



MEETING OF THE CITY COUNCIL  
CITY HALL, Fifth Floor  
6801 Delmar Blvd.  
University City, Missouri 63130  
April 9, 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 26, Regular session minutes
  - 2. March 26, Study session minutes
  - 3. March 12, Study session minutes
- F. APPOINTMENTS to BOARDS & COMMISSIONS
  - 1. William Chilton is nominated for reappointment to the Historic Preservation commission for a second term by Councilmember Michael Glickert.
- G. SWEARING IN to BOARDS & COMMISSIONS
- H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)
- I. PUBLIC HEARINGS
- J. CONSENT AGENDA – Vote Required
- K. CITY MANAGER'S REPORT
  - 1. Sidewalk and Curb Replacement Project – Project 1362  
(VOTE REQUIRED)
  - 2. Bloomberg Philanthropies Public Art Challenge  
(VOTE REQUIRED)
  - 3. Site Plan Review – 6200 Olive Blvd.  
(VOTE REQUIRED)
  - 4. Site Plan Review – 6321 Cates Ave.  
(VOTE REQUIRED)
- L. UNFINISHED BUSINESS
  - BILLS*
    - 1. **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.

2. **BILL 9357** - AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH MCI METRO ACCESS TRANSMISSION SERVICES CORPORATION.
3. **BILL 9358** - AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH XO COMMUNICATIONS SERVICES, LLC.

**M. NEW BUSINESS**

*RESOLUTIONS*

*BILLS*

**N. COUNCIL REPORTS/BUSINESS**

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

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

**P. COUNCIL COMMENTS**

**Q. ADJOURNMENT**

MEETING OF THE CITY COUNCIL  
CITY HALL, Fifth Floor  
6801 Delmar Blvd.  
University City, Missouri 63130  
March 26, 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 26, 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; (*Excused*)  
Councilmember Paulette Carr  
Councilmember Steven McMahon  
Councilmember Terry Crow  
Councilmember Michael Glickert  
Councilmember Bwayne Smotherson

Also in attendance were City Manager, Gregory Rose, James Torti and Karen Lenk of Schowalter & Jabouri, and City Attorney, John F. Mulligan, Jr.

**C. APPROVAL OF AGENDA**

Hearing no requests to amend the agenda, Councilmember Carr moved to approve the agenda as presented. It was seconded by Councilmember Glickert and the motion carried unanimously.

**D. PROCLAMATIONS**

**E. APPROVAL OF MINUTES**

1. March 12, 2018, Regular Session minutes were moved by Councilmember McMahon, it was second by Councilmember Carr and the motion carried unanimously.

Referencing Item F on the Agenda, Mayor Welsch stated in accordance with the City's plan to establish a Tax Increment and Financing Commission (TIF), related to the proposed development at I-170 & Olive Blvd., Councilmember Crow was offered an opportunity to provide her with names of individuals he would like appointed to the Commission. In addition, St. County provided the City with five names of their employees for consideration.

**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 TIF Commission; (*I-170 and Olive Blvd. development*) by Mayor Welsch, it was seconded by Councilmember Crow and the motion carried unanimously.

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

1. Carol Jackson was sworn into the Arts and Letters Commission at tonight's meeting.
2. David Rowan was sworn into the Urban Forestry Commission at tonight's meeting.

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

**Deborah Henderson, 6124 Victoria Avenue, St. Louis, MO**

Ms. Henderson provided Council with an update on the Farmer's Market 2017 activities:

- EDRST Report; copies provided to Council
- 10 new participants, including Winslow's Home
- Numerous publicity, marketing, and people in the news
- Community partners, extending from local, county, state and federal Organizations
- A natural melting pot the U City Market is one of the most diverse and inclusive Markets in the State
- Continuation of the summer youth program under the administration of the U City Chamber of Commerce

**Leif Johnson, 836 Barkley Square, University City, MO**

Mr. Johnson stated although a number of people agreed with his comments regarding how the Mayor and her followers have asset-stripped the City, they did not understand why. So, this is his attempt to provide them with an answer. The Mayor's crucial actions were focused on one thing, passing a 25 million dollar bond issue. When that failed, former Councilmember Steven Kraft lamented "*This is the worst thing that ever happened to U City*". The Mayor is a follower of Edmund Burke who believed that the highest form of commerce is financial speculation. The Mayor gets no monetary rewards for what she does and is not personally corrupt in any ordinary sense of the word. She has, from her point of view, a higher purpose; an ideology, or worldview that commerce is the law of nature, and the law of nature is the law of God. The Mayor and her followers believe they are riding a great wave of history. They may suffer local defeats but they are marching in lockstep towards ultimate victory. Theirs is the triumph of will. So, let the good people of this City relish the victory they have wrought, cherish the lessons they have learned, and prepare for the next battles ahead.

**I. PUBLIC HEARINGS**

**J. CONSENT AGENDA**

**K. CITY MANAGER'S REPORT**

1. FY17 Audit Presentation – Schowalter & Jabouri

City Manager Rose stated this year's audit was conducted by Schowalter & Jabouri and tonight, two of their accountants; James Torti and Karen Lenk will present the results for FY17.

## **Presentation by James Torti**

For the year ending June 30, 2017, management prepared a comprehensive Annual Financial Report which includes the City's financial statements.

### **Overview**

- ❖ Page 1 - Schowalter & Jabouri's report on the City's financial statements. In the opinion of Schowalter & Jabouri, the financial statements are fairly presented in all material respects and are in conformity with generally accepted accounting principles.
- ❖ Page 17 - The Fund Financial Statements are prepared using a major fund concept. All major funds of the City are shown in separate columns. All other funds are grouped together and shown in a separate column. The governmental funds are prepared on the modified accrual basis of accounting and the proprietary funds are prepared on the full accrual basis of accounting.
- ❖ Page 14 - Government-wide financial statements. The statement of net position presents the financial position of the City as a whole and is prepared on the full accrual basis of accounting using the economic resources measurement focus; which means that all assets and all liabilities of the City are included.
- ❖ Page 16 - The Statement of Activities presents direct expenses and program revenue for each function of the City's activities. The net amount shows the extent to which each function is self-financing or draws from the general revenues of the City. This statement is also presented on the full accrual basis of accounting.

