



MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
March 26, 2018
6:30 p.m.

- A. MEETING CALLED TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. PROCLAMATIONS
- E. APPROVAL OF MINUTES
 - 1. March 12, Regular session minutes
- F. APPOINTMENTS to BOARDS & COMMISSIONS
 - 1. Gerry Greiman, Susan Armstrong, Paulette Carr, and from St. Louis County Tom Curran, Glenn Powers and Maggie Hart-Mahon, are nominated to the Tax Increment Financing (TIF) Commission (I-170 and Olive Blvd.) by Mayor Welsch
- G. SWEARING IN to BOARDS & COMMISSIONS
 - 1. Carol Jackson to be sworn into the Arts and Letters Commission.
 - 2. David Rowan to be sworn into the Urban Forestry Commission.
- H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)
- I. PUBLIC HEARINGS
- J. CONSENT AGENDA – Vote Required
- K. CITY MANAGER'S REPORT
 - 1. FY17 Audit Presentation – Schowalter & Jabouri (PRESENTATION)
 - 2. Ackert Walkway ADA and Lighting Improvements – Engineering Services Contract Award (VOTE REQUIRED)
 - 3. Emergency Request to contract Pool Management Services for Summer 2018 (VOTE REQUIRED)
- L. UNFINISHED BUSINESS
 - BILLS*
 - 1. **BILL 9353** - AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ST. LOUIS COUNTY, MISSOURI FOR MULTIJURISDICTIONAL DRUG TASK FORCE SERVICES
 - 2. **BILL 9354** - AN ORDINANCE WITHDRAWING AN EASEMENT GRANT TO ST. LOUIS COUNTY, MISSOURI AND REPEALING SECTION III OF ORDINANCE NO. 6420.

3. **BILL 9355 - AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH WASHINGTON UNIVERSITY FOR PEDESTRIAN AND BICYCLE RAMP AND BRIDGE SERVICES.**

M. NEW BUSINESS

RESOLUTIONS

1. **Resolution 2018-4** – A Resolution urging Missouri State Legislators to adopt laws to prevent gun violence and promote safe schools
2. **Resolution 2018-5** – Budget Amendment #3 – FY18

BILLS

3. **BILL 9356** – AN ORDINANCE FIXING THE COMPENSATION TO BE PAID TO CITY OFFICIALS AND EMPLOYEES AS ENUMERATED HEREIN FROM AND AFTER ITS PASSAGE, AND REPEALING ORDINANCE NO 7044.
4. **BILL 9357** - AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH MCIMETRO ACCESS TRANSMISSION SERVICES CORPORATION.
5. **BILL 9358** - AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH XO COMMUNICATIONS SERVICES, LLC.

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. Roll-Call vote to go into a Closed Council Session according to RSMo 610.021 (1)Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys

R. ADJOURNMENT

MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
March 12, 2018
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, March 12, 2018, Mayor Shelley Welsch called the meeting to order at 6:30 p.m.

B. ROLL CALL

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

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

Also in attendance was City Manager, Gregory Rose, Sinan Alpaslan Director of Public Works and Parks, City Attorney, John F. Mulligan, Jr., Deanna (Townsend) Burress, Acting City Clerk.

C. APPROVAL OF AGENDA

Hearing no request for changes, Councilmember McMahon moved to approve the agenda as presented, it was seconded by Councilmember Jennings and the motion carried unanimously.

D. PROCLAMATIONS

E. APPROVAL OF MINUTES

1. February 26, 2018, Regular Session minutes, were moved by Councilmember Jennings, it was seconded by Councilmember Carr and the motion carried unanimously.

F. APPOINTMENTS TO BOARDS & COMMISSIONS

1. David Rowan is nominated to the Urban Forestry Commission replacing Beth Skelton's unexpired seat by Councilmember McMahon, it was seconded by Councilmember Carr and the motion carried unanimously.

G. SWEARING IN TO BOARDS & COMMISSIONS

1. John Solodar was sworn into the Green Practices Commission in the Clerk's office on February 28, 2018.
2. Dianne Benjamin was sworn into the Urban Forestry Commission at tonight's meeting.

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

Patricia Washington, 7040 Plymouth Ave., University City, MO

As Chairman of the Board for the U City Community Foundation, Ms. Washington stated the Board is extremely excited to have awarded their first round of grants totaling roughly \$14,000, made possible by the proceeds from Fair U City. The purpose of the Foundation is to seek out and support individuals and organizations working for the betterment of this community. Organizations receiving the first round of grants for 2018 are:

- \$2,000 - Crown Center for Senior Living's Senior Art Therapy Program
- \$2,000 - Women in Charge's Adult Literacy Program. The program enrolls female heads of households interested in completing their GED.
- \$2,000 - U City Swim Club's program to promote swimming among minority populations.
- \$1,000 - The Education Foundation's support of teacher projects throughout U City Schools
- \$2,000 - Midwest Association of Farmer's Markets' Student Employment Program
- \$1,725 - Sutter-Meyer Society's new construction at the Sutter-Meyer Home
- \$2,000 - U City Parks Foundation's purchase of equipment for Heman Park Pool
- \$500 - Real Talk, Incorporated's Mentoring Program, and annual banquet

Ms. Washington thanked Council for their support and encouraged everyone in the community for their continued support of Fair U City.

Thomas Jennings, 7055 Forsyth Ave., University City, MO

Councilmember Jennings expressed a concern about the lack of consideration given to the City's no parking signs posted on the days allotted for street sweeping and leaf pickup. And in spite of the City's warning, no tickets were issued to those residents who failed to move their cars. As a result, leaves were blown back into the yards of residents who had taken the time to move their cars. He stated while he would agree that the issuance of tickets may not be viewed as a kind gesture, these signs will have absolutely no meaning in the future if they are not enforced; which seems unfair to the residents who appreciate receiving this service.

I. PUBLIC HEARINGS

J. CONSENT AGENDA

K. CITY MANAGER'S REPORT

1. Crown Center Senior Living / MHDC Project – Letter of Support.

City Manager, Gregory Rose, stated Crown Center will be submitting an application to the Missouri Housing Development Commission for federal tax credits for the acquisition and construction of 52 apartment units which will be leased to mixed-income seniors. Staff is recommending that Council approve the attached letter of support for Crown Center Senior Living and its affiliate, Crown Center Phase I LP.

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

Citizen's Comments

David Lang; Rosenblum Goldenhersh, 7733 Forsyth, St. Louis, MO

Mr. Lang, attorney for Crown Center, stated he wished to advise Council that while no changes have been made to the Site Plan presented in October of 2017, MHDC has initiated an application process for tax credits, which requires that all relevant local officials, superintendents of schools, and police departments be notified of their intent to file. Crown Center must evidence that all entities have received notice; which is the reason their communication requesting a letter of support was sent certified; return receipt requested. In addition, Mr. Lang stated he would like to submit a letter of support drafted by Crown Center's Resident Council which was prepared over the weekend. The deadline for submittal of this application is Friday, March 16th.

Voice vote on Councilmember Jennings' motion carried unanimously.

2. Conditional Use Permit Approval - Garage.

Mr. Rose stated the Applicant; Washington University, is seeking approval of a Conditional Use Permit to allow the parking structure at 560 Trinity Avenue, located in a PA; (*Public Activity District*), to accommodate off-site parking requirements for the adjacently proposed COCA expansion and renovation project. For Council's edification, Mr. Rose noted that on February 26, 2018, Section 400.2010 of the Zoning Code: Location of Parking Areas, Subsection B.2, was amended to state, "*That off-site parking spaces are in a parking structure having at least 200 parking spaces and a Conditional Use Permit for the off-site parking area, as approved by the City Council under the procedures of Article 11; Conditional Uses.*"

Staff is recommending approval of the Conditional Use Permit subject to the attached conditions.

Councilmember Carr stated Attachment (A) does not appear to contain the same verbiage as Section 400.2010, B.1., which states, "*The owner of the property used for off-site parking shall be bound by covenants filed in the office of the St. Louis County Recorder of Deeds*". Therefore, she would question whether this required the redacted contract submitted to the City or some other instrument?

City Attorney, John Mulligan stated Attachment (A), which refers to an instrument, denotes a legal document that identifies rights, duties, entitlements or liabilities. There is no issue in his mind that this is what is contemplated by the Ordinance, since it further states, "*Except as otherwise noted hereinbelow, that the other codes and regulations shall apply.*" So, subject to approval by the City Manager and himself, this is the document that would be filed with the Recorder of Deeds.

Councilmember Carr asked Mr. Mulligan to clarify exactly what instrument would be filed with the Recorder of Deeds? Mr. Mulligan stated the instrument could be a deed, easement, long-term lease or any document that satisfies the provisions of the Code. And his belief is that what the parties to this action have envisioned is a document that sets out the essential lease terms and serves as the long-term lease. Councilmember Carr questioned whether that document would be something other than the redacted lease? Mr. Mulligan stated although neither he nor staff has seen the document, his belief is that what the parties have contemplated filing is a Memorandum of Lease.

E - 1 - 3

However, if there is an issue as to whether or not this Memorandum complies with the Ordinance those issues will be addressed with Wash U. And he also sees no legal reason why the document could not be reviewed by any member of Council prior to staff's approval. Councilmember Carr asked why the redacted lease could not serve as the instrument to be filed with the Recorder of Deeds? Mr. Mulligan stated he has no knowledge to construe that the redacted lease could not be used. Nevertheless, since it is not the only document that can be used to satisfy this particular condition, Wash U has the option to propose the utilization of a different instrument.

Councilmember Carr questioned whether Council was essentially being asked to approve this permit without knowing what that instrument was going to be? Mr. Mulligan stated Council is being asked to approve the CUP subject to the attached conditions. But here again, it is certainly Council's prerogative to see the final document or defer to staff to and allow them to handle this administratively. Councilmember Carr stated after finally receiving a redacted copy of the lease, now she is being told there is a strong possibility that another instrument; which she has not been given the opportunity to review, will be filed with the Recorder of Deeds. And if that's the case, then she would not be willing to defer to staff.

Mr. Rose stated his belief is that the redacted lease provided to Councilmember Carr would be an acceptable document to attach to Attachment (A). However, since representatives from Washington University are here tonight, he would defer to their understanding of what they believe the appropriate documentation should be.

Mr. Mulligan stated perhaps, this will clear up some of the confusion. This parking has to be pursuant to a deed, easement or long-term lease between COCA and Wash U, but the document recorded with the Recorder of Deeds has to illustrate the covenant showing that COCA has the right to utilize those spaces. That's the provision of the Code that must be satisfied, and that's the reason why there is some flexibility in the documents.

Steven Condrin, Assistant Vice Chancellor for Real Estate at Washington University, stated the redacted lease document provided to Council was not prepared to be accepted by the Recorder of Deeds as a recordable document. What has been prepared and recorded is a Memorandum of Lease. That said, Wash U would be more than happy to work with staff to amend this Memorandum if they or Council deems that it contains insufficient information.

Councilmember Carr stated that both she and her constituents must be convinced that this is being done correctly. For a period of months, she fought hard to obtain a copy of the lease ultimately provided, in order to conduct due diligence. So her frustration lies with Council now being asked to approve a Memorandum of Lease which she has never seen, and basically be okay with staff signing off on it.

Mr. Condrin reassured Councilmember Carr that Wash U would welcome any comments or concerns made by Council, and if necessary, file an amendment to the Memorandum. Councilmember Carr asked Mr. Condrin why the recorded Memorandum of Lease had not been provided prior to tonight's presentation? *(Mr. Condrin offered to provide Councilmember Carr with a copy and Councilmember Carr refused, based on her inability to speed read this type of document at the eleventh hour.)*

Jim Dillon, the attorney for COCA, stated rather than record the entire lease, industry practice is to file a Memorandum of Lease containing the essential terms that satisfy the requirements of the Code with the Recorder of Deeds. And his understanding was that that Memorandum of Lease, as well as the redacted form of the lease, had been provided to staff, the City Attorney, and Council, for review and confirmation of those requirements.

Councilmember Carr stated in her opinion, the Memorandum she reviewed was wholly inadequate, and it was the redacted lease that assured her and her constituents that they would receive what had been promised.

Mr. Dillon stated tonight's discussion caught him completely by surprise because he had no understanding of Council's desire to record the entire document or that there were any inadequacies in the Memorandum of Lease. He stated it would be extremely unusual and completely out of the ordinary, to record an entire lease. However, both COCA and Wash U are willing to commit to amending the lease; wherever possible, if Council believes there is any information that should be included.

Councilmember Carr stated the fact that the City had to change its Code to accommodate this request, and that she had called staff earlier this afternoon to find out why the language in Attachment (A) did not adhere to the Code, makes this whole process extremely unusual. So she is not intimidated by that statement because her objective is to make certain that if things change in the next ten to twenty years, there is sufficient paperwork to protect this agreement.

Mr. Mulligan informed Councilmember Carr that he had reviewed the Memorandum of Lease provided by Wash U and found it to be an acceptable document. That's not to say there cannot be other documents, but in his opinion, where the Memorandum specifically states, "*Landlord hereby declares as a restriction running with the real property that the tenant, its employees, and patrons shall have access to, and use of, 128 parking spaces in a parking garage to be constructed by the landlord on the real property for the duration of the term;*" and it lists that term as 30 years, satisfies the language of the Ordinance which requires that the covenant be filed with the Recorder of Deeds. And as Mr. Dillon stated, it is standard practice to file this type of document.

Councilmember Carr reiterated her objection of Council's need to be fully informed that the recorded document would be the Memorandum of Lease.

Mayor Welsch asked Mr. Mulligan if it was correct, that as a rule, Council approves a CUP which may be subject to certain conditions and relies on staff to ensure that those conditions are met? Mr. Mulligan agreed that that was typically how the process worked. Mayor Welsch questioned whether that was what Council was being asked to do in this case? Mr. Mulligan stated what Council is being asked to do is express satisfaction about whether the document complies with the Code. Mayor Welsch asked both Mr. Mulligan and Mr. Rose if they were in agreement that the language as previously recited by Mr. Mulligan, was sufficiently aligned with the Code? Mr. Rose stated he believes that it is. Mayor Welsch stated she would be willing to accept the direction of staff and move forward with a vote.

Councilmember Carr stated it also appears that the determination for the number of parking spaces may have been grossly underestimated.

E - 1 - 5

In fact, based on the Code's requirement of one parking space for every 3.5 theater seats, and an examination of the number of seats in this major entertainment venue, it turns out that the spaces allocated in the garage only represent one-third of the estimate. And that does not include any designated parking for full or part-time employees, which she was also unable to find. Councilmember Carr stated even though she understands that performances will not take place every day or even every weekend, this will still present an issue for the people who live in that neighborhood. As such, she would like to suggest that those neighborhoods immediately adjacent to COCA and Wash U, be allowed to seek parking permits to retain the spaces in front of their homes for personal use.

Councilmember Carr stated there really is a need to clean this up a bit; Council must do a better job of looking at what is being recommended, and staff should discuss these issues with Council in advance. She would also recommend that the next time Council requests a Transportation Report that it be prepared in May rather than September; that it be conducted for a longer period of time, and that it be performed in a manner that answers the City's questions relevant to parking and traffic, and not based on the assumption that if we look the other way, we won't notice the problem.

Councilmember McMahon asked Mr. Rose if there was any leeway to reschedule this proposal for a short period of time prior to taking a vote? Mr. Rose stated his belief is that there is a scheduling issue, so he would defer that question to Mr. Condrin. However, from staff's perspective, he thinks that in part, this situation is not the result of an unwillingness to answer Council's questions, but rather a desire to do something outside of the norm, which is to record the entire lease. And if that is the case, perhaps, it's simply a question of whether Wash U is comfortable with recording the entire redacted lease. Because as he understands it, that is the core of Councilmember Carr's issue. Councilmember Carr agreed that it was.

Mayor Welsch stated she would like to go on record and convey her belief that staff has been intimately involved with this project for months; that it has been reviewed by multiple commissions; examined by interested citizens, and that all parties have done an excellent job. Therefore, she is ready to vote in favor of approving this permit.

Roll Call Vote Was:

Ayes: Councilmember Jennings, Councilmember McMahon, and Mayor Welsch.

Nays: Councilmember Carr.

3. Conditional Use Permit Approval - COCA

Mr. Rose stated staff is recommending approval of the CUP, which includes modifications of the minimum property line setbacks to the east and south, and to build height requirements for the proposed Center of Creative Arts' expansion and renovation project at 524 Trinity Avenue. The Applicant is Jeff Rime of COCA.

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

4. MSD Storage Tanks Project Engineering Review – Service Contract Award

Mr. Rose stated staff is recommending approval of a contract with Allegeier, Martin & Associates for engineering services related to the MSD Storage Facility Project near E - 1 - 6

Olive and 82nd Street. The proposed agreement requests that the consultant evaluate four core areas of the contract, which are as follows:

1. If the review objects are reasonable in meeting the project's objectives.
2. If the cost estimates are a reasonable and fair comparison between the three options.
3. Do the three options give consideration to the environmental impacts to the surrounding areas?
4. Do the options give equitable consideration to the required property and easement acquisition feasibility?

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

Mr. Rose asked Sinan Alpaslan, Director of Public Works and Parks, if he had anything additional to add? Mr. Alpaslan stated as acknowledged by the consultant's cover letter and proposal, a region-wide review of MSD's system and the proposed solutions; whether inside or outside of U City, is a daunting task. Therefore, at this point in time, they have only committed to performing an overview of the project. If at the completion of that analysis the City determines that a more in-depth review is required, they have agreed to do so at an additional cost.

Mayor Welsch asked Mr. Alpaslan whether the City had received all of the documentation needed from MSD to complete this work? Mr. Alpaslan stated since some of this information can only be transmitted via specialized engineering software, MSD and the City have initiated an agreement whereby MSD will meet with the City's consultant this week, in order to collect everything that will be needed.

Councilmember Carr asked Mr. Alpaslan if he believed the consultant's cursory overview would be adequate? Mr. Alpaslan stated his belief is that in order to fully understand MSD's entire system and determine whether there are any other options available to solve this problem would probably require an in-depth analysis. The good thing is that their rate of compensation is reasonable, so he does not believe the City will have to exceed their current contract by more than 15 percent. Based on MSD's deadline of 60 days, Councilmember Carr asked Mr. Alpaslan if he believed there would be enough time to complete this overview? Mr. Alpaslan stated with mutual cooperation from both parties he believes it can be accomplished.

Voice vote on Councilmember Jennings's motion carried unanimously.

L. UNFINISHED BUSINESS

BILLS

1. **BILL 9352** – AN ORDINANCE AMENDING SECTION 120.300 OF THE UNIVERSITY CITY MUNICIPAL CODE REGARDING THE TAX INCREMENT FINANCING COMMISSION OF THE CITY OF UNIVERSITY CITY, MISSOURI. Bill Number 9352 was read for the second and third time.

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

Roll Call Vote Was:

Ayes: Councilmember Jennings, Councilmember Carr, Councilmember McMahon, Mayor Welsch.

Nays: None.

E - 1 - 7

**M. NEW BUSINESS
RESOLUTIONS**

BILLS

Introduced by Councilmember McMahon

1. **BILL 9353** - AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ST. LOUIS COUNTY, MISSOURI FOR MULTIJURISDICTIONAL DRUG TASK FORCE SERVICES. Bill Number 9353 was read for the first time.

Citizen's Comments

Tim Cusick, 7915 Glenside Place, University City, MO

Mr. Cusick expressed his support of Bill No. 9353, designed to address the urgent need to stop the illegal sale of narcotics in our communities. Everyone is aware of the increased deaths throughout St. Louis County from heroin use, and now another drug has entered the market, fentanyl; a synthetic opioid stronger than morphine and more potent than heroin. He stated as General Manager for St. Louis Cremation he often works with families that have lost loved ones due to drug overdoses. Today, he filed three certificates for individuals under the age of thirty in which the cause of death was an accidental drug overdose. Mr. Cusick stated this Bill may not solve all the immediate problems of illegal drugs in our community, but this City certainly has a responsibility to do whatever it can.

Introduced by Councilmember McMahon

2. **BILL 9354** - AN ORDINANCE WITHDRAWING AN EASEMENT GRANT TO ST. LOUIS COUNTY, MISSOURI AND REPEALING SECTION III OF ORDINANCE NO. 6420. Bill Number 9354 was read for the first time.

Introduced by Councilmember Jennings

3. **BILL 9355** - AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH WASHINGTON UNIVERSITY FOR PEDESTRIAN AND BICYCLE RAMP AND BRIDGE SERVICES. Bill Number 9355 was read for the first time.

Citizen's Comments

Emily Milchanowski, 6950 Kingsbury Blvd., University City, MO

Ms. Milchanowski stated as the representative for the Agents at Ames Place she wished to express their support of the proposed bridge and ramp, which they believe will greatly contribute to the safety and security of their residents.

Mike Milchanowski, 6950 Kingsbury Blvd., University City, MO

Mr. Milchanowski stated he is speaking on behalf of cyclists and bike commuters. He stated he commutes from U City to downtown on a daily basis where the numbers of safe routes are fairly limited. Providing this bridge through Wash U's campus, into Forest Park, greatly increases his ability to ride safely. And on the weekends, it will also increase the safety of children who ride from U City into Forest Park.

Randall Markarian, 6355 Waterman, University City, MO

Mr. Markarian, President of the Parkview Agents, stated as the neighborhood immediately to the east of the proposed overpass this construction will directly impact

four Parkview residents. Last spring the Agents sat down with residents to hear their concerns, presented those concerns to Wash U, and in October, entered into a Memorandum of Understanding. This Memorandum addressed resident concerns, utilities, fencing, plantings between houses and the overpass, as well as apprehensions related to future expansion of the Greenway. Wash U agreed not to initiate any further expansions that would jeopardize trees in this area. As a result, the Parkview Agents have no objections to the passage of Bill Number 9355.

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)

Leif Johnson, 936 Barkley Square, University City, MO

Mr. Johnson stated over the past eight years the Mayor and her allies have asset-stripped the City. In the corporate world, asset-stripping means sucking a viable company dry and leaving it an empty shell. In the public realm, it means loading up taxpayers with a mountain of debt while reducing services and wages. The Mayor campaigned to rescue the City from the brink of bankruptcy. Denouncing the old administration as grossly inefficient and corrupt, she fired numerous workers; cut back services; misappropriated money from the streets and park bond issue into the general fund; criticized the Firefighter's Union for giving money to her political opponents; slandered her opponents with name-calling and accusations of wrongdoing; outsourced EMS, and attempted to pass a 25 million dollar bond issue for streets, which would have equated to roughly \$1,000 for every man, woman and child in U City. Now the Mayor and her allies have decided not to run for reelection, leaving U City residents to pick up the pieces.

P. COUNCIL COMMENTS

Councilmember Carr stated during one of her weekly group meetings the issue of guns was brought forward. Thereafter, Ms. Lisa Hummel sent her an email which she asked her to read at tonight's meeting.

"Dear Paulette, as our community has experienced an inordinate share of gun violence I would like to see our City Council draft letters to state and national leaders urging better gun sense laws, such as universal background checks, waiting periods for gun purchases and a ban on military-style weapons. In her time living in U City, she has been aware of the following events related to gun violence within our City limits:"

- Middle school student confined to a wheelchair
- Middle school student killed by a friend
- Police officer killed in his patrol car
- Shoot-out resulting police injuries and death of the shooter
- The death of our former superintendent's grandson
- Armed robbery of a high school student, employee, a woman and her son at Tutti-Fruitti

Councilmember Carr stated she has learned a personal lesson from young people like Ms. Hummel, who are standing up to gun violence.

Mayor Welsch informed Mr. Rose that she had asked the Mayor of Clayton for a copy of the Resolution their Council passed related to gun violence, which she will forward to him upon receipt.

- March 22nd - Taste of U City will be held at the Mandarin House Banquet Center. Tickets are available online at the U City Chamber of Commerce website.

Q. ADJOURNMENT

Mayor Welsch thanked everyone for their attendance and adjourned the City Council meeting at 7:26 p.m.

LaRette Reese
City Clerk

DRAFT

Tim Cusick
7915 Glenside Place, University City

I wish to speak in support of Bill # 9353; An agreement with St. Louis County for one University City Police officer to work as part of the Multijurisdictional Drug Task Force.

We must take necessary steps to stop the illegal sale of narcotics in our communities. We are all aware of the increase of deaths throughout St. Louis County from heroin use.

And now the scourge of another drug has entered the drug trafficking market. Fentanyl. Fentanyl is a synthetic opioid much stronger than morphine. Clinically, it used for people with severe pain. But it has made it's way onto the streets.

There are different estimates that indicate fentanyl is approximately 50 to 100 times stronger than morphine and anywhere from 30 to 50 times more potent than heroin. And

many times heroin is mixed with Fentanyl, creating a very strong and deadly mixture.

However, my concerns are of a professional nature. As the general manager for St. Louis Cremation, we often work with families that have lost loved ones due to drug overdoses. And I can tell you it is on the rise. One of my responsibilities is to process certificates of death when someone has passed away. Just today, I filed certificates on 3 people, all below the age of 30, in which the cause of death was accidental drug overdose. 2 of those cases were from overdoses of heroin mixed with fentanyl.

And in the wake of devastation caused by fentanyl are the grieving, torn families.

I would like to see the council approve Bill 9353. We may not be able to solve all the immediate problem of illegal drugs in our community, but we certainly have a responsibility to do what we can.

U. City Council
March 12, 2018
Leif Johnson

Good evening Madam Mayor and Council.

Over the past 8 years, the Mayor and her Council have asset stripped this City. In the corporate world, asset stripping means sucking a viable company dry and leaving it an empty shell. In the public world it means loading up the taxpayers with a mountain of debt while cutting backs on services and wages.

A corporate asset stripper:

1. Fires 10-20% of the workers, cuts wages, reduces benefits,
2. Reorganizes the company to reduce costs, blaming everything on the old owners.
3. Breaks the unions and outsources to low wage companies. (privatization)
4. Lets his plant and machinery fall apart.
5. Meanwhile, he claims his "mean and lean" takeover has brought much greater profits.
6. He secures the adherence of local officials, civil and religious leaders.
7. He starts a newsletter boosting his public-spirited efforts for the city, and claiming he brought the company from the brink of bankruptcy, and saved jobs.
8. He repeatedly attacks opponents, especially those in the City Council and the labor unions with any form of slander, name-calling, unwarranted accusations and lies.
9. When he has sucked out the last dollars, he sells the company to the workers or city. He's "out of there."

Consider the Mayor's actions:

1. She campaigns to rescue the city from the brink of bankruptcy, denouncing the old administration as grossly inefficient, and corrupt.
2. She fires numerous workers.
3. She cuts back services to the people most notably to the streets.
4. She misappropriates money from the streets and parks bond issue into the general fund, slashing money for streets.
5. She repeatedly denounces the Firefighters' union from giving money to political her opponents as though union contributions are illegal.
6. She repeatedly slanders her opponents with name-calling, slanders, accusations of wrong doing, and lying, claiming that her opponents are responsible for the problems of the city.
7. She outsourced the EMS, reducing services to the residents.
8. She attempted to pass a \$25,000,000 bond issue for streets, (costing an additional \$9,000,000 in interest). The total \$34,000,000 cost would have been almost one thousand dollars for every man, woman and child in U. City.

Alas, for the Mayor, the voters were smart enough to say no by a two-thirds majority. But, in any case, the Mayor and her allies refused to run again. She is "out of here." Now U. City residents will have to pick up the pieces.

March 9, 2018

Mr. Gregory Rose, City Manager
6801 Delmar Blvd.
University City, MO 63130

Dear Mr. Rose;

This letter is to convey our support of the proposed project for which Crown Center for Senior Living is seeking support of the municipality. As residents currently living in one of the two non-profit buildings at 8348-8350 Delcrest Drive, we can attest to the integrity and good will of the Crown Center's Board of Directors and Management.

Though our buildings are well maintained, it is clear that there is a long term need to replace the original Tallin Building, which is over 50 years old. We hope that you and the City Council will wholeheartedly endorse the plan that Crown Center is proposing to build Phase 1 of a two phase project that will ultimately replace the number of current apartments.

Crown Center is an anchor at the western edge of University City- and like U. City is comprised of a diverse group of people age 62+; most of whom are retirees with limited incomes.

Crown Center is home to about 250 people-from various backgrounds, cultures, religions; speaking different languages; having varied life experiences , education levels, and interests. However, we are a solid community.

In addition to the high quality affordable apartments which have been created and operated for the benefit of older people, Crown Center is a thriving, active community center for seniors in the area. Residents and neighbors benefit from the many programs and services offered- such as an MEAAA Social Nutrition Congregate and Home Delivery Program; the Circle@Crown breakfast/lunch café; social, educational, cultural, and arts programs. We enjoy a variety of fitness and exercise classes; we have a computer lab, culinary studio kitchen, a fitness center, group transportation, a library, meeting rooms, raised garden beds, a green house and more.

Crown Center is a voting site, and hosts numerous organizational meetings and events. Residents have an active Council, and many also volunteer in various capacities within the Crown community.

Please consider our request that the City of University City leadership endorse and fully support the proposed project.

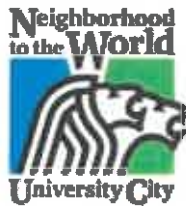
Sincerely,

*Rita Sullivan, President
Resident Council*

NAME (printed)	SIGNATURE	Apt. #
Rise Gilliom	<i>Rise Gilliom</i> , President	801
GAIL KUSHNER	<i>Gail Kushner</i>	615
SANDY RICHTER	<i>Sandy Richter</i> , Secretary	303
<i>Antonia Hayes</i> (Antonia Hayes)	<i>Julia Iken</i>	701
Julia Iken	<i>Julia Iken</i>	709
DONNA CAREY	<i>Donna M. Carey</i>	316
MORIANNE MONTGOMERY	<i>Marianne Montgomery</i>	802
MIRIAM ROTH	<i>Miriam Roth</i>	1002
HENRY KERER	<i>Henry Kerer</i>	704
MILTON FLOUPLIS	<i>Milton Flouplis</i>	701
EVA MAHR	<i>Eva Mahr</i>	6J
<i>Heleen Hernandez</i>	<i>Heleen Hernandez</i>	6R
Debbie Blackburn	<i>Debbie Blackburn</i>	7B
ELOIS SIKKINOV	<i>Elois Sikkinov</i>	1B
MARY THURSH	<i>Mary Thursh</i>	5D9
TAMARA GILLMAN	<i>Tamara Gillman</i>	614
Sheila Garcia	<i>Sheila M. Garcia</i>	9D2
IRENE KOKHI	<i>Irene Kokhi</i>	310
MARY B RACHTEL	<i>Mary B Rachtel</i>	3N
DOROTHY ARON	<i>Dorothy Aron</i>	406
BONNIE JACOBS	<i>Bonnie Jacobs</i>	605

NAME (printed)	Signature	Apt. #
Henrietta Owens	Henrietta Owens	514
STEVEN GOODMAN	Steven Goodman	215
MURRAY SAKS	Murray Saks	502
Karen Sutfin Frost	Karen Sutfin Frost	3E
PHILIP SCHWARTZ	Philip Schwartz	807
GERTRUDE ONEILL	Gertrude Oneill	807
Vina Rozonywi	Vina Rozonywi	66
Judy Goldberg	Judy Goldberg	201
MEL VIN GUARDS	Melvin Guards	54
WALTER GIPPER	Walter Gipper	41
RONALD J. JENSEN	Ronald J. Jensen	512
Nancy Kantor	Nancy Kantor	306
ROKHMANA BORIS	Rokhmana Boris	3E
BRENON CURRY	Brenon Curry	5E
Rosellen	Rosellen	804
Mark BARDN	Mark BARDN	913
HONGJIE GENG	HONGJIE GENG	3J
ROSITA LEVY	Rosita Levy	308
ROY THOMPSON	ROY THOMPSON	708
JOHN F. JOHNSON	JOHN F. JOHNSON	607
EDWARD THOMPSON	EDWARD THOMPSON	
MARGARET HERLEY	Margaret Herley	282

NAME (printed)	SIGNATURE	Apt. #
HARRY C. CARR	<i>Harry C. Carr</i>	8F
BERNICE A. JOHNSON	<i>Bernice A. Johnson</i>	1004
ELIZABETH D. BURNETT	<i>Elizabeth D. Burnett</i>	915
Rosalyn L. Zimm (nee)	<i>Rosalyn L. Zimm</i>	2C
Shirley R. Zimm	<i>Shirley R. Zimm</i>	1-D
ALISSA PERSON	<i>Alissa Person</i>	1008
Barbara Land	<i>Barbara Land</i>	712
SANDRA MORENO	<i>Sandra Moreno</i>	1E
TODD PETERS	<i>Todd Peters</i>	6P
Caritha Hite	<i>Caritha Hite</i>	



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: FY 2017 Audit Result and Financial Status

AGENDA SECTION: City Managers Report

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

The City's independent auditors, Schowalter & Jabouri, P.C., will present to the Mayor and City Council FY 2017 Audit Results. The Comprehensive Annual Financial Report (CAFR) had been distributed to the Council in February (please bring the report with you). The auditor will refer to some specific pages throughout the report.

