site. There was a discussion about the entire parcel, and whether there was a hardship with the selected location. The Board members agreed that they did not hear enough evidence to support that this location is the only possible site for the proposed unipole, either on the property or in the City.

Mr. Marentette called for a roll call vote. The variance request was denied by a vote of four (4) to zero (0).

3. Adjournment

The meeting adjourned at 7:30 p.m.

Economic Development Retail Sales Tax Board
Meeting Minutes
August 17, 2017, 4:00 p.m.
Approved November 16, 2017

The Economic Development Retail Sales Tax Board (EDRSTB) held a meeting at the Heman Park Community Center located at 975 Pennsylvania, University City, Missouri. The meeting commenced at 4:13 p.m.

Voting Members Present

Raheem Adegboye
Kristine Hendrix (arrived at 4:30 p.m.)
Robert Kuhlman
Brendan O'Brien
Robyn Williams

Voting Members Absent

Mark Winer, Chair
Tracy Gritsenko

Non-Voting Ex-Officio Members Present

Shelley Welsch, Mayor
Boo McLaughlin, LSBD

Non-Voting Ex-Officio Members Absent

Max Tsai, Chamber of Commerce

Staff Present

Andrea Riganti, Director of Community Development

Roll Call

Meeting was called to order at 4:13 p.m.

Approval of Minutes

The minutes from the May 18, 2017 meeting were reviewed, with one a correction to reflect that Mr. Kuhlman was not present at that meeting. With the correction, the meeting minutes were approved unanimously.

Old Business

None

New Business

- a. Ms. Riganti indicated that the Chamber of Commerce is present today to discuss a new request for FY18 Economic Development Retail Sales Tax (EDRST) funds. For background, Ms. Riganti reported that the FY18 citywide budget was adopted by City Council on June 26, 2017. At this meeting, City Council amended the budget to remove \$50,000 that the EDRSTB recommended for the Chamber of Commerce project for city-wide marketing, with the understanding that the Chamber's funding request be referred back to City Council during the first quarter of FY18.

Since that time, the Chamber of Commerce has revised the application as per City Council request. Ms. Mary Adams, Executive Director of the Chamber of Commerce, 7700 Olive Boulevard, presented the revised request. The Chamber of Commerce is requesting \$50,000 in EDRST funds to develop and implement advertising and marketing initiatives to promote businesses throughout University City. The marketing plan and initiatives include visual advertising, ad-marketing, print and digital campaigns and social media marketing. Ms. Adams discussed the deliverables, metrics and outcomes of the project

which include: print ads, social media campaigns, and video/television coverage. The deliverables will be provided to the City as part of the reporting process. The plan development, implementation and monitoring will be in collaboration with the City, to ensure high value and reinforced messaging.

The Board discussed the merits of the application and need for increased promotion of the business community. The Loop has strong marketing abilities and the Chamber can assist with promoting other locations in the City.

Mr. Kuhlman moved to approve the \$50,000 request from the Chamber of Commerce, seconded by Mr. Adegboye. Motion carried unanimously.

- b. The Board discussed existing EDRST documents including the application, funding policy document, metrics and evaluation forms. Ms. Williams requested this item to ensure we are making good decisions with good information. She discussed how the process could be improved to include a meeting at which the application was provided to interested applicants. She indicated that additional ways to measure the long term success of a project could be developed. Metrics that quantify projects are critical, such as how much additional revenue is generated for the City. All agreed that it could be hard to establish for intangible type projects such as U City in Bloom plants. It was suggested that better promotion of EDRST funded and completed projects should be undertaken such as posting a sign saying this project was funded by the sales tax.

Board members discussed repeat funding applications and whether or not that could be problematic. Ms. Williams suggested that the Board review the materials and develop suggestions for staff before the next meeting, which is November.

The Board also discussed the joint City Council/EDRSTB study session on the EDRSTB recommended budget. Mr. Adegboye was disappointed in comments from Council about a lack of support for Create Space and seemed to minimize the Board's role in the budget process. Ms. Williams indicated that her perspective of the meeting was to inform City Council of the EDRSTB's deliberation process rather than influence City Council. Mr. Kuhlman thought it was important for City Council to understand that the Board's budget recommendations were made after thoughtful deliberations, using as much objective and scientific analyses as possible. Mr. O'Brien agreed with Mr. Kuhlman and also stated that moving forward the Board should present information to City Council as a unified Board with a collective voice.

Mr. Kuhlman asked staff to provide the Board with the proposed and adopted EDRST budget.

Other Business - NONE

Reports

- a. Mayor Welsch reported on the City Manager search process and provided an update on the Loop Trolley project.
- b. Ms. Riganti reported on items to be considered by Plan Commission included the Hawthorne rezoning. She indicated that the City is still working with the respondent to the Olive and I-170 Request for Proposal.

There being no further business, the meeting adjourned at 5:23 p.m.

Respectfully submitted

Andrea Riganti, Acting EDRSTB Secretary