*Because of the differences in the basis of accounting used in the governmental fund statements and the government-wide statements there are reconciliations provided that reconcile the total fund balance of governmental funds to the total net position of governmental activities for the City, and the reconciliation of the net change in governmental fund balances to the change in net position of the governmental activities of the City.*

- ❖ Page 4 - The Finance Department's Discussion & Analysis provides an overview and analysis of the City's financial activities. Summary of results:
  - For the year ending June 30, 2017, the total net position of the City; total assets less total liabilities, was approximately 60.3 million dollars; a decrease of approximately 1.5 million dollars from the prior year. The unrestricted net position at year-end was approximately 6.9 million dollars.
  - For the year ending June 30, 2017, the City's governmental funds had a total fund balance of approximately 20.6 million dollars; a decrease of approximately \$488,000 from the prior year.
  - For the year ending June 30, 2017, the general fund balance was approximately 17 million dollars. *(It should be noted that since the City's financial statements are prepared on the modified accrual basis of accounting the fund balance does not equate to cash balance.)* Of this 17 million dollar fund balance approximately 6.7 million dollars is committed for specific purposes by the Council; including 6 million dollars for a police facility. While these funds have been committed, no cash funds have been set aside at this time. The committed designation is provided to ensure that Council will not use these funds for other purposes. The unassigned fund balance is approximately 9.3 million dollars.

- For the year ending June 30, 2017, the City's business-type activities accounted for in proprietary funds resulted in a total net position of approximately 3.7 million dollars; a decrease of approximately \$46,000 from the prior year. The unrestricted net position of the proprietary fund at year-end was approximately \$206,000.
- As noted in the financial statements, two funds are reporting deficit fund balances. To eliminate these deficits management has implemented the following plans: **The Park and Stormwater Sales Tax Fund**. All current projects have been placed on hold and future expenditures will be reduced until the deficit fund balance has been eliminated. Future expenditures will be closely monitored to prevent a deficit from occurring again in the future. **The Grants Fund**. Approximately \$283,000 remains to be transferred from other funds to eliminate this year-end deficit. Going forward, any matching portion from grants will be paid directly from the fund responsible for the match. Any advances made from other funds to pay grant costs prior to reimbursement will be formally documented and repaid to the advancing fund as soon as practical, based on the grant reimbursement payments.

#### **Additional Reports & Suggestions**

- ❖ Schowalter & Jabouri issued a report on internal control-related matters and advisory comments with suggestions for strengthening internal control and operating efficiency.
  - One deficiency in internal control considered to be significant was identified.
  - In addition to the item required to be reported, Schowalter & Jabouri made additional suggestions for management and Council to consider.
- ❖ Report to the Honorable Mayor and City Council; a required communication by the auditor to those charged with governance after the audit. Attached to this report is a document summarizing the adjustments to the City's financial statements as a result of the audit.

Mr. Rose stated management still has some work to do with regards to reconciling the general fund, fleet, and grants accounts. Part of this reconciliation will require establishing a structured loan to provide working capital for the parking garage. Although the parking garage reflects a fund balance in excess of 1 million dollars, it does not have an actual cash balance.

#### **2. Ackert Walkway ADA and Lighting Improvements – Engineering Services Contract Award**

Mr. Rose stated staff is recommending that Council consider the award of a contract to Crawford, Murphy & Tilly, for the not to exceed the amount of \$41,207.13. Improvements for Ackert Walkway include a 4-inch concrete sidewalk repair, upgrade lighting, detailed signage, pavement markings, and ADA compliant curb ramps. These improvements support the City's current ADA Transition Plan, as well as the Parkview Gardens Park Plan adopted in February of 2010.

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

Councilmember Carr questioned whether these funds would be coming out of the CIP Fund since the Parks and Stormwater Fund has apparently been frozen?

Mr. Rose stated the funds being proposed comprise a mixture of grant funding, as well as the Parks and Stormwater Fund. Future projects; rather than projects like this one, which was already in progress, have been placed on hold. Councilmember Carr asked if, at some point, Council could get a clarification on which capital improvement projects have been placed on hold. Mr. Rose agreed to do so.

Voice vote on Councilmember Carr's motion carried unanimously.

### 3. Emergency Request to contract Pool Management Services for Summer 2018

Mr. Rose stated staff is recommending that Council award a contract to Midwest Pool Management in an amount not to exceed \$198,040, for summer pool management and the reimbursement of fees associated with obtaining Lifeguard Certifications for each lifeguard employed by the company.

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

Councilmember Glickert stated his understanding is that last summer both staff and Council agreed that the program administered by an outside company had been very poorly managed. Mr. Rose stated although it had been staff's intent to bring management of the pool back in-house, a recent resignation prevented that plan from coming to fruition. It is also the reason why this emergency request is being made tonight. Mr. Rose informed Councilmember Glickert that at this point in time, the City simply does not have the resources to provide high-level maintenance and management of the pool's summer program. Councilmember Glickert suggested that going forward, the pool's summer program be addressed in December.

Councilmember Crow noted that Mr. Rose had included a detailed explanation of this request in Council's packet. However, when a significant resignation like this one occurs it's a little unreasonable to hold the City Manager, who started on December 28th, responsible. So in his opinion, both staff and the City Manager are doing an excellent job of trying to resolve a situation that came up expectedly.

Councilmember Carr stated this issue had also been discussed in the Park Commission's meeting, and apparently, the City is using a different firm from the one utilized last year, with the hope that their delivery will be a little bit better. Obviously, no one can control unforeseen events, so Council's next step should be to move quickly on this matter.

Voice vote on Councilmember Carr's motion carried unanimously; with the exception of Councilmember Glickert.

## 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.** Bill Number 9353 was read for the second and third time.

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

Roll Call Vote Was:

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

**Nays:** None.

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 second and third time.

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

Roll Call Vote Was:

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

**Nays:** None.

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 second and third time.

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

Councilmember Crow stated since Paragraph 6 rectifies the subject matter contained in Paragraph 7, he would make a motion to amend Bill Number 9355, by deleting Paragraph 7 and renumbering the remaining paragraphs. The motion was seconded by Councilmember Glickert.

Roll Call Vote Was:

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

**Nays:** None.

Councilmember Carr posed the following questions:

**Q.** Does the language contained in what has now been designated as Paragraph 8, conform to the promises made for additional 24/7 security on the bridge?

City Attorney, John Mulligan stated if the question is how does Paragraph 8 compare to what was described during the January 2017 Study Session, his understanding is that Wash U's representation during that meeting was that their goal; not a commitment, was to provide security for the entire life of the agreement. However, what Paragraph 8 now states with respect to security services is that there will be a minimum of five years from the date of the agreement, as described in Exhibit D.

**Q.** This was supposed to be additional security, so do you know at what point Wash U., instituted this new condition?



Mr. Mulligan stated this item was mentioned during the contract negotiations which occurred in either April or May of 2017. At that time, one of the alternatives entailed Wash U making a contribution to the U City Police Department to provide an increased level of security for its residents. In response, Wash U expressed a desire to make no commitment for the life of the project, and instead, to only extend security services out to five-years.