The following are the significant areas of the financial report that will be summarized in the presentation:

1. The Governmental Funds, both balance sheet and the statement of revenues, expenditures and changes in fund balances on pages 17-20.
2. The Government-Wide, both the statement of net position and the statement of activities.
3. The above two statements are prepared based on the differences of the accounting basis. Therefore, the reconciliations are also provided on pages 18 and 20.
4. The Management's Discussion and Analysis (MD&A) on pages 4-13.
5. The Proprietary Funds; Solid Waste, Parking Garage (Enterprise Fund) and Fleet Maintenance (Internal Service Fund) on pages 21-23.
6. The Fiduciary Fund (Pension Trust Funds) on pages 24-25.

ATTACHMENTS:

- FY 2017 report to City Council and the report on Internal Control

***CITY OF UNIVERSITY CITY, MISSOURI
REPORTS TO THE HONORABLE MAYOR
AND THE CITY COUNCIL
FOR THE FISCAL YEAR ENDED JUNE 30, 2017***



The Honorable Mayor and
Members of the City Council
City of University City, Missouri

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate discretely presented component units and remaining fund information of the City of University City, Missouri (the "City") for the year ended June 30, 2017. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, *Government Auditing Standards*, and the Uniform Guidance, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letters to you dated May 26, 2017 and August 11, 2017. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the year ended June 30, 2017. We noted no transactions entered into by the City during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the City's financial statements were:

The City provides an allowance for uncollectible accounts equal to the estimated collection losses that will be incurred in collection of its governmental services and enterprise fund services receivable. The estimated losses are based on historical collection experience coupled with a review of the current status of the existing receivables. The City follows the practice of writing off uncollectible accounts as they are incurred for all other receivables.

Significant Audit Findings (continued)

Qualitative Aspects of Accounting Practices (continued)

Management records proprietary fund type capital assets and general capital assets in the proprietary fund type and government-wide financial statements according to the City's Capital Asset policy as described in Note 1 to the financial statements.

Management records a net pension obligation and an OPEB liability in the proprietary fund type and government-wide financial statements based on amounts actuarially determined in accordance with the parameters of applicable GASB Statements.

Management records assets held for resale at the lower of cost or market value. As of June 30, 2017, market value was determined based on an appraisal of the property.

We evaluated the key factors and assumptions used to develop the estimates above in determining that they are reasonable in relation to the financial statements taken as a whole.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

The completion of our audit was delayed because the OPEB actuary report was not available until January 26, 2018.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. The attached schedule (Exhibit I) summarizes uncorrected misstatements of the financial statements. Management has determined that their effects are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

In addition, we assisted the City in preparing year-end close journal entries, modified accrual journal entries and full accrual journal entries and the financial statements and related notes. All adjusting journal entries prepared by us have been reviewed, approved, and recorded by management in the books and records.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated January 31, 2018.

Significant Audit Findings (continued)

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the City's financial statements or a determination of the type of auditors' opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the City's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

Other Information In Documents Containing Audited Financial Statements

We applied certain limited procedures to the management discussion and analysis and other required supplementary information (RSI) identified in the table of contents of the financial statements that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

We were engaged to report on the combining and individual nonmajor fund financial statements and schedules, which accompany the financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, except the budgetary comparison schedules are prepared on a budget basis as described in the notes to the budgetary comparison information. We also performed procedures and made certain inquiries of management to determine that the method of preparation has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

We were not engaged to report on the introductory and statistical sections, which accompany the financial statements but are not RSI. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Restriction on Use

This information is intended solely for the information and use of management and the Honorable Mayor and the Members of the City Council and is not intended to be, and should not be, used by anyone other than these specified parties.


SCHOWALTER & JABOURI, P.C.

St. Louis, Missouri
January 31, 2018

K-1-7

Proposed Journal Entries

6/30/2017

Account	Description	Debit	Credit
---------	-------------	-------	--------

Proposed Journal Entries

Proposed Journal Entries JE # 80

To record insurance recoveries received in a prior year and recognized as revenue in fiscal year 2017 to fund balance.

02-00-00-4999.58j	Insurance Recoveries	424,856.59	
02-00-00-3380.00	Fund Balance Undesignated		424,856.59
Total		424,856.59	424,856.59

Proposed Journal Entries JE # 81

To record prior year HVAC grant expense against fund balance instead of through current year activity.

01-00-00-3380.00	Fund Balance Undesignated	186,944.34	
22-40-95-8100.00	Misc. Improvements	186,944.34	
01-40-92-8100.00	Misc. Improvement		186,944.34
22-00-00-3380.00	Fund Balance Undesignated		186,944.34
Total		373,888.68	373,888.68



SCHOWALTER & JABOURI, P.C.

Certified Public Accountants & Advisors

**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL
OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER
MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED
IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

The Honorable Mayor and
Members of the City Council
City of University City, Missouri

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to the financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate discretely presented component units and remaining fund information of the City of University City, Missouri (the "City") as of and for the year ended June 30, 2017, and the related notes to the financial statements, which collectively comprise the City's basic financial statements and have issued our report thereon dated January 31, 2018.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify certain deficiencies in internal control, described in the accompanying schedule of findings and responses that we consider to be significant deficiencies (2017-001).

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain other matters that we reported to management in a separate letter dated January 31, 2018.

City of University City's Response to Findings

City of University City's response to the findings identified in our audit is described in the accompanying schedule of findings and responses. City of University City's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.


SCHOWALTER & JABOURI, P.C.

St. Louis, Missouri
January 31, 2018

CITY OF UNIVERSITY CITY, MISSOURI

SCHEDULE OF FINDINGS AND RESPONSES

JUNE 30, 2017

FINANCIAL STATEMENT FINDING

2017-001 – Significant Deficiency

Segregation of Duties

Condition:

During our audit, we noted the following segregation of duties issues:

- The Finance department is not adequately staffed to permit effective internal controls over certain financial reporting areas and/or staff assignments are not structured in an ideal fashion for internal controls to function properly. For example, the director of finance is responsible for investment schedules, tax revenue and receivables, and debt and no one reviews that work. Furthermore, the director of finance enters and posts journal entries with no independent review.
- The director of finance is responsible for monitoring and assigning the computer application user permissions.

Criteria:

One of the basic elements of internal control is separation of duties so that no one person controls all phases of an operation. Within a computer environment this can be translated to not permitting the same individual to have full access to the computer application (New World) and perform daily accounting/finance activities.

Cause:

The finance department has experienced significant employee turnover which has caused a change in staffing assignments. In addition, user access to computer applications is not reviewed on a periodic basis.

Effect:

The City's current internal control structure does not allow for proper segregation of duties.

Recommendation:

We recommend the City evaluate the internal control structure and procedures that it has in place in order to ensure that adequate segregation of duties exist, assignment of responsibilities to employees is appropriate, supervisory review is documented, and a formal monitoring process is in place.

We further recommend the Information Technology personnel be responsible for assigning user access to the New World application. Information technology personnel should be prohibited from initiating and/or authorizing "live" transactions required for daily accounting/finance activities. Requests for changes to existing programs (New World), such as user access, should come from authorized users in writing and should be approved by a supervisor to ensure the access is commensurate with the individual's job responsibilities. In addition, we recommend that periodically, the supervisor of each department review a New World user access report with all the employees in their department and the access that these employees have. The supervisor should complete an annual review and re-authorize each user's access privileges.

CITY OF UNIVERSITY CITY, MISSOURI

Schedule of Findings and Responses (continued)

Views of Responsible Officials and Planned Corrective Action:

- The City will hire qualified individuals to fill in the vacant positions. The City Manager has recommended to reinstate the position of Assistant Director of Finance. At that time, an evaluation of all duties and responsibilities will be made and adjusted between positions to segregate duties.
- The City will train IT personnel on assigning the security component. He will be refrained from having access to requisition entry. As a matter of fact, currently no one has "super user" permission. NWS was set up for the help support when they remote into the City's system.

***CITY OF UNIVERSITY CITY, MISSOURI
REPORT ON INTERNAL CONTROL
RELATED MATTERS AND
ADVISORY COMMENTS
FOR THE FISCAL YEAR ENDED JUNE 30, 2017***



The Honorable Mayor,
Members of the City Council,
and Management
City of University City, Missouri

In planning and performing our audit of the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate discretely presented component units and remaining fund information of the City of University City, Missouri (the "City") as of and for the year ended June 30, 2017, in accordance with auditing standards generally accepted in the United States of America, we considered the City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies, and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected, on a timely basis. We did not identify any deficiencies in internal control that we consider to be material weaknesses.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our comments concerning internal control and other matters are presented as follows:

- I. Current Year Deficiency Considered to be Significant
- II. Other Current Year Matters
- III. Status of Prior Year Deficiency Considered to be a Material Weakness
- IV. Status of Prior Year Deficiency Considered to be Significant
- V. Status of Other Prior Year Matters

This communication is intended solely for the information and use of management, the City Council, and others within the City and is not intended to be, and should not be, used by anyone other than these specified parties.

We will be pleased to further discuss these matters with you and want to express our sincere appreciation to the staff for the cooperation and assistance received during the audit engagement and for the opportunity to serve the City of University City, Missouri.


SCHOWALTER & JABOURI, P.C.

St. Louis, Missouri
January 31, 2018

I. CURRENT YEAR DEFICIENCY CONSIDERED TO BE SIGNIFICANT

Segregation of Duties

One of the basic elements of internal control is segregation of duties so that no one person controls all phases of an operation. During our audit, we noted the following segregation of duties issues:

- The Finance department is not adequately staffed to permit effective internal controls over certain financial reporting areas and/or staff assignments are not structured in an ideal fashion for internal controls to function properly. For example, the director of finance is responsible for investment schedules, tax revenue and receivables, and debt and no one reviews that work. Furthermore, the director of finance enters and posts journal entries with no independent review.
- The director of finance is responsible for monitoring and assigning the computer application user permissions.

We recommend:

- The City evaluate the internal control structure and procedures that it has in place in order to ensure that adequate segregation of duties exist, assignment of responsibilities to employees is appropriate, supervisory review is documented, and a formal monitoring process is in place.
- The Information Technology personnel be responsible for assigning user access to the New World application. Information technology personnel should be prohibited from initiating and/or authorizing "live" transactions required for daily accounting/finance activities. Requests for changes to existing programs (New World), such as user access, should come from authorized users in writing and should be approved by a supervisor to ensure the access is commensurate with the individual's job responsibilities. In addition, we recommend that periodically, the supervisor of each department review a New World user access report with all the employees in their department and the access that these employees have. The supervisor should complete an annual review and re-authorize each user's access privileges.

Management's response:

- The City will hire qualified individuals to fill in the vacant positions. The City Manager has recommended to reinstate the position of Assistant Director of Finance. At that time, an evaluation of all duties and responsibilities will be made and adjusted between positions to segregate duties.
- The City will train IT personnel on assigning the security component. He will be refrained from having access to requisition entry. As a matter of fact, currently no one has "super user" permission. NWS was set up for the help support when they remote into the City's system.

ii. OTHER CURRENT YEAR MATTERS

A. Budgetary Procedures

During our audit, we noted actual expenditures exceeded those budgeted in the General Fund – Public Works and Parks Department, the Loop Special Business District Fund, the Parkview Gardens Special Business District Fund, the Sewer Lateral Fund, and the Parks and Stormwater Sales Tax Fund. State statutes and City Charter authorize the City Council to revise a budget for any unforeseen revenues and/or expenditures that could not be estimated when the original budget was adopted.

In addition, a deficit was budgeted in the Grants Fund and Parks and Stormwater Sales Tax Fund and the 2017 original budget document was not formally adopted by the City Council.

We recommend the City refrain from approving expenditures in excess of the budget and amend the budget when unforeseen revenues are received or unforeseen expenditures are incurred. We further recommend the City refrain from budgeting a deficit and establish procedures to ensure the original budget document is formally adopted.

Management's response:

- SBD Loop and Parkview Garden's are required to submit the statement of revenues and expenditures on quarterly basis. In order to prevent an over budget situation, the budget amendment is also required. The treasurer of both units were informed of the over budget issue.
- For Sewer Lateral Fund, PW staff needs to watch the budget more closely. There were two amendments made during the FY 2017.
- Parks and Storm Water Sales Tax – The driving range berm project was completed as a result of the law suit even though it was not approved by the City Council. In addition, the current level of revenue is much lower than expenditures that include park projects, cost allocation (salaries and benefits) from Parks Maintenance Division, distribution from Fleet services, and principal and interest payment for COPs 2012.
- City Manager will review the cost allocation for the next budget year.

B. Fleet Inventory

During our audit, we noted a physical inventory of fleet fuel and parts is performed annually and reconciled to the general ledger at year end. It was brought to our attention that an adjustment was necessary to agree the general ledger to the physical inventory.

We recommend the City review the established procedures to account for fleet inventory both in the fleet department and the finance department. We also recommend a physical inventory of fleet fuel and parts be performed periodically throughout the year and reconciled to the general ledger to ensure accuracy.

Management's response: The Fleet Manager was informed of the issue. Finance staff will assure the monthly billings are consistent throughout the year. The City Manager recommended that a physical inventory be completed on a quarterly basis as opposed to annually.

II. OTHER CURRENT YEAR MATTERS (CONTINUED)

C. Due To and Due From Accounts

Due to and due from accounts are reflected as payables and receivables, respectively, on an entity's financial statements. In the case of fund accounting, in which each fund is its own fiscal and accounting entity with its own set of self-balancing accounts, due to and due from balances represent amounts owed to or receivable from other funds. As of June 30, 2017, the City's interfund balances totaled \$7,874,735.

Interfund due to/due from balances typically arise from Interfund services provided and used, interfund reimbursements, or transfers, when cash is not immediately transferred between funds.

We recommend that the intercompany balances be monitored on a monthly basis and intercompany balances should be paid on a timely basis.

Management's response: The transfers with regards to the due to and due from accounts outstanding were completed as of February 28, 2018 with a few exceptions; the largest being the pension funds. The pension funds transfers were completed by March 15, 2018. At this time, the parks and stormwater sales tax fund, grants fund, and parking garage fund do not have enough cash to replenish the general fund. For the fund that generates revenue (stormwater sales tax fund), the City Manager has put this fund's projects on hold in order to establish necessary cash to replenish the general fund. Going forward, the Director of Finance will closely monitor the expenditures in this fund to ensure that monies are available to cover approved costs.

The grants fund operates on a reimbursement basis and therefore, monies that are received have already been spent and are not available to accumulate. Over the years, expenditures have exceeded revenues due to deferred inflows of resources, matching requirements and/or budget overruns. The Director of Finance will closely monitor the grant activity to eliminate future deficits. In addition, before a grant project is approved, the Director of Finance will identify the responsible fund that will advance the monies and provide the matching portion to the Grants Fund. Advancing of monies will be treated as a loan and supporting documentation will be maintained until the funds are replenished. The grants matching portion will be budgeted and paid from the respective fund that is responsible for the grant activity.

For the parking garage, the expenditures exceeded the revenues for the past several months even without the debt service payments. The City will look into other options to operate this business. In the meantime, the General Fund will advance for the debt payments until further decision is made.

Going forward, due to and due from accounts will only be used for monthly payroll and accounts payable transactions. The Director of Finance will assure that staff clear due to-from for both payroll and accounts payable monthly.

D. Library Materials

During our audit, we noted that library materials of the City's Library which is reported as a discretely presented component unit are not capitalized. Although individual library materials are generally not material, the entire collection of the library as a whole should be considered when determining whether or not library materials should be capitalized. If library materials are considered to have a useful life of greater than one year, they are capital assets and are depreciable.

II. OTHER CURRENT YEAR MATTERS (CONTINUED)

D. Library Materials (continued)

We recommend the City's library consider capitalizing library materials with a useful life of greater than one year.

Management's response: The Finance Director has informed the Library Director and recommended that he consult with the auditors.

E. Old Outstanding Checks

Several bank account reconciliations include very old outstanding checks. Some of the outstanding checks date back to September 2013. The City does not have a formal, clearly defined policy for disposition of uncashed checks. Because no such policy exists, long-outstanding checks are not handled in an organized fashion.

We recommend that management establish a formal, written policy concerning uncashed checks based on current State escheat laws. Such a policy should specify aging milestones with required actions. For example, this policy might specify that when checks are past 60 days old, the payee should be contacted. After 90 days, the checks should be moved to a suspense or written off.

Management's response:

- The City has only two checking accounts that are active. It has been a practice that the City compiled AP checks that are over one year old and send them to the State of Missouri as unclaimed property. For payroll checks it usually takes longer due to an attempt to contact the current or former employees.
- In FY 2017, the City voided several checks and submitted a payment to Missouri State Treasurer's Office as unclaimed property in the amount of \$5,000.45.
- The City will establish a written policy and procedure for this purpose.

F. Allocation of Interest Among Funds for Pooled Bank Accounts

During our audit, we noted interest is not currently being allocated among funds for pooled bank accounts.

We recommend the City consider allocating interest among the funds for pooled bank accounts.

Management's response: Due to the interest amount being low in the past two years, the redistributed amount based on cash balance in each fund was insignificant. The City will start allocation of the interest to the other funds regardless of the amount.

III. STATUS OF PRIOR YEAR DEFICIENCY CONSIDERED TO BE A MATERIAL WEAKNESS

Internal Control Over Financial Reporting

During the prior year's audit, we noted that significant adjusting journal entries were required to state the City's fund balances; cash and investment balances; capital assets; accounts payable; grant revenues and related matching funds; and unearned revenue in accordance with accounting principles generally accepted in the United States (GAAP) for local governments as promulgated by the Governmental Accounting Standards Board.

We recommended the City enhance its internal control procedures over financial reporting so that it is able to produce financial statements in accordance with GAAP without requiring significant audit adjustments as described above. These internal control procedures should include reconciliation of significant financial statement amounts to subsidiary records and sufficient supervisory review of those reconciliations in order to determine what modifications to the City's financial statements are required.

Status: During the current year, management requested the independent auditors to assist with the year-end close process. Management, reviewed, approved and accepted responsibility for that work. Although not repeated, we encourage the City to consider alternative long-term solutions.

Management's response: The City will consider not using encumbrances and using the re-appropriation of the budget instead, the changing of accounting basis will be mentioned during budget process.

IV. STATUS OF PRIOR YEAR DEFICIENCY CONSIDERED TO BE SIGNIFICANT

Segregation of Duties

During the prior year's audit, we noted the following segregation of duties issues:

- The Finance department was not adequately staffed to permit effective internal controls over certain financial reporting areas and/or staff assignments are not structured in an ideal fashion for internal controls to function properly. For example, the director of finance is responsible for investment schedules, tax revenue and receivables, and debt and no one reviews that work. Furthermore, the director of finance enters and posts journal entries with no independent review.
- The director of finance is responsible for monitoring and assigning the computer application user permissions. During our test of computer application access, we noted one department director had access to the human resources function which was not commensurate with the job duties assigned to that department director. Access was subsequently removed after it was brought to the City's attention by the auditors.

We recommended:

- The City evaluate the internal control structure and procedures that it has in place in order to ensure that adequate segregation of duties exist, assignment of responsibilities to employees is appropriate, supervisory review is documented, and a formal monitoring process is in place.

IV. STATUS OF PRIOR YEAR DEFICIENCY CONSIDERED TO BE SIGNIFICANT (CONTINUED)

Segregation of Duties (continued)

- The Information Technology personnel be responsible for assigning user access to the New World application. Information technology personnel should be prohibited from initiating and/or authorizing "live" transactions required for daily accounting/finance activities. Requests for changes to existing programs (New World), such as user access, should come from authorized users in writing and should be approved by a supervisor to ensure the access is commensurate with the individual's job responsibilities. In addition, we recommended that periodically, the supervisor of each department review a New World user access report with all the employees in their department and the access that these employees have. The supervisor should complete an annual review and re-authorize each user's access privileges.

Status: Not implemented. See the current year recommendation at I.

Management's response: See the response provided at I.

V. STATUS OF OTHER PRIOR YEAR MATTERS

A. Insurance Recoveries

During the prior year's audit, we noted the City recorded insurance recoveries in the internal service fund as a liability. The account balance had accumulated to approximately \$400,000 over the past several years.

We recommended the City evaluate the accounting for insurance recoveries and ensure the accounting policies and procedures comply with GAAP.

Status: Implemented.

Management's response: The City will record the insurance reimbursement as revenue at the time the City receives the reimbursement.

B. Budgetary Procedures

During the prior year's audit, we noted actual expenditures exceeded those budgeted in General Fund – General Government department, the Grants Fund, the Loop Special Business District Fund, the Parkview Gardens Special Business District Fund, the Economic Development Fund and the Parks and Stormwater Sales Tax Fund. State statutes authorize the City Council to revise a budget for any unforeseen revenue or expenditures that could not be estimated when the original budget was adopted.

We recommended the City refrain from approving expenditures in excess of the budget and amend the budget when unforeseen revenues are received or unforeseen expenditures are incurred.

Status: Not implemented. See the current year recommendation at II.A.

Management's response: See the response provided at II.A.

V. STATUS OF OTHER PRIOR YEAR MATTERS (CONTINUED)

C. Library Materials

During the prior year's audit, we noted that library materials of the City's Library which was reported as a discretely presented component unit were not capitalized. Although individual library materials are generally not material, the entire collection of the library as a whole should be considered when determining whether or not library materials should be capitalized.

We recommended the City's library consider capitalizing library materials with a useful life of greater than one year.

Status: Not implemented. See the current year recommendation at II.D.

Management's response: See the response provide at II.D.

D. Old Outstanding Checks

During the prior year's audit, we noted several bank account reconciliations include very old outstanding checks. Some of the outstanding checks date back to August 2013. The City does not have a formal, clearly defined policy for disposition of uncashed checks. Because no such policy exists, long-outstanding checks are not handled in an organized fashion.

We recommend that management establish a formal, written policy concerning uncashed checks based on current State escheat laws. Such a policy should specify aging milestones with required actions. For example, this policy might specify that when checks are past 60 days old, the payee should be contacted. After 90 days, the checks should be moved to a suspense or written off.

Status: Not implemented. See the current year recommendation at II.E.

Management's response: See the response provided at II.E.

E. Allocation of Interest Among Funds for Pooled Bank Accounts

During the prior year's audit, we noted interest was not being allocated among funds for pooled bank accounts.

We recommended the City consider allocating interest among the funds for pooled bank accounts.

Status: Not implemented. See the current year recommendation at II.F.

Management's response: See the response provided at II.F.



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: Ackert Walkway Improvements – Engineering Services Contract

AGENDA SECTION: City Manager’s Report

CAN THIS ITEM BE RESCHEDULED? : YES

BACKGROUND REVIEW: The City of University City has been granted a Transportation Alternatives Program Grant to make improvements to Ackert Walkway. The proposed improvements include 4” concrete sidewalk repair, upgraded lighting, detailed signage, pavement markings, and improved ADA compliant curb ramps and landings. 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.

In November 2017, City Council approved the project agreement. In January 2018, a request for qualifications was sent to potential consultant companies to provide design and construction engineering services. The City of University City encouraged several firms to submit their qualifications, history of work completed, etc. for the project. In February 2018, staff reviewed qualifications from 2 consultant companies. Consultants submitting a Letter of Interest were listed on the MoDOT Local Public Agency Consultant On-Call List.

In February 2018, the City reviewed the companies for a selection: Crawford, Murphy, and Tilly, Inc. and Oates Associates and selected Crawford, Murphy, and Tilly, Inc. to perform design and construction engineering services for the Ackert Walkway Improvements Project. The City and Crawford, Murphy, and Tilly, Inc. negotiated an Engineering Services Contract, a copy of which is attached.

The Missouri Department of Transportation set a DBE goal for this project at 0%. However, since the surveying company, TSI Geotechnical, Inc. is a DBE certified company, the consulting firm Crawford, Murphy and Tilly, Inc. is committing to 2% DBE participation.

The Engineering Services Contract with Crawford, Murphy, and Tilly, Inc. provides a maximum compensation of \$41,207.13 as follows: \$25,527.06 for design services, \$5,786.96 for surveying services, and \$9,893.11 for construction engineering services.

Year	Project Phase	Contract Amount	City Share (12 Fund)	Federal Share (22 Fund)
FY17-18	Design Services	\$25,527.06	\$ 5,527.06	\$20,000.00
FY17-18	Surveying Services	\$ 5,786.96	\$ 5,786.96	\$ 0.00
FY18-19	Construction Engineering	\$ 9,893.11	\$ 5,893.11	\$ 4,000.00
	Total Consulting Services	\$41,207.13	\$17,207.13	\$24,000.00

The City cost share will come from the Capital Improvements Sales Tax Fund. The Federal cost share will come from the Grants Fund.

RECOMMENDATION: Approval to grant authority to City Manager to sign and enter into this contract with the Consultant (Crawford, Murphy, and Tilly, Inc.)

ATTACHMENT: Draft Engineering Services Contract

SPONSOR: University City, Missouri
LOCATION: Ackert Walkway
PROJECT: Ackert Walkway Improvements – TAP-5402(617)

THIS CONTRACT is between *University City, Missouri*, hereinafter referred to as the "Local Agency", and *Crawford, Murphy & Tilly, Inc.* (One Memorial Drive, Suite 500 / St. Louis, Missouri 63102), hereinafter referred to as the "Engineer".

INASMUCH as funds have been made available by the Federal Highway Administration through its *Transportation Alternatives Program (TAP) 2017*, coordinated through the Missouri Department of Transportation, the Local Agency intends to *improve Ackert Walkway with 4" concrete sidewalk repair at isolated locations, upgrade lighting, provide detailed wayfinding signage, improve pavement marking, improve signage to the designated bicycle route, and improve ADA compliant curb ramps and landings* and requires professional engineering services. The Engineer will provide the Local Agency with professional services hereinafter detailed for the planning, design and construction inspection of the desired improvements and the Local Agency will pay the Engineer as provided in this contract. It is mutually agreed as follows:

ARTICLE I – SCOPE OF SERVICES

See Attachment A.

ARTICLE II - DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS:

- A. **DBE Goal:** The following DBE goal has been established for this Agreement. The dollar value of services and related equipment, supplies, and materials used in furtherance thereof which is credited toward this goal will be based on the amount actually paid to DBE firms. The goal for the percentage of services to be awarded to DBE firms is 0% of the total Agreement dollar value.
- B. **DBE Participation Obtained by Engineer:** The Engineer has obtained DBE participation, and agrees to use DBE firms to complete, 0% of the total services to be performed under this Agreement, by dollar value. The DBE firms which the Engineer shall use, and the type and dollar value of the services each DBE will perform, is as follows:

<u>DBE FIRM NAME, STREET AND COMPLETE MAILING ADDRESS</u>	<u>TYPE OF DBE SERVICE</u>	<u>TOTAL \$ VALUE OF THE DBE SUBCONTRACT</u>	<u>CONTRACT \$ AMOUNT TO APPLY TO TOTAL DBE GOAL</u>	<u>PERCENTAGE OF SUBCONTRACT DOLLAR VALUE APPLICABLE TO TOTAL GOAL</u>
---	----------------------------	--	--	--

ARTICLE III-ADDITIONAL SERVICES

The Local Agency reserves the right to request additional work, and changed or unforeseen conditions may require changes and work beyond the scope of this contract. In this event, a supplement to this agreement shall be executed and submitted for the approval of MoDOT prior to performing the additional or changed work or incurring any additional cost thereof. Any change in compensation will be covered in the supplement.

ARTICLE IV - RESPONSIBILITIES OF LOCAL AGENCY

The Local Agency will cooperate fully with the Engineer in the development of the project, including the following:

- A. make available all information pertaining to the project which may be in the possession of the Local Agency;
- B. provide the Engineer with the Local Agency's requirements for the project;
- C. make provisions for the Engineer to enter upon property at the project site for the performance of his duties;
- D. examine all studies and layouts developed by the Engineer, obtain reviews by MoDOT, and render decisions thereon in a prompt manner so as not to delay the Engineer;
- E. designate a Local Agency's employee to act as Local Agency's Person in Responsible Charge under this contract, such person shall have authority to transmit instructions, interpret the Local Agency's policies and render decisions with respect to matters covered by this agreement (see EPG 136.3);
- F. perform appraisals and appraisal review, negotiate with property owners and otherwise provide all services in connection with acquiring all right-of-way needed to construct this project.

ARTICLE V - PERIOD OF SERVICE

The Engineer will commence work within two weeks after receiving notice to proceed from the Local Agency. The general phases of work will be completed in accordance with the following schedule:

- A. PS&E Approval by MODOT shall be completed on December 7th, 2018.
- B. Construction Phase shall be completed 60 days after construction final completion schedule.

The Local Agency will grant time extensions for delays due to unforeseeable causes beyond the control of and without fault or negligence of the Engineer. Requests for extensions of time shall be made in writing by the Engineer, before that phase of work is scheduled to be completed, stating fully the events giving rise to the request and justification for the time extension requested.

ARTICLE VI – STANDARDS

The Engineer shall be responsible for working with the Local Agency in determining the appropriate design parameters and construction specifications for the project using good engineering judgment based on the specific site conditions, Local Agency needs, and guidance provided in the most current version of EPG 136 LPA Policy. If the project is on the state highway system or is a bridge project, then the latest version of MoDOT's Engineering Policy Guide (EPG) and Missouri Standard Specifications for Highway Construction shall be used (see EPG 136.7). The project plans must also be in compliance with the latest ADA (Americans with Disabilities Act) Regulations.

ARTICLE VII - COMPENSATION

For services provided under this contract, the Local Agency will compensate the Engineer as follows:

- A. For design services, including work through the construction contract award stage, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of \$4,050.32, with a ceiling established for said design services in the amount of \$31,314.02, which amount shall not be exceeded.
- B. For construction inspection services, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of \$578.52, with a ceiling established for said inspection services in the amount of \$9,893.11, which amount shall not be exceeded.
- C. The compensation outlined above has been derived from estimates of cost which are detailed in Attachment B. Any major changes in work, extra work, exceeding of the contract ceiling, or change in the predetermined fixed fee will require a supplement to this contract, as covered in Article III - ADDITIONAL SERVICES.
- D. Actual costs in Sections A and B above are defined as:
 - 1. Actual payroll salaries paid to employees for time that they are productively engaged in work covered by this contract, plus
 - 2. An amount calculated at 58.94% of actual salaries in Item 1 above for payroll additives, including payroll taxes, holiday and vacation pay, sick leave pay, insurance benefits, retirement and incentive pay, plus
 - 3. An amount calculated at 113.48% of actual salaries in Item 1 above for general administrative overhead, based on the Engineer's system for allocating indirect costs in accordance with sound accounting principles and business practice, plus

4. Other costs directly attributable to the project but not included in the above overhead, such as vehicle mileage, meals and lodging, printing, surveying expendables, and computer time, plus
 5. Project costs incurred by others on a subcontract basis, said costs to be passed through the Engineer on the basis of reasonable and actual cost as invoiced by the subcontractors.
- E. The rates shown for additives and overhead in Sections VII. D.2 and VII. D.3 above are the established Engineer's overhead rate accepted at the time of contract execution and shall be utilized throughout the life of this contract for billing purposes.
- F. The payment of costs under this contract will be limited to costs which are allowable under 23 CFR 172 and 48 CFR 31.
- G. **METHOD OF PAYMENT** - Partial payments for work satisfactorily completed will be made to the Engineer upon receipt of itemized invoices by the Local Agency. Invoices will be submitted no more frequently than once every two weeks and must be submitted monthly for invoices greater than \$10,000. A pro-rated portion of the fixed fee will be paid with each invoice. Upon receipt of the invoice and progress report, the Local Agency will, as soon as practical, but not later than 45 days from receipt, pay the Engineer for the services rendered, including the proportion of the fixed fee earned as reflected by the estimate of the portion of the services completed as shown by the progress report, less partial payments previously made. A late payment charge of one and one half percent (1.5%) per month shall be assessed for those invoiced amount not paid, through no fault of the Engineer, within 45 days after the Local Agency's receipt of the Engineer's invoice. The Local Agency will not be liable for the late payment charge on any invoice which requests payment for costs which exceed the proportion of the maximum amount payable earned as reflected by the estimate of the portion of the services completed, as shown by the progress report. The payment, other than the fixed fee, will be subject to final audit of actual expenses during the period of the Agreement.
- H. **PROPERTY ACCOUNTABILITY** - If it becomes necessary to acquire any specialized equipment for the performance of this contract, appropriate credit will be given for any residual value of said equipment after completion of usage of the equipment.

ARTICLE VIII - COVENANT AGAINST CONTINGENT FEES

The Engineer warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the Local Agency shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price

or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, plus reasonable attorney's fees.