Councilmember Carr made a motion to execute Section 2 of the Bill, which states, "*This Ordinance shall take effect and be in full force from and after its passage and approval by a majority of the qualified electors.*" The motion was seconded by Councilmember McMahan.

Councilmember McMahan stated the point for making a second to the motion is his belief that there needs to be a discussion on whether this Services Agreement could potentially constitute an issue with the City's Charter. Residents created that provision within the Charter, so it is important for them to know that Council has discussed this issue and given it careful consideration prior to the adoption of this Bill. He stated that initially Council started out looking at an easement, and that has now turned into something completely different. So, he would like Mr. Mulligan to express his thoughts about the work that went into the Services Agreement and why it does or does not need a vote.

Councilmember Carr stated in general, she thinks this is a good agreement. However, the City's request in Paragraph 6, to be indemnified against any prosecution by a third party claiming that this particular agreement violates the Charter, calls into question; one, whether the City is making the right process move? And two, whether this should go to a vote of the people or if there is some reason why it would not qualify for such a vote?

Mr. Mulligan stated his legal opinion is that this Services Agreement complies with the Charter, specifically, Section 98, which was a Charter amendment approved by the voters in April of 1990, which states; in pertinent part, that "*If there is a public park designated under the City's Ordinances;*" which Greenway South is, "*that park shall not be sold or otherwise disposed of, and shall remain unimproved or be used solely as a public park or recreational facility, unless the sale, disposal or change in use is approved by a majority of the qualified electors voting thereon in an election called pursuant to an Ordinance adopted by the Council.*" As used in this section, "A public park or recreational facility includes without limitation, nature study areas, gardens, playgrounds, golf courses, and all areas accommodating activities customarily associated with park usage or outdoor recreation and the activities in the locations specifically designated in the Park Ordinance".

The first question; is the City changing the use? In 2003 an easement was granted by St. Louis County for construction of the existing bridge and ramp, which has now been in existence for more than a decade. Therefore, he does not believe that its use will be changed by the adoption of this Bill.

This is part of the Great Rivers Greenway District, known as the Centennial Greenway. The Great Rivers Greenway is a regional public agency created by a vote of the people in 2000, which included a sales tax to fund a network of greenways. In fact, State Statute 67.1706, specifically states that "*This District has as its duty, the development, operation, and maintenance of a public system of interconnecting trails and parks throughout the counties comprising the District.*"

Great Rivers Greenway links nine parks in the metropolitan area and the trail activities permitted on Centennial Greenway include biking, inline skating, and walking. In 2005, Council passed Resolution 09-1905, which declared Centennial Greenway as having a positive impact on the region as a whole, by promoting the recreational needs of U City residents, visitors, Wash U students, and faculty; many of whom live in U City. And on September 27, 2011, the Park Commission considered Centennial Greenway.

Mr. Mulligan stated the objective of this 7 million dollar investment for which the City has not been asked to contribute one penny, is to increase public safety. The current structure is not wide enough to safely accommodate bicyclists and pedestrians. Consequently, this project has been designed to double the width of the bridge, and elevate a portion of the passageway where pedestrians can walk and not have to worry about cyclists running into them. A number of additional safety features will also be added. However, only a small portion of the overpass and ramp will impact Greenway South. The vast majority will be in St. Louis County's right-of-way, known as Forest Park Parkway.

The next question is whether the City is disposing of this property? Paragraph 1 of the Services Agreement specifically states, that "*The University disclaims any ownership or other rights in or to the project and the project area.*" In other words, this is a License Agreement granting limited permission to construct and maintain the new bridge and ramp. The agreement commences and is automatically renewed for one-year terms unless either party provides notice of non-renewal on or before April 1st. Hence, if the City so desires, it has the right to terminate this agreement. So, under the terms of this agreement, there is no need to be concerned about this property being owned by Washington University.

Mr. Mulligan stated that the agreement had also been presented to a number of Boards and Commissions over the past two years. The Park Commission considered this agreement on June 2, 2016. The Green Practices Commission considered it on July 14, 2016. The Urban Forestry Commission considered it on July 13, 2016. Wash U conducted community outreach and presented this to Council in January of 2017. So there have been a lot of reviews conducted on the Greenway, and for all of these reasons he believes the agreement complies with the Charter and no vote is necessary.

Councilmember Carr asked if there was anything that precluded a vote by the electors? Mr. Mulligan stated if Council is inclined to call a Special Election, then it is within their jurisdiction to do so.

Councilmember Carr stated while she deeply appreciates Mr. Mulligan's explanation, there are two sections of the Charter that in her opinion are sacrosanct. The people of this City took the time to gather the necessary signatures to put these sections on the ballot for the sole purpose of ensuring that parkland not be transferred. So in the spirit of those actions, she would like to preserve the motion made at the beginning of this discussion.

Councilmember Smotherson asked Councilmember Carr for a clarification of her amendment to the Ordinance? Councilmember Carr stated Section 2 remains essentially as written. However, where it states, "*after its passage it goes into full force,*" she added the following language to ensure conformity with Section 98 of the Charter; "*and approval by a majority of the qualified electors*".

Councilmember Crow stated one consideration that should remain at the forefront of this discussion, is the fact that this walkway has been far more successful than anyone ever anticipated. As a former resident of Ames Place, he gets the concerns associated with traffic, but by the same token, also appreciates Mr. Mulligan's detailed explanation regarding how this agreement has been well-vetted by multiple Boards and Commissions and its compliance with the Charter. He stated while there should be no doubt about his respect for his colleague in the 2nd Ward, he has seen no evidence that would lead him to believe that the citizens who gathered signatures for those petitions have taken the time to express any apprehensions about this project. In fact, other than the agent representatives from adjacent neighborhoods, Council has been met with total silence. So, based on this level of calm; the detailed legal opinion proffered by Mr. Mulligan, and Council's exhaustive discussions on this matter, he would ask that Council move forward without spending \$40,000 on a Special Election to exercise a public vote.

Mayor Welsch stated in her opinion, Mr. Mulligan presented a sound explanation. And as she has shared on numerous occasions, her belief is that this new design will open up more of Greenway South by removing this very large and unsightly overpass which covers almost 60 feet of walkway. Therefore, she would concur with Councilmember Crow's suggestion that Council moves forward without a public vote.

Councilmember Carr reiterated her conviction that even though she thinks this is a good agreement, her stance is based on the process of making certain there is a degree of transparency; that up to this point, has not occurred.

Roll Call Vote on Councilmember Carr's motion for a public vote was:

**Ayes:** Councilmember Carr.

**Nays:** Councilmember McMahon, Councilmember Crow, Councilmember Glickert, Councilmember Smotherson, and Mayor Welsch.

Roll Call Vote to adopt Bill 9355, as amended, was:

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

**Nays:** None.

## **M. NEW BUSINESS**

### **RESOLUTIONS**

*Introduced by Councilmember Glickert*

- 1. Resolution 2018-4** – A Resolution urging Missouri State Legislators to adopt laws to prevent gun violence and promote safe schools. It was seconded by Councilmember Crow.