ARTICLE IX - SUBLETTING, ASSIGNMENT OR TRANSFER

No portion of the work covered by this contract, except as provided herein, shall be sublet or transferred without the written consent of the Local Agency. The subletting of the work shall in no way relieve the Engineer of his primary responsibility for the quality and performance of the work. It is the intention of the Engineer to engage subcontractors for the purposes of:

Sub-Consultant Name	Address	Services
TSi Geotechnical, Inc.	1340 North Price Rd. St. Louis, MO 63132	Construction Phase Testing

Please note that TSi Geotechnical, Inc. is a certified DBE firm. The DBE goal for this project is set at 0%.

ARTICLE X - PROFESSIONAL ENDORSEMENT

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the PS&E submittals the Engineer of Record will be representing to MoDOT that the design is meeting the intent of the federal aid programs.

ARTICLE XI - RETENTION OF RECORDS

The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment by FHWA. Said records shall be made available for inspection by authorized representatives of the Local Agency, MoDOT or the federal government during regular working hours at the Engineer's place of business.

ARTICLE XII - OWNERSHIP OF DOCUMENTS

Plans, tracings, maps and specifications prepared under this contract shall be delivered to and become the property of the Local Agency upon termination or completion of work. Basic survey notes, design computations and other data prepared under this contract shall be made available to the Local Agency upon request. All such information produced under this contract shall be available for use by the Local Agency without restriction or limitation on its use. If the Local Agency incorporates any portion of the work into a project other than that for which it was performed, the Local Agency shall save the Engineer harmless from any claims and liabilities resulting from such use.

ARTICLE XIII – SUSPENSION OR TERMINATION OF AGREEMENT

A. The Local Agency may, without being in breach hereof, suspend or terminate the Engineer's

services under this Agreement, or any part of them, for cause or for the convenience of the Local Agency, upon giving to the Engineer at least fifteen (15) days' prior written notice of the effective date thereof. The Engineer shall not accelerate performance of services during the fifteen (15) day period without the express written request of the Local Agency.

- B. Should the Agreement be suspended or terminated for the convenience of the Local Agency, the Local Agency will pay to the Engineer its costs as set forth in Attachment B including actual hours expended prior to such suspension or termination and direct costs as defined in this Agreement for services performed by the Engineer, a proportional amount of the fixed fee based upon an estimated percentage of Agreement completion, plus reasonable costs incurred by the Engineer in suspending or terminating the services. The payment will make no other allowances for damages or anticipated fees or profits. In the event of a suspension of the services, the Engineer's compensation and schedule for performance of services hereunder shall be equitably adjusted upon resumption of performance of the services.
- C. The Engineer shall remain liable to the Local Agency for any claims or damages occasioned by any failure, default, or negligent errors and/or omission in carrying out the provisions of this Agreement during its life, including those giving rise to a termination for non-performance or breach by Engineer. This liability shall survive and shall not be waived, or estopped by final payment under this Agreement.
- D. The Engineer shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where the Engineer is deprived of the opportunity to complete the Engineer's services.
- E. Upon the occurrence of any of the following events, the Engineer may suspend performance hereunder by giving the Local Agency 30 days advance written notice and may continue such suspension until the condition is satisfactorily remedied by the Local Agency. In the event the condition is not remedied within 120 days of the Engineer's original notice, the Engineer may terminate this agreement.
 - 1. Receipt of written notice from the Local Agency that funds are no longer available to continue performance.
 - 2. The Local Agency's persistent failure to make payment to the Engineer in a timely manner.
 - 3. Any material contract breach by the Local Agency.

ARTICLE XIV - DECISIONS UNDER THIS CONTRACT

The Local Agency will determine the acceptability of work performed under this contract, and will decide all questions which may arise concerning the project. The Local Agency's decision shall be final and conclusive.

ARTICLE XV - SUCCESSORS AND ASSIGNS

The Local Agency and the Engineer agree that this contract and all contracts entered into under the provisions of this contract shall be binding upon the parties hereto and their successors and assigns.

ARTICLE XVI - COMPLIANCE WITH LAWS

The Engineer shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, 2000e), as well as with any applicable titles of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.) and non-discrimination clauses incorporated herein, and shall procure all licenses and permits necessary for the fulfillment of obligations under this contract.

ARTICLE XVII - RESPONSIBILITY FOR CLAIMS AND LIABILITY

The Engineer agrees to save harmless the Local Agency, MoDOT and FHWA from all claims and liability due to his negligent acts or the negligent acts of his employees, agents or subcontractors.

ARTICLE XVIII - NONDISCRIMINATION

The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. The Engineer will comply with state and federal related 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, 2000e), as well as with any applicable titles of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.). More specifically, the Engineer will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Engineer's obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

ARTICLE XIX – LOBBY CERTIFICATION

CERTIFICATION ON LOBBYING: Since federal funds are being used for this agreement, the Engineer's signature on this agreement constitutes the execution of all certifications on lobbying which are required by 49 C.F.R. Part 20 including Appendix A and B to Part 20. Engineer agrees to abide by all certification or disclosure requirements in 49 C.F.R. Part 20 which are incorporated herein by reference.

ARTICLE XX – INSURANCE

- A. The Engineer shall maintain commercial general liability, automobile liability, and worker's compensation and employer's liability insurance in full force and effect to protect the Engineer from claims under Worker's Compensation Acts, claims for damages for personal injury or

death, and for damages to property arising from the negligent acts, errors, or omissions of the Engineer and its employees, agents, and Subconsultants in the performance of the services covered by this Agreement, including, without limitation, risks insured against in commercial general liability policies.

- B. The Engineer shall also maintain professional liability insurance to protect the Engineer against the negligent acts, errors, or omissions of the Engineer and those for whom it is legally responsible, arising out of the performance of professional services under this Agreement.
- C. The Engineer's insurance coverage shall be for not less than the following limits of liability:
 - 1. Commercial General Liability: \$500,000 per person up to \$3,000,000 per occurrence;
 - 2. Automobile Liability: \$500,000 per person up to \$3,000,000 per occurrence;
 - 3. Worker's Compensation in accordance with the statutory limits; and Employer's Liability: \$1,000,000; and
 - 4. Professional ("Errors and Omissions") Liability: \$1,000,000, each claim and in the annual aggregate.
- D. The Engineer shall, upon request at any time, provide the Local Agency with certificates of insurance evidencing the Engineer's commercial general or professional liability ("Errors and Omissions") policies and evidencing that they and all other required insurance are in effect as to the services under this Agreement.
- E. Any insurance policy required as specified in (ARTICLE XX) shall be written by a company which is incorporated in the United States of America or is based in the United States of America. Each insurance policy must be issued by a company authorized to issue such insurance in the State of Missouri.

ARTICLE XXI - ATTACHMENTS

The following exhibits are attached hereto and are hereby made part of this contract:

Attachment A – Scope of Service

Attachment B - Estimate of Cost

Attachment C - Certification Regarding Debarment, Suspension, and Other
Responsibility Matters - Primary Covered Transactions.

Attachment D - Certification Regarding Debarment, Suspension, and Ineligibility and
Voluntary Exclusion - Lower Tier Covered Transactions.

Attachment E – DBE Contract Provisions

Attachment F – Fig. 136.4.15 Conflict of Interest Disclosure Form

Executed by the Engineer this ____ day of _____, 2018.

Executed by the County/City this __ day of _____, 2018.

FOR: UNIVERSITY CITY, MISSOURI

BY: _____
Gregory Rose, City Manager

ATTEST: _____
LaRette Reese, City Clerk

FOR: CRAWFORD, MURPHY & TILLY, INC.

BY: _____
Dan Meckes
President

ATTEST: _____
Kevin Fuller
Office Manager

I hereby certify under Section 50.660 RSMo there is either: (1) a balance of funds, otherwise unencumbered, to the credit of the appropriation to which the obligation contained herein is chargeable, and a cash balance otherwise unencumbered, in the Treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation contained herein; or (2) bonds or taxes have been authorized by vote of the people and there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury.

CITY CLERK

Scope of Services
ACKERT WALKWAY IMPROVEMENTS PROJECT
UNIVERSITY CITY, MISSOURI

Specific tasks are outlined below:

TASK 1 TOPOGRAPHIC SURVEYS

Summary: Conduct topographic surveys along the project corridor and prepare electronic deliverables.

See attached SURVEY LIMITS EXHIBIT, for locations of topographic surveys.

TOPOGRAPHIC SURVEY ITEMS

1. Topographic surveys will be included at Leland Avenue to the entrance to the walkway, Ackert Walkway to the alley, Ackert Walkway to the East (near the park), and the north portion of Ackert Walkway to Vernon Ave.
2. The remaining areas will not be surveyed and will be drawn in based on aerial images and GIS data.
3. Establish at least 3 horizontal/vertical control points with description, northing, easting, elevation, and 3-point ties. Control points to be outside of construction corridor.
4. Coordinate with utility engineer on any underground utility one-call locates required.
5. Use MoDOT point codes to establish levels, line styles, cells and color.
6. Include shots on all existing sign posts, label sign post type, measure sign sizes, take photographs and number each sign.
7. Survey drainage structures one reach upstream from the survey limits.
8. Provide one additional "punch list" surveys after initial deliverables are provided.

CAD files (Microstation format) required to follow MoDOT standard symbology and placed in the Missouri Modified State Plane (NAD83/Missouri East) coordinate system.

Task Deliverables:

- Topographic drawing in 3D format
- Existing utility drawing in 2D format
- Existing points drawing in 3D format
- Existing contours drawing in 3D format (major – 1 foot, minor – ½ foot)
- Existing digital terrain model in .TIN format
- Point file in ASCII format
- Control points drawing in 3D format with 3 point-ties

Meetings:

- CMT Kickoff Meeting
- Survey Walkthrough Meeting before beginning survey
- One additional meeting to be determined

TASK 2 PRELIMINARY PLANS

Summary: Prepare preliminary engineering plans and cost estimate. Preliminary plans shall include horizontal alignment, vertical alignment, basic geometrics, sidewalk/ADA plan, ADA ramp plan, working cross sections (if needed), working drainage plan (if needed), lighting plan,

Scope of Services
ACKERT WALKWAY IMPROVEMENTS PROJECT
UNIVERSITY CITY, MISSOURI

wayfinding signage plan, concrete sidewalk repair locations, construction cost estimates and any required environmental work.

1. Field check project site and take photos
2. Submit CE Programmatic Data form for environmental approval
3. Develop working conceptual plan and submit ideas to City
4. Develop tentative grading limits
5. Prepare Preliminary Plans including:
 - Title sheet
 - Typical section sheets
 - Plan Sheets (20 scale)
 - Existing horizontal and vertical alignments of Walkway as needed
 - Sidewalk/Ramp geometrics with dimensioning
 - Location of any proposed drainage facilities
 - Location of all existing utilities
 - Location and design of proposed retaining walls (if required)
 - Location and design of concrete sidewalk repair
 - Location and design of relief landings
 - Location of existing right of way lines (based on GIS data)
 - Geometric sheet
 - Coordinate point sheet
 - Working ADA curb ramp special sheets (10 scale)
 - Wayfinding Signage Plan
 - Lighting Plan
 - Working cross section sheets (if needed)
6. Preliminary Plan construction cost estimate
7. QA/QC
8. Submit to MSD for P-number and update as necessary to receive approval, if any existing drainage is impacted
9. Coordinate with MoDOT

Task 2 Deliverables:

- CE-2
- Preliminary Plans, Cost Estimates
- Electronic Deliverables to MoDOT Local Roads
- Hard copies as requested

Owner-Provided Items:

- Lead coordination with MoDOT Local Roads
- Assist in completion of CE-2 document

Meetings:

- Pre-preliminary plan walk through with City – analysis of proposed improvements
- Preliminary Plan Field Check Meeting (after plans are reviewed by City and MoDOT)

Scope of Services
ACKERT WALKWAY IMPROVEMENTS PROJECT
UNIVERSITY CITY, MISSOURI

TASK 3 DRAFT FINAL PLANS

Summary: Prepare draft final plans and contract documents for bidding. Following completion of the preliminary plans, CMT will incorporate City comments and MoDOT comments into the draft final design. Draft final plans shall include:

1. Revise plans based upon comments
2. Finalize improvements through corridor
3. Prepare Draft Final Plans including:
 - Title sheet
 - Typical section sheets
 - Summary of quantities
 - Plan sheets (20 scale)
 - All items included on the Preliminary Plans
 - Enough construction details to build project
 - Geometric sheet
 - Coordinate point sheet
 - ADA curb ramp special sheets (10 scale)
 - Miscellaneous detail sheets
 - Retaining wall special sheets (if required)
 - Traffic control plan sheets (50 Scale)
 - Storm water pollution prevention plan sheets (50 Scale)
 - Pavement marking and signing sheets (20 Scale)
 - Drainage/Culvert section sheets (if required)
 - Cross section sheets (if needed)
4. Review and incorporate utility plans of adjustment (if needed)
5. Draft Final Construction cost estimate
6. Draft Final Job special provisions
7. Draft Final Project Specifications Booklet
8. Work Day Study
9. QA/QC
10. Draft Final Plan field check
11. Coordinate with MoDOT

Task 3 Deliverables:

- Draft Final Plans
- Draft Final Construction Cost Estimates
- Draft Final Job Special Provisions
- Draft Final Workday Study
- Draft Final Project Specifications Boilerplate
- Electronic Deliverables to MoDOT Local Roads
- Hard copies as requested

Owner-Provided Items:

- Assist in completion of MoDOT Local Roads PS&E Submittal Checklist

Meetings:

- Final Field Check Meeting

Scope of Services
ACKERT WALKWAY IMPROVEMENTS PROJECT
UNIVERSITY CITY, MISSOURI

TASK 4 FINAL PLANS AND BIDDING PHASE

Summary: Prepare bidding package upon construction authorization. CMT will incorporate draft final comments into the final plan package. Final plans shall include:

1. Revise draft final plan package based upon draft final comments.
2. Submit 100% Sealed Bid Package.
3. Assist in answering Contractor questions before the construction letting.

Task 4 Deliverables:

- Sealed Final Plans
- Final Construction Cost Estimates
- Sealed Final Job Special Provisions
- Final Workday Study
- Final Project Specifications Boilerplate
- Electronic Deliverables to MoDOT Local Roads
- Electronic Microstation Deliverables to Contractor
- Hard copies as requested

Owner-Provided Items:

- Updated MoDOT Local Roads PS&E Submittal Checklist

Meetings:

- Pre-Bid Meeting

TASK 5 CONSTRUCTION PHASE SERVICES

Summary: Provide construction phase services to the Owner during construction by the Contractor. Tasks include:

1. Conduct Pre-Construction Meeting
2. Perform periodic site visits as requested by the City
3. Answer construction questions as requested by the City
4. Shop Drawing Review (if applicable)
5. Participate in Final Inspection
6. Conduct required construction testing as follows (these are assumed):
 - 4 trips to test soil and/or aggregate
 - 10 trips to test concrete and cast 4 test cylinders each trip
 - 1 trip to the concrete batch plant to perform gradation and deleterious testing on aggregate
 - 1 trip to pick up sample of aggregate for Proctor test

Owner-Provided Items:

- City to provide a full-time inspector for daily inspections and records, reject work not conforming, review wage rates, inspect materials, provide monthly reports, review Contractor pay requests, and conduct semi and final inspections.

Scope of Services
ACKERT WALKWAY IMPROVEMENTS PROJECT
UNIVERSITY CITY, MISSOURI

Meetings:

- Pre-Construction Meeting

TASK 6 PROJECT MANAGEMENT / ADMINISTRATION

Summary: Internal project management and administration includes:

1. Develop project manual for team
2. Develop quality assurance plan
3. Quality assurance implementation and constructability review
4. Personnel planning and scheduling control
5. Coordination with sub consultants
6. Coordination with City
7. Preparations / minutes for project meetings
8. Coordination with MoDOT Local Roads
9. Monthly progress reports
10. Correspondence (emails, letters, meeting minutes, phone calls)

Task 6 Deliverables:

- Monthly progress reports
- Emails
- Letters
- Meeting minutes
- Phone calls

Owner-Provided Items:

- None

EXCLUSIONS TO THE SCOPE OF SERVICES INCLUDE:

- Right-of-Way and Boundary Surveys
- Right-of-way and easement negotiation services
- Topographic surveys of existing light locations
- Full depth pavement design
- Public Meeting and Exhibits
- Signal design
- Traffic studies
- Noise studies
- Section 106
- 404/401 permits
- Land disturbance permit
- Full time construction inspector on-site

DISCLAIMER
 THE PROFESSIONAL WHOSE SIGNATURE AND PERSONAL SEAL ARE PRESENT ON THIS SHEET IS RESPONSIBLE ONLY FOR THE WORK SHOWN ON THIS PLAN. NO LIABILITY SHALL BE ASSUMED FOR ANY ERRORS OR OMISSIONS. THIS PLAN IS A CONCEPTUAL DESIGN AND DOES NOT CONSTITUTE A SPECIFICATION, ESTIMATE, REPORT, OR OTHER PROFESSIONAL PRODUCT. PROFESSIONALS NOT SHOWN ON THIS PLAN ARE NOT RESPONSIBLE FOR THE WORK SHOWN. THIS PLAN IS INTENDED TO BE USED FOR ANY PART OR PARTS OF THE PROJECT TO WHICH THIS PAGE REFERS.



TYPICAL WAYFINDING SIGN EXAMPLE

	ACKERT WALKWAY
	1 min
	2 min
	Adelbert Park 0 min
	Vanessa Ave 10 min

NO TOPOGRAPHIC SURVEYS ON THIS SHEET

LEGEND

	EXIST. PROPERTY LINE & ROW LINE
	EDGE OF TRAILSIDEWALK
	LIGHTING CONDUIT (BORED)
	LIGHTING CONDUIT (TRENCHED)
	CONCRETE REINFORCED
	PAVEMENT - 8" CONCRETE REINFORCED
	REMOVAL OF IMPROVEMENTS
	GRADING (3:1 MAX)
	BIKE PAVEMENT MARKINGS WHARROWS

ACKERT WALKWAY
 UNIVERSITY CITY, MISSOURI
 TAP APPLICATION

REVISIONS

NUMBER	BY	DATE

CONCEPTUAL PLAN SHEETS

CMT
 © Copyright CMT, Inc.
 CRAWFORD, MURPHY & TILLY, INC.
 ONE MEMORIAL DRIVE, SUITE 500
 ST. LOUIS, MO 63102 (314) 436-5500
 ENGINEERING CORPORATION - 000631

DATE: 9/24/23
 JOB No: 17401-17
 SHEET 1 OF 5

DISCLAIMER
 THE PROFESSIONAL WHOSE SIGNATURE AND PERSONAL SEAL APPEARS ON THIS SHEET IS THE ONLY ONE FOR WHOM THIS SHEET IS VALID. ANY DISCREPANCIES (PURSUANT TO SECTION 327.419 RSMO) SPECIFICATION, ESTIMATES, REPORTS OR OTHER INFORMATION, THE PROFESSIONAL HAS NOT REVIEWED OR UNDESIGNED PROFESSIONAL RELATING TO OR INTENDED TO BE USED FOR ANY PART OR PARTS OF THE PROJECT TO WHICH THIS PAGE REFERS.

LELAND AVENUE
 SCALE
 0 20 40 60

LELAND AVENUE
 TOPOGRAPHIC SURVEYS
 883 EXIST. SIGNINGS

2 NEW SHARED LANE BICYCLE SIGNINGS
 REMOVE EXIST. SIDEWALK AND REINSTALL NEW AND ADJUST SIGNING TO MATCH SUBMITTAL SIDEWALK ELEVATION
 4117' 5.51'±

3 SF SIGN
 2.5 SF SIGN
 2.5 SF SIGN

315 SF BIKEWAY
 REMOVE EXIST. SIDEWALK AND REINSTALL NEW AND ADJUST SIGNING TO MATCH SUBMITTAL SIDEWALK ELEVATION
 4117' 5.51'±

315 SF BIKEWAY
 REMOVE EXIST. SIDEWALK AND REINSTALL NEW AND ADJUST SIGNING TO MATCH SUBMITTAL SIDEWALK ELEVATION
 4117' 5.51'±

315 SF BIKEWAY
 REMOVE EXIST. SIDEWALK AND REINSTALL NEW AND ADJUST SIGNING TO MATCH SUBMITTAL SIDEWALK ELEVATION
 4117' 5.51'±

315 SF BIKEWAY
 REMOVE EXIST. SIDEWALK AND REINSTALL NEW AND ADJUST SIGNING TO MATCH SUBMITTAL SIDEWALK ELEVATION
 4117' 5.51'±

315 SF BIKEWAY
 REMOVE EXIST. SIDEWALK AND REINSTALL NEW AND ADJUST SIGNING TO MATCH SUBMITTAL SIDEWALK ELEVATION
 4117' 5.51'±

315 SF BIKEWAY
 REMOVE EXIST. SIDEWALK AND REINSTALL NEW AND ADJUST SIGNING TO MATCH SUBMITTAL SIDEWALK ELEVATION
 4117' 5.51'±

MATCHLINE SHEET 1

MATCHLINE SHEET 3

EXIST. LIGHT POLE NO. 43
 STOP SIGN

EXIST. LIGHT POLE NO. 57
 STOP SIGN

EXIST. LIGHT POLE NO. 58
 STOP SIGN

CONCEPTUAL PLAN SHEETS

UNIVERSITY CITY, MISSOURI
 WALKWAY IMPROVEMENTS
 TAP APPLICATION



GRAFFORD, MURPHY & TULLY, INC.
 ONE MEMORIAL DRIVE, SUITE 300
 ST. LOUIS, MO 63102 (314) 438-5500
 ENGINEERING CORPORATION - 000631

NUMBER	BY	DATE

DATE: _____
 JOB No: 17401-17
 SHEET 2 OF 5

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

DISCLAIMER
 THE PROFESSIONAL WHOSE SIGNATURE AND PERSONAL SEAL ARE REQUIRED FOR THIS SHEET HAS REVIEWED THIS SHEET ONLY FOR WHAT APPEARS ON THIS PAGE AND ONLY THE INFORMATION SPECIFIC TO THIS PROJECT. THE PROFESSIONAL DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE PROFESSIONAL IS NOT RESPONSIBLE FOR THE UNDERSIGNED PROFESSIONAL RELATING TO OR THE PROJECT TO WHICH THIS PAGE REFERS.

U-CITY BIKERAP
 ADVISORY SIGN FOR BIKERS AND PEDESTRIANS TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC

U-CITY BIKERAP
 ADVISORY SIGN FOR BIKERS AND PEDESTRIANS TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC

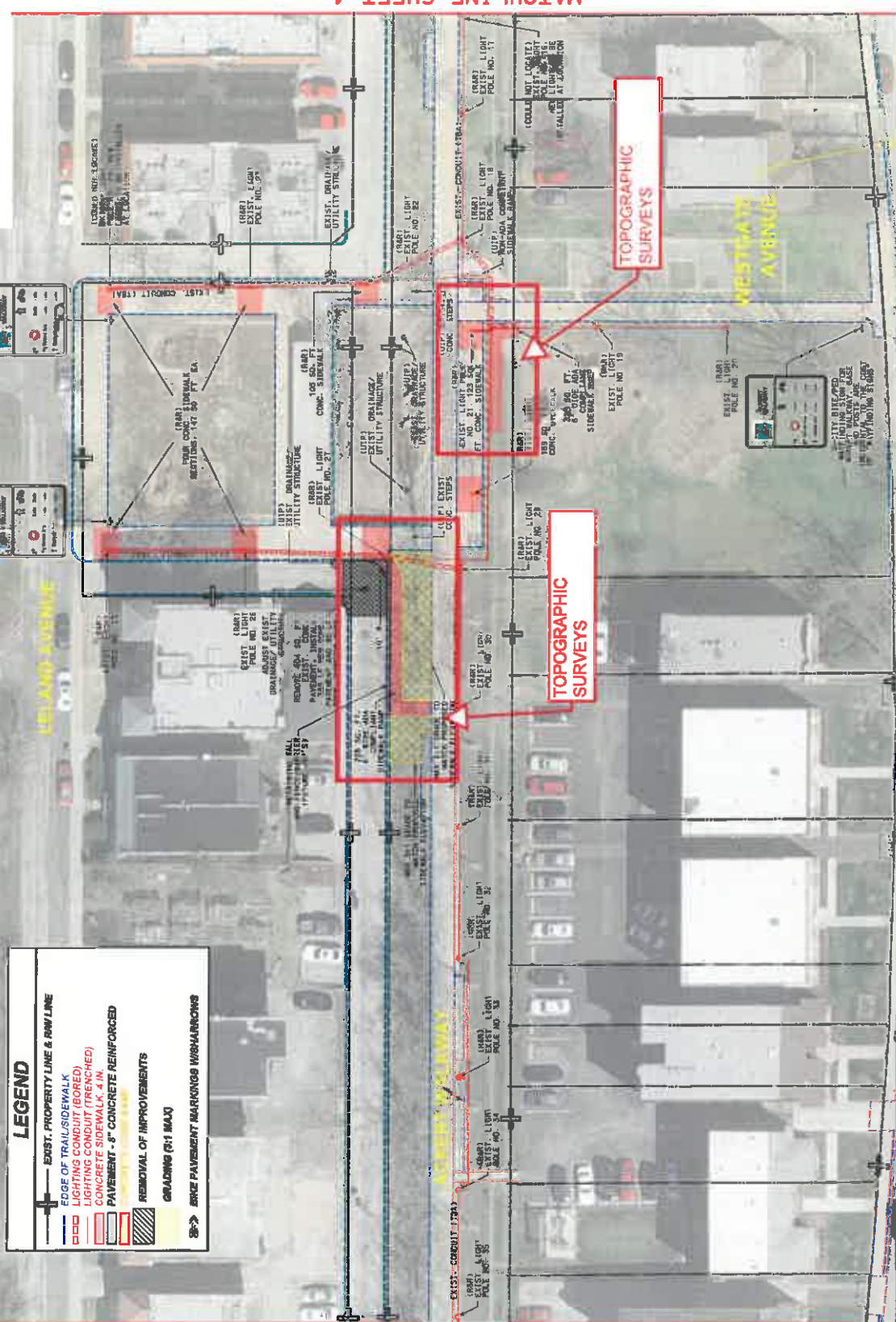
U-CITY BIKERAP
 ADVISORY SIGN FOR BIKERS AND PEDESTRIANS TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC

U-CITY BIKERAP
 ADVISORY SIGN FOR BIKERS AND PEDESTRIANS TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC

U-CITY BIKERAP
 ADVISORY SIGN FOR BIKERS AND PEDESTRIANS TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC

U-CITY BIKERAP
 ADVISORY SIGN FOR BIKERS AND PEDESTRIANS TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC AND TO AVOID COLLISIONS WITH TRAFFIC

LEGEND	
	EXIST. PROPERTY LINE & ROW LINE
	EDGE OF TRAILSIDEWALK
	LIGHTING CONDUIT (BORED)
	LIGHTING CONDUIT (TRENCHED)
	PAVEMENT - 6" CONCRETE REINFORCED
	REMOVAL OF IMPROVEMENTS
	GRADING (31 MAX)
	BIKE PAVEMENT MARKINGS WISHWIDOWS



MATCHLINE SHEET 2

MATCHLINE SHEET 4

<p>CONCEPTUAL PLAN SHEETS</p> <p>UNIVERSITY CITY, MISSOURI</p> <p>ACKERT WALKWAY IMPROVEMENTS</p> <p>TAP APPLICATION</p>		<p>ENGINEERING CORPORATION - 000631</p> <p>CRAWFORD MURPHY & TILLY, INC.</p> <p>ONE MEMORIAL DRIVE, SUITE 500</p> <p>ST. LOUIS, MO 63102 (314) 436-5500</p> <p>© Copyright CMT, Inc.</p>																		
<p>DATE: 9/20/17</p> <p>JOB No: 17401-17</p> <p>SHEET 3 OF 5</p>	<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NUMBER</th> <th>BY</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NUMBER	BY	DATE																<p>THIS MEDIA SHOULD NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEERING CORPORATION.</p>
NUMBER	BY	DATE																		

DISCLAIMER
 THE PROFESSIONAL ENGINEER'S SIGNATURE AND PERSONAL SEAL ARE REQUIRED FOR THIS DOCUMENT TO BE VALID. ONLY THAT WHICH APPEARS ON THIS PAGE AND DISCLAIMER IS PURSUANT TO SECTION 327.411 (RSMO) SPECIFICATION. ESTIMATES, REPORTS OR OTHER DOCUMENTS PREPARED BY THE ENGINEER OR THE UNDERSIGNED PROFESSIONAL RELATING TO OR INTENDED TO BE USED FOR ANY PART OR PARTS OF THE PROJECT TO WHICH THIS PAGE REFERS.

LELAND AVENUE
 LELAND AVENUE
 LELAND AVENUE
 WESTON AVENUE



MATCHLINE SHEET 3

MATCHLINE SHEET 5

CONCEPTUAL PLAN SHEETS

REVISIONS	BY	DATE

UNIVERSITY CITY, MISSOURI
 ACKERT WALKWAY IMPROVEMENTS
 TAP APPLICATION

© Copyright CMT, Inc.
 CRAWFORD, MURPHY & TILLY, INC.
 ONE MEMORIAL DRIVE, SUITE 500
 ST. LOUIS, MO 63102 (314) 436-9500
 ENGINEERING CORPORATION - 000631

DATE: 8/24/17
 JOB NO: 17401-17
 SHEET 4 OF 5

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

TOPOGRAPHIC SURVEYS

ADJUST EXIST. DRAINAGE UTILITY STRUCTURE

EXIST. LIGHT POLE 20 FT

EXIST. SIDEWALK

ADJUST EXIST. UTILITY STRUCTURE

EXIST. LIGHT POLE 20 FT

EXIST. SIDEWALK

ADJUST EXIST. UTILITY STRUCTURE

EXIST. LIGHT POLE 20 FT

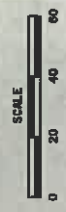
EXIST. SIDEWALK

ADJUST EXIST. UTILITY STRUCTURE

EXIST. LIGHT POLE 20 FT

EXIST. SIDEWALK

DISCLAIMER: THE PROFESSIONAL WHOSE SIGNATURE AND PERSONAL SEAL APPEAR HEREON ASSUMES RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION AND DATA PROVIDED IN THIS DOCUMENT. THE PROFESSIONAL DOES NOT WARRANT THAT THE INFORMATION AND DATA PROVIDED IN THIS DOCUMENT IS COMPLETELY ACCURATE OR THAT THE INFORMATION AND DATA PROVIDED IN THIS DOCUMENT IS INTENDED TO BE USED FOR ANY PART OR PARTS OF THE PROJECT TO WHICH THIS PAGE REFERS.