Mayor Welsch noted that this Resolution was presented by Councilmember Jennings who could not be in attendance at tonight's meeting and asked that his statement be read into the record:

*"Please forgive my absence as I promised to be the moderator for the last School Board Candidate Forum and tonight was the only night that worked for all parties involved. I wanted to ask my colleagues to support Resolution 2018-4, urging our state legislators to adopt laws to prevent gun violence. As the mass shootings increase and become even more frequent in our schools, we will eventually resolve that the existing laws are just not protecting citizens in Missouri and in the United States of America.*

*U City has an opportunity again to be a leader in reform, progress, and common sense. We are not here to debate the Second Amendment which was written in the 1700(s), before the proliferation of high-output, high-capacity assault weapons, and magazines that accompany them with the sole purpose of inflicting maximum casualties. We are not here to distinguish between the daily inner-city gun violence murders, as opposed to the less frequent suburban school mass shootings. We are here to support and stand with the City and School District of Parkland, Florida, Broward County, in that we are charged as elected officials with the safety of students and residents of our respective states. We are strongly advising our state elected officials that the status-quo on gun legislation is no longer good enough and cannot stand without updating to new, sensible, modern-day responsible gun laws.*

*Change is coming. Will it take more violence, more shootings, more deaths, for us to look at how we can better protect our citizens much like we did in response to the 911 attacks on America? We changed our entire way of life when we lost over 3,000 citizens in just one day. I hope and pray that we stand united in the support of Resolution 2018-4."*

Councilmember Smotherson stated he had several concerns, one of which involves the generic nature of the Resolution which literally seems to open the door to a number of interpretations. For example, the statement which reads, "Concern requiring minimum levels of security in all public or state chartered schools and providing appropriate funding," could be interpreted to mean arming teachers, which is something he does not agree with. His second concern involves the timing of this Resolution. Councilmember Smotherson stated he would like to see something more specific to U City based off of the feedback and perspective of this community's residents and School District.

Councilmember Crow stated he had the privilege of participating in the march led by a wonderful group of young adults, who did a phenomenal job of getting 15,000 people out on a cold and rainy Saturday. But with respect to timing, the purpose is twofold; one, the Parkland shootings, and two, the pending deadline for this year's legislative session. He stated even though he does not have the greatest amount of faith in this current legislative body, and citizen's input is always warranted, what Councilmember Jennings is trying to do is simply send a message about the need to have a sane conversation that results in taking some forward steps. Councilmember Crow stated he strongly believes that it is important for Council to take a stand for the children and families of this community by submitting this Resolution to elected officials prior to their adjournment.

Councilmember Carr stated this is a Resolution, not an Ordinance, which means that it is not binding. As such, her belief is that it is appropriately non-specific; giving legislators a broader range to work through, as opposed to a more detailed document that can be quickly rejected. This is simply saying that this Council wants its state legislators to pay attention to the issue; that it is unconscionable under any circumstances to not pay attention to what is happening around them and to implement the kinds of resolutions that have been talked about for years and years. Councilmember Carr stated in this instance, her inclination is to stand with all of the young people who've marched throughout the country; all the people whose lives have been taken, and all the parents, brothers, and sisters, who could do nothing but watch while these acts of violence impacted their lives.

Councilmember Smotherson stated while he supports the concept of making a statement to legislators and understands the comments made by his colleagues; he still believes that part of this problem is our failure to tell them exactly what we think. That said, he is willing to move forward.

Councilmember Carr asked Councilmember Smotherson if he would be amenable to work on developing a more detailed statement going forward? Councilmember Smotherson stated that he would be.

Voice vote on Councilmember Glickert's motion carried unanimously.

Mayor Welsch stated she wished to thank Mayor Harold Sanger for providing her with a copy of the Resolution passed by his Board of Alderman to use as a guide. The Mayor asked Mr. Rose to send a copy of this Resolution to all state representatives, along with a letter asking them for their consideration and conclusions.

*Introduced by Councilmember McMahon*

2. **Resolution 2018-5** – Budget Amendment #3 – FY18. It was seconded by Councilmember Carr.

#### Citizen's Comments

**Mary Adams, 7700 Olive Blvd., University City, MO**

Ms. Adams, Executive Director of the U City Chamber of Commerce stated the Chamber is asking that Council approve the unanimous recommendation of the EDRST Board for a budget amendment designating \$5,000 in surplus FY18 EDRST funds for administration of the U City Youth Summer Jobs Program. Since 2014, both the City and School District have partnered to share the reimbursement costs to U City businesses that employ U City High School students for up to 18 hours during eight weeks of the summer. Subsequently, this request is fully aligned with the recommended and approved use of EDRST funds, as well as and the Chamber's organizational mission. Ms. Adams stated the previous volunteer who administered the program is no longer able to do so, and as always, the Chamber is happy to step up wherever it can, to provide programs and services that support economic development in the community.

Over the past four years this program has provided summer jobs to 88 U City high school students, and of those, 42% have retained their jobs after the program. One example of this success can be found in the School District's recently published article in the *U City Pride* magazine, about a graduate of the summer jobs program who retained her job at Walgreen's through college and was recently promoted to a Lab Technician.

#### Council's Comments

Mayor Welsch read the following letter from Councilmember Jennings into the record:

*"Young people really don't care how much we know, but want to know that we care. It has been the experience in U City that we cared enough about our youth that we created a youth employment program. It was a success, as our youth learned about the world of work, stayed out of trouble, and benefitted businesses throughout U City as valuable employees.*

*My daughter was an employee at the Walgreens in U City and was retained after she graduated from high school by this national chain. She can work for them again anywhere in the country should she choose to or need to do so. I would like to encourage my colleagues and the City Manager to please fund the Summer Youth Employment Program at the same or increased level.*

*It has proven itself to be a good return on the investment.*

*One of the biggest problems we have regarding young people of color is that we have very few activities for them. This is why many find their way into mischief, at best, and trouble, at worst. Let's continue to show our commitment to U City young people by maintaining our partnership with the U City School District. I ask that we provide \$5,000 or more to the program as we have in the past".*

Councilmember Smotherson asked Mr. Rose if this Resolution was designed to only address FY18? Mr. Rose stated this item asks Council to approve \$2,500 as a portion of the coordination cost needed for FY18. He stated although the original request was for \$5,000, he had reached out and received support from the School Board who agreed to split the cost of administering the program.

Councilmember Carr stated based on some of the budgetary problems facing the City, she would like to thank Mr. Rose for his initiative, and the School Board, for their willingness to financially support this program.

Voice vote on Councilmember McMahon's motion carried unanimously.

#### **BILLS**

*Introduced by Councilmember Glickert*

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. Bill Number 9356 was read for the first time.

*Introduced by Councilmember Smotherson*

4. **BILL 9357** - AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH MCIMETRO ACCESS TRANSMISSION SERVICES CORPORATION. Bill Number 9357 was read for the first time.

*Introduced by Councilmember Carr*

5. **BILL 9358** - AN ORDINANCE APPROVING A RIGHTS-OF-WAY USE AGREEMENT AND SETTLEMENT WITH XO COMMUNICATIONS SERVICES, LLC. Bill Number 9358 was read for the first time.

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

1. Boards and Commission appointments needed  
Mayor Welsch announced the appointments that were needed.
2. Council liaison reports on Boards and Commissions  
Councilmember McMahon stated the CALOP Commission asked him to report their unanimous approval of roughly \$9,000 in funding for computers and software to support the video classes that will be held at the library this summer. The program consists of three classes, five days a week that will be offered to twelve participants.

Mayor Welsch advised everyone that the EDRST Board would be meeting on Thursday to vote on recommendations for next year.

Relative to what has previously been discussed; Mayor Welsch stated the Board will also be seeking funding for next year's Youth Summer Jobs Program, which fits into the mandated use of training, for disbursement of EDRST funds.

3. Boards, Commissions, and Task Force minutes
4. Other Discussions/Business

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

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

Mr. Hales expressed his appreciation for the Mayor's graciousness in conceding her appointments for the TIF Commission to Councilmember Crow and hopes that Councilmember Glickert would consider extending that same courtesy to his successor. He stated while he would also like to thank Council for the discussion and questions raised regarding outsourcing of the pool and the Services Agreement, he is saddened by the fact that these issues received far greater attention than outsourcing of the City's ambulance service. But at the end of the day, it is a very welcomed change.

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

Mr. Pace stated he remembers the first year of the Youth Summer Employment Program when he had been informed that this program would be open to all teenagers who resided in U City. When in reality, the high school set up a table and filled all of the jobs. And through the work of Councilmember Carr, it was later determined that one of the participants didn't even live in U City. Mr. Pace stated based on the conversations that have taken place tonight, it appears as though this professed open invitation to all youth, still does not exist.

**P. COUNCIL COMMENTS**

Councilmember Carr stated some time ago, she and Councilmember Smotherson met with Drs. Hardin-Bartley and Brenner from the School District about the establishment of a venue to garner student participation in City government. Dr. Brenner, with the assistance of Mr. Rose, have come up with some excellent ideas, and together, they will be working on a plan to facilitate the engagement of all teens in U City.

Councilmember Carr stated while the Mayor's last newsletter raised insulations about Ms. Rosalyn Williams she thinks are unfounded, one of the principal misstatements was that Ms. Williams initiated and presented the Olive/1-70 development to the City. The truth is, it was she and Councilmember Smotherson who pursued this development and brought it to the attention of the Interim City Manager, Ms. Riganti, and Councilmember McMahon, so there is no conflict of interest on the part of Ms. Williams. Councilmember Carr thanked Mayor Welsch and Councilmember Crow for their appointments to the TIF Commission and stated she looks forward to all of the upcoming developments.

Councilmember Smotherson addressed his comments to the City Manager and requested that Council have an opportunity to address the EDRST Board's FY19 request for funding to administer the Summer Jobs Program, and that at the next meeting, he provides an explanation for why there is only 6 million dollars set aside for the police facility, rather than the 7 million dollars originally allocated.

Councilmember Crow informed everyone that the League of Women Voters will be conducting a Ward 2 Candidate Forum at the library on Wednesday at 6 p.m.

Councilmember Crow thanked the Mayor for allowing him to make appointments to the TIF Commission and expressed appreciation to Mr. Hales, for his comments regarding tonight's discussions.

He stated on Saturday night he had the pleasure of attending the Urban League's Centennial celebration where the keynote speaker was Viola Davis. Incorporated in her message of empowerment was a comment about the need to take advantage of our ability to create opportunities for others. Rather than thinking about our lives as a sprint, it should be viewed as a relay race, where we find comfort in handing off the baton to the next person in line. Separate conversations conducted outside of Council's chamber are a little bit uncomfortable and cause him a great deal of concern, especially when aspersions are being cast on citizens and employees of U City. And with respect to the changes occurring at City Hall, the Mayor's comment in her last newsletter that *"If you're not concerned, you should be concerned,"* in his opinion, was an unfair swipe that lacks integrity and misstates history. The Mayor's exhaustive litany of employees who no longer work for U City opened up a can of worms that appears to cast doubt on the new City Manager. Everyone on this dais knows what happened with Chief Adam Long. And as Councilmember Carr noted; does it strike anyone as odd that the biggest development that has come to U City was orchestrated by two members of Council rather than Ms. Riganti's department? Ray Lay found the career opportunity he has always wanted. And finally, with respect to City Attorney, Katie Forster, it's abundantly clear that the current City Attorney presents himself in a professional, non-political manner, and serves with the utmost confidence of this Council. So, the Mayor's comment, *"If you do not find this worrisome I would respectfully suggest that you should,"* is simply her attempt to create concern in the public's mind where none exists.

Councilmember Crow provided a brief background of the City's history with respect to past employees who left within months of a change in government; exactly like the people underlined in the Mayor's newsletter. Councilmember Crow stated this is simply a change in government; period. It's what the people voted for in the last election and not one person has come up to him and said they are surprised or even concerned about the changes that have been made at City Hall. So his hope is that in the remaining weeks there will be no more aspersions cast on the City Manager and that every member of this Council can find comfort in handing off the baton with a level of integrity appropriate for this community.

Councilmember McMahon stated the EDRST Board's system of recommendations and unanimous decisions is somewhat troubling in that it can be viewed as being somewhat antagonistic. So one of the things he thinks Council may need to reflect on is how the process is set out in the Ordinance. Section 125.40, talks about *"The Board; subject to approval of City Council, shall consider the development plans"*. And further on in that same section, it states, *"Then they will present them to Council for a vote, or a change, or amendments to the plans they have adopted"*. So it appears to have been established as a two-step process. Plans are first reviewed by Council and sent to the Board, who then comes back to Council with their recommended development plans. Councilmember McMahon stated in his mind, this two-step process creates an atmosphere of working together on the overarching policy decision important to U City; economic development. It not only allows both entities to target the City's future visions, it also provides a system of checks and balances.