LEGEND	
	EXIST. PROPERTY LINE & ROW LINE
	EDGE OF TRAIL/SIDEWALK
	LIGHTING CONDUIT (BORED)
	LIGHTING CONDUIT (TRENCHED)
	CONCRETE SIDEWALK, 4 IN.
	PAVEMENT - 8" CONCRETE REINFORCED
	REMOVAL OF IMPROVEMENTS
	GRADING (3:1 MAX)
	BIKE PAVEMENT MARKINGS W/SHARROWS

TOPOGRAPHIC SURVEYS

MATCHLINE SHEET 4

CONCEPTUAL PLAN SHEETS

UNIVERSITY CITY, MISSOURI
MOORET WALKWAY IMPROVEMENTS
TAP APPLICATION

CMT
CONCRETE MATERIALS & TILES, INC.
ONE WILSON DRIVE, SUITE 200
ST. LOUIS, MO 63102 • PHONE: 314.361.5000
ENGINEERING / CORPORATION • 000531

DATE:	DATE:
JOB NO: 13161-17	K-2-24
SHEET 5	OF 5

ATTACHMENT B-C-M-T HOUR DATA AND FEE ESTIMATE (University City Ackett Walkway Improvements)

Task Description	Principal	Senior Project Engineer	Project Manager / Engineer	Senior Engineer	Senior Technician / Manager	Engineer	Registered Land Surveyor	Technician	Technician II	Technician I	Administrative Assistant / Accountant	Total Hours
TASK 1 - Topographic Surveys												
1. Coordinate				2								2
2. Obtain Contours from Hill Development												2
3. Locate Utilities												2
4. Topographic Survey												20
5. Survey Vertical Station and Machine Setup												2
6. Create CAD drawing (AutoCAD/MapInfo/Corplan)												2
7. Survey processing												2
8. Establish utility marking stake												2
9. Establish spot leveling survey												2
10. Survey for Patch Lot Lines												2
Total Hours	0	0	0	2	0	0	0	0	0	0	0	10
Hourly Salary	\$ 80.08	\$ 61.67	\$ 45.94	\$ 97.95	\$ 45.47	\$ 29.45	\$ 42.00	\$ 35.50	\$ 27.40	\$ 22.00	\$ 21.46	
Total Labor Cost	\$ -	\$ -	\$ 90.58	\$ 75.90	\$ -	\$ -	\$ -	\$ 215.40	\$ 906.13	\$ 206.24	\$ -	\$ 2,175.45
TASK 2 - Preliminary Plans												
1. Split check project site and take photos												4
2. CE program submission												1
3. Develop marking conceptual plan												12
4. Develop sidewalk layout and finalize alternatives												6
5. Evaluate locations for possible design												6
6. Develop tentative preliminary plans												3
7. Title sheet												2
8. Plan sheets												2
9. Geomatic sheet												2
10. Geomatic book sheets												2
11. Monitor ADA and ramp special needs												2
12. Monitor ADA and ramp special needs												2
13. Monitor cross sections												2
14. Verify Survey Stationing Plan												2
15. Utility Plan												2
16. Preliminary Plan preparation and approval												2
17. MSD Submittal												2
18. O.A.G.C.												2
19. Preliminary Plan take check												2
20. Preliminary Plan review meeting												2
21. Coordinate with MUDOT												2
Total Hours	0	0	0	0	0	0	0	0	0	0	0	117
Hourly Salary	\$ 80.08	\$ 61.67	\$ 45.94	\$ 97.95	\$ 45.47	\$ 29.45	\$ 42.00	\$ 35.50	\$ 27.40	\$ 22.00	\$ 21.46	
Total Labor Cost	\$ -	\$ -	\$ 15,832	\$ -	\$ -	\$ 1,829.43	\$ -	\$ -	\$ 648.60	\$ -	\$ -	\$ 24,577.32
TASK 3 - Draft Final Plans, Specs and Estimate												
1. Review plans based on comments												2
2. Make improvements to design/contract												2
3. Title sheet												2
4. Typical sections												2
5. Summary of quantities												2
6. Plan sheets												2
7. Geomatic sheet												2
8. Coordinate point sheets												2
9. ADA and ramp special sheets												2
10. Miscellaneous detail sheets												2
11. Reducing wall special sheets (if required)												2
12. Traffic control plan sheets												2
13. Stormwater pollution prevention plan sheets												2
14. Pavement marking and signing plan												2
15. Environmental impact sheet (if required)												2
16. Other utility sheets (if needed)												2
17. Review and coordinate utility lines and structures												2
18. ADA and ramp special sheets												2
19. Final final special provisions												2
20. Draft final Project Specifications/Contract												2
21. Mark-up study												2
22. O.A.G.C.												2
23. Mark-up study												2
24. Draft final plan sheets meeting												2
25. Coordinate with MUDOT												2

ATTACHMENT B-CMHT HOUR DATA AND FEE ESTIMATE (University City Acker Walkway Improvements)

Task Description	Estimated Hours Per Task											Total Hours
	Principal	Senior Project Engineer / Manager	Project Engineer / Manager	Senior Engineer	Senior Technical Manager	Engineer	Registered Land Surveyor	Senior Technician	Technician II	Technician I	Administrative Assistant	
Total Hours	0	0	26	0	0	29	0	15	0	0	0	70
Hourly Salary	\$ 80.09	\$ 81.87	\$ 49.04	\$ 37.85	\$ 42.47	\$ 29.85	\$ 42.06	\$ 27.43	\$ 23.02	\$ 21.45	\$ 21.45	\$ 21.45
Total Labor Cost	\$ -	\$ -	\$ 1,275.04	\$ -	\$ -	\$ 868.85	\$ -	\$ 411.40	\$ -	\$ -	\$ -	\$ 2,555.29
TASK 2 - Final Plans and Bidding Phase												
1. Revise plans based on final review comments		1										2
2. PS&E supporting documents		2										4
3. QA/QC		1										1
4. Produce final sealed plans, ISPs and construction cost estimate		4										4
5. Assist in answering Contractor questions before testing		2										2
6. Attend a pre-bid meeting		2										2
7. Coordinate with MCDOT		2										2
Total Hours	0	11	0	0	0	8	0	0	0	0	0	19
Hourly Salary	\$ 80.09	\$ 81.87	\$ 49.04	\$ 37.85	\$ 42.47	\$ 29.85	\$ 42.06	\$ 27.43	\$ 23.02	\$ 21.45	\$ 21.45	\$ 21.45
Total Labor Cost	\$ -	\$ 900.56	\$ -	\$ -	\$ -	\$ 149.26	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 485.81
TASK 3 - Construction Phase Services												
1. Conduct Pre-Construction Meeting		2										2
2. Perform periodic site visits as requested by the City		12										12
3. Answer construction questions as requested by the City		4										4
4. Shop Drawing Review		4										4
5. Participate in Final-Inspection		2										2
Total Hours	0	24	0	0	0	8	0	0	0	0	0	32
Hourly Salary	\$ 80.09	\$ 81.87	\$ 49.04	\$ 37.85	\$ 42.47	\$ 29.85	\$ 42.06	\$ 27.43	\$ 23.02	\$ 21.45	\$ 21.45	\$ 21.45
Total Labor Cost	\$ -	\$ 1,173.88	\$ -	\$ -	\$ -	\$ 238.80	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,412.68
TASK 6 - Project Management / Administration												
1. Develop project manual for team		1										1
2. Develop quality assurance plan and constructability review		1										1
3. Personnel planning and scheduling control		1										1
4. Coordination with City and MCDOT local roads		2										2
5. Preparations / minutes for project meetings		2										2
6. Correspondence (emails, letters, meeting minutes, phone calls)		4										4
7. Monthly progress reports		4										4
Total Hours	0	12	0	0	0	2	0	0	0	0	0	14
Hourly Salary	\$ 80.09	\$ 81.87	\$ 49.04	\$ 37.85	\$ 42.47	\$ 29.85	\$ 42.06	\$ 27.43	\$ 23.02	\$ 21.45	\$ 21.45	\$ 21.45
Total Labor Cost	\$ -	\$ 668.48	\$ -	\$ -	\$ -	\$ 59.70	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 598.18
TASK 7 - Construction Phase Services												
Total Hours	0	0	111	2	0	105	0	68	22	0	0	317
Hourly Salary	\$ 80.09	\$ 81.87	\$ 49.04	\$ 37.85	\$ 42.47	\$ 29.85	\$ 42.06	\$ 27.43	\$ 23.02	\$ 21.45	\$ 21.45	\$ 21.45
Total Labor Cost	\$ 0.00	\$ 95,443.44	\$ 5,443.44	\$ 75,300.00	\$ 80.09	\$ 3,223.60	\$ 80.00	\$ 2,134.48	\$ 1,865.24	\$ 606.44	\$ 90.00	\$ 111,327.70

ATTACHMENT BCMT HOUR DATA AND FEE ESTIMATE (University City Ackerly Walkway Improvements)

Task Description	Estimated Hours Per Task												
	Principal	Senior Project Engineer / Manager	Project Engineer / Manager	Senior Manager	Senior Engineer	Senior Technical Manager	Senior Manager	Engineer	Registered Land Surveyor	Senior Technician	Technician II	Technician I	Administrative Assistant / Accountant

Task	CMT FEE SUMMARY		General & Admin Overhead		Profit	Direct Costs	Total Cost	DIRECT COSTS					Total	
	Labor Costs	Payroll Overhead	112.65%	16%				Services By Drivings	Mileage	Printing	Per Diem / Meals	Lodging		
1: Topographic Surveys	\$1,798.49	\$8,946	\$2,040.83	\$734.82	16%	\$162.60	\$5,766.86	\$0.00	\$152.60	\$0.00	\$0.00	\$0.00	\$0.00	\$162.60
2: Preliminary Plans	\$4,077.32	\$2,403.17	\$4,676.94	\$1,666.12		\$54.50	\$12,628.05	\$0.00	\$64.50	\$0.00	\$0.00	\$0.00	\$0.00	\$64.50
3: Draft Final Plans, Specs and Estimates	\$2,562.14	\$1,504.23	\$2,886.17	\$1,042.88		\$32.70	\$9,028.12	\$0.00	\$32.70	\$0.00	\$0.00	\$0.00	\$0.00	\$32.70
4: Final Plans	\$895.81	\$492.63	\$948.48	\$341.54		\$21.80	\$2,640.25	\$0.00	\$21.80	\$0.00	\$0.00	\$0.00	\$0.00	\$21.80
5: Construction Phase Services	\$1,415.76	\$634.45	\$1,006.60	\$578.52		\$5,457.77	\$9,893.11	\$5,370.67	\$87.20	\$0.00	\$0.00	\$0.00	\$0.00	\$5,457.77
6: Project Management / Administration	\$648.18	\$392.04	\$735.95	\$264.87		\$0.00	\$2,050.64	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL	\$11,327.70	\$6,676.55	\$12,854.67	\$4,628.84		\$5,719.37	\$41,207.13	\$5,370.67	\$348.80	\$0.00	\$0.00	\$0.00	\$0.00	\$5,719.37

DESIGN PHASE =	\$9,871.84	\$5,842.10	\$11,248.07	\$4,050.32	\$261.60	\$31,314.02
CONSTRUCTION PHASE =	\$1,415.76	\$834.45	\$1,006.60	\$578.52	\$5,457.77	\$9,893.11

Construction Testing Services by others:
 1) TSI Geotechnical Construction Testing (see attached for breakdown)

Direct Costs:
 1) Survey Mileage = 4 Trips @ 70 Miles @ \$0.545/mile (IRS Rate) = \$152.60
 2) Preliminary Plans Mileage = 5 Trips @ 20 Miles @ \$0.545/mile (IRS Rate) = \$54.50
 3) Draft Final Plans Mileage = 3 Trips @ 20 Miles @ \$0.545/mile (IRS Rate) = \$32.70
 4) Final Plans Mileage = 2 Trips @ 20 Miles @ \$0.545/mile (IRS Rate) = \$21.80
 5) Construction Phase Mileage = 8 Trips @ 20 Miles @ \$0.545/mile (IRS Rate) = \$87.20



LEAD ARCHITECT
M. FILE: MO 63132
#1 - 37210001
314.727.6632

tsi-engineering.com

February 19, 2018

Kevin Fuller, PE
CRAWFORD, MURPHY & TILLEY, INC.
1 South Memorial Drive, Suite 500
St. Louis, Missouri 63102

**RE: Construction Materials Testing
Ackertway
University City, Missouri**

Dear Mr. Fuller:

TSi Geotechnical, Inc. (TSi) a certified MBE/DBE firm, is pleased to submit this proposal to Crawford, Murphy & Tilley, Inc. (CMT) to provide construction material testing services during the improvements to Ackertway, located in University City, Missouri. Our construction testing services will be related to soil and/or aggregate and concrete. Services will be performed on an as-needed basis with coordination being between CMT designated representative and TSi's St. Louis, Missouri office.

SCOPE OF SERVICES

We propose to provide construction material testing services during the improvements to Ackertway. The following are construction testing services that we anticipate will be performed during the construction phase of the project:

- Observe the placement of earth fill and backfill, or crushed stone aggregate, and test for in-place density using a nuclear moisture density gauge (ASTM D 6938) in areas that would support pavements and sidewalks to assess the degree of compaction being obtained.
- Evaluate earth fill and/or crushed stone aggregates to be used as fill and/or backfill. This evaluation would include the performance of standard Proctor tests in accordance with ASTM D 698.
- Perform quality control tests on concrete delivered to the project site. This would include slump (ASTM C 143), air entrainment (ASTM C 173 or C 231), temperature test (ASTM C 1064) and preparation of test cylinders (ASTM C 31). TSi will also perform concrete compressive strength tests (ASTM C 39) on test cylinders made in the field.

PROFESSIONAL SERVICES SINCE 1989

- Perform gradation and deleterious materials test on aggregate materials being used in the concrete mix.

STAFFING

A Geotechnical Technician will perform the on-site construction material testing services. Our Construction Services Manager will perform daily supervision of the technician's activities. Supervision would consist of reviewing daily field reports and daily communications with the field technicians in order to establish that construction is being performed in accordance with the project plans, specifications, and good engineering and construction practices.

DOCUMENTATION

TSi will document data and pertinent observations made in the field using handwritten forms. After office review and approval, final copies of field and laboratory reports will be sent to CMT and designated parties involved in the project.

FEES

We propose to perform the field, laboratory, and supervisory services on a time and expense basis in accordance with the attached Summary of Time and Materials Estimate.

TSi estimates the cost associated with the construction testing and documentation services to be \$ 5,370.57. A breakdown of cost is included in the attached Summary of Time and Materials Estimate. This cost estimate is based only upon initial testing. Retests of failed areas will be performed in accordance with the attached Summary of Unit Rates.

ACCEPTANCE

If this proposal meets your approval, please formally authorize the construction observation and testing services previously described by signing the acceptance at the end of this proposal and returning one copy to our office.

We appreciate this opportunity to be of service to CMT and look forward to working with you on this project. If you have any questions or would like to discuss any aspect of this proposal, please contact us at 314 373 4046.

Mr. Kevin Fuller
CRAWFORD, MURPHY & TILLEY, INC

Page 3

Sincerely,

TSI GEOTECHNICAL, INC.



Mark I. Conder
Construction Services Manager



Denise B. Hervey PE.
Principal

Attachments: Statement Terms and Conditions
Summary of Time and Materials Estimate

Accepted by:

CRAWFORD, MURPHY & TILLEY, INC.

Printed Name

Date

Signature

Title

Note: The contents of this proposal are confidential and shall not be distributed to any person(s) other than those for whom this proposal was intended.



TERMS AND CONDITIONS

To assure an understanding of matters related to our mutual responsibilities, these terms and conditions for professional engineering services are made a part of the agreement for the TSI Engineering, Inc. (Engineer) services, as described in a separate proposal to the Client:

AMENDMENTS

This agreement may be amended in writing providing both the Client and Engineer agree to such modifications.

COMPENSATION FOR ENGINEERING SERVICES

The basis for compensation will be as identified in the proposal.

- When "Lump Sum" payment is utilized, it shall include all labor and expenses (for the scope of work as defined in the proposal) incurred by the Engineer and shall not exceed the fixed payment amount without prior authorization of the Client.
- When "Time and Materials" is utilized, it shall be computed by a multiplier factor times salary cost plus reimbursable expenses.
 - The "Salary Costs" means the direct labor and wages paid to all engineering personnel engaged directly on the work plus the cost of customary and statutory benefits including social security contributions, unemployment, health, sick leave, vacation, Workmen's Compensation, incentive and holiday pay applicable thereto.
 - "Reimbursable Expenses" means the actual expenses incurred directly or indirectly in connection with the work including but not limited to the following: Transportation and subsistence, toll telephone calls, telegrams, reproduction or printing, computer time and outside consultants.
 - The "Multiplier" is a factor for general direct overhead, indirect costs, profit and other costs. The Multiplier factor rate shall be identified in the agreement.

TIME OF PAYMENT

The Engineer may submit monthly invoices for services and expenses based upon the proportion of the actual work completed at the time of billing. Unless provided for otherwise, payments for engineering services will be due and payable thirty (30) calendar days from the date of the Engineer's invoice.

LATE PAYMENT

If the Owner fails to make any payment due the Engineer for services and expenses within sixty (60) days, a service charge of 1.5 % per month will be added to the Client's invoice. This is an annual rate of 18 %.

WAIVER OF SUBROGATION

To the extent damages are covered by property insurance during construction, Client and Engineer waive all rights against each other and against the Owner, Client, Engineer, contractors, consultants, subconsultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance. Engineer Client, or Owner, as appropriate, shall require of the Contractor, other consultants, subcontractors, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

LIMITATION OF LIABILITY

In recognition of the relative risks and benefits of the Project to both the Client and the Engineer, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit Engineer's liability to Client on the project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including, but not limited to,



LIMITATION OF LIABILITY, Continued

claims of negligence, breach of contract, negligent errors or omissions, negligent misrepresentation or any other tort or contract theory, arising out of the work performed for Client or the Owner and for which legal liability may be found to rest upon Engineer, so that the total aggregate liability of the Engineer to Client shall not exceed \$50,000.00, or Engineer's total fee for services on the Project, whichever is greater. Additional limits of liability may be negotiated and made a part of this Agreement for an additional fee. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

Notwithstanding any other provision in this Agreement, and to the fullest extent permitted by law, neither the Client nor the Engineer, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, delay damages, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranties. Both Client and Engineer shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the project.

Limitations on liability, waivers and indemnities in this Agreement are business understandings between the parties and shall apply to all legal theories of recovery, including breach of contract or warranty, breach of fiduciary duty, tort (including negligence), strict or statutory liability, or any other cause of action, provided that these limitations on liability, waivers and indemnities will not apply to any losses or damages that may be found by a trier of fact to have been caused by the Engineer's gross negligence or willful misconduct. The parties also agree that Client will not seek damages in excess of the contractually agreed-upon limitations set forth above, either directly or indirectly through suits against other parties who may join the Engineer as a third-party defendant, and that this limitation of liability provision shall not be read to conflict with the indemnity or insurance provisions of this Agreement.

TERMINATION

Either party may terminate this agreement upon written notice. Any termination shall only be for good cause such as for legal, unavailability of adequate financing or major changes in the work. In the event of any termination, the Engineer will be paid for all services and expenses rendered to the date of termination on a basis of salary cost times a multiplier of 2.55 (if not previously provided for) plus reimbursable expenses, plus reasonable termination costs.

REUSE OF DOCUMENTS

All documents including drawings and specifications furnished by Engineer pursuant to this Agreement are instruments of these services with respect to the work. They are not intended or represented to be suitable for reuse by Client or others on extensions of this work, or on any other work. Any reuse without specific written verification or adaptation by Engineer will be at Client's sole risk, and without liability of Engineer, and Client shall indemnify and hold harmless engineer from all claims, damages, losses and expenses including attorney's fees arising out of or resulting there from. Any such verification or adaptation will entitle engineer to further compensation at rates to be agreed upon by Client and Engineer.

ESTIMATES OF COST FOR CONSTRUCTION PROJECTS

Since the Engineer has no control over the cost of labor, materials or equipment or over a Contractor(s) method of determining prices, or over competitive bidding or market conditions, his opinions of probable Project Cost or Construction Costs that may be provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposals, bids or the construction cost will not vary from opinions of probable cost prepared by him.

ATTACHMENT C

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction" provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the

method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List at the Excluded Parties List System.
<https://www.epls.gov/epls/search.do?page=A&status=current&agency=69#A>.

9. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a 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;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. 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.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ATTACHMENT D

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. 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.
3. 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 when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed 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.
6. 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.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List at the Excluded Parties List System. <https://www.epls.gov/epl/s/search.do?page=A&status=current&agency=69#A>.
8. 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 a participant is not required to exceed that which normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended,

debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment E
Disadvantage Business Enterprise Contract Provisions

1. Policy: It is the policy of the U.S. Department of Transportation and the Local Agency that businesses owned by socially and economically disadvantaged individuals (DBE's) as defined in 49 C.F.R. Part 26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Thus, the requirements of 49 C.F.R. Part 26 and Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21) apply to this Agreement.

2. Obligation of the Engineer to DBE's: The Engineer agrees to assure that DBEs have the maximum opportunity to participate in the performance of this Agreement and any subconsultant agreement financed in whole or in part with federal funds. In this regard the Engineer shall take all necessary and reasonable steps to assure that DBEs have the maximum opportunity to compete for and perform services. The Engineer shall not discriminate on the basis of race, color, religion, creed, disability, sex, age, or national origin in the performance of this Agreement or in the award of any subsequent subconsultant agreement.

3. Geographic Area for Solicitation of DBEs: The Engineer shall seek DBEs in the same geographic area in which the solicitation for other subconsultants is made. If the Engineer cannot meet the DBE goal using DBEs from that geographic area, the Engineer shall, as a part of the effort to meet the goal, expand the search to a reasonably wider geographic area.

4. Determination of Participation Toward Meeting the DBE Goal: DBE participation shall be counted toward meeting the goal as follows:

A. Once a firm is determined to be a certified DBE, the total dollar value of the subconsultant agreement awarded to that DBE is counted toward the DBE goal set forth above.

B. The Engineer may count toward the DBE goal a portion of the total dollar value of a subconsultant agreement with a joint venture eligible under the DBE standards, equal to the percentage of the ownership and control of the DBE partner in the joint venture.

C. The Engineer may count toward the DBE goal expenditures to DBEs who perform a commercially useful function in the completion of services required in this Agreement. A DBE is considered to perform a commercially useful function when the DBE is responsible for the execution of a distinct element of the services specified in the Agreement and the carrying out of those responsibilities by actually performing, managing and supervising the services involved and providing the desired product.

D. A Engineer may count toward the DBE goal its expenditures to DBE firms consisting of fees or commissions charged for providing a bona fide service, such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of this Agreement, provided that the fee or commission is determined by MoDOT's External Civil Rights Division to be reasonable and not excessive as compared with fees customarily allowed for similar services.

E. The Engineer is encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals.

5. Replacement of DBE Subconsultants: The Engineer shall make good faith efforts to replace a DBE Subconsultant, who is unable to perform satisfactorily, with another DBE Subconsultant. Replacement firms must be approved by MoDOT's External Civil Rights Division.

6. Verification of DBE Participation: Prior to final payment by the Local Agency, the Engineer shall file a list with the Local Agency showing the DBEs used and the services performed. The list shall show the actual dollar amount paid to each DBE that is applicable to the percentage participation established in this Agreement. Failure on the part of the Engineer to achieve the DBE participation specified in this Agreement may result in sanctions being imposed on the Commission for noncompliance with 49 C.F.R. Part 26 and/or Section 1101(b) of TEA-21. If the total DBE participation is less than the goal amount stated by the MoDOT's External Civil Rights Division, liquidated damages may be assessed to the Engineer.

Therefore, in order to liquidate such damages, the monetary difference between the amount of the DBE goal dollar amount and the amount actually paid to the DBEs for performing a commercially useful function will be deducted from the Engineer's payments as liquidated damages. If this Agreement is awarded with less than the goal amount stated above by MoDOT's External Civil Rights Division, that lesser amount shall become the goal amount and shall be used to determine liquidated damages. No such deduction will be made when, for reasons beyond the control of the Engineer, the DBE goal amount is not met.

7. Documentation of Good Faith Efforts to Meet the DBE Goal: The Agreement goal is established by MoDOT's External Civil Rights Division. The Engineer must document the good faith efforts it made to achieve that DBE goal, if the agreed percentage specified is less than the percentage stated. The Good Faith Efforts documentation shall illustrate reasonable efforts to obtain DBE Participation. Good faith efforts to meet this DBE goal amount may include such items as, but are not limited to, the following:

A. Attended a meeting scheduled by the Department to inform DBEs of contracting or consulting opportunities.

B. Advertised in general circulation trade association and socially and economically disadvantaged business directed media concerning DBE subcontracting opportunities.

C. Provided written notices to a reasonable number of specific DBEs that their interest in a subconsultant agreement is solicited in sufficient time to allow the DBEs to participate effectively.

D. Followed up on initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested in subconsulting work for this Agreement.

E. Selected portions of the services to be performed by DBEs in order to increase the likelihood of meeting the DBE goal (including, where appropriate, breaking down subconsultant agreements into economically feasible units to facilitate DBE participation).

F. Provided interested DBEs with adequate information about plans, specifications and requirements of this Agreement.

G. Negotiated in good faith with interested DBEs, and not rejecting DBEs as unqualified without sound reasons, based on a thorough investigation of their capabilities.

H. Made efforts to assist interested DBEs in obtaining any bonding, lines of credit or insurance required by the Commission or by the Engineer.

I. Made effective use of the services of available disadvantaged business organizations, minority contractors' groups, disadvantaged business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBE firms.

8. Good Faith Efforts to Obtain DBE Participation: If the Engineer's agreed DBE goal amount as specified is less than the established DBE goal given, then the Engineer certifies that good faith efforts were taken by Engineer in an attempt to obtain the level of DBE participation set by MoDOT's External Civil Rights.

Attachment F – Fig. 136.4.15
Conflict of Interest Disclosure Form for LPA/Consultants
Local Federal-aid Transportation Projects

Firm Name (Consultant): Crawford, Murphy & Tilly, Inc.

Project Owner (LPA): University City, Missouri

Project Name: Ackert Walkway Improvements

Project Number: TAP-5402(617)

As the LPA and/or consultant for the above local federal-aid transportation project, I have:

1. Reviewed the conflict of interest information found in Missouri’s Local Public Agency Manual (EPG 136.4)
2. Reviewed the Conflict of Interest laws, including 23 CFR § 1.33, 49 CFR 18.36.

And, to the best of my knowledge, determined that, for myself, any owner, partner or employee, with my firm or any of my sub-consulting firms providing services for this project, including family members and personal interests of the above persons, there are:

No real or potential conflicts of interest
If no conflicts have been identified, complete and sign this form and submit to LPA

Real conflicts of interest or the potential for conflicts of interest
If a real or potential conflict has been identified, describe on an attached sheet the nature of the conflict, and provide a detailed description of Consultant’s proposed mitigation measures (if possible). Complete and sign this form and send it, along with all attachments, to the appropriate MoDOT District Representative, along with the executed engineering services contract.

LPA

Consultant

Printed Name: _____

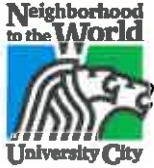
Printed Name: _____

Signature: _____

Signature: _____

Date: _____

Date: _____



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: Emergency Request to contract Pool Management Services for Summer 2018

AGENDA SECTION: City Managers Report

CAN THIS ITEM BE RESCHEDULED? : No

BACKGROUND REVIEW:

Request for Proposals (RFP) for Pool Management Services was received on January 5, 2018, with three (3) responses (Swim Chicago Southland, Lifeguards Unlimited, and Midwest Pool Management) received. Former Director of Community Development, Andrea Riganti shared with City Manager Gregory Rose the desire by staff to return pool management in-house if "back to school" pool hours (4-8 pm, weekdays only, mid-August to end of the pool season) would be reconsidered.

Mr. Rose requested a cost analysis of the two factors (in-house management vs. out-sourcing management) and upon its review determined pool management for summer 2018 would return to being operated by City staff with this information shared at the February 20th Park Commission meeting. With this decision, staff began making preparations: (i.e. reaching out to lifeguard/concession staff, purchasing supplies, enrolling in Red Cross Lifeguard Instructor course, etc.)

On Monday, February 26, 2018 we received a resignation letter from our Fitness/Aquatics Supervisor, Jessica Prichard. Jessica has accepted a position with the City of Virginia Beach Parks and Recreation with her last day with the Recreation Division being Monday, March 12, 2018.

While recruitment for the Fitness/Aquatics Supervisor position has begun, our concern is securing this individual will take time and working "backwards" – there are 43 days (excluding weekends/holiday) before the pool opens at 6 am on Saturday, May 26th and with our current staffing levels, there is no one with the credentials and/or available to assume the responsibilities of the pre-season pool preparations and day-to-day operations.

Staff sought and received approval from Mr. Rose to contact local pool management companies to inquire if they would be interested and/or able to provide pool management services to the City in this emergency situation. Due to their "less than stellar" performance during the summer of 2017, staff chose not to contact Lifeguards Unlimited based on but not limited to the following:

- Consistently implying "we only had 17 days to prepare for your pool season" as the reason for lack of minimum and/or above minimum staffing numbers or any other

issues that arose during the season.

- Little or no consistency in providing staffing to assist with pool technician responsibilities.
- Assigning pool management staffing with little or no experience; no or limited one-on-one training with LGU supervisor.
- Poor communication regarding staffing schedules – especially during the last couple of weeks we were open though we were specifically told we were their highest priority as other pool were closed or had limited hours towards the end of the summer; not receiving the “twice a day” emails giving us insight of the staffing schedule for the coming day though this was a directive from upper management (last email I received was August 23rd).
- No or staff arriving late for lap swim sessions – our most important swim session of the day.
- Days when little or no daily facility cleaning was conducted.
- Not providing more than one (1) lifeguard for these first few months of the Natatorium season.

Staff instead reached out to Midwest Pool Management, who indicated they would be able to provide services for us.

Staff was asked to provide a cost analysis of the following: Aquatic Expenditures for in-house operations (last conducted: FY15-16), Lifeguards Unlimited (summer 2017) and Midwest Pool Management (proposed summer 2018):

	Summer 2016	Summer 2017	Proposed Summer 2018
	City of University City	Lifeguards Unlimited	Midwest Pool Management
<i>Aquatics Expenditures - FY 2015-16</i>			
5001 - Salaries: Full Time (July-Sept 2015, May-June 2016) or Management Fee	\$23,970.00	\$37,600.00	\$38,500.00
5340 - Salaries: Part Time	\$190,930.00	\$135,000.00	\$159,540.00
5420- Workmen's Compensation	\$3,554.00		
5660 - Social Security Contributions	\$8,722.00		
5900 - Medicare	\$1,900.00		
6610-Staff Training	\$2,816.00		
7770-Uniforms & Safety Gear	\$2,284.00		
TOTAL	\$234,176.00	\$172,600.00	\$198,040.00
<i>Type of Life Guard Certification*</i>			
American Red Cross	yes	yes	
Star Guard			yes
<i>Lifeguard Certification</i>			
Lifeguard Certification Cost	Staff held ARC training certification, was able to	\$180.00	\$185.00
Lifeguard Re-Certification Cost		\$90.00	\$95.00
Skills Test		\$0.00	n/a annual re-certification required

Miscellaneous Fees	conduct in-house; only cost of materials	n/a	n/a
Salary Range per Position			
Manager	\$9.55-\$11.09	\$10.00-15.00	\$10.00-12.00
Assistant Manager	\$8.07-\$8.84	\$9.00-14.00	\$9.00-11.00
Head Guard	n/a	\$8.75-12.00	\$8.50-9.50
Lifeguard	\$7.76-\$8.53	\$8.50-11.00	\$7.90-8.50
Hours of Operation – 2018			
Lap Swim: 6:00 a.m. - 9:00 a.m.			
Public Swim (5/26/18 – 8/12/18):			
9:00 am – 8:00 pm			
Back to School Hours (8/13/18 – 9/3/18)			
Lap Swim: 6:00 a.m. - 9:00 a.m.			
Public Swim:			
- weekdays 4:00 p.m. – 8:00 pm			
- weekends/holidays 9:00 a.m. – 8:00 p.m.			

The Park Commission considered this item at their March 20, 2018 meeting and unanimously supported these recommendations by staff.

RECOMMENDATION:

City Manager recommends approval of Midwest Pool Management for emergency pool management services for summer 2018 based on the professionalism exhibited in this emergency situation, their willingness to accept this challenge and similar municipal pool management experience (21 area pools; many over 15 years).

City Manager also recommends, with the change in lifeguard certification (from American Red Cross to Starguard), the City reimburse University City resident lifeguards (with current ARC accreditation status) employed by Midwest Pool Management - the re-certification cost for their Starguard certification.

ATTACHMENTS: None



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: M.O.U. with St. Louis County Police Department and Government

AGENDA SECTION: Unfinished Business item

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW: University City Police Department (UCPD) would like to enter into an agreement with St. Louis County Department of Police to allow one (1) University City officer to work as part of the Multijurisdictional Drug Task Force from April 1st 2018 to April 1st, 2019. The officer will be deputized under the St. Louis County Deputation Manual and will be working under the supervision of the St. Louis County Police Department;

University City will remain responsible for the officer's salary, benefits, overtime and worker's compensation benefits. University City will be entitled to a portion of assets forfeited federally as a result of the Multijurisdictional Drug Task Force's operations conducted during the time a University City officer is assigned to the unit.

ATTACHMENTS:

1. Proposed Ordinance for University City
2. Contract

RECOMMENDATION: Approval

INTRODUCED BY: _____

DATE: _____

BILL NO.: 9353

ORDINANCE NO.: _____

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ST. LOUIS COUNTY, MISSOURI FOR MULTIJURISDICTIONAL DRUG TASK FORCE SERVICES

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

Section 1. An Agreement with St. Louis County, Missouri for Multijurisdictional Task Force services is hereby approved in substantially the form attached hereto and incorporated by reference, and the City Manager is authorized to enter into and execute on behalf of the City of University City, Missouri the Agreement, and he may take such further action as may be necessary or desirable to carry out the intent of this ordinance.

Section 2. This ordinance shall take effect and be in force from and after its passage.

PASSED and ADOPTED this ____ day of March, 2018.

MAYOR

ATTEST:

CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY



ST. LOUIS COUNTY DRUG TASK FORCE



CONTRACT

THIS AGREEMENT is entered into as of the _____ 2018 by and between ST. LOUIS COUNTY, MISSOURI on behalf of the St. Louis County Department of Police (herein after "County"), and the CITY OF UNIVERSITY CITY, MISSOURI (herein after "CITY").