Because if the Mayor holds the appointments to the EDRST Board, and works with these members to create the plans presented to Council, you've basically excluded the six people who should be talking about these policy decisions and leading the charge, rather than following along behind. So going forward he thinks this is something Council really needs to talk about.

Addressing the Mayor's newsletter, Councilmember McMahon stated at some point, the focus really needs to move away from what about you, because that means you're looking backward and this City and its Council aren't looking backward anymore.

Councilmember Glickert congratulated the Chamber of Commerce on their wildly successful Taste of U City event. He stated they had more volunteers, participants, attendees, and give-a-ways than ever before, and was a wonderful reflection of U City. Councilmember Glickert stated he is also happy to report that the Recreation Department now has close to 70 kids who will be participating in their summer baseball program.

Mayor Welsch stated what she had failed to mention in her liaison report, was the EDRST Board's desire to meet with Council and the City Manager, sometime in the near future. She stated while Councilmember McMahon's recitation of the Ordinance is correct, the process now being employed by the EDRST of considering the applications before them and making a recommendation to Council, was established at the time of the Board's formation in 2007. Members of this Board are hopeful that everything can be clarified at the time of their meetings with City government.

- 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.

Councilmember Smotherson moved to go into a Closed Session, it was seconded by Councilmember Glickert.

Roll Call Vote Was:

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

**Nays:** None.

**R. ADJOURNMENT**

Mayor Welsch closed the regular City Council meeting at 8:07 p.m. to go into a Closed Session on the second floor. The Closed Session reconvened in an open session at 9:16 p.m.

LaRette Reese  
City Clerk



Ms. Reese,

Please push my re appointments back to the next agenda.

I would like the following statement read at tonight's council meeting by the Mayor or Mayor Pro Tem:

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Please forgive my absence as I promised to be the moderator for the last School Board Candidate Forum and tonight was the only night that worked for all parties involved. I wanted to ask my colleagues to support Resolution 2018-4 urging our State Legislators to adopt laws to prevent gun violence. As the mass shootings increase and become even the more frequent in our schools, we will eventually resolve that the existing laws just are not protecting citizens in Missouri and in The United States of America. University City has an opportunity again to be leader in reform, progress and common sense. We are not here to debate the 2nd Amendment which was written in the 1700's before the proliferation of high output, high capacity assault weapons and magazines that accompany them with the sole purpose to inflict maximum casualties. We are not here to distinguish between the daily inner city gun violence murders as opposed to the less frequent suburban school mass shooting murders. We are here to support and stand with the City and School District of Parkland Florida, Broward County, in that we are charged as elected officials with the safety of students and residents of our respective states. We are strongly advising our State elected officials that the status quo on gun legislation is no longer good enough and cannot stand without updating to new sensible modern day responsible gun laws.

Change is coming. Will it take more more violence, more shootings, more deaths for us to look at how we can better protect our citizens, much like we did in response to the 911 attacks on America. We changed our entire way of life when we lost over 3000 citizens in just one day.

I hope and pray that we stand united in the support of Resolution 2014-4.

Respectfully Yours,

Rod Jennings

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During Council Comments or at the appropriate time, please read the following regarding funding the Summer Youth Jobs Program:

To my esteemed colleagues,

Young people really dont care how much we know, but want to know that we care. It has been the experience in UCity that we cared enough about our youth that we created a youth employment program. It was success as our youth learned about the world of work, stayed out of trouble and benefited businesses throughout University City as valuable employees. My daughter was an employee at the Walgreens in UCity and was retained after she graduated from high school by this national chain. She can work for them again anywhere in the country should she choose or need to.

I would like to urge my colleagues and the city manager to please fund the Summer Youth Employment Program at the same or increased level. It has proven itself a good return on the investment. One of the biggest problems we have regarding young people of color, is that we have very few activities for them. This why many find their way into mischief at best and trouble at worst. Lets continue to show our commitment to University City young people by maintaining our partnership with the University City School District. I ask that we provide \$5000.00 our more to the program, as we have in the past.

Respectfully Yours,  
Rod Jennings  
3rd Ward Councilman, University City

3rd Ward Councilman  
University City, Missouri

Rod Jennings  
[rjmiracle007@gmail.com](mailto:rjmiracle007@gmail.com)  
314-480-2221

City Council Testimony, March 26, 2018  
Leif Johnson; 836 Barkley Square  
725-5429; [suz836@hotmail.com](mailto:suz836@hotmail.com)

Madame Mayor, members of the Council

A number of people have agreed that the Mayor and her followers have asset-stripped U. City, but they ask, "Why? What does she get out of it?" I hope to answer that question.

The Mayor's crucial actions, including reducing employees and their benefits, misappropriating funds to claim a balanced budget, and bringing the City's bond rating up to AA+, were focused on one thing: passing a \$25 million bond issue. When that failed, former Councilman Steven Kraft lamented, "This is the worst thing that ever happened to U. City."

The Mayor is a follower of Edmund Burke, who once said, "Commerce is the law of Nature and the law of Nature is the law of God". For Burke, the highest form of "commerce" is financial speculation. During the 1772 famine in England, Burke eliminated government food handouts to the poor while eliminating usury laws which gave speculators a "free market" to gouge as much as they could.

You may remember that the 2008 financial collapse occurred when the supply of new mortgages ran out. A financial bubble must be fed with new debt—in ever-increasing amounts as the bubble gets larger. This explains President Trump's **simultaneous** massive tax reductions and massive spending increases, which added hundreds of billions to the Federal deficit. High grade municipal, county, and state debt is almost as good as Federal debt. Local and state politicians across the nation are demanding tax reductions and budget cuts in people services. Tax reductions increase debt, while budget cuts guarantees debt repayment.

The Mayor gets no monetary rewards for what she does. She is not personally corrupt in any ordinary sense of the word. She has, from her point of view, a "higher purpose." She has an ideology, a cause, a world view. She believes that, "Commerce is the law of Nature and the law of Nature is the law of God." And the highest form of commerce is speculative finance: the "bubble."

The Mayor and her ilk believe they are riding a great wave of history. Cities around the country, state after state, and now the presidency, are in their control. They may suffer local defeats, but they march lock-step towards ultimate victory. Theirs is the "Triumph of Will"

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Let the good people of this City relish the victory they have wrought, cherish the lessons they have learned, and prepare for the next battles. For those of you who now think you can return to spoiling grandchildren and weeding gardens, such things will get old quickly. For those of you who are honestly concerned about your grandchildren, there are many battles ahead ....beginning now.