WHEREAS, County's Police Department maintains a Multijurisdictional Drug Task Force which, among other things, engages in undercover activities; and

WHEREAS, City wishes to assign one of its detectives to County's Multijurisdictional Drug Task Force upon the terms stated herein; and

WHEREAS, County is authorized to enter into this agreement pursuant to County's Ordinance Number 15,025, 1990; and

WHEREAS, City is authorized to enter into this agreement pursuant to City's Ordinance Number _____

NOW THEREFORE, in consideration of the premises and promises contained herein, the parties agree as follows:

1. The City agrees to provide County with the services of one (1) detective, mutually agreeable to both parties, (Herein after "Detective"), for a period of one (1) year, to commence _____ and to terminate _____ and shall continue to remain in effect until terminated by either party as provided under the provisions of paragraph 7 below.
2. In accordance with Missouri statute 650.161, the chief law enforcement officer of the City will serve as a member of the Policy Board for the Multijurisdictional Drug Task Force. Unless determined otherwise by the Policy Board, the Multijurisdictional Drug Task Force will operate under the policies of the St. Louis County Police Department as stated in paragraph 4 below.
3. The Detective will be under the direct supervision and control of the St. Louis County Police Department.
4. The Detective will be subject to the St. Louis County Police Department's rules and regulations, including, but not limited to, random drug testing.
5. The Detective will be deputized under the St. Louis County Deputization Manual.
6. City shall be responsible for Detective's salary, benefits, overtime accrued, worker's compensation benefits and liability, and legal defense and liability resulting from the Detective's actions.
7. Either party to this agreement may cancel this agreement with thirty (30) days' written notice. Notice to County shall be deemed delivered if deposited, postage prepaid, addressed to Chief of Police, St. Louis County Police Department, 7900 Forsyth Boulevard, Clayton, Missouri 63105. Notice to City shall be deemed delivered if deposited, postage prepaid, addressed to the City.

8. City shall be entitled to a portion of assets forfeited federally as a result of Multijurisdictional Drug Task Force operations conducted during the period Detective is assigned to the County's Multijurisdictional Drug Task Force, regardless of the location where such assets were seized. The portion shall be computed as of the time of seizure and not the time of distribution. The portion shall be determined by multiplying the assets forfeited by the following ratio:

(number of detectives assigned to County's Multijurisdictional Drug Task Force by City, that is,1)

(Total number of Agencies assigned to County's Multijurisdictional Drug Task Force from all sources.)

The County may increase or decrease the number of detectives assigned to the Multijurisdictional Drug Task Force without approval of City. The County may also enter into similar agreements with other municipalities which will affect the number of undercover officers assigned to the Multijurisdictional Drug Task Force from all sources and thereby affect the portion of the forfeited assets to which City will be entitled.

9. City will cooperate with County in preparing the proper documentation for the courts, prosecutors and other law enforcement agencies so that the forfeited assets owed to City are not deposited in a general revenue account of County, but are paid directly to City instead. City will maintain compliance with federal laws as a requirement to share in federally forfeited assets.

10. County will provide the necessary specialized equipment for undercover activities, including radio equipment, vehicles and other specialized surveillance equipment.

11. As funding allows, County will provide training in the area of undercover operations and narcotics investigations.

12. All necessary evidentiary and expense funds will be provided by St. Louis County.

13. Upon the request of the City, the Commander of the County's Multijurisdictional Drug Task Force will submit a performance evaluation to City regarding the performance of the participating City detective once every twelve (12) months.

14. The City shall provide proof of Commercial General Liability Insurance in compliance with the sovereign immunity limits for Missouri public entities, which are calculated by the Missouri Department of Insurance and published annually in the Missouri Register within three days of request by St. Louis County. This coverage shall also apply to Civil Rights Claims that may arise. St. Louis County shall remain self-insured regarding claims. The City shall maintain during duration of this agreement Workers' Compensation Insurance. If the City should become self-insured prior to the termination of this Agreement, the City shall provide the County a letter of self-insurance with the unencumbered balances that meets the statutory cap on a per occurrence basis in lieu of a Certificate Letter of Self-Insurance.

IN WITNESS WHEREOF, officials of the parties have affixed their signatures and official seals below.

ST. LOUIS COUNTY, MISSOURI

By _____
County Executive

Attest:

Administrative Director

ST. LOUIS COUNTY BOARD OF POLICE
COMMISSIONERS

By _____
Chairman

Approved:

Chief of Police

Approved as a Legal Form:

County Counselor

Approved:

Accounting Officer

THE CITY OF UNIVERSITY CITY, MISSOURI

By _____
Chief Administrative Officer

By _____
Risk and Insurance Manager

Attest:

City Clerk

Approved:

Chief of Police



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: AN ORDINANCE WITHDRAWING AN EASEMENT GRANT TO ST. LOUIS COUNTY, MISSOURI AND REPEALING SECTION III OF ORDINANCE NO. 6420.

AGENDA SECTION: Unfinished Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

An Ordinance withdrawing the 2003 easement grant to St. Louis County for ownership and maintenance of the pedestrian bridge.

Attachments:

1: Ordinance

RECOMMENDATION: The City Manager is recommending approval.

INTRODUCED BY: _____

DATE: _____

BILL NO.: 9354

ORDINANCE NO.: _____

AN ORDINANCE WITHDRAWING AN EASEMENT GRANT TO ST. LOUIS COUNTY, MISSOURI AND REPEALING SECTION III OF ORDINANCE NO. 6420.

WHEREFORE, by Ordinance No. 6420 passed on March 24, 2003, University City, Missouri, to the extent of its interest, granted Bi-State Development Agency of the Missouri-Illinois Metropolitan District ("Bi-State") a temporary construction easement to build a pedestrian overpass at or near Ackert Walk and Forest Park Parkway as part of the Cross County MetroLink Segment I Extension project; and

WHEREAS, St. Louis County, Missouri was granted a permanent easement over the area for the purpose of providing for ownership and future maintenance of the pedestrian overpass; and

WHEREAS, the pedestrian overpass was constructed; and

WHEREAS, Washington University desires to remove the existing pedestrian overpass and construct a new bicycle ramp and bridge in approximately the same area; and

WHEREAS, Washington University will obtain a special use permit from St. Louis County, approval of which is contingent upon Washington University agreeing to own and maintain the bridge and ramp to the extent it is over Forest Park Parkway, a St. Louis County arterial road within the meaning of Section 137.558 RSMo; and

WHEREAS, St. Louis County has not accepted the easement granted by Ordinance No. 6420; and

WHEREAS, University City desires to withdraw the easement grant to St. Louis County and repeal Section III of Ordinance No. 6420.

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

Section 1. The easement granted to St. Louis County pursuant to Section III of Ordinance No. 6420 is hereby withdrawn and Section III is hereby repealed.

Section 2. This ordinance shall take effect and be in force from and after its passage.

PASSED and ADOPTED this ____ day of March, 2018.

MAYOR

ATTEST:

CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH WASHINGTON UNIVERSITY FOR PEDESTRIAN AND BICYCLE RAMP AND BRIDGE SERVICES.

AGENDA SECTION: Unfinished Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

An agreement with Washington University for pedestrian and bicycle ramp and bridge services in substantially the attached form.

Attachments:

- 1: Ordinance
- 2: Draft Service Agreement

RECOMMENDATION: The City Manager is recommending approval.

INTRODUCED BY: _____

DATE: _____

BILL NO.: 9355

ORDINANCE NO.: _____

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH WASHINGTON UNIVERSITY FOR PEDESTRIAN AND BICYCLE RAMP AND BRIDGE SERVICES.

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

Section 1. An Agreement with Washington University for pedestrian and bicycle ramp and bridge services is hereby approved in substantially the form attached hereto and incorporated by reference, and the City Manager is authorized to enter into and execute on behalf of the City of University City, Missouri the Agreement, and he may take such further action as may be necessary or desirable to carry out the intent of this ordinance.

Section 2. This ordinance shall take effect and be in force from and after its passage.

PASSED and ADOPTED this ____ day of March, 2018.

MAYOR

ATTEST:

CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (this "Agreement") is made and entered into as of this ___ day of _____, 2018, by and between THE CITY OF UNIVERSITY CITY ("City") whose mailing address is 6801 Delmar Blvd., St. Louis, Missouri 63130, and, THE WASHINGTON UNIVERSITY ("University") whose mailing address is Campus Box 1058, One Brookings Drive, St. Louis, Missouri 63130-4899.

WHEREAS, pursuant to permission granted by City, University has constructed a pedestrian and bicycle ramp and bridge and associated hardscape and landscaping as more particularly described in the plans attached hereto as Exhibit A (the "Project") on the land depicted on the site plan attached hereto as Exhibit B (the "Project Area") (each such Exhibit of which is incorporated herein by reference) situated in the City of University City, St. Louis County, Missouri.

WHEREAS, in consideration of City's permission to construct the Project, University, at its sole cost and expense, is willing to maintain the Project, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises, and in further consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, City and University agree as follows:

1. City, to the extent of its interest in the Project Area and authority to enter into this Agreement, grants to University a right of access to the Project and Project Area solely for the purpose of University performing its obligations hereunder. University disclaims any ownership or other rights in and to the Project and Project Area. University shall have no remedy or recourse whatsoever against City for any loss, cost, expense or damage for the failure of the City to have the authority to grant all or any part of the rights herein granted.

2. This Agreement shall be for a term commencing on the date hereof and expiring June 30, 2019. Thereafter, the term of this Agreement shall automatically renew for additional periods of one (1) year, July 1 to June 30 next, unless either party provides notice of nonrenewal to the other on or before April 1 immediately prior to any such renewal term. The foregoing notwithstanding, this Agreement shall automatically terminate upon the sooner of any of the following events: (a) non-use of the Project as a pedestrian and bicycle ramp to the public pedestrian and bicycle bridge over Forest Park Parkway for a six (6) month continuous period (other than periods of construction); or (b) University is no longer in existence or in control of or capable of maintaining the Project.

3. University shall maintain, repair, and replace any improvements within the Project Area including but not limited to a pedestrian and bicycle ramp, irrigation, landscaping, lighting and hardscape at its sole cost and expense. The methodology and facilities to be placed upon City's land shall initially be as diagrammed and described in Exhibit A, attached hereto and incorporated herein. Any alteration of such improvements shall require the approval of City acting through its City Manager.

4. University at its sole cost and expense shall maintain the Project Area together with any improvements constructed or installed thereon in accordance with the maintenance standards attached hereto as Exhibit C and incorporated herein by reference (the "Maintenance Standards"). Following consultation with University, and with the approval of the University, not to be unreasonably withheld, delayed or conditioned, the City may from time to time modify and amend the Maintenance Standards based on changing conditions and/or then customary municipal maintenance standards or methodologies.

5. In the construction, maintenance, repair or replacement of the Project or Project Area, University at its sole cost and expense shall comply and shall cause all of its contractors, subcontractors and agents to comply with all applicable laws, ordinances and regulations including but not limited to all applicable regulatory, environmental and safety requirements, and the Prevailing Wage Act, Section 290.230.1 RSMo. For all construction, maintenance, repair, replacement or other work by University within the envelope of the MetroLink light rail facility, University shall comply with Standard Operating Procedures 101.17 and 101.23 of The Bi-State Development Agency of the Missouri-Illinois Metropolitan District.

6. (a) Subject to Section 6(b), University shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the City and its elected officials and employees from and against any claims, actions, suits, demands, damages, liabilities, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney's fees and costs) ("Claims") (i) asserted by a third party that a sale, disposition or use other than as a public park or recreational facility of Greenway South park or any portion thereof has occurred without the approval by a majority of the qualified electors voting thereon at an election called pursuant to an ordinance duly adopted by the City Council of the City, all within the meaning of Section 98 and/or 101 of the Charter of the City, or (ii) to the extent caused by the action, inaction, negligence or misconduct of University or parties for whom University is legally liable, for personal or bodily injury, death or damage to personal property arising out of the construction, maintenance, use, repair, removal or replacement of the Project or the Project Area by University or its agents, employees, contractors, or assigns pursuant to this Agreement or any other agreement which allows or causes such party to perform work with respect to the Project. The City shall promptly notify University of any Claim for which indemnification is sought, following actual knowledge by the City of such Claim, provided however that the failure to give such notice shall not relieve University of its obligations hereunder except to the extent University is materially prejudiced by such failure. After City provides notice to University of any Claim or related legal proceeding from which it expects to be indemnified, University shall immediately and with no cost to City assume the defense thereof; or at City's option, City may defend, settle or otherwise deal with any Claim or legal proceeding and shall then be promptly reimbursed by University for any and all reasonable attorney's fees, costs, and all other Claims as provided herein. The parties shall reasonably cooperate and consult with one another, but City shall have sole and exclusive control of the defense and settlement of any Claim, except that to the extent the Claim is for money damages City shall not concede, settle or compromise such Claim without the prior written approval of University, such approval not to be unreasonably withheld, delayed or conditioned.

(b) Nothing herein shall be deemed to waive the City's sovereign immunity.

7. To the extent any third party Claim seeks the payment of money (a) University shall have the right and option to undertake and control the defense thereof with counsel of its choice, provided however that (i) the City at its own expense may participate and appear on an equal footing with University in the defense thereof, and (ii) the City may undertake control of such defense in the event of the material failure of University to undertake and control the same, and (b) the City shall not concede or settle or compromise any such Claim without the prior written approval of University. To the extent any third party Claim does not seek the payment of money (c) City shall have the right and option to undertake and control the defense of such action with counsel of its choice, provided however that (i) University at its own expense may participate and appear on an equal footing with City in the defense of any such Claim, and (ii) University may undertake control of such defense in the event of the material failure of City to undertake and control the same, and (b) University shall not concede or settle or compromise any Claim without the prior written approval of City. Regardless of which party shall undertake control of the defense of any Claim, City and University shall consult with each other regarding the selection of counsel to serve as lead defense counsel.

8. The University will mitigate damage, if any, to the land or improvements of the residences on Westgate Avenue, the rear property lines of which immediately adjoin the project area, caused by or resulting from the construction, maintenance or repair of the Project or Project Area. The obligations of the University under this Section 7 (a) are limited to matters first brought to the attention of the University within two (2) years after the Project is placed in service, (b) do not include defects, damage or other conditions existing prior the date construction of the Project begins, and (c) do not include damage caused by or resulting from acts or omissions of third parties and/or the owners of such residences (for example, damage resulting from improvements made by or for a homeowner on their own property).

9. University currently provides limited security services in the vicinity of the Project, as described in Exhibit D attached hereto and incorporated herein by reference (the "Current Security Services"). The University will provide security services in the vicinity of the Project at substantially no less than the Current Security Services for a minimum period of five (5) years from the date of this Agreement (the "Minimum Period"). At this time, beyond the Minimum Period the University anticipates it will continue to provide some level of security services in the vicinity of the Project for the foreseeable future, but is not able to and does not commit to provide any such services indefinitely or that the level of such services will remain unchanged. University and City mutually acknowledge that state and local governmental units have the authority and responsibility to provide police, fire protection, emergency and other governmental services to the community. Nothing in this Agreement supplants the authority or responsibility of City to provide governmental services, including police services, to the City of University City community.

10. **CITY MAKES NO WARRANTY OR COVENANT AS TO THE EXISTING OR FUTURE CONDITION OF THE PROJECT OR PROJECT AREA OR WHETHER THE PROJECT OR PROJECT AREA IS FIT FOR ANY INTENDED PURPOSE OR ANY OTHER WARRANTY OR COVENANT.**

11. University may not transfer or assign its rights or obligations hereunder to any other entity whatsoever, including any state or federal political subdivision, without the prior written consent of City in its discretion.

12. University represents and warrants that University has the full authority to enter into this Agreement and to perform all obligations imposed upon University.

13. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect except in a subsequent modification in writing, signed by the parties.

[balance of this page intentionally left blank]

IN WITNESS WHEREOF, the party or parties have set their hands the day and date first above written.

City:

City of University City

By: _____

Gregory Rose
City Manager

STATE OF MISSOURI

)

)SS.

COUNTY OF ST. LOUIS

)

On this ____ day of _____, 2018 before me personally appeared Gregory Rose, City Manager of the City of University City, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed on behalf of the City of University City.

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

Notary Public

My term expires:

University:

THE WASHINGTON UNIVERSITY

By: _____

Amy B. Kweskin
Vice Chancellor for Finance and Chief
Financial Officer

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

On this ____ day of _____, 2018, before me appeared Amy B. Kweskin, to me personally known, who being by me duly sworn, did say that she is the Vice Chancellor for Finance and Chief Financial Officer of THE WASHINGTON UNIVERSITY, a corporation organized and existing by Act of the General Assembly of the State of Missouri approved February 22, 1853 and acts amendatory thereto, 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 corporation by authority of its board of directors, and acknowledged said instrument to be the free act and deed of said corporation.

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.

Notary Public

My commission expires:

EXHIBIT A

Description of Project

The following are hereby incorporated herein by reference:

1. Materials presented at the January 23, 2017 study session of City Council:
 - A. Proposal dated July 28, 2016 and attachments thereto submitted by the University
 - B. Memorandum dated November 7, 2014 from Great Rivers Greenway
2. Materials presented at the March 2, 2017 town hall meeting:
 - A. Slides of presentation by the University
3. New Bridge & Site Improvements GMP Submission

<http://apps.ucitymo.org/PublicPortal/Browse.aspx?startid=111366>

Washington University in St. Louis
NEW BRIDGE & SITE IMPROVEMENTS
1 BROOKINGS DR
ST. LOUIS, MO 63130
WUSTL PROJECT NO. 2015663X
ASO PROJECT NO. 2159122
GMP SUBMISSION
SEPTEMBER 9, 2016

PROJECT TEAM

PROJECT LEADERS	CONSULTANTS	ADVISORS
John R. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 jrsmith@wustl.edu	Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu	John R. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 jrsmith@wustl.edu
Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu	Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu	Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu
Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu	Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu	Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu
Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu	Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu	Michael J. Smith Senior Project Manager 1000 N. Grand Blvd. St. Louis, MO 63103 msmith@wustl.edu

Exhibit B

Description of Project Area

DRAFT

Exhibit C

Maintenance Standards

DRAFT

Greenway South Ramp and Landscaping Maintenance Standards

Washington University in St. Louis will maintain the paved and landscape areas associated with the newly installed ramps and site improvements in accordance with the following maintenance standards.

These standards are based on the Greenway Level of Care Guidelines (LOC) prepared by the Great Rivers Greenway District (GRG). The goal of the GRG LOC Guidelines is to promote a consistent, well-maintained and safe greenway systems that extends across many jurisdictional boundaries of the many Greenway partners. As these improvements are a part of GRG's Centennial Greenway, it is appropriate to use these standards. The standards were developed in a comprehensive process utilizing industry experts and stakeholders resources. It is GRG's intention to use these standards in all operation and maintenance cooperation agreements between GRG and their partners which outline the transfer of the developed greenway facilities to the partner and the partner's responsibility to operation and maintain them.

The LOC guidelines include an annual level of care review and a Capital Facility Assessment to be performed every two to three years. Washington University will provide a report after each LOC review and after the Capital Facility Assessment. If deemed necessary by the assessment, the University will create a schedule of planned repairs and improvements to be reviewed and approved by the Public Works Department of the City of University City.

In addition to the GRG standards, Washington University contracted with SWT Design to provide specific guidelines for the exact varieties and species of plant materials to be included in the project area.

Washington University follows all Occupational Safety and Health Administration (OSHA) and American National Standards Institute (ANSI) procedures and protocols for site maintenance and operations. Grounds staff are identifiable by uniform clothing and applicable safety equipment. The Grounds Crew currently operates under maintenance business hours, but loud equipment and machinery use occurs between the hours of 9 am and 4 pm. Winter storm events may alter this schedule in an effort to provide a safe environment for the public use of the bridge.

Predicted intensity of a winter weather event dictates the amount, frequency, and duration of treatment of walkways and other paved surfaces. The Grounds Crew currently strives to have all walks cleared by 9 am following an overnight winter weather event. Winter precipitation is removed during and after a winter weather event as appropriate. In the event of an intense winter weather, paved surfaces are cleared within 24 hours following the conclusion of the storm.

As part of the standard maintenance practices, a general site inspection will be conducted daily Monday through Friday to inspect for litter and any other issues that may arise, including storm events, graffiti, and general site compliance. In the event that graffiti is encountered, Washington University has a policy of removing it the same day as discovered, unless extraneous measures are required for removal. Required maintenance on life safety equipment such as railings, lighting, security communications devices are addressed through the Campus Work Order Process.

Tree health and risk will be evaluated in addition to the yearly inspection following severe weather events (severe thunderstorms, snow, ice events). Area landscape drains will also be inspected in the same manner following heavy rainfall events.

Bridge and Ramps	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Maintenance												
Remove trash/debris and sweep as needed to maintain clean surface	20	20	20	20	20	20	20	20	20	20	20	20
Check for damage, graffiti and trip hazards	20	20	20	20	20	20	20	20	20	20	20	20
Clean surface - pressure wash or brush as needed						1						
Paint or repair steel coatings per manufacturer's recommendations						1						
Caulk un-welded seams needing repair with high quality clear exterior silicone caulk						1						
Annual Level of Care Review including - visual inspection of bridge superstructure components including decking condition, fasteners, expansion joints, walls, drainage systems and coatings. Check for rust and/or chipped coating systems. Visual inspection of abutments, walls and piers looking for erosion, cracks, damage and trees, limbs or debris hung onto the structures.							1					
Capital Facility Assessment - Every 2-3 years												
Formal structural inspection and reporting of structural components of bridge by a MO licensed structural engineer following standardized inspection procedures (i.e. Federal Highway's National Bridge Inspection Standards, MoDOT, AASHTO, St. Louis County Highways and other similar inspection policy guides.												

Greenway South Landscape and General Site Maintenance Standards

Maintenance Functions (Listed as number of expected occurrences)	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
General Site Maintenance													
General Site Inspection	20	20	20	20	20	20	20	20	20	20	20	20	240
- Litter Control	20	20	20	20	20	20	20	20	20	20	20	20	240
- General appearance of other site amenities	20	20	20	20	20	20	20	20	20	20	20	20	240
Drain Inspections*			1			1			1				4
Snow Removal*	2	2	2								1	2	9
Tree Care													
Fertilization (as necessary)												1	1
Tree Risk & Health Assessment					1								1
Tree Replacement (as needed)												1	1
Leaf Pick-up			1							2	2	1	6
Mulching of Trees			1										1
Planting Bed Maintenance													
Fertilization (annually)			1										1
Planting Bed Maintenance (weeding, pest/diseases, dead-heading)			1	1	2	2	2	2	2	1	1	1	15
Plant Replacements (as needed)				1					1				2
Mulch Cultivation										1			1
Mulch Application (1" of Mulch per yr)			1										1
Lawn Maintenance													
Mowing			1	2	5	4	5	4	4	2	1		28
Trim along paved areas & bed edges			1	2	5	4	5	4	4	2	1		28
Turf Fertilization & Weed Control				1		1			1				3
Turf Aeration & Overseed									1				1
Irrigation Maintenance													
Start-up & Shut Down					1							1	2
Backflow Inspection				1									1
Irrigation Inspection & Monitoring				1	1	1	1	1	1	1			6
Irrigation Repairs (as needed)				1		1			1				3

* Drain Inspections and Snow Removal is weather dependent and will be adjusted as necessary.

Plant Description Key

- Full Sun
- Part Sun
- Full Shade
- Showy Flowers
- Winter Interest
- Fall Color
- Fruit
- Rain Garden
- Screen/Hedge
- Parking Lot/Shade
- Street Tolerant
- Wetland
- Dry Swale
- Green Roof Plant
- Attracts Butterflies
- Attracts Birds
- Attracts Hummingbirds
- Fragrant
- Poisonous
- Native
- Medicinal Properties
- Known: Deer Resistance
- Known: Rabbit Resistance
- Edible
- Low Moisture
- Medium Moisture
- High Moisture



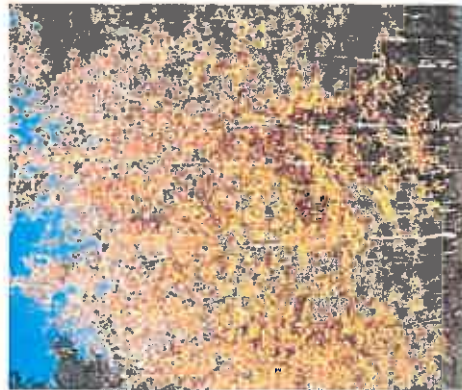
Liquidambar styraciflua 'Etna'



Platanus x acerifolia 'London Planetree'



Quercus phellos 'Willow Oak'



Populus tremuloides 'Prime Gold'



Nyctax sylvatica 'Red Edge'



Halesia carolina 'Carolina Silverbell'



Cercis canadensis - Eastern Redbud



Chionanthus virginicus - White Fringetree



Carpinus caroliniana - American Hornbeam



Picea abies - Norway Spruce



Hamamelis vernalis - Vernal Witch Hazel



Itos virginica 'Little Henry' - Virginia Sweetshrub





Naihana squillosum - Oregon Grasshody



Chelone obliqua - Turtlehead



Carex praegracilis - Tollway Sedge



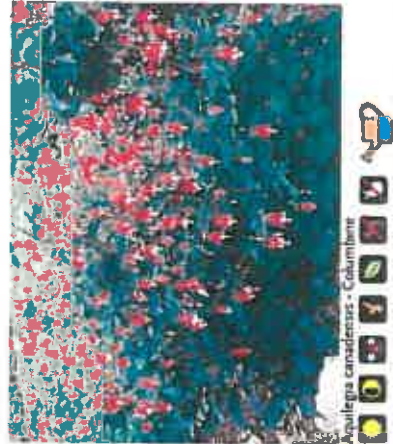
Panicum polyanthes - Dwarf Bamboo



Carex glauca 'Blue Zinger' - Blue Sedge



Iris pallida 'Variegata' - Variegated Iris



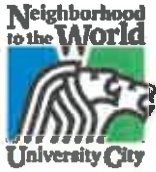
Aquilegia canadensis - Columbine

Exhibit D

Current Security Services

Two security officers (not police officers) from 6:00 pm to 2:00 am, 7 days a week, 365 days a year, patrolling one at the south end, one at the north end, from the bridge to where the walkway reaches Washington Avenue, including periodic patrol of portions of intervening streets and alleyways; no set pattern of patrol; and subject to exceptions such as for breaks, illness, force majeure, other customary interruptions. The presence of a security officer at or near any given location at or near any given time cannot be assured.

DRAFT



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: A Resolution urging Missouri State Legislators to adopt laws to prevent gun violence and promote safe schools

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

The attached Resolution urging Missouri State Legislators to adopt laws to prevent gun violence and promote safe schools is requested by Councilmember Rod Jennings and Mayor Welsch.

ATTACHMENTS:

1. Resolution 2018-4

RESOLUTION NO. 2018-4

A RESOLUTION URGING MISSOURI STATE LEGISLATORS TO ADOPT LAWS TO PREVENT GUN VIOLENCE AND PROMOTE SAFE SCHOOLS

WHEREAS, The City Council of University City Missouri, St. Louis County stand in unwavering solidarity with the City and School District of Parkland Florida, Broward County during their darkest hour of pain and sorrow caused by the mass murder of students at the Marjory Stoneman Douglas High School, as well as all other victims of similar events; and

WHEREAS, the City Council considers the safety and well-being of all citizens of the City of University City and the Great State of Missouri to be the most important duty of the all elected officials regardless of political affiliation. The safety and security of all school aged children is an uncompromising obligation that must be accomplished through bi-partisan, rational and logical consensus by all members of the Missouri Legislature.

When crafting new legislation, we encourage Missouri State Legislators to:

- Limit weapon ownership by people with mental illness, history of violence toward others or threat thereof, and record of criminal activity,
- Enhance the effectiveness and extent of background checks,
- Consider reasonable restrictions on weapons that have no civilian purpose,
- Impose minimum age requirements for the purchase of weapons, and
- Consider requiring minimum levels of security in all public or state chartered schools and providing appropriate funding.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI URGES STATE LEGISLATORS TO ADOPT LAWS TO PREVENT GUN VIOLENCE AND PROMOTE SAFE SCHOOLS.

PASSED and RESOLVED this 26th day of March, 2018.

Mayor Shelley Welsch

Councilmember Terry Crow

Councilmember Rod Jennings

Councilmember Michael Glickert

Councilmember Paulette Carr

Councilmember Bwayne Smotherson

Councilmember Steve McMahon

ATTEST, LaRette Reese, City Clerk



Council Agenda Item Cover

MEETING DATE: March 26, 2018
AGENDA ITEM TITLE: Resolution for Fiscal Year 2017-2018- Budget Amendment # 3
AGENDA SECTION: New Business
CAN THIS ITEM BE RESCHEDULED? : No

BACKGROUND REVIEW: Attached is the third budget amendment of fiscal year 2018.

Economic Development Sales Tax

The University City School District, local businesses and the City have funded a "Summer Youth Program" for the past four years. The program was previously run by a volunteer individual whom is no longer available. For the summer of 2018, this program will be managed by the Chamber of Commerce. This change results in the need of \$5,000 funding from the EDRST fund.

To accomplish the above program, \$5,000 needs to be transferred from EDRST fund reserve.

EDRST Fund Balance

Below is an estimated EDRST Fund reserve after this amendment:

Unassigned fund balance as of July 1 , 2017	\$ 1,544,800.00
Projected net change in fund balance for FY 2018 Budget	51,000.00
Budget Amendment # 1	(50,000.00)
Budget Amendment # 3	(2,500.00)
	<hr/>
	\$ <u>1,543,300.00</u>

The resolution for approval of the amendment is attached.

RECOMMENDATION: City Manager is recommending approval

Resolution 2018 - 5

**A RESOLUTION AMENDING THE FISCAL YEAR 2017-2018 (FY18)
BUDGET – AMENDMENT # 3 AND APPROPRIATING SAID AMOUNT**

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of University City, Missouri, that the Annual Budget for the fiscal year beginning July 1, 2017, was approved by the City Council and circumstances now warrant amendment to that original budget.

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

Adopted this 26th day of March, 2018

Mayor

Attest:

City Clerk

Certified to be Correct as to Form:

City Attorney



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: An Ordinance Fixing the Compensation to be paid to City Employees as enumerated herein from and after April 1, 2018, and repealing Ordinance No. 7044

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED? : Yes

STAFF REPORT:

This agenda item asked the Mayor and Council to consider the addition of three positions to the staffing and compensation ordinance. The Assistant Finance Director position is needed to address the concerns outlined in the auditor report relative to the separation of duties. The sanitation superintendent and the fleet manager positions were both deleted and should be reinstated. The position of Fleet and Sanitation Superintendent can be deleted if the Sanitation Superintendent position is reinstated.

Title	Pay Grade	Minimum	Maximum
Asst. Dir of Finance	20	\$ 63,513	\$ 79,777
Fleet Manager	15	\$ 49,273	\$ 63,383
Sanitation Superintendent	18	\$ 57,739	\$ 72,525

RECOMMENDATION: City Manager is recommending approval to add the Assistant Finance Director, Fleet Manager, and Sanitation Superintendent position and to delete the Fleet and Sanitation position.

ATTACHMENT: Bill No. 9356
Schedule B includes the above three positions:

- Assistant Director of Finance
- Fleet Manager
- Sanitation Superintendent

Job Description for Asst. Dir of Finance, Fleet Manager and Sanitation Superintendent

INTRODUCED BY:

DATE: March 26, 2018

BILL NO. 9356

ORDINANCE NO:

AN ORDINANCE FIXING THE COMPENSATION TO BE PAID TO CITY OFFICIALS AND EMPLOYEES AS ENUMERATED HEREIN FROM AND AFTER ITS PASSAGE, AND REPEALING ORDINANCE NO 7044.

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

Section 1. From and after its passage, initially payable April 1, 2018 City employees within the classified service of the City, hereinafter designated, shall receive as compensation for their services such amounts as may be fixed by the City Manager in accordance with Schedule A (Pay Grade), included herein, with a salary not less than the lowest amount and not greater than the highest amount set forth in Schedule B (Classification and Grade), and shall additionally receive as compensation for their services such benefits generally provided in the Administrative Regulations, and Civil Service Rules now in effect, all of which are hereby adopted, approved, and incorporated herein by this reference, and the City Manager is further authorized and directed to effect the inclusion of these benefits in the City's Administrative Regulations in the manner provided by law.

SCHEDULE A - HOURLY BASE PAY STEPS						
Pay Grade	Step A	Step B	Step C	Step D	Step E	Step F
3	13.8541	14.5229	15.2108	15.9561	16.6759	17.4912
4	14.3254	14.9879	15.7268	16.4402	17.2364	18.0708
5	15.2108	15.9561	16.6759	17.4912	18.3256	19.2492
6	15.7268	16.4402	17.2364	18.0708	18.9817	19.9053
6A	15.9561	16.6759	17.4912	18.3256	19.2492	20.1856
7	16.9498	17.9180	18.7842	19.6951	20.6824	21.6506
7B	17.1154	18.0963	18.9690	19.8926	20.8862	21.8608
7C	17.4084	18.2492	19.1664	20.0964	21.0327	22.0455
8	17.8670	18.8862	19.7970	20.7525	21.7971	22.8163
8A	17.6568	18.5167	19.4212	20.3894	21.3449	22.3449
9	18.0708	18.9817	19.9053	20.8289	21.8290	22.8608
9B	18.3256	19.2492	20.1856	21.1347	22.1411	23.2048
9A	18.4721	19.3702	20.3321	21.3130	22.2939	23.3640
9C	18.5040	19.4403	20.3894	21.3385	22.3576	23.4341
9D	19.0263	20.1155	21.0837	22.1028	23.2112	24.3004
10	19.1346	20.0454	21.0518	22.0392	23.1029	24.1794
10A	20.1601	21.1283	22.1920	23.2239	24.3450	25.4788
11	19.7588	20.7525	21.7207	22.7653	23.8290	25.0202
11B	20.2684	21.3003	22.2685	23.3577	24.4405	25.8482
12	20.7525	21.7207	22.7653	23.8290	25.0202	26.2177
12D	20.9690	21.9755	23.0774	24.1539	25.3195	26.4979
12A	21.2238	22.2430	23.3004	24.4150	25.5998	27.0903
12B	21.5359	22.5678	23.6379	24.7718	25.9693	27.4852
12C	21.7461	22.7844	23.8673	25.0138	26.2240	27.7528
13	21.7207	22.7653	23.8290	25.0202	26.2177	27.4407
13A	22.2494	23.3258	24.4150	25.6317	26.8610	28.1095
13P	22.8991	24.0010	25.1221	26.3833	27.6445	28.9375
14	22.7653	23.8290	25.0202	26.2177	27.4407	28.7847
14A	23.4341	24.5297	25.7591	26.9884	28.2496	29.6318
14P	24.3959	25.5361	27.0648	28.3579	29.6764	31.1669
15	23.6889	24.8546	26.0266	27.2305	28.5362	30.4726
16	24.6061	25.7654	26.9502	28.2496	29.5936	32.0141
16P	0.0000	0.0000	0.0000	32.0268	33.3708	35.1289
17	26.5871	27.7910	29.0968	30.4535	31.8294	33.2753
17A	26.3960	27.7146	29.1095	30.5618	32.0842	33.6893

SCHEDULE A (CONTINUED)

Grade	Step A	Step B	Step C	Step D	Step E	Step F
18	27.7591	29.0840	30.5300	31.8676	33.3326	34.8677
18A	27.8292	29.3006	30.8357	32.4663	34.1734	35.9633
18B	28.4025	29.7656	31.1733	32.6065	34.1097	35.6767
18P	0.0000	0.0000	0.0000	36.7149	38.2946	40.2437
19	28.5362	29.8930	31.2688	32.7084	34.2116	35.8168
20	30.5350	31.9924	33.5829	35.0545	36.6659	38.3546
20F	0.0000	0.0000	0.0000	27.7310	29.0458	30.4608
20P	0.0000	0.0000	0.0000	41.4094	43.0719	45.3331
21	32.3772	34.1798	35.7467	37.7914	39.5877	41.0718
22	33.6638	35.3454	37.1162	38.9698	40.9189	42.9636
22A	34.7403	36.3073	37.9825	39.7915	41.6323	43.6706
22B	34.3900	36.2754	37.9124	40.0527	41.9253	43.4796
23	36.1162	37.7850	39.5813	41.4094	43.4413	44.5624
24	36.3328	37.5557	39.3074	41.2565	42.3394	45.4669
24F	0.0000	0.0000	0.0000	43.5496	45.6389	48.2568
24P	0.0000	0.0000	0.0000	46.3905	48.4925	50.6837
25	37.5430	39.3074	41.2565	42.3394	45.4669	47.6644
25A	40.1928	42.1738	44.2567	46.4415	48.7409	51.1487
25F	0.0000	0.0000	48.5116	50.8875	53.3335	56.4037
26	39.3074	41.2565	42.3394	45.4669	47.6644	50.0212
27	45.8363	47.0211	50.4480	52.8621	55.4482	58.7159
27P	47.3969	49.6964	52.1105	54.6393	57.2954	60.0917
28	47.0020	49.3206	51.7602	55.9387	58.4420	60.0917
	Step B	Step C	Step D	Step E	Step F	Step G
11A	17.7592	18.7431	19.4385	19.9501	20.5099	20.9909
11M	19.9982	21.0696	21.8043	22.3247	22.9063	23.4180
16M	24.3538	25.7051	26.6104	27.2882	28.0316	28.5127

SCHEDULE B - ANNUAL BASE PAY			
Title	Pay Grade	Minimum	Maximum
Parking Attendant			
Police/Fire Cadet	3	28,817	36,382
Custodian			
Laborer	4	29,797	37,587
Laborer/Light Equipment Operator	6	32,712	41,403
Advanced Clerk Typist			
Court Clerk II	6A	33,189	41,986
Administrative Secretary	7	35,256	45,033
Account Clerk II	7C	36,209	45,855
Victim Service Advocate	8	37,163	47,458
Equipment Operator			
Recreation Coordinator	8A	36,726	46,477
Print Shop Operator	9B	38,117	48,266
General Maintenance Worker			
Heavy Equipment Operator	9A	38,422	48,597
Tree Trimmer			
Senior Account Clerk	9C	38,488	48,743
Dispatcher	9D	39,575	50,545
Accounts Payable Specialist			
Administrative Assistant			
Exec. Secretary to Chief	10	39,800	50,293
Exec. Secretary to Department Director			
Recreation Supervisor I			
Accountant			
Community Service Specialist	11	41,098	52,042
Engineering Service Specialist			
Inspector I			
Firefighter	11A	51,715	54,580
Crew Leader	11B	42,158	53,764
Paramedic Firefighter	11M	58,235	61,355
Court Administrator			
Inspector II			
Senior Accountant	12	43,165	54,533
Senior Administrative Asst.			
Solid Waste Program Manager			
Lead Dispatcher	12D	43,616	55,116

SCHEDULE B - (CONTINUED)			
Title	Pay Grade	Minimum	Maximum
Project Manager I Recreation Supervisor II	12B	44,795	57,169
Multi-Discipline Inspector	12C	45,232	57,726
Mechanic	13	45,179	57,077
Police Officer Trainee	13P	47,630	60,190
Forestry Supervisor Golf Maintenance Superintendent Golf Manager Lead Mechanic Administrative Analyst Senior Plan Reviewer / Building Inspector	14	47,352	59,872
Planning/Zoning Administrator Project Manager II Manager of Economic Development	14A	48,743	61,634
Police Officer	14P	50,744	64,827
Assistant Recreation Superintendent Fleet Manager Human Resources Manager	15	49,273	63,383
Paramedic Fire Captain	16M	70,918	74,853
Police Sergeant	16P	66,616	73,068
Facilities Manager Financial Analyst	17	55,301	69,213
Sanitation Superintendent Street Superintendent	18	57,739	72,525
Information Technology Coordinator Senior Public Works Manager	18B	59,077	74,207
Police Lieutenant	18P	76,367	83,707
Assistant Dir. of Finance Deputy Dir. of Planning, Zoning & Econ. Dev. Deputy Dir. of Recreation Building Commissioner	20	63,513	79,777
Battalion Chief	20F	80,753	88,702
Police Captain	20P	86,132	94,293
Assistant Fire Chief	24F	90,583	100,374

Section 2. From and after July 1, 2017, seasonal and part-time employees of the City may be employed at an hourly rate in accordance with the following Schedule C (hourly pay rates for seasonal and part-time employees).

Schedule C

Hourly Rates for Seasonal and Part-Time Employees

Title of Class	Grade Code	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H
Rec. Spec. I Youth Job Corps Worker Cashier Park Attendant	P02 P04 P06					7.35	7.51	7.76	8.02
Lifeguard	P05					7.76	8.02	8.27	8.53
Rec. Spec. II Assistant Pool Manager	P07 P11					8.07	8.33	8.58	8.84
Pool Technician	P09					7.35	7.56	7.81	8.07
Rec. Spec. III	P10					8.84	9.09	9.35	9.61
Pool Mgr./Camp Mgr.	P12					9.55	10.07	10.58	11.09
Rec Program Leader	P14		7.51	7.76	8.02				
Rec Program Supervisor	P17		9.55	10.07	10.58				
Golf Shop Supervisor Parking Controller*	P13								
Clerical Aide Labor Aide	P15		7.56						
Traffic Escort	P16		8.15						
PT Clerk Typist	P18		8.15						
PT Adv. Clerk Typist*	P19			12.75					
PT Court Clerk*	P20		14.10						
PT Police Cadet* Fire Cadet*	P22		9.92						
Admin Secretary	P24	11.97	12.54	13.15					
Intern	P25	7.84	8.92	9.99	11.07	13.50			
PT Custodian, Laborer	P26	9.47	9.98	10.50	11.00	11.52			
PT Dispatcher*	P27	16.62	17.55	18.40	19.31	20.27			
PT Paramedic/Firefighter*	P28	19.99							
PT Public Works/Parks Inspector*	P29	20.81							

*These positions are permanent Part-time, the rates include 2% cost of living adjustment.

Section 3. From and after May 23, 2011, initially payable May 27, 2011, City employees in the unclassified service of the City, except as otherwise noted, shall receive as full compensation for their services the amounts hereinafter set forth, or where a grade in salary is specified, such amounts as may be fixed by the City Manager within the specified grade. Non-executive and executive personnel in a grade shall be paid in accordance with Schedule A (Pay Step Schedule).

Schedule D
Pay Rates for the Unclassified Service, Part-Time,
Temporary or Special Grant Funded Positions

<u>Grade Code</u>	<u>Title of Position</u>	<u>Monthly Salary</u> (except as noted)
S04 A	Judge of City Court (Substitute)	\$150 per session
S05 A	Judge of City Court	\$500 per session
S06 A	Prosecuting Attorney (Substitute)	\$150 per session
S07 A	Prosecuting Attorney	\$2,500 per month

SCHEDULE D	ANNUAL BASE PAY		
	Pay Grade	Minimum	Maximum
Title			
City Manager	S04	170,000	170,000
Interim City Manager	S03	143,530	143,530
Secretary to City Manager	10	39,800	50,293
City Clerk	18B	59,077	74,207
Interim City Clerk/Secretary to City Manager	18B	59,077	74,207
Director of Community Development	25A	83,601	106,389
Fire Chief	25F	100,905	117,319
Director of Finance			
Director of Public Works and Parks	27	95,339	122,129
Police Chief	27P	98,586	124,991

Section 4. From and after June 29, 1994, all full-time non-executive, non-administrative or non-professional employees shall be subject to the work week or work cycle and regulations relating to overtime work, except as noted. A listing of executive, administrative, and professionally designated employees or positions shall be issued by the City Manager.

1. Department directors shall not be paid overtime nor receive compensatory time for hours worked in excess of 40 per week.
2. Department directors may grant compensatory time on a straight time basis to their designated executive, administrative, or professional employees for hours worked in excess

- of 40 hours per week. Such employees are exempt from FLSA provisions.
3. The normal work week for full-time office, field, maintenance, and police personnel, and for police and fire executive and administrative employees, is set at 40 hours per week.
 4. Hours worked in excess of 40 hours per week, when authorized in advance by department directors, may be paid at the rate of time and one-half or in lieu thereof, department directors in their discretion may grant compensatory time off also at the rate of time and one-half up to an accumulation allowable under FLSA provisions.
 5. The average work week of Battalion Chiefs shall be 56 hours. They shall not be compensated for any hours in excess of 56 hours.

Section 5.

- A. From and after June 28, 2006, initially payable July 14, 2006, the commissioned Police personnel, in the pay grades shown, shall receive compensation for five years consecutive City service, with the exception of military leave of absence, in their present classification in the following amounts, from the sixth (6th) year through the seventh (7th) year:

<u>In Pay Grade</u>		<u>Monthly Amount</u>
16P	Police Sergeant	\$63
18P	Police Lieutenant	67
20P	Police Captain	71

- B. From and after June 28, 2006, initially payable July 14, 2006, the commissioned Police personnel, in the pay grades shown, shall receive compensation for seven years consecutive City service, with the exception of military leave of absence, in their present classification in the following amounts, from and after the eighth (8th) year through the tenth (10th) year:

<u>In Pay Grade</u>		<u>Monthly Amount</u>
14P	Police Officer	\$49
16P	Police Sergeant	123
18P	Police Lieutenant	132
20P	Police Captain	142

- C. From and after June 28, 2006, initially payable July 14, 2006, the commissioned Police personnel, in the pay grades shown, shall receive compensation for ten years consecutive City service, with the exception of military leave of absence, in their present classification in the following amounts, from and after the eleventh (11th) year through the fourteenth (14th) year:

<u>In Pay Grade</u>		<u>Monthly Amount</u>
14P	Police Officer	\$80

- D. From and after June 28, 2006, initially payable July 14, 2006, the commissioned Police personnel, in the pay grades shown, shall receive compensation for fourteen years consecutive City service, with the exception of military leave of absence, in their present classification in the following amounts, from and after the fifteenth (15th) year:

<u>In Pay Grade</u>		<u>Monthly Amount</u>
14P	Police Officer	\$92

- E. From and after June 28, 2006, initially payable July 14, 2006, Paramedic Fire Captains, Firefighters, and Paramedic Firefighters shall receive compensation for seven (7) years consecutive City service, excepting military leave of absence, in their present classification in the following amounts, from the eighth (8th) year through the tenth (10th) year:

<u>In Pay Grade</u>		<u>Monthly Amount</u>
11A	Firefighters	\$77
11M	Paramedic Firefighters	\$77
16M	Paramedic Fire Captains	\$86

- F. From and after June 28, 2006, initially payable July 14, 2006, Firefighters and Paramedic Firefighters shall receive compensation for ten (10) years consecutive City service, excepting military leave of absence, in their present classification in the following amounts, from the eleventh (11th) year through the twentieth (20th) year:

<u>In Pay Grade</u>		<u>Monthly Amount</u>
11A	Firefighters	\$133
11M	Paramedic Firefighters	\$133
16M	Paramedic Fire Captains	\$133

- G. The following is only for Firefighters, Paramedic Firefighters, and Paramedic Fire Captains who will be receiving 20 years longevity pay on August 1, 2013, initially payable August 1, 2013, Firefighters, Paramedic Firefighters, and Paramedic Fire Captains shall receive compensation for twenty (20) years consecutive City service, excepting military leave of absence, in their present classification in the following amount, from the twenty-first (21st) year:

<u>In Pay Grade</u>		<u>Monthly Amount</u>
11A	Firefighters	\$168
11M	Paramedic Firefighters	\$168
16M	Paramedic Fire Captain	\$168

For the purpose of calculating consecutive service in this section, time served in the classifications of Firefighter and Paramedic Firefighter is combined for the same person.

Section 6. From and after June 25, 2008, all full-time employees shall have their hourly rate computed as follows:

1. The hourly rate for all full-time employees, who, according to Section 4, have a set or average work week of 40 hours, shall have their hourly rate computed by multiplying the monthly rate by 12, dividing that product by 2,080.
2. The hourly rate for full-time uniformed Battalion Chiefs of the Fire Department, who, according to Section 4, have an average work week of 56 hours, shall have their hourly rate computed by multiplying the monthly rate by 12, dividing that product by 2,912.

Section 7. Ordinance No. 7044 and all ordinances in conflict herewith are hereby repealed.

Section 8. This ordinance shall take effect and be in force from its passage as provided by law.

PASSED this 26th day of March, 2018.

MAYOR

ATTEST:

CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY



University City EMPLOYMENT OPPORTUNITY

Job Title	Assistant Director of Finance
Department	Finance
Posting Date	
Closing Date for Resumes/Applications	
Pay Range	Grade 20, Salary range: \$63,513 - \$79,777
Exempt/Non-exempt	Exempt
Status	Full-time

Position Summary

This is a professional position managing the accounting and payroll functions of the Finance Department. This position performs routine and complex supervisory, professional, administrative, and technical accounting and finance functions for the City. Work involves responsibility for supervising and participating in the maintenance and operation of the City's financial management system and related financial activities, for designing and improving financial reports and systems of control. This position exercises independent judgment in the application of accounting techniques, development or modification of procedures, problem solving and implementing technology solutions in a high workload environment.

Essential Duties and Responsibilities

The following duties are normal for this classification. These are not to be construed as exclusive or all-inclusive. Other duties may be required and assigned.

- Manages assigned operations to achieve goals within available resources.
- Plans and organizes workloads and staff assignments; trains, motivates, and conducts performance reviews for assigned staff; reviews progress and directs changes as needed; assists with the hiring process and oversees training of new personnel.
- Determines work procedures, expedites workflow; studies and standardizes procedures to improve efficiency and effectiveness of city operations; develops and implements procedures to strengthen internal controls; prepares and updates finance documents and written procedure manuals for the various functions within the department.
- Issues written and oral instructions; assigns duties and examines work for exactness, legibility and conformance to policies and procedures.
- Confers with and advises subordinates concerning day-to-day accounting and payroll operations, policies and procedures; assigns, monitors and audits special projects. Provides technical assistance for critical and confidential aspects of accounting and payroll functions.

- Prepares a variety of studies, financial reports, cash flow projections, budgetary forecasts and related information for decision-making purposes.
- Maintains and reconciles general ledger and subsidiary ledgers for all fund types, including receivable, payable, revenue and expenditure accounts. Review accounts for reasonableness. Maintain the city's official chart of accounts.
- Prepares and/or reviews journal entries; coordinates reconciliation of various bank accounts and general ledger accounts on a monthly basis; monitors actual expenditures against the budgeted amounts and monitors revenue receipts in comparison to budgeted revenue. Prepares budget transfers as needed and as required by city procedures. Confers with the Director regarding any potentially serious concerns.
- Coordinates distribution of monthly financial reports; assists in the preparation of schedules and account reconciliations for the annual audit, as well as the Comprehensive Annual Financial Report.
- Assists the Director in the development of short and long range financial plans; gathers, interprets, and prepares data for studies, reports and recommendations for decision-making purposes.
- Assists the Director in the compilation, review and preparation of annual budget.
- Coordinates financial activities with other departments and agencies as needed in a professional manner.
- Reviews bi-weekly payroll for accuracy and compliance with city policies and State and Federal regulations. Reviews quarterly and year-end payroll reports. Coordinates and reviews W-2 records for all employees.
- Reviews accounts payable, assuring appropriate account usage and appropriateness of payments, taking advantage of any discounts and avoiding late penalties. Coordinates the issuance of 1099 forms to appropriate vendors.
- Assists Director in banking relationships and activities, including bond issuance and bond payments.
- Handles city investment activities by collecting information, monitoring and maintaining records for city investments and daily cash requirements.
- Coordinates the updating of fixed assets and ensures reporting is in accordance with GAAP.
- Assures grants and other project expenditures and related revenues are recorded appropriately.
- Assists with implementation of software and ensures the city is taking full advantage of software capabilities.
- Serves as Acting Director of Finance in the absence of the Director.
- Performs all other related duties and projects as assigned.

Desired Knowledge, Skills, and Abilities

- Working knowledge of accounting theory, principles, and practices, particularly as applied to governmental accounting; working knowledge of public finance and fiscal planning; working knowledge of payroll and accounts payable functions; considerable knowledge of budgetary accounting and reporting systems, GAAFR, GAAP, and GASB.
- Considerable knowledge of internal control procedures and management information systems; working knowledge of office automation and computerized financial applications.
- Ability to prepare and analyze complex financial records and reports; ability to maintain efficient and effective financial systems; ability to maintain, analyze, and change financial procedures and reports; ability to accurately account for city funds.
- Advanced knowledge and skill in computer based applications such as spreadsheets, word processing, database programs, Internet and email.
- Ability to prepare and maintain departmental records of considerable complexity.
- Ability to prepare and analyze data independently or as assigned.
- Ability to prioritize and manage multiple tasks with accuracy and efficiency.
- Ability to regularly handle confidential and sensitive information.
- Ability to communicate effectively, both orally and in writing.
- Ability to maintain exceptionally courteous and customer-service oriented performance.
- Ability to establish and maintain effective working relationships with subordinates, co-workers, supervisors, city officials and the public; ability to work as a team member and foster a teamwork environment with subordinates.

Minimum Training and Experience Required to Perform Essential Job Functions

- Graduation from an accredited four-year college or university with a degree in Accounting or Finance. Master's degree preferred.
- Five (5) or more years of experience in an accounting environment with at least two (2) years of direct supervision and substantial financial system responsibilities.
- Candidate must also demonstrate proficiency with Word, Excel, Outlook, Access, and PowerPoint, and have the ability to learn others.
- CPA preferred, as well as fund accounting, accounts receivable, and payroll experience.

Physical Abilities Required to Perform Essential Job Functions

- The office environment is typical with no unusual requirements. Some travel between locations is required. Occasional outdoor situations with extreme temperatures.

Contact Information

Interested applicants should submit an application to: The City of University City Human Resources Department, 6801 Delmar Blvd. University City, MO 63130. Hours of operation are Monday through Friday 8:00 am to 5:00 pm. Employment applications can also be downloaded from the City's website and faxed to Human Resources at 314-863-0921. Website address for the employment application is:

www.ucitymo.org

The City of University City is an Equal Opportunity Employer and participates in E-Verify. In compliance with the Americans with Disabilities Act, the City will provide reasonable accommodations to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the employer.

University City Position Description

Position Title: Fleet Manager
Pay Grade: 15
Reports to: Parks and Street Maintenance Superintendent
Approved: September 2011

Purpose of Position

The primary purpose of this position is the management of the automotive repair shop.

Essential Duties and Responsibilities

The following duties are normal for this position. These are not to be construed as exclusive or all-inclusive. Other duties may be required and assigned.

- Determine schedules, sequences, and assignments for work activities, based on work priority, quantity of equipment and skill of personnel.
- Monitor employees' work levels and review work performance.
- Monitor tool and part inventories and the condition and maintenance of shops to ensure adequate working conditions.
- Investigate accidents and injuries, and prepare reports of findings.
- Recommend or initiate personnel actions, such as hires, promotions, transfers, discharges, and disciplinary measures.
- Compile operational and personnel records, such as time and production records, inventory data, repair and maintenance statistics, and test results.
- Develop, implement, and evaluate maintenance policies and procedures.
- Counsel employees about work-related issues and assist employees to correct job-skill deficiencies.
- Examine objects, systems, or facilities, and analyze information to determine needed installations, services, or repairs.
- Conduct or arrange for worker training in safety, repair, and maintenance techniques, operational procedures, or equipment use.
- Supervise the maintenance of work orders, inventories, and other shop and garage records.

Minimum Training and Experience Required

- High School Graduate - graduation from a Technical College preferred.
- ASE Certified.
- Minimum 5 years managing a fleet/garage/shop.
- APWA or NAFA Fleet Manager Certified.
- Class A CDL.
- Knowledge of modern automotive repair principles and safety measures.
- An equivalent combination of experience and education.

Physical Abilities Required to Perform Essential Job Functions

- This position works in a typical garage/shop/automotive repair environment to include heavy lifting, exposure to extreme temperatures, exposure to automotive oils, solvents, solutions, long periods of standing, and typical office work such as periods of sitting at the computer.

City of University City is an Equal Opportunity Employer. In compliance with the Americans with Disabilities Act, the City will provide reasonable accommodations to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the employer.

SANITATION SUPERINTENDENT

FLSA

NATURE OF WORK

This is a responsible supervisory and administrative position in directing residential refuse/recycling collection and disposal. Work involves responsibility for supervising the work of personnel engaged in refuse/recycling collection and disposal. The refuse collection superintendent is responsible for effectively scheduling and distributing crews and equipment and for maintaining satisfactory relations with the public. Major policy questions are discussed with superiors but routine collection operations are carried on independently. Work is reviewed through observation of results obtained.

EXAMPLES OF WORK

- Organizes, schedules and reviews the work of refuse collection crews working in assigned areas in the collection of various types of waste, in accordance with City policy.
- Makes investigation of complaints concerning the collection of refuse; visits person(s) failing to comply with City refuse collection requirements to obtain their cooperation.
- Checks operation of equipment; makes arrangements for repair of equipment.
- Selects, dismisses and promotes collection personnel in accordance with personnel rules and regulations; makes out administrative reports.
- Maintains continuous liaison with operating divisions of the department and the Director and on occasion may direct their activities, in consultation with the Director.
- Develop forms, reports and recommendations to streamline administrative and operational procedures of the departmental correspondence; drafts ordinances; coordinates and verifies project files, and keeps the Director informed of all activities.
- Has considerable public contact work as an administrative representative of the department, and assists in preparation for fairs and community clean-ups, in consultation with the Director.
- Investigates/resolves complaints from employees and residents, in consultation with the Director.
- Meets with the Director and Division Managers to make long-range goals and plans for recycling and other environmental programs.
- Performs related work as required.

DESIRABLE KNOWLEDE, ABILITIES AND SKILLS

- Ability to plan, layout, coordinate, inspect and supervise the work of a large number of collection crews.
- Ability to manage records and reports systems for a large group of employees
- Ability and skill to deal with human relations situations.
- Ability to contact members of the public to resolve difficulties and complaints, and to instruct residents about City refuse collection requirements.

- Knowledge of good maintenance and operational practices in usage of heavy truck equipment.
- Ability to learn within reasonable time a variety of departmental duties and responsibilities.
- Good computer skills, including proficiency with Microsoft Suite.
- Ability to prepare narrative and quantitative reports
- Must be especially courteous and customer-service oriented.

PHYSICAL/VISUAL ACTIVITIES OR DEMANDS

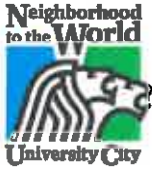
- Sitting, talking, hearing, walking, reaching, bending.
- Able to work inside and outside in all weather conditions.
- Concentrated mental and visual attention with normal hand-eye coordination.
- Clarity of vision at 20 inches-corrected or uncorrected.
- Occasional moving of items up to 50 lbs.

EQUIPMENT USED TO PERFORM JOB

- Telephone, computers, copy machine, fax, printers, scanner.
- Able to operate City issued truck.

DESIRABLE EXPERIENCE AND TRAINING

- At least 3 years experience in management including directing and supervising employees, programs and facilities plus college or technical degree or a combination of experience and education.
- Refuse/recycling collection and disposal experience desired; however, will train an exceptional candidate.



Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: MCIMETRO AGREEMENT AND SETTLEMENT

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH MCIMETRO ACCESS TRANSMISSION SERVICES CORPORATION.

RECOMMENDATION:

City Manager is recommending approval.

ATTACHMENTS:

- Bill 9357
- Exhibit A
- Exhibit B

INTRODUCED BY:

DATE: March 26, 2018

BILL NO. 9357

ORDINANCE NO. ____

AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH MCIMETRO ACCESS TRANSMISSION SERVICES CORPORATION.

WHEREAS, MCImetro Access Transmission Services Corp. (the "Licensee") has requested consent from the City to authorize its use of the City's Rights-of-Way to construct, install, maintain, and operate facilities for communications related capabilities; and

WHEREAS, Missouri law provides conditions relating to the City's consent to, and authorizes the City to regulate the use and occupancy of its Rights-of-Way for placement of various communications facilities; and

WHEREAS, the City is authorized to and has established standards for occupancy of the Rights-of-Way by communications facilities and other uses that are consistent with and recognize the Public Service Commission's duties and jurisdiction; and

WHEREAS, the City and Licensee have negotiated a Rights-of-Way Use Agreement for Communications Facilities ("ROW Use Agreement"), to establish the terms of Licensee's use of the Rights-of-Way, to replace and supersede all prior authority which Licensee may have operated under, and to incorporate the provisions and definitions of the City's Code of Ordinances, particularly the City's Rights-of-Way Code, Chapter 505, Article III; and

WHEREAS, the City and Licensee also desire to compromise, resolve, and settle their disputes regarding unpaid ROW compensation amounts due and payment obligations of Licensee asserted by the City, the provision of any prior agreements, and any tax credit or other credits Licensee claims as any offset to such amounts claimed owed for past use of the City's Rights-of-Way by Licensee and their predecessor entities (the "Dispute"), and a settlement and release relating to that Dispute between the City and Licensee is contained within Licensee's ROW Use Agreement; and

WHEREAS, the City Council now desires to enter into the ROW Use Agreement with MCImetro Access Transmission Services Corp., in substantially the form attached to this Ordinance in Exhibit A, attached hereto and incorporated herein by reference.

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

Section 1. The City Manager is hereby authorized to execute the ROW Use Agreement between the City and MCImetro Access Transmission Services Corp., in substantially the form of Exhibit A, attached hereto and incorporated herein by reference, relating to compensation for, and conditions upon, MCImetro Access Transmission Services Corp.'s use of the City's Rights-of-Way and resolution of the Dispute. The City Manager and designees are further authorized to

take such additional action as may be necessary or contemplated pursuant to this Agreement or to carry out the intent of this Ordinance.

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

PASSED AND APPROVED THIS ____ DAY OF _____ 2018.

By: _____
MAYOR

ATTEST:

CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY

Exhibit A
MCImetro Access Transmission Services Corp. ROW Use Agreement

**RIGHTS-OF-WAY USE AGREEMENT
FOR COMMUNICATIONS FACILITIES**

THIS RIGHTS-OF-WAY USE AGREEMENT FOR COMMUNICATIONS FACILITIES ("Agreement") is made and entered into as of the Effective Date (as defined in Section 11.1), by and between MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services, a Delaware corporation registered to do business in Missouri (the "Licensee"), and the City of University City, Missouri, a municipality of the State of Missouri (the "City"). Licensee and City may sometimes be referred to in this Agreement individually as a "Party" or collectively as the "Parties."

WHEREAS, Licensee has requested consent from the City to authorize its use of the City's Rights-of-Way to construct, install, maintain, and operate facilities for communications or related capabilities; and

WHEREAS, Missouri law provides conditions relating to the City's consent to, and authorizes the City to regulate the use and occupancy of its Rights-of-Way ("Rights-of-Way" or "ROW") for placement of various communications facilities; and

WHEREAS, the City is authorized to and has established standards for occupancy of the Rights-of-Way by communications facilities and other uses that are consistent with and recognize the Public Service Commission's duties and jurisdiction; and

WHEREAS, the City and Licensee desire to enter into this Agreement, to establish the terms of Licensee's use of the Rights-of-Way, and to incorporate the provisions and definitions of the ROW Code (as defined in Section 1.2); and

WHEREAS, the City and Licensee also desire to compromise, resolve, and settle their disputes regarding unpaid ROW compensation amounts due and payment obligations of Licensee asserted by the City, the provision of any prior agreements, and any tax credit or other credits Licensee claims as any offset to such amounts claimed owed for past use of the City's Rights-of-Way by Licensee and its predecessor entities (the "Dispute"), and a settlement and release relating to that Dispute between the City and Licensee is contained within Licensee's ROW Use Agreement; and

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

SECTION 1. GENERAL

1.1 Preservation of Police Power Authority. Any rights granted to Licensee pursuant to this Agreement are subject to the authority of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public.

1.2 Defined Terms. For purposes of this Agreement, the capitalized terms shall have the meanings as set forth herein and in the Code of Ordinances of the City, including specifically Article III of Chapter 505, and as may be amended (the "Code" or "ROW Code"). Words used in the present tense include the future tense, words in the single number include the plural number,

and words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning. The following additional capitalized terms shall also apply to this Agreement:

A. **"Communications"** The transmission via the Facilities, in whole or in part, between or among points specified by the user, of information of the user's choosing (e.g., data, video, voice), without change in the form or content of the information as sent and received, regardless of the statutory or regulatory scheme to which such transmissions may be subject.

B. **"Communications Service"** The transmission of writing, signs, signals, pictures, sounds or other forms of intelligence through wire, wireless or other means, including, but not limited to, any "telecommunications service," "enhanced service," "information service," or "Internet Service," as such terms are now, or may in the future, be defined under applicable law, and including all instrumentalities, Facilities, apparatus (Communications Facilities), and services (among other things, the receipt, forwarding, and delivery of Telecommunications) incidental to such transmission or designed to directly or indirectly facilitate or accept such transmission and shall also include "video services" as defined in § 67.2677 RSMo. The term "Communications Service" does not include the rental of conduit or physical facilities, which if proposed must be expressly separately approved in Exhibit A below or sought directly by such third party from City. Any party seeking to provide cable television, video services, or use wireless communication facilities shall be subject to additional and separate requirements, limitations and/or approvals of federal, state and local law and shall have on file with the City such authorization to provide such services prior to commencement.

1.3 **Agreement Subject to Provisions of ROW Code.** This Agreement fully incorporates the provisions of the ROW Code as if fully set forth herein, and Licensee agrees as a part of this Agreement to abide by the provisions of such Code and other applicable ordinances of the City as a ROW User, and to be subject to the enforcement by the City as provided therein and in this Agreement as a material term herein. This Agreement may establish Licensee obligations that are supplementary to the ROW Code, but nothing in this Agreement shall be deemed to waive any obligation or requirement applicable to Licensee authorized or established by the ROW Code. The consent to use the Rights-of-Way authorized by this Agreement is subject to the continuing accuracy during the term of this Agreement of the application information provided by and maintained by Licensee for this authorization as provided to and on file with the City.