**UNIVERSITY CITY COUNCIL  
STUDY SESSION  
5th Floor of City Hall  
6801 Delmar  
March 26, 2018  
5:30 p.m.**

**MEETING CALLED TO ORDER**

The City Council Study Session was held in Council Chambers on the fifth floor of City Hall, on Monday, March 26, 2018. Mayor Welsch called the Study Session to order at 5:30 p.m. In addition, the following members of Council were present:

Councilmember Rod Jennings *(arrived 5:34 p.m.)*  
Councilmember Paulette Carr  
Councilmember Steven McMahon *(arrived 5:34 p.m.)*  
Councilmember Terry Crow  
Councilmember Michael Glickert  
Councilmember Bwayne Smotherson

Also in attendance was City Manager, Gregory Rose; City Attorney, John F. Mulligan, Jr.,

Hearing no requests to amend the Agenda, Mayor Welsch proceeded to turn the meeting over to Mr. Rose.

**AGENDA**

*(Requested by City Manager)*

**1. Proposal Organizational Structure**

Mr. Rose stated that he would be presenting the proposed organizational structure, with an end goal of improving service delivery to the residents. Council has seen this proposal a few times; tonight's study session gives you the opportunity to ask questions and allows me to respond to those questions.

The proposed structure focuses greater resources on Economic Development, Communications, Human Resources, Parks and Recreation and Planning and Zoning. Currently some departments that have been overseeing multiple functions, in this proposal they will revert back to a more traditional role.

For Economic Development, this structure proposes an Assistant to the City Manager position initially at the director level. The hope is that this position will progress to the Assistant City Manager role. It will oversee all economic development functions; ranging from staffing the Economic Development Retail Sales Tax board as well as being ombudsmen for any development that would occur. Working with both large and small developers; doing some hand holding for those who have a good understanding of our codes and systems and also for those who don't have as much of an understanding of our codes and processes. This function would be coordinated out of the City Manager's office.

The second Assistant to the City Manager would handle Communications. This person would be responsible for being the Public Information Officer for the entire organization. In addition they would have responsibility for the newsletter, webpage and video production. One project that has been suggested would be livestreaming the Council meetings via the internet; this person would be responsible for coordinating this project. Also included would be customer service, information technology and staffing the CALOP commission; a function that occurred in the City Manager's office some time ago. We will primarily be reverting back to that.

For Human Resources the proposal calls for a Director level position; perhaps in fiscal year 20 depending upon the complexity of the issues related to labor relations. We are moving forward with a classification and compensation study this year using a consultant. Initially the Human Resources manager will be involved with all of the different aspects of human resources.

The third area, Parks, Recreation and Forestry would be reinstating a department that existed in the past. This role would focus on traditional the roles of parks and recreation. This person would oversee maintenance, recreation, forestry, events, senior programming, as well as staffing the Arts and Letters, Parks, and the Senior commissions. The golf course and forestry would also be coordinated within this department.

Planning and Zoning would take more of a traditional role. The name would be changed from Community Development. Their efforts would focus on planning and zoning, inspections, and permitting. Provide staffing to the Board of Adjustments, Land Clearance Redevelopment Authority (under both Planning/Zoning and Economic Development), Historic Preservation Commission, Staff Appeals Board and the Staff Infill Review Board.

These are the main areas that are being proposed. Many of the areas are moving from a department where they are not really the primary focus of those departments to an area where it will become the primary focus. Human Resources is the best example, it is really a profession within itself. Currently it is under Finance, Tina does a great job, but her area of expertise is finance. We want to get someone who has expertise in human resources.

Councilmember Glickert asked if the reinstated positions will be director level positions? For example will it be Director of Parks and Recreation, Director of Human Resources?

Mr. Rose stated that is correct. Assistants to the City Manager would be director level positions; as well as Human Resources, Parks and Recreation and Planning and Zoning. The Community Development director already exists, so we would be adding effectively three director positions.

Councilmember Glickert asked if staff looked to see if the two positions (assistant to City Manager—Economic Development and Assistant to City Manager-Communications) or areas of discipline could be parked in one of the functions below? In other words new responsibilities are being carved out, but the question is could those responsibilities be parked in the area below?



Mr. Rose stated that's how its structure today. He believes there are great efforts to be made especially, in the area of economic development. One major project that this person will have is putting together a strategic plan for economic development, as we really don't have one now. We take more of a shotgun approach rather than a rifle approach, which is much more targeted; identifying businesses that are the best fit for University City. Also the role of guiding people through our process is extremely important once we start getting a great deal of development. Another area is working with Economic Development Retail Sales Tax board, identifying with Council the intent and purpose behind the Economic Development Retail Sales Tax board. Focusing our efforts on Olive Blvd., there's a plethora of opportunity where we can be much more engaged.

Councilmember Carr stated that she appreciated having information on where the funds would come from for the newly created positions. In the case of Parks and Recreation direction, some of funding come from the general fund and some from the yet to be established golf course enterprise fund. In looking at the audit, she was dismayed about all of the funds and she is wondering if we actually have the money?

Mr. Rose stated that it would depend on what the persons work load. The majority of work load will be focused on forestry and recreation and parks. Some will focus on the golf course, so maybe 25% or 15% from the golf course fund, with the remainder coming out of the general fund. As you aware the golf course from a fund balance presentative, can't support much more. The bulk of the funding will have to come through the general fund.

Councilmember Carr stated that some of the stream of revenue was lost when the lights were removed; she understands the guts are still there but the polls are gone. This might be one of the ways we could look at for making more money.

Mr. Rose stated that he will look at all revenue opportunities. Staff is combing through every revenue source closely. The budget process is intended to a barebones approach until he has a better understanding of what Council and the public thinks about the services that we provide. We will look at where more funding and/or staff are needed. There is correlation between the number of people that you have; so even if you may have a great deal of capital money to spend if you don't have the individuals onboard to push the projects, it will just sit there and be of no benefit.

Initially, its' better understanding the organization; these are some of the areas that we can improve. Some areas and positions will need to more quickly and not wait until the next fiscal year. Economic Development in particular is one that we need to move more quickly on. And also to establish what Council's expectations are for the Economic Development Retail Sales Tax.

Councilmember Carr stated the regarding the funding for the Assistant to the City Manager Economic Development would be taken out of the EDRST fund; right now the manager's salary is taken out of the fund but that is not equivalent to an Assistant to the City Manager salary.

Mr. Rose stated that he would review but would not exceed the EDRST fund cap; he is estimating the fund will have around \$600K dollars for next fiscal year. Twenty-five percent would be around \$150K, which should cover the bulk of that position.