SECTION 2. GRANT OF AUTHORITY TO USE THE RIGHTS-OF-WAY

2.1 **Agreements Non-Exclusive.** This Agreement shall grant nonexclusive privileges to use the Rights-of-Way. The City specifically reserves the right to grant, at any time, such additional agreements or other rights to use the Rights-of-Way for any purpose and to any other person, including itself, as it deems appropriate, subject to applicable federal and state law. Nothing in this Agreement shall relieve Licensee from its obligations to apply for and obtain all necessary permits for installation of its Facilities including excavation, building, electrical, zoning, etc. before installation of its Facilities within the Rights-of-Way.

2.2 Nature of Rights Granted by this Agreement. This Agreement shall not convey title to Licensee, equitable or legal in the Rights-of-Way, and gives only the right to occupy the City's Rights-of-Way for the purposes and for the period stated in this Agreement and subject to the requirements of this Agreement. This Agreement also shall not grant the right to use Facilities owned or controlled by the City or a third-party, without the separate consent of the City or such third-party owning or controlling the Facilities, nor shall it excuse Licensee from obtaining appropriate access or pole attachment agreements before locating on Facilities controlled or owned by the City or a third-party.

2.3 Grant. Subject to the terms and conditions of this Agreement, the ROW Code, and the conditions set forth on Exhibit A attached hereto and incorporated by reference into this Agreement, Licensee is hereby granted the nonexclusive right and privilege to construct, operate, and maintain Facilities in, through, over, above, and along the City's Rights-of-Way for the purposes of supplying Communications Service within the City, subject, however, to the terms and conditions herein set forth within this Agreement and the Code and all such special conditions as may be set forth in Exhibit A. Licensee agrees that this Rights-of-Way Use Agreement shall supersede any existing franchise or other rights-of-way use agreement between the Licensee and the City, if any. As a condition of this grant, Licensee is required to obtain and maintain any permit, license certification, grant, registration or any other authorization lawfully required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission, or the Missouri Public Service Commission. Licensee shall not have the right to install wireless antennae or antennae support structures in the ROW pursuant to this Agreement, nor provide services not authorized herein, except as provided in Exhibit A, or such subsequent amendment as may be approved thereto. The size, location, and specifications of the underground and above-ground Facilities are subject to prior City approval and consent. In the event that the use of the Rights-of-Way is proposed to change or Licensee desires to provide services other than as described herein, Licensee shall be required to seek amendment hereto prior to commencing such service or changed use.

2.4 Use of Rights-of-Way; Police Powers; Licensee's Use Subordinate. The Licensee shall construct and maintain its Facilities in accordance with all applicable federal, state and local laws, codes and ordinances, including all permit requirements, and fee payments, in effect as of the Effective Date or adopted after the Effective Date, to the extent such are not in contravention of applicable law. The City makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of Licensee's Facilities on any particular segment of Rights-of-Way. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon Licensee. The use of the Rights-of-Way authorized by this Agreement shall in all matters be subordinate to the City's use of and rights to the same and Licensee shall be limited to such uses as have been expressly granted to Licensee by the City. Licensee shall excavate in or install Facilities in the Rights-of-Way in locations and in a manner only as authorized by a permit granted by the City. Licensee shall further be subject to the City's exercise of its powers, including but not limited to its administration and regulation related to the management of the Rights-of-Way exercised in a competitively neutral and non-discriminatory reasonable manner.

2.5 No Interference. Licensee shall construct and maintain its Facilities to be so located, constructed, and maintained as to avoid interference with the proper use of all Rights-of-

Ways and so as not to materially or without authority interfere with other users of the Rights-of-Way. Except as may otherwise be provided, the Licensee shall reasonably notify all residents and properties materially affected by the proposed work prior to commencement of such work. All construction and maintenance by Licensee or its subcontractors shall be performed in accordance with generally accepted industry standards and all standard specifications, drawings, and procedures required or approved by the City.

2.6 Notification, Joint Installation, and Collocation Requirements. Licensee shall, prior to any excavation or installation within the Rights-of-Way, provide sufficient notification and joint installation opportunity on a shared-cost basis to potential users of the Rights-of-Way under such generally applicable written policy or direction as may be established by the City. Licensee shall further make its installed Facilities available to other licensees on a nondiscriminatory competitively neutral basis as may be required by federal law codified at 47 U.S.C. § 224.

2.7 Licensee Responsible for Costs. The Licensee shall be responsible for all reasonable, lawfully reimbursable, documented costs incurred by the City that are directly associated with its installation, maintenance, repair, operation, use, and replacement of its Facilities within the Rights-of-Way, that are not otherwise accounted for as part of the permit fee established pursuant to the ROW Code and not contrary to any applicable requirements of Sections 67.1830 to 67.1846 RSMo. All such costs shall be itemized and the City's books and records related to these costs shall be made available upon request to the Licensee. Licensee shall be responsible for its own costs incurred removing or relocating its Facilities when required to do so by the City due to the City requirements relating to maintenance and use of the Rights-of-Way as set forth in Section 7.6, below.

SECTION 3. TERM, COMPENSATION, AND SETTLEMENT

3.1 Term. This Agreement shall be effective for a term of January 1, 2018 and ending ten (10) years from that date, and subject to earlier termination or forfeiture as provided for elsewhere in this Agreement.

3.2 Compensation. The Licensee agrees to pay the User Fees and such other compensation in the amount and under such additional regulations and provisions as are set forth in the City's policies and Code. Unless otherwise established by the Governing Body, Licensee shall pay to the City as monthly compensation for the use of the Rights-of-Way pursuant to this executed Agreement:

- 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. User Fee adjustments during the term of this Agreement shall not increase by more than two percent (2%) per year aggregate over the term (or annually thereafter if the term is extended without a change in this provision) upon designation by the Governing Body with at least 30 days' written notice and adjusted no more than once annually.

Licensee states that it currently has 17,527 linear feet of Facilities and 0 antennas installed in City Rights-of-Way ("Existing Facilities"). Licensee intends pursuant to this Agreement to add an additional approximately 23,950 linear feet of underground Facilities and 0 antennas within the City ROW for the purposes authorized herein, as depicted on Exhibit B attached hereto and incorporated herein. The actual authorized installation shall be limited to that which has received approved permits from the City and the Use Fee shall be paid based on the sum of the actual linear foot of Facilities installed and any additional linear foot approved by permit for installation. All User Fees shall be due and payable every month of each calendar year within thirty (30) days of each such month. Each User Fee payment shall be accompanied by a statement, signed as true, which may be sent electronically in advance of payment, stating the greatest total linear feet of facilities located in the Rights-of-Way the preceding month, the total amount of antennas located in the Rights-of-Way, any credit taken for gross receipt taxes or business license fees paid to the City, and the payment of the User Fee made. If any fee statement is determined to understate the User Fee owed, then such additional amount owed shall be made with a corrected statement, including interest on said amount as provided herein. Any payments due to the City hereunder and not paid at the due date shall bear interest at the rate of one and one-half percent (1.5%) per month, unless such other maximum rate is established by law. On an annual basis by January 31, Licensee shall submit an affidavit certifying as true each statement submitted for the previous twelve (12) months, including the statement for the immediately preceding December. If any statement for the previous twelve (12) months was incorrect, a corrected statement shall be submitted with the affidavit. If an incorrect fee statement understated the User Fee owed, then such additional amount owed, including with interest on said amount as provided herein, shall be submitted with the affidavit. Licensee's credit to the User Fee as authorized above shall be calculated based upon gross receipt taxes paid and attributable to gross receipts received for the same months in which the User Fee is attributable. The User Fee required in this Section shall be paid by Licensee as required herein without offset, credit, refund, or deduction except for such credit as is expressly provided for above for gross receipts taxes paid. Licensee may make the User Fee and eligible tax payment that is subject to credit above all as a single combined payment or in separate payments, and may also send a combined statement or separate monthly statements meeting the applicable requirements.

3.3 User Fee Not a Tax. The above required User Fee and other compensation required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City, except as may be provided for in the Code, herein, and as set forth in § 67.1846. Licensee acknowledges that the User Fee is compensation for use of the Rights-of-Way, both underground and above ground, and shall in no way be deemed a tax of any kind.

3.4 Settlement Payment and Release For Past Right-of-Way User Fees. Licensee will pay to the City on or before April 30, 2018, the non-refundable amount of \$483,126.29 as

payment ("Settlement Payment") in full for its and its predecessor entities' use of the Rights-of-Way up to and including December 31, 2017. Licensee's agreement to make this payment and City's agreement to accept this payment to settle the Dispute shall not constitute or be considered an admission of liability or wrongdoing (including, without limitation, noncompliance with permitting requirements), or an agreement as to the validity of any of the positions advanced by the other regarding the Dispute. Each Party agrees, on behalf of itself and its past, present, and future employees, officers, directors, attorneys, shareholders, representatives, predecessors, successors, permitted assigns, subsidiaries, parents, and partners absolutely, unconditionally, completely, and without reservation, to release, acquit, irrevocably remise, and forever discharge the other Party and its respective past, present, and future employees, officers, directors, attorneys, shareholders, representatives, predecessors, successors, permitted assigns, parents, and partners of and from any and all manner of claims, counterclaims, costs, expenses, demands, rights, liabilities, damages, potential actions, causes of action, suits, judgments, decrees, retroactive adjustments or refunds, interest, late payment charges, fines, bonds, bills, and controversies of any kind and nature whatsoever, at law, in equity, or otherwise including, without limitation, claims based on specific or punitive damages, whether known or unknown, arising from the Dispute, provided nothing herein shall be deemed to release any claim to enforce this Agreement, and any other lawful obligation of Licensee to City or City to Licensee not released herein, including but not limited to such obligations of taxes or regulatory compliance to City as a governmental entity. The Parties acknowledge and agree that, although they may hereafter discover law or facts in addition to or different from those which they know or believe to be true as of the Effective Date related to the Dispute, it is their intention with respect to each other, to settle and release the Dispute fully, finally, and forever; and, in furtherance of such intention, the releases shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts or law. The Parties may have other disputes between them, known or unknown, that are not settled or released herein. Nothing in this Agreement binds or can bind any entity other than those named above, except as to any predecessor entities pursuant to which the Dispute has arisen. Each Party warrants and represents that it has not assigned, transferred, or conveyed all or any portion of the claims covered by this Agreement and that this warranty and representation is an essential and material term of this Agreement, without which it would not have entered into it. In addition to the Settlement Payment, Licensee shall at the time of making the Settlement Payment, make a payment of \$8,806.00 for January, February and March of 2018 to reflect the shortfall of payments and interest thereon, compared to the amount owed under this Agreement for the period of January 1, 2018 through March 31, 2018, less any gross receipt taxes paid to the City for this same time period, as would be required under this Agreement, and Licensee shall thereafter make timely payments to the City of compensation as otherwise required hereunder when due.

SECTION 4. TAXES

4.1 Taxes. The Licensee agrees to pay all legally applicable taxes including license taxes, business taxes, utility taxes, video services provider fees, and other applicable taxes of the City and failure to pay such taxes shall be considered a breach of this Agreement. Nothing herein is intended to alter, amend, modify or expand the taxes that may be lawfully assessed on Licensee's business activities under applicable law. Licensee shall be subject to audit and shall itemize by category of service the amount received and taxes paid for services provided by Facilities in the Rights-of-Way. Such taxes shall be in addition to compensation, if any, required by the City by ordinance or otherwise subject to any limitations herein and of applicable state or federal law.

SECTION 5. TRANSFER OF AGREEMENT OR FACILITIES

5.1 **Transfer of Agreement.** Unless otherwise prohibited by law, Licensee shall not sell, transfer, lease, or assign this Agreement or its rights under this Agreement, in whole or in part, without obtaining the City's prior consent, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing sentence, Licensee may sell, transfer, lease or assign this Agreement or its rights under this Agreement, in whole or in part, with prior thirty (30) days' written notice to the City if to: (a) any entity controlling, controlled by or under common control with Licensee; (b) any surviving successor entity or newly created successor entity in the event of a merger, reorganization or consolidation involving Licensee. The City reserves the right to be reimbursed for its reasonable costs relating to a transfer of ownership or this Agreement. Licensee shall not change its name under which it does business with the public without providing at least thirty (30) days prior written notice to the City.

5.2 **Agreement Binding.** In the event of a sale, transfer, assignment or any other transaction Licensee may enter into that involves transfer of Licensee's rights, duties, and privileges under this Agreement, all provisions of this Agreement that are obligatory upon, or that inure to the benefit of Licensee, shall also be obligatory upon and shall inure to the benefit of any and all successors and assigns of Licensee. Further, all obligations, duties, liabilities, limitations, prohibitions, amendments and forfeitures by this Agreement created or imposed upon Licensee shall be binding upon and be assumed, kept and performed by its legal and bona fide assigns and successors in interest, according to the true intent and purpose of this Agreement, whether expressly so stated or not.

5.3 **Sale or Lease of Facilities.** Except as otherwise may be provided by law, Licensee shall not lease, sell, sublet or otherwise transfer possession or control or use of the Facilities, or any portion thereof, for any purpose to any person that has not obtained a duly issued Agreement, or other grant by the City to use the Rights-of-Way and which includes the authority to use or maintain such leased or transferred Facilities. Notwithstanding the foregoing, Licensee may use and maintain Licensee's installed Facilities for the benefit of its customers of its Communications Services provided that any such customer shall have no right of physical access to the Facilities in the ROW without a separate agreement with the City.

SECTION 6. FORFEITURE OF LICENSE AND PRIVILEGE.

6.1 **Forfeiture.** In case of material failure on the part of the Licensee, its successors and assigns, to comply with any of the provisions of this Agreement, including the provisions of the Code of Ordinances, or if the Licensee, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this Agreement, including the provisions of the Code, or if the Licensee loses authority to provide its Communication Services or do business within the City under applicable law, or if the Licensee, its successors and assigns, shall forfeit all rights and privileges permitted herein, and all rights hereunder shall cease, terminate, and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings: Before the City proceeds to forfeit this Agreement, it shall first serve a written notice upon the Licensee, setting forth in detail the neglect or failure complained of, and the Licensee shall have thirty (30) days thereafter in which to cure the default

by complying with the conditions of this Agreement. If at the end of such thirty (30) day period the City determines that the conditions have not been complied with, unless said material default could not have been cured within said thirty (30) day period by Licensee exercising reasonable diligence and Licensee is exercising diligence to cure said default, the City shall take action by an affirmative vote of the Governing Body present at the meeting and voting, at which Licensee may appear and be heard, to terminate the Agreement; setting out the grounds upon which said Agreement is to be canceled or terminated. Nothing herein shall prevent the City from taking any other action or remedy as may be set forth in the City's Code of Ordinances or as may otherwise exist at law. All remedies described in this Section are cumulative and in addition to any other rights and remedies to which City may be entitled at law, in equity or under this Agreement.

SECTION 7. GENERAL CONDITIONS

7.1 **Compliance With Laws.** In performing activities and exercising its rights and obligations under this Agreement, the Licensee shall comply with all applicable federal, state and local laws, ordinances, regulations and policies, including, but not limited to, all laws, ordinances, zoning, and other regulations and policies relating to construction, bonding, insurance, and use of public property.

7.2 **Insurance.** In addition to the requirements of Section 505.220 of the ROW Code, except as may be prohibited by law, Licensee shall provide, at its sole expense, and maintain during the term of this Agreement 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 Licensee, the City, and the City's officials, officers, and employees from claims which may arise from operations under this Agreement, whether such operations are by the Licensee, its officers, directors, employees and agents, or any subcontractors of Licensee. 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 Licensee 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 \$2,804,046, but in no event less than the individual and combined sovereign immunity limits established by § 537.610 RSMo., or its successor, 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 named as an additional insured with full and equivalent coverage as the insured under the insured's policy 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 City Clerk. The City's additional insured coverage shall have no deductible. The insurance requirements in this Section or otherwise shall not apply to Licensee to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to § 67.1830(6)(a) RSMo. and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets and the facts otherwise establishing that Licensee is therefore so exempted and provided that this exemption shall not apply if Licensee uses or obtains the right to use any City poles or other facilities.

7.3 Construction Guarantee and Maintenance. Licensee agrees that it shall be responsible to guarantee for a period of four years the restoration of the Rights-of-Way in the area where such Licensee conducted excavation and performed the restoration minimally as required by § 67.1834 RSMo. A bond, letter of credit or other surety (collectively "Surety") in the form approved by the City shall be posted if required by the City to guarantee construction performance. Surety shall not be required to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to § 67.1830(6)(a) RSMo, and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets and the facts otherwise establishing that Licensee is therefore so exempted and provided that this exemption shall not apply if Licensee uses or obtains the right to use any City poles or other facilities. Licensee shall also be responsible for maintenance of its Facilities and any and all damage caused to the Rights-of-Way, equipment within the Rights-of-Way or otherwise by Licensee's use of the Rights-of-Way.

7.4 Enforcement; Attorneys' Fees. The City shall be entitled to enforce this Agreement through all remedies lawfully available, and Licensee shall pay the City its costs of enforcement, including reasonable attorneys' fees, in the event that Licensee is determined judicially to have violated the terms of this Agreement.

7.5 Relationship of the Parties. Under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture, or employment between the Parties.

7.6 Relocation or Removal of Facilities.

7.6.1 In addition to the requirements of Section 505.220 of the ROW Code, the City may in its exercise of the public interest request, require that Licensee, at Licensee's sole cost and expense, relocate, adjust, or reinstall any of its Licensee's Facilities. The City shall give reasonable notice of such requirement to Licensee, including the location of Facilities to be relocated and a reasonable time to relocate such Facilities. Licensee shall forthwith remove, adjust, or relocate such Facilities within the reasonable time provided by the City in its written notice. The cost of such relocation, removal, or reinstallation of the Facilities shall be the exclusive obligation of said Licensee without expense to the City. If any Facilities are not relocated in accordance with this Section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be jointly and severally liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages. Any time period during which Licensee is unable to relocate its Facilities due to the actions or inactions of a third party, which is unaffiliated to Licensee and not under contract with or control of Licensee, including, without limitation, the City, will not be counted against the reasonable time frame allowed to Licensee to relocate its Facilities.

7.6.2 Licensee shall upon request of any person other than the City requesting relocation of Facilities and holding a validly issued building or moving permit and within a reasonable period as may be established by the City, temporarily raise, lower, adjust, or relocate its Facilities as may be reasonably necessary for such permit-holder to exercise its rights under the permit. Except where good cause is approved by the City, a permit-holder must make its request at least fourteen (14) days prior to the date it intends to exercise its rights under the permit. If applicable, Licensee will, within seven (7) days of its receipt of such a request, deliver to the

permit-holder an invoice for the services. However, Licensee will not be required to honor any such request unless and until the permit-holder makes payment in advance for any expenses incurred by said Licensee pursuant to said person's request. If any Facilities are not relocated in accordance with this Section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be jointly and severally liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages. Any time period during which Licensee is unable to relocate its facilities due to the actions or inactions of a third party, which is unaffiliated to Licensee and not under contract with or control of Licensee, including, without limitation, the City, will not be counted against the reasonable time frame allowed to Licensee to relocate its Facilities.

3.7 No Cause of Action Against the City. The Licensee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from any of the provisions or requirements of this Agreement, or because of the enforcement thereof by said City, or for the failure of the City to have the authority to grant, all, or any part, of the rights herein granted; provided that said Licensee expressly acknowledges that it accepted the rights herein granted under this Agreement in reliance upon its independent and personal investigation and understanding of the power or authority of the City to enter into the Agreement herein with Licensee; provided further that the Licensee acknowledges by its acceptance of said Agreement that it has not been induced to enter into this Agreement upon any understanding, or promise, whether given verbally or in writing by or on behalf of any Party, or by any other person concerning any term or condition of this Agreement not expressed herein; provided further that the Licensee acknowledges by the acceptance of this Agreement that it has carefully read the provisions, terms, and conditions hereof and all incorporated provisions and is willing to, and does accept, all of the risk attendant to said provisions, terms, and conditions of this Agreement. Nothing herein shall be deemed to waive the City's sovereign immunity.

SECTION 8. INDEMNIFICATION

8.1 Indemnification. Licensee at its sole cost and expense, hereby agrees to indemnify, protect, release, defend (with counsel acceptable to the City) and hold harmless the City, its municipal officials, elected officials, councils, boards, commissions, officers, employees, attorneys, and agents, from and against any and all causes of action, claims, demands, all contractual damages and losses, economic damages and losses, all other damages and losses, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, from the action or inaction of Licensee, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Licensee may be liable, in constructing, operating, using, maintaining, repairing, restoring or removing Facilities, or in carrying on Licensee's business or operations in the City, or out of the fact that the City entered into this Agreement with Licensee, the rights granted to Licensee, or the activities performed, or failed to be performed, by Licensee under this Agreement, 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, or as otherwise may be limited by law. This indemnity shall apply, without limitation, to any claims or cause of action for invasion of privacy, defamation, antitrust, negligence, theft, fire, violation or infringement of any copyright, trademark, trade name,

service mark or patent or intellectual property right of any person, whether or not any act or omission complained of is authorized, allowed or prohibited by this Agreement. The indemnification, duty to defend, and hold harmless obligations set forth in this Section shall survive for a period of five (5) years after the date of expiration or termination of this Agreement. Any payments required by Licensee to City pursuant to this indemnification paragraph or otherwise required under this Agreement shall accrue interest from the date due at one and one-half percent (1.5%) interest per month until paid.

SECTION 9. NOTICE

9.1 Any notice, demand, consent, approval, request or other communication required or permitted to be given to either Party under or with respect to this Agreement (collectively, "Notice") must be in writing and must be delivered in person, by a reputable overnight delivery service or by certified mail, postage prepaid, return receipt requested, to the appropriate address(es) set forth below:

If Notice to Licensee:

MCImetro Access Transmission Services Corp.
d/b/a Verizon Access Transmission Services
600 Hidden Ridge Drive, #E02E97
Irving, TX 75038

If Notice to City:

City of University City, Missouri
6801 Delmar Blvd.
University City, MO 63130
Attn: City Manager

9.2 If notice is given by personal delivery, a receipt indicating that personal delivery was made must be obtained. Notice will be deemed effective on the date of receipt by the addressee as shown on the receipt if given by personal delivery, on the return receipt if notice is given by certified mail or the confirmation of delivery form if notice is given by overnight delivery service. Rejection or refusal to accept or the inability to deliver because of a changed address of which no proper notice was given will be deemed to be receipt of the notice as of the date of rejection, refusal or inability to deliver. Either Party may change its address for notice by giving notice of address change to the other Party in the manner for giving notice prescribed in Section 9.1.

SECTION 10. MISCELLANEOUS

10.1 This Agreement and all Exhibits constitute the entire Agreement between the Parties as to the subject matter of this Agreement, and no negotiations or discussions prior to the Effective Date shall be of any effect.

10.2 The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of any other provision.

10.3 No term or condition of this Agreement will be deemed to have been waived by a Party unless the waiver is made in writing and is signed by the Party against whom the waiver is claimed. No waiver of default or breach of this Agreement or consent to the default or breach will be deemed to have been waived or consented to unless the waiver or consent is made in writing and signed by the Party against whom the waiver or consent is claimed. The waiver of or consent to a breach or default of this Agreement will not be deemed to be a waiver of or consent to any other breach or default of this Agreement, or to or any subsequent breach or default of the same term, or condition of this Agreement. No course of dealing or conduct or failure of a Party to strictly enforce any term, right or condition of this Agreement constitutes a general waiver or relinquishment of the term, right or condition.

10.4 The rights and remedies of the Parties shall be cumulative and in addition to any other rights and remedies provided by law or equity. The laws of the State of Missouri shall govern this Agreement.

10.5 This Agreement is for the benefit of the Parties and not for any other person or entity. This Agreement creates no third-party beneficiary rights.

SECTION 11. EFFECTIVE DATE AND ACCEPTANCE

11.1 This Agreement shall be effective on the date this Agreement is last signed by both Parties ("Effective Date"). The Parties acknowledge that this Agreement is a lawful contract between them, that they entered into this Agreement voluntarily, and have full authority to sign this Agreement.

IN WITNESS WHEREOF, this Agreement is entered into as of the Effective Date.

**CITY OF UNIVERSITY CITY,
MISSOURI**

**MCIMETRO ACCESS TRANSMISSION
SERVICES CORP. D/B/A VERIZON
ACCESS TRANSMISSION SERVICES**

Shelley Weisch, Mayor

By: *[Signature]*

Date: _____

Print Name: Robert E. M'stro

ATTEST:

Title: Service Order Engineer

LaRette Reese, City Clerk

Date: 3/22/17

(CORPORATE SEAL)

STATE OF Texas)
) ss.
COUNTY OF Dallas)

The forgoing instrument was acknowledged before me this 22nd MARCH, 2018, by ROBERT E. M'STRO, on behalf of MCI Metro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services. This person is personally known to me or has produced TEXAS DL as identification.

Joseph M. Weachock
Joseph M. Weachock

Notary Public, State of Texas

My Commission Expires: October 13, 2019

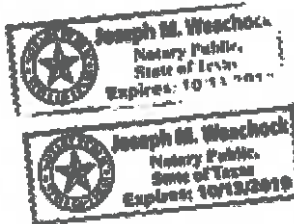


EXHIBIT A

SPECIAL CONDITIONS

The following special conditions shall be a condition of this Agreement and shall supplement and limit any provision in this Agreement to the contrary:

1. All new Licensee Facilities shall be installed underground, except where good cause is shown to authorize use of existing above-ground Licensee Facilities, including (1) when and where nearby similar facilities exist above ground or (2) when conditions are such that underground construction is impossible, impracticable or economically unfeasible, as determined by the City. Above-ground Facilities authorized for good cause shall, in the City's reasonable judgment be limited to construction and Facilities having minimal detrimental impact on the area where construction is proposed. Ground-mounted pedestals customarily installed for underground Facilities shall be authorized subject to applicable permit requirements and design, location, appearance and other reasonable requirements of the City, provided that such pedestals or equipment that are larger than 3 feet in height or otherwise not customarily found within the City limits shall not be deemed authorized by this Agreement without specific separate written authorization of the City.
2. Licensee acknowledges and agrees that pursuant to its obligation to pay all applicable taxes it shall pay the City's license tax as a provider of telecommunication services, if applicable, and shall remit to the City such tax on gross receipts of its business as required by Article III of Chapter 615 of the City's Code of Ordinances, or as may be amended, regardless of technology or nomenclature used by Licensee to provide such services, including but not limited to wire, wireless, internet-based transmissions, and switched or unswitched, to the extent permitted by law.
3. Licensee represents and agrees that it (including its duly licensed contractors acting on its behalf identified on the right-of-way permit application or otherwise to the City) shall not authorize third-parties without a valid license, Right-of-Way Use Agreement, or other lawful authorization in writing from the City to be within the City's Rights-of-Way to install or perform maintenance on its Facilities or have physical access thereto in the Rights-of-Way.
4. For purposes of clarification only, a document providing Communication Service to a third party as authorized herein but nominated or referred to as lease authorizing a service or use to a third-party shall not be deemed to violate Section 5.3, or constitute rent outside the scope of providing a Communication Service, solely because of such nomenclature or reference provided it otherwise complies with the requirements of this Agreement and meets the following conditions:
 - Does not provide the third-party with an ownership or property interest in or any form or type of title in the ROW, ROW Agreement, or any facilities in the ROW, whether temporary or otherwise, and the lessee does not acquire the right to own,

control, maintain, modify, physical access, or revise the facilities in the ROW, whether specific facilities or not; and

- Does not grant any rights or remedies as against the City and any such rights or remedies are limited to those as may be granted herein to be directly exercised by Licensee.

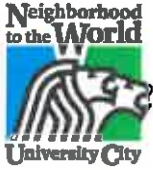
5. Wireless Facility Locations or Facilities approved: None.

EXHIBIT B

Pink and Blue = Existing Underground Facilities

Green = Proposed New Underground Facilities (portion on Rt. 340 not in City's Right-Of-Way)





Council Agenda Item Cover

MEETING DATE: March 26, 2018

AGENDA ITEM TITLE: XO Agreement

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH XO COMMUNICATIONS SERVICES, LLC.

RECOMMENDATION:

City Manager is recommending approval.

ATTACHMENTS:

- Bill 9358
- Exhibit A
- Exhibit B

INTRODUCED BY:

DATE: March 26, 2018

BILL NO. 9358

ORDINANCE NO. ____

**AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT
AND SETTLEMENT WITH XO COMMUNICATIONS SERVICES, LLC.**

WHEREAS, XO Communications Services, LLC (the "Licensee") has requested consent from the City to authorize its use of the City's Rights-of-Way to construct, install, maintain, and operate facilities for communications related capabilities; and

WHEREAS, Missouri law provides conditions relating to the City's consent to, and authorizes the City to regulate the use and occupancy of its Rights-of-Way for placement of various communications facilities; and

WHEREAS, the City is authorized to and has established standards for occupancy of the Rights-of-Way by communications facilities and other uses that are consistent with and recognize the Public Service Commission's duties and jurisdiction; and

WHEREAS, the City and Licensee have negotiated a Rights-of-Way Use Agreement for Communications Facilities ("ROW Use Agreement"), to establish the terms of Licensee's use of the Rights-of-Way, to replace and supersede all prior authority which Licensee may have operated under, and to incorporate the provisions and definitions of the City's Code of Ordinances, particularly the City's Rights-of-Way Code, Chapter 505, Article III; and

WHEREAS, the City and Licensee also desire to compromise, resolve, and settle their disputes regarding unpaid ROW compensation amounts due and payment obligations of Licensee asserted by the City, the provision of any prior agreements, and any tax credit or other credits Licensee claims as any offset to such amounts claimed owed for past use of the City's Rights-of-Way by Licensee and their predecessor entities (the "Dispute"), and a settlement and release relating to that Dispute between the City and Licensee is contained within Licensee's ROW Use Agreement; and

WHEREAS, the City Council now desires to enter into the ROW Use Agreement with XO Communications Services, LLC, in substantially the form attached to this Ordinance in Exhibit A, attached hereto and incorporated herein by reference.

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

Section 1. The City Manager is hereby authorized to execute the ROW Use Agreement between the City and XO Communications Services, LLC, in substantially the form of Exhibit A, attached hereto and incorporated herein by reference, relating to compensation for, and conditions upon, XO Communications Services, LLC's use of the City's Rights-of-Way and resolution of the Dispute. The City Manager and designees are further authorized to take such additional action as may be necessary or contemplated pursuant to this Agreement or to carry out the intent of this Ordinance.

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

PASSED AND APPROVED THIS ___ DAY OF ____ 2018.

By: _____
MAYOR

ATTEST:

CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

CITY ATTORNEY

Exhibit A
XO Communications Services, LLC ROW Use Agreement

**RIGHTS-OF-WAY USE AGREEMENT
FOR COMMUNICATIONS FACILITIES**

THIS RIGHTS-OF-WAY USE AGREEMENT FOR COMMUNICATIONS FACILITIES ("Agreement") is made and entered into as of the Effective Date (as defined in Section 11.1), by and between, XO Communications Services, LLC, a Delaware limited liability company registered to do business in Missouri (the "Licensee"); and the City of University City, Missouri, a municipality of the State of Missouri (the "City"). Licensee and City may sometimes be referred to in this Agreement individually as a "Party" or collectively as the "Parties."

WHEREAS, Licensee has requested consent from the City to authorize its use of the City's Rights-of-Way to construct, install, maintain, and operate facilities for communications or related capabilities; and

WHEREAS, Missouri law provides conditions relating to the City's consent to, and authorizes the City to regulate the use and occupancy of its Rights-of-Way ("Rights-of-Way" or "ROW") for placement of various communications facilities; and

WHEREAS, the City is authorized to and has established standards for occupancy of the Rights-of-Way by communications facilities and other uses that are consistent with and recognize the Public Service Commission's duties and jurisdiction; and

WHEREAS, the City and Licensee desire to enter into this Agreement, to establish the terms of Licensee's use of the Rights-of-Way, and to incorporate the provisions and definitions of the ROW Code (as defined in Section 1.2); and

WHEREAS, the City and Licensee also desire to compromise, resolve, and settle their disputes regarding unpaid ROW compensation amounts due and payment obligations of Licensee asserted by the City, the provision of any prior agreements, and any tax credit or other credits Licensee claims as any offset to such amounts claimed owed for past use of the City's Rights-of-Way by Licensee and its predecessor entities (the "Dispute"), and a settlement and release relating to that Dispute between the City and Licensee is contained within Licensee's ROW Use Agreement; and

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

SECTION 1. GENERAL

1.1 Preservation of Police Power Authority. Any rights granted to Licensee pursuant to this Agreement are subject to the authority of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public.

1.2 Defined Terms. For purposes of this Agreement, the capitalized terms shall have the meanings as set forth herein and in the Code of Ordinances of the City, including specifically Article III of Chapter 305, and as may be amended (the "Code" or "ROW Code"). Words used in the present tense include the future tense, words in the single number include the plural number, and words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning. The following additional capitalized terms shall also apply to this Agreement:

A. **"Communications."** The transmission via the Facilities, in whole or in part, between or among points specified by the user, of information of the user's choosing (e.g., data, video, voice), without change in the form or content of the information as sent and received, regardless of the statutory or regulatory scheme to which such transmissions may be subject.

other authorization lawfully required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission, or the Missouri Public Service Commission. Licensee shall not have the right to install wireless antennae or antennae support structures in the ROW pursuant to this Agreement, nor provide services not authorized herein, except as provided in Exhibit A, or such subsequent amendment as may be approved thereto. The size, location, and specifications of the underground and above-ground Facilities are subject to prior City approval and consent. In the event that the use of the Rights-of-Way is proposed to change or Licensee desires to provide services other than as described herein, Licensee shall be required to seek amendment hereto prior to commencing such service or changed use.

2.4 Use of Rights-of-Way; Police Powers; Licensee's Use Subordinate. The Licensee shall construct and maintain its Facilities in accordance with all applicable federal, state and local laws, codes and ordinances, including all permit requirements, and fee payments, in effect as of the Effective Date or adopted after the Effective Date, to the extent such are not in contravention of applicable law. The City makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of Licensee's Facilities on any particular segment of Rights-of-Way. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon Licensee. The use of the Rights-of-Way authorized by this Agreement shall in all matters be subordinate to the City's use of and rights to the same and Licensee shall be limited to such uses as have been expressly granted to Licensee by the City. Licensee shall excavate in or install Facilities in the Rights-of-Way in locations and in a manner only as authorized by a permit granted by the City. Licensee shall further be subject to the City's exercise of its powers, including but not limited to its administration and regulation related to the management of the Rights-of-Way exercised in a competitively neutral and non-discriminatory reasonable manner.

2.5 No Interference. Licensee shall construct and maintain its Facilities to be so located, constructed, and maintained as to avoid interference with the proper use of all Rights-of-Ways and so as not to materially or without authority interfere with other users of the Rights-of-Way. Except as may otherwise be provided, the Licensee shall reasonably notify all residents and properties materially affected by the proposed work prior to commencement of such work. All construction and maintenance by Licensee or its subcontractors shall be performed in accordance with generally accepted industry standards and all standard specifications, drawings, and procedures required or approved by the City.

2.6 Notification, Joint Installation, and Collocation Requirements. Licensee shall, prior to any excavation or installation within the Rights-of-Way, provide sufficient notification and joint installation opportunity on a shared-cost basis to potential users of the Rights-of-Way under such generally applicable written policy or direction as may be established by the City. Licensee shall further make its installed Facilities available to other licensees on a nondiscriminatory competitively neutral basis as may be required by federal law codified at 47 U.S.C. § 224.

2.7 Licensee Responsible for Costs. The Licensee shall be responsible for all reasonable, lawfully reimbursable, documented costs incurred by the City that are directly associated with its installation, maintenance, repair, operation, use, and replacement of its Facilities within the Rights-of-Way, that are not otherwise accounted for as part of the permit fee established pursuant to the ROW Code and not contrary to any applicable requirements of Sections 67.1830 to 67.1846 RSMo. All such costs shall be itemized and the City's books and records related to these costs shall be made available upon request to the Licensee. Licensee shall be responsible for its own costs incurred removing or relocating its Facilities when required to do so by the City due to the City requirements relating to maintenance and use of the Rights-of-Way as set forth in Section 7.6, below.

SECTION 3. TERM, COMPENSATION, AND SETTLEMENT

3.1 Term. This Agreement shall be effective for a term of January 1, 2018 and ending ten (10) years from that date, and subject to earlier termination or forfeiture as provided for elsewhere in this Agreement.

3.2 Compensation. The Licensee agrees to pay the User Fees and such other compensation in the amount and under such additional regulations and provisions as are set forth in the City's policies and Code. Unless otherwise established by the Governing Body, Licensee shall pay to the City as monthly compensation for the use of the Rights-of-Way pursuant to this executed Agreement:

- 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. User Fee adjustments during the term of this Agreement shall not increase by more than two percent (2%) per year aggregate over the term (or annually thereafter if the term is extended without a change in this provision) upon designation by the Governing Body with at least 30 days' written notice and adjusted no more than once annually.

Licensee states that it currently has 24,360 linear feet of Facilities and 0 antennas installed in City Rights-of-Way ("Existing Facilities"). Licensee intends pursuant to this Agreement to add an additional 0 feet of Facilities and 0 antennas within the City ROW for the purposes authorized herein, as depicted on Exhibit B attached hereto and incorporated herein. The actual authorized installation shall be limited to that which has received approved permits from the City and the Use Fee shall be paid based on the sum of the actual linear foot of Facilities installed and any additional linear foot approved by permit for installation. All User Fees shall be due and payable every month of each calendar year within thirty (30) days of each such month. Each User Fee payment shall be accompanied by a statement, signed as true, which may be sent electronically in advance of payment, stating the greatest total linear feet of facilities located in the Rights-of-Way the preceding month, the total amount of antennas located in the Rights-of-Way, any credit taken for gross receipt taxes or business license fees paid to the City, and the payment of the User Fee made. If any fee statement is determined to understate the User Fee owed, then such additional amount owed shall be made with a corrected statement, including interest on said amount as provided herein. Any payments due to the City hereunder and not paid at the due date shall bear interest at the rate of one and one-half percent (1.5%) per month, unless such other maximum rate is established by law. On an annual basis by January 31, Licensee shall submit an affidavit certifying as true each statement submitted for the previous twelve (12) months, including the statement for the immediately preceding December. If any statement for the previous twelve (12) months was incorrect, a corrected statement shall be submitted with the affidavit. If an incorrect fee statement understated the User Fee owed, then such additional amount owed, including with interest on said amount as provided herein, shall be submitted with the affidavit. Licensee's credit to the User Fee as authorized above shall be calculated based upon gross receipt taxes paid and attributable to gross receipts received for the same months in which the User Fee is attributable. The User Fee required in this Section shall be paid by Licensee as required herein without offset, credit, refund, or deduction except for such credit as is expressly provided for above for gross receipts taxes paid. Licensee may make the User Fee and eligible tax payment that is subject to credit above all as a single combined payment or in separate payments, and may also send a combined statement or separate monthly statements meeting the applicable requirements.

3.3 User Fee Not a Tax. The above required User Fee and other compensation required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City, except as may be provided for in the Code, herein, and as set forth in § 67.1846. Licensee acknowledges that the User Fee is compensation for use of the Rights-of-Way, both underground and above ground, and shall in no way be deemed a tax of any kind.

3.4 Settlement Payment and Release For Past Right-of-Way User Fees. Licensee will pay to the City on or before April 30, 2018, the non-refundable amount of \$543,499.78 as payment ("Settlement Payment") in full for its and its predecessor entities' use of the Rights-of-Way up to and including December 31, 2017. Licensee's agreement to make this payment and City's agreement to accept this payment to settle the Dispute shall not constitute or be considered an admission of liability or wrongdoing (including, without limitation, noncompliance with permitting requirements), or an agreement as to the validity of any of the positions advanced by the other regarding the Dispute. Each Party agrees, on behalf of itself and its past, present, and future employees, officers, directors, attorneys, shareholders, representatives, predecessors, successors, permitted assigns, subsidiaries, parents, and partners absolutely, unconditionally, completely, and without reservation, to release, acquit, irrevocably remise, and forever discharge the other Party and its respective past, present, and future employees, officers, directors, attorneys, shareholders, representatives, predecessors, successors, permitted assigns, parents, and partners of and from any and all manner of claims, counterclaims, costs, expenses, demands, rights, liabilities, damages, potential actions, causes of action, suits, judgments, decrees, retroactive adjustments or refunds, interest, late payment charges, fines, bonds, bills, and controversies of any kind and nature whatsoever, at law, in equity, or otherwise including, without limitation, claims based on specific or punitive damages, whether known or unknown, arising from the Dispute, provided nothing herein shall be deemed to release any claim to enforce this Agreement, and any other lawful obligation of Licensee to City or City to Licensee not released herein, including but not limited to such obligations of taxes or regulatory compliance to City as a governmental entity. The Parties acknowledge and agree that, although they may hereafter discover law or facts in addition to or different from those which they know or believe to be true as of the Effective Date related to the Dispute, it is their intention with respect to each other, to settle and release the Dispute fully, finally, and forever; and, in furtherance of such intention, the releases shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts or law. The Parties may have other disputes between them, known or unknown, that are not settled or released herein. Nothing in this Agreement binds or can bind any entity other than those named above, except as to any predecessor entities pursuant to which the Dispute has arisen. Each Party warrants and represents that it has not assigned, transferred, or conveyed all or any portion of the claims covered by this Agreement and that this warranty and representation is an essential and material term of this Agreement, without which it would not have entered into it. In addition to the Settlement Payment, Licensee shall at the time of making the Settlement Payment, make a payment of \$12,239.07 for January, February and March of 2018 to reflect the shortfall of payments and interest thereon, compared to the amount owed under this Agreement for the period of January 1, 2018 through March 31, 2018, less any gross receipt taxes paid to the City for this same time period, as would be required under this Agreement, and Licensee shall thereafter make timely payments to the City of compensation as otherwise required hereunder when due.

3.5 Condition Precedent. This Agreement shall only become effective upon execution by the City of a new Rights-Of-Way Use Agreement For Communications Facilities with Metro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services.

SECTION 4. TAXES

4.1 Taxes. The Licensee agrees to pay all legally applicable taxes including license taxes, business taxes, utility taxes, video services provider fees, and other applicable taxes of the City and failure to pay such taxes shall be considered a breach of this Agreement. Nothing herein is intended to

alter, amend, modify or expand the taxes that may be lawfully assessed on Licensee's business activities under applicable law. Licensee shall be subject to audit and shall itemize by category of service the amount received and taxes paid for services provided by Facilities in the Rights-of-Way. Such taxes shall be in addition to compensation, if any, required by the City by ordinance or otherwise subject to any limitations herein and of applicable state or federal law.

SECTION 5. TRANSFER OF AGREEMENT OR FACILITIES

5.1 Transfer of Agreement. Unless otherwise prohibited by law, Licensee shall not sell, transfer, lease, or assign this Agreement or its rights under this Agreement, in whole or in part, without obtaining the City's prior consent, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing sentence, Licensee may sell, transfer, lease or assign this Agreement or its rights under this Agreement, in whole or in part, with prior thirty (30) days' written notice to the City if to: (a) any entity controlling, controlled by or under common control with Licensee; (b) any surviving successor entity or newly created successor entity in the event of a merger, reorganization or consolidation involving Licensee. The City reserves the right to be reimbursed for its reasonable costs relating to a transfer of ownership of this Agreement. Licensee shall not change its name under which it does business with the public without providing at least thirty (30) days prior written notice to the City.

5.2 Agreement Binding. In the event of a sale, transfer, assignment or any other transaction Licensee may enter into that involves transfer of Licensee's rights, duties, and privileges under this Agreement, all provisions of this Agreement that are obligatory upon, or that inure to the benefit of Licensee, shall also be obligatory upon and shall inure to the benefit of any and all successors and assigns of Licensee. Further, all obligations, duties, liabilities, limitations, prohibitions, amendments and forfeitures by this Agreement created or imposed upon Licensee shall be binding upon and be assumed, kept and performed by its legal and bona fide assigns and successors in interest, according to the true intent and purpose of this Agreement, whether expressly so stated or not.

5.3 Sale or Lease of Facilities. Except as otherwise may be provided by law, Licensee shall not lease, sell, sublet or otherwise transfer possession or control or use of the Facilities, or any portion thereof, for any purpose to any person that has not obtained a duly issued Agreement, or other grant by the City to use the Rights-of-Way and which includes the authority to use or maintain such leased or transferred Facilities. Notwithstanding the foregoing, Licensee may use and maintain Licensee's installed Facilities for the benefit of its customers of its Communications Services provided that any such customer shall have no right of physical access to the Facilities in the ROW without a separate agreement with the City.

SECTION 6. FORFEITURE OF LICENSE AND PRIVILEGE.

6.1 Forfeiture. In case of material failure on the part of the Licensee, its successors and assigns, to comply with any of the provisions of this Agreement, including the provisions of the Code of Ordinances, or if the Licensee, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this Agreement, including the provisions of the Code, or if the Licensee loses authority to provide its Communication Services or do business within the City under applicable law, or if the Licensee, its successors and assigns, shall forfeit all rights and privileges permitted herein, and all rights hereunder shall cease, terminate, and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings: Before the City proceeds to forfeit this Agreement, it shall first serve a written notice upon the Licensee, setting forth in detail the neglect or failure complained of, and the Licensee shall have thirty (30) days thereafter in which to cure the default by complying with the conditions of this Agreement. If at the end of such thirty (30) day period the City determines that the conditions have not been complied with, unless said material default could not have been cured within said thirty (30) day period by Licensee exercising reasonable diligence and Licensee is exercising diligence to cure said default, the City shall take action by an affirmative vote of the Governing Body present at the meeting and voting, at which Licensee may appear and be heard, to

terminate the Agreement; setting out the grounds upon which said Agreement is to be canceled or terminated. Nothing herein shall prevent the City from taking any other action or remedy as may be set forth in the City's Code of Ordinances or as may otherwise exist at law. All remedies described in this Section are cumulative and in addition to any other rights and remedies to which City may be entitled at law, in equity or under this Agreement.

SECTION 7. GENERAL CONDITIONS

7.1 Compliance With Laws. In performing activities and exercising its rights and obligations under this Agreement, the Licensee shall comply with all applicable federal, state and local laws, ordinances, regulations and policies, including, but not limited to, all laws, ordinances, zoning, and other regulations and policies relating to construction, bonding, insurance, and use of public property.

7.2 Insurance. In addition to the requirements of Section 505.220 of the ROW Code, except as may be prohibited by law, Licensee shall provide, at its sole expense, and maintain during the term of this Agreement 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 Licensee, the City, and the City's officials, officers, and employees from claims which may arise from operations under this Agreement, whether such operations are by the Licensee, its officers, directors, employees and agents, or any subcontractors of Licensee. 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 Licensee 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 \$2,804,046, but in no event less than the individual and combined sovereign immunity limits established by § 537.610 RSMo., or its successor, 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 named as an additional insured with full and equivalent coverage as the insured under the insured's policy 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 City Clerk. The City's additional insured coverage shall have no deductible. The insurance requirements in this Section or otherwise shall not apply to Licensee to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to § 67.1830(6)(a) RSMo. and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets and the facts otherwise establishing that Licensee is therefore so exempted and provided that this exemption shall not apply if Licensee uses or obtains the right to use any City poles or other facilities.

7.3 Construction Guarantee and Maintenance. Licensee agrees that it shall be responsible to guarantee for a period of four years the restoration of the Rights-of-Way in the area where such Licensee conducted excavation and performed the restoration minimally as required by § 67.1834 RSMo. A bond, letter of credit or other surety (collectively "Surety") in the form approved by the City shall be posted if required by the City to guarantee construction performance. Surety shall not be required to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to § 67.1830(6)(a) RSMo. and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets and the facts otherwise establishing that Licensee is therefore so exempted and provided that this exemption shall not apply if Licensee uses or obtains the right to use any City poles or other facilities. Licensee shall also be responsible for maintenance of its Facilities and any and all damage caused to the Rights-of-Way, equipment within the Rights-of-Way or otherwise by Licensee's use of the Rights-of-Way.

7.4 Enforcement; Attorneys' Fees. The City shall be entitled to enforce this Agreement through all remedies lawfully available, and Licensee shall pay the City its costs of enforcement, including

B. "Communications Service" The transmission of writing, signs, signals, pictures, sounds or other forms of intelligence through wire, wireless or other means, including, but not limited to, any "telecommunications service," "enhanced service," "information service," or "Internet Service," as such terms are now, or may in the future, be defined under applicable law, and including all instrumentalities, Facilities, apparatus (Communications Facilities), and services (among other things, the receipt, forwarding, and delivery of Telecommunications) incidental to such transmission or designed to directly or indirectly facilitate or accept such transmission and shall also include "video services" as defined in § 67.2677 RSMo. The term "Communications Service" does not include the rental of conduit or physical facilities, which if proposed must be expressly separately approved in Exhibit A below or sought directly by such third party from City. Any party seeking to provide cable television, video services, or use wireless communication facilities shall be subject to additional and separate requirements, limitations and/or approvals of federal, state and local law and shall have on file with the City such authorization to provide such services prior to commencement.

1.3 Agreement Subject to Provisions of ROW Code. This Agreement fully incorporates the provisions of the ROW Code as if fully set forth herein, and Licensee agrees as a part of this Agreement to abide by the provisions of such Code and other applicable ordinances of the City as a ROW User, and to be subject to the enforcement by the City as provided therein and in this Agreement as a material term herein. This Agreement may establish Licensee obligations that are supplementary to the ROW Code, but nothing in this Agreement shall be deemed to waive any obligation or requirement applicable to Licensee authorized or established by the ROW Code. The consent to use the Rights-of-Way authorized by this Agreement is subject to the continuing accuracy during the term of this Agreement of the application information provided by and maintained by Licensee for this authorization as provided to and on file with the City.

SECTION 2. GRANT OF AUTHORITY TO USE THE RIGHTS-OF-WAY

2.1 Agreements Non-Exclusive. This Agreement shall grant nonexclusive privileges to use the Rights-of-Way. The City specifically reserves the right to grant, at any time, such additional agreements or other rights to use the Rights-of-Way for any purpose and to any other person, including itself, as it deems appropriate, subject to applicable federal and state law. Nothing in this Agreement shall relieve Licensee from its obligations to apply for and obtain all necessary permits for installation of its Facilities including excavation, building, electrical, zoning, etc. before installation of its Facilities within the Rights-of-Way.

2.2 Nature of Rights Granted by this Agreement. This Agreement shall not convey title to Licensee, equitable or legal in the Rights-of-Way, and gives only the right to occupy the City's Rights-of-Way for the purposes and for the period stated in this Agreement and subject to the requirements of this Agreement. This Agreement also shall not grant the right to use Facilities owned or controlled by the City or a third-party, without the separate consent of the City or such third-party owning or controlling the Facilities, nor shall it excuse Licensee from obtaining appropriate access or pole attachment agreements before locating on Facilities controlled or owned by the City or a third-party.

2.3 Grant. Subject to the terms and conditions of this Agreement, the ROW Code, and the conditions set forth on Exhibit A attached hereto and incorporated by reference into this Agreement, Licensee is hereby granted the nonexclusive right and privilege to construct, operate, and maintain Facilities in, through, over, above, and along the City's Rights-of-Way for the purposes of supplying Communications Service within the City, subject, however, to the terms and conditions herein set forth within this Agreement and the Code and all such special conditions as may be set forth in Exhibit A. Licensee agrees that this Rights-of-Way Use Agreement shall supersede any existing franchise or other rights-of-way use agreement between the Licensee and the City, if any. As a condition of this grant, Licensee is required to obtain and maintain any permit, license certification, grant, registration or any

reasonable attorneys' fees, in the event that Licensee is determined judicially to have violated the terms of this Agreement.

7.5 Relationship of the Parties. Under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture, or employment between the Parties.

7.6 Relocation or Removal of Facilities.

7.6.1 In addition to the requirements of Section 505.220 of the ROW Code, the City may in its exercise of the public interest request, require that Licensee, at Licensee's sole cost and expense, relocate, adjust, or reinstall any of its Licensee's Facilities. The City shall give reasonable notice of such requirement to Licensee, including the location of Facilities to be relocated and a reasonable time to relocate such Facilities. Licensee shall forthwith remove, adjust, or relocate such Facilities within the reasonable time provided by the City in its written notice. The cost of such relocation, removal, or reinstallation of the Facilities shall be the exclusive obligation of said Licensee without expense to the City. If any Facilities are not relocated in accordance with this Section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be jointly and severally liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages. Any time period during which Licensee is unable to relocate its Facilities due to the actions or inactions of a third party, which is unaffiliated to Licensee and not under contract with or control of Licensee, including, without limitation, the City, will not be counted against the reasonable time frame allowed to Licensee to relocate its Facilities.

7.6.2 Licensee shall upon request of any person other than the City requesting relocation of Facilities and holding a validly issued building or moving permit and within a reasonable period as may be established by the City, temporarily raise, lower, adjust, or relocate its Facilities as may be reasonably necessary for such permit-holder to exercise its rights under the permit. Except where good cause is approved by the City, a permit-holder must make its request at least fourteen (14) days prior to the date it intends to exercise its rights under the permit. If applicable, Licensee will, within seven (7) days of its receipt of such a request, deliver to the permit-holder an invoice for the services. However, Licensee will not be required to honor any such request unless and until the permit-holder makes payment in advance for any expenses incurred by said Licensee pursuant to said person's request. If any Facilities are not relocated in accordance with this Section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be jointly and severally liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages. Any time period during which Licensee is unable to relocate its facilities due to the actions or inactions of a third party, which is unaffiliated to Licensee and not under contract with or control of Licensee, including, without limitation, the City, will not be counted against the reasonable time frame allowed to Licensee to relocate its Facilities.

7.7 No Cause of Action Against the City. The Licensee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from any of the provisions or requirements of this Agreement, or because of the enforcement thereof by said City, or for the failure of the City to have the authority to grant, all, or any part, of the rights herein granted; provided that said Licensee expressly acknowledges that it accepted the rights herein granted under this Agreement in reliance upon its independent and personal investigation and understanding of the power or authority of the City to enter into the Agreement herein with Licensee; provided further that the Licensee acknowledges by its acceptance of said Agreement that it has not been induced to enter into this Agreement upon any understanding, or promise, whether given verbally or in writing by or on behalf of any Party, or by any other person concerning any term or condition of this Agreement not expressed herein; provided further that the Licensee acknowledges by the acceptance of this Agreement that it has carefully read the provisions, terms, and conditions hereof and all incorporated provisions and is willing to, and does accept, all of the risk attendant to said provisions, terms, and conditions of this Agreement. Nothing herein shall be deemed to waive the City's sovereign immunity.

SECTION 8. INDEMNIFICATION

8.1 Indemnification. Licensee at its sole cost and expense, hereby agrees to indemnify, protect, release, defend (with counsel acceptable to the City) and hold harmless the City, its municipal officials, elected officials, councils, boards, commissions, officers, employees, attorneys, and agents, from and against any and all causes of action, claims, demands, all contractual damages and losses, economic damages and losses, all other damages and losses, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, from the action or inaction of Licensee, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Licensee may be liable, in constructing, operating, using, maintaining, repairing, restoring or removing Facilities, or in carrying on Licensee's business or operations in the City, or out of the fact that the City entered into this Agreement with Licensee, the rights granted to Licensee, or the activities performed, or failed to be performed, by Licensee under this Agreement, 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, or as otherwise may be limited by law. This indemnity shall apply, without limitation, to any claim or cause of action for invasion of privacy, defamation, antitrust, negligence, theft, fire, violation or infringement of any copyright, trademark, trade name, service mark or patent or intellectual property right of any person, whether or not any act or omission complained of is authorized, allowed or prohibited by this Agreement. The indemnification, duty to defend, and hold harmless obligations set forth in this Section shall survive for a period of five (5) years after the date of expiration or termination of this Agreement. Any payments required by Licensee to City pursuant to this indemnification paragraph or otherwise required under this Agreement shall accrue interest from the date due at one and one-half percent (1.5%) interest per month until paid.

SECTION 9. NOTICE

9.1 Any notice, demand, consent, approval, request or other communication required or permitted to be given to either Party under or with respect to this Agreement (collectively, "Notice") must be in writing and must be delivered in person, by a reputable overnight delivery service or by certified mail, postage prepaid, return receipt requested, to the appropriate address(es) set forth below:

If Notice to Licensee:

XO Communications Services, LLC
800 Hidden Ridge Drive, #E02E97
Irving, TX 75038

If Notice to City:

City of University City, Missouri
8801 Delmar Blvd.
University City, MO 63130
Attn: City Manager

9.2 If notice is given by personal delivery, a receipt indicating that personal delivery was made must be obtained. Notice will be deemed effective on the date of receipt by the addressee as shown on the receipt if given by personal delivery, on the return receipt if notice is given by certified mail or the confirmation of delivery form if notice is given by overnight delivery service. Rejection or refusal to accept or the inability to deliver because of a changed address of which no proper notice was given will be deemed to be receipt of the notice as of the date of rejection, refusal or inability to deliver. Either Party may change its address for notice by giving notice of address change to the other Party in the manner for

giving notice prescribed in Section 9.1.

SECTION 10. MISCELLANEOUS

10.1 This Agreement and all Exhibits constitute the entire Agreement between the Parties as to the subject matter of this Agreement, and no negotiations or discussions prior to the Effective Date shall be of any effect.

10.2 The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of any other provision.

10.3 No term or condition of this Agreement will be deemed to have been waived by a Party unless the waiver is made in writing and is signed by the Party against whom the waiver is claimed. No waiver of default or breach of this Agreement or consent to the default or breach will be deemed to have been waived or consented to unless the waiver or consent is made in writing and signed by the Party against whom the waiver or consent is claimed. The waiver of or consent to a breach or default of this Agreement will not be deemed to be a waiver of or consent to any other breach or default of this Agreement, or to or any subsequent breach or default of the same term, or condition of this Agreement. No course of dealing or conduct or failure of a Party to strictly enforce any term, right or condition of this Agreement constitutes a general waiver or relinquishment of the term, right or condition.

10.4 The rights and remedies of the Parties shall be cumulative and in addition to any other rights and remedies provided by law or equity. The laws of the State of Missouri shall govern this Agreement.

10.5 This Agreement is for the benefit of the Parties and not for any other person or entity. This Agreement creates no third-party beneficiary rights.

SECTION 11. EFFECTIVE DATE AND ACCEPTANCE

11.1 This Agreement shall be effective on the date this Agreement is last signed by both Parties ("Effective Date"). The Parties acknowledge that this Agreement is a lawful contract between them, that they entered into this Agreement voluntarily, and have full authority to sign this Agreement.

IN WITNESS WHEREOF, this Agreement is entered into as of the Effective Date.

CITY OF UNIVERSITY CITY, MISSOURI

XO COMMUNICATIONS SERVICES, LLC

Shelley Welsch, Mayor

By: [Signature]

Date: _____

Print Name: Robert F. McEwen

ATTEST:

Title: Executive Director

LaRette Reese, City Clerk

Date: 3/22/11

(CORPORATE SEAL)

STATE OF Texas)
) ss.
COUNTY OF Dallas)

The forgoing instrument was acknowledged before me this 22ND MARCH, 2011, by ROBERT F. MCEWEN, on behalf of XO Communications Services, LLC. This person is personally known to me or has produced Texas DL as identification.

[Signature]
Joseph M. Weachock

Notary Public, State of Texas



My Commission Expires: October 13, 2014

EXHIBIT A

SPECIAL CONDITIONS

The following special conditions shall be a condition of this Agreement and shall supplement and limit any provision in this Agreement to the contrary:

1. All new Licensee Facilities shall be installed underground, except where good cause is shown to authorize use of existing above-ground Licensee Facilities, including (1) when and where nearby similar facilities exist above ground or (2) when conditions are such that underground construction is impossible, impracticable or economically unfeasible, as determined by the City. Above-ground Facilities authorized for good cause shall, in the City's reasonable judgment be limited to construction and Facilities having minimal detrimental impact on the area where construction is proposed. Ground-mounted pedestals customarily installed for underground Facilities shall be authorized subject to applicable permit requirements and design, location, appearance and other reasonable requirements of the City, provided that such pedestals or equipment that are larger than 3 feet in height or otherwise not customarily found within the City limits shall not be deemed authorized by this Agreement without specific separate written authorization of the City.
2. Licensee acknowledges and agrees that pursuant to its obligation to pay all applicable taxes it shall pay the City's license tax as a provider of telecommunication services, if applicable, and shall remit to the City such tax on gross receipts of its business as required by Article III of Chapter 615 of the City's Code of Ordinances, or as may be amended, regardless of technology or nomenclature used by Licensee to provide such services, including but not limited to wire, wireless, internet-based transmissions, and switched or unswitched, to the extent permitted by law.
3. Licensee represents and agrees that it (including its duly licensed contractors acting on its behalf identified on the right-of-way permit application or otherwise to the City) shall not authorize third-parties without a valid license, Right-of-Way Use Agreement, or other lawful authorization in writing from the City to be within the City's Rights-of-Way to install or perform maintenance on its Facilities or have physical access thereto in the Rights-of-Way.
4. For purposes of clarification only, a document providing Communication Service to a third party as authorized herein but nominated or referred to as lease authorizing a service or use to a third-party shall not be deemed to violate Section 5.3, or constitute rent outside the scope of providing a Communication Service, solely because of such nomenclature or reference provided it otherwise complies with the requirements of this Agreement and meets the following conditions:
 - Does not provide the third-party with an ownership or property interest in or any form or type of title in the ROW, ROW Agreement, or any facilities in the ROW, whether temporary or otherwise, and the lessee does not acquire the right to own, control, maintain, modify, physical access, or revise the facilities in the ROW, whether specific facilities or not; and
 - Does not grant any rights or remedies as against the City and any such rights or remedies are limited to those as may be granted herein to be directly exercised by Licensee.
5. Wireless Facility Locations or Facilities approved: None.

EXHIBIT B

Blue = Existing Underground Facilities

Red = Existing Aerial Facilities (portion on Route 340 not in City's Right-Of-Way)



Meeting minutes of the Board of Trustees for the University City Public Library for

February 14, 2018

Members present: Dorothy Davis, Rubina Stewart-McCadney, Edmund Acosta, Luise Hoffman, Aleta Porter Klein

Members absent: Joan Greco-Cohen, LaTrice Johnson, Deborah Arbogast, Rosalind Turner

City Council Liaison: absent

Library staff: Patrick Wall—Director, Christa Van Herreweghe, Cindy Deichmann

The meeting was called to order in the Board Room of the University City Public Library, 6701 Delmar Blvd., University City, MO 63130, at 5:25 pm by Dorothy Davis, President.

Minutes – The minutes of the January 10, 2018 meeting were approved.

Council Liaison Report –None.

Friends' Report – The Gabe Fleisher event had 105 people. The Friends have a \$30,000 balance. They donated \$200 for a charging station in the Youth Services department teen area; the entire project will cost more than \$600.

Librarian's Report – The consent agenda was approved.

Discussion Items – The new City Manager, Gregory Rose, has not brought the CALOP proposal to the City Council yet. Patrick Wall attended a program at the American Library Association conference called Fine Free Future and presented the topic to the board.

Action Items – The board voted unanimously to accept the MOREnet quote provided.

President's Report – The President thanked the committee chairs for their hard work.

Committee Reports – The Long Range Planning committee reported on their discussions of topics surrounding a possible ballot issue and the role of the gala. Evaluations of the Director were collected by the Personnel and Policy Committee. A Budget Committee meeting will be scheduled in March, before the March 14 board meeting.

Old Business – Missouri Library Advocacy Day has not yet been rescheduled.

New Business – None.

The next Board meeting will be Wednesday, March 14, 2018 at 5:15 pm.

There being no further business, the meeting adjourned at 6:37 pm.

Meeting minutes of the Board of Trustees for the
University City Public Library
for January 10, 2018

Members Present: Dorothy Davis, Joan Greco-Cohen, Luise Hoffman, Edmund Acosta, Rosalind Turner, Deborah Arbogast, LaTrice Johnson, Aleta Porter Klein

Members Absent: Rubina Stewart-McCadney, Rosalind Turner

City council Liaison: absent

Library staff: Patrick Wall, Christa Van Herreweghe

The meeting was called to order in the Board Room of the University City Public Library, 6701 Delmar Blvd., University City, MO 63130, at 5:15 p.m. by Dorothy Davis, President.

Visitor – John Chrastka from EveryLibrary spoke about his group and the steps suggested for a successful tax levy campaign.

Minutes - The minutes of the December 13, 2017 meeting were approved.

Council Liaison Report – N/A

Friends report – The Friend's membership campaign. Trivia night will be May 4.

Librarians report – The consent agenda was approved.

Discussion Items – The Personnel and Policy committee handed out a form and information packet about evaluating the director. Members are to return forms at the February meeting to be compiled. Dorothy will then schedule a meeting with Patrick to share the results.

Action Items – The board voted unanimously to accept the revised pay rates as approved by the Personnel and Policy committee. The board voted unanimously to accept the revised meeting room policy as approved by the Personnel and Policy committee.

Old Business – None

New Business – Luise would like to start planning the next gala/celebration to fundraise for planning of renovations to the building.

Adjournment - The meeting adjourned at 7:00 p.m.