Mayor Welsch stated that EDRST board had a meeting last week and she thought the request for was \$133K for this line item; which is up from \$100K the previous year. The Mayor reminded everyone that the State mandates the size of the board and how it works. She stated she would not be here through the budget process, but wanted to express some concern over the proposed changes. There are very much like the organization we had before back in 2004/2006, with the addition of the 2<sup>nd</sup> Assistant to the City Manager. Back then there one Assistant City Manager; she is very concerned if the funds are availability to do this. She is not supportive of putting a new person in the Fire Department to be a Fire Marshal. It's not warranted for a city of this size. Fire Marshals specifically focus on fire and building codes, the Building Commissioner has been the Fire Marshal. She suggests give a Captain the responsibility or provide the responsibility to one of people already on staff. Ditto with the Human Relations department; she does not think we have the workload to justify a separate department. She believed some of the duties listed under Human Relations would fall under the City Manager. Especially regarding labor relations, she believes that's the job of the City Manager. We have this structure in Parks and Recreation for years; one reason it was changed was due to money. We went from eight to five department heads back in 2010. She agrees it beneficial to have one department do all the trees, one department do all building one department do all the mowing. Splitting them does not help services to the residents or taxpayers. She has some real concerns. Ms. Feier inherited a real bad finance situation, and she believes that part of the problem was that we were top heavy in administration. She wished we would look at some other items like expanding the forestry crew; we use to have twelve now we have four. We need more code people; some of the long-term staff didn't get raises for three or four years because of the bad finances.

Mr. Rose stated he has never presented a structurally deficit budget since he's been a City Manager and doesn't plan to start now. If the funding is not available, he will not likely ask for the positions. We don't all have expertise in every area; we are generalist in many areas. He equates to going to a general practitioner because you're not feeling well. The doctor feels around and ask questions to determine, let's say it's you're kidneys and you need an operation. You don't want that general practitioner operating on you so go to a specialist. That's what he's suggesting here; this organization as proposed brings us back to where we have experts in the perspective areas. It's maybe good to have generalist for human resources but it's much better to have an expert in that area.

Mayor Welsch stated she agreed, but perhaps from a financing perspective not all of them are department heads right-a-way. If you get \$133K for EDRST for one assistant; does that mean another \$133K for the other assistant? If you look at younger people coming out of school, have a real expertise in communications that we could benefit from at lower pay level.

Councilmember Crow stated he was pleased to see that within the first 90 days we are progressing into a new structure that the City Manager feels he can work with. He's also pleased that we will have someone with a little heft in HR because the last six year have been a heavy litigation structure, we need someone that can advise staff on the appropriate way to treat our employees. Hopefully this will minimize the litigation risk that we have experienced over the past several years. He believes some of the decisions that were made under the previous administration may have been more on loyalty more so than the financial or economic efficiencies.

He is looking forward to having a different latency test for how we hire people, and how people move forward in the careers. He is sure the new Council after the April election will look forward to working with you on implementation.

*(Requested by the City Manager)*

**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.**

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

Roll Call Vote Was:

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

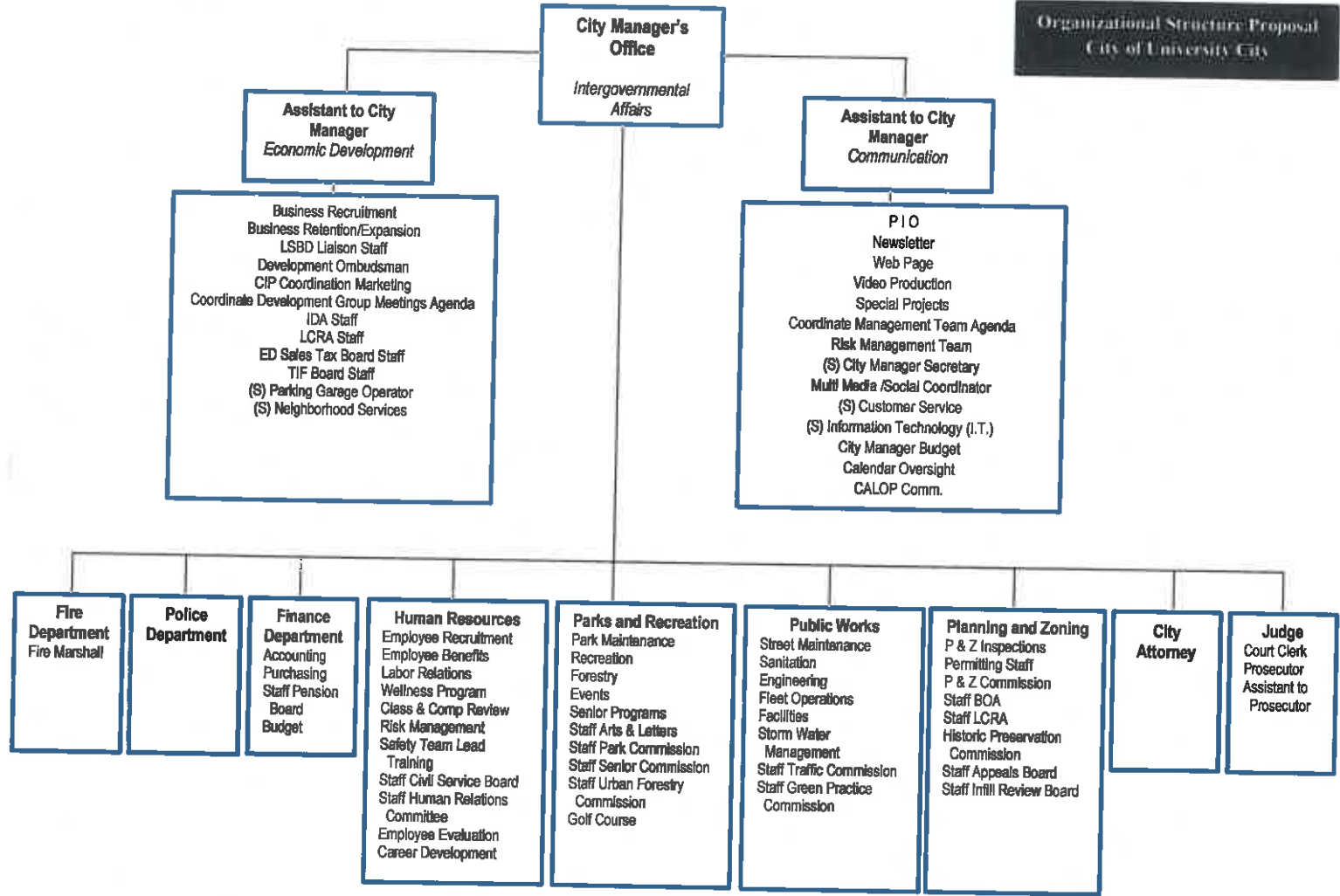
**Nays:** None.

#### **ADJOURNMENT**

Mayor Shelley Welsch closed the study session meeting at 5:52 p.m. to go into a Closed Session on the second floor. The Closed Session reconvened in an open session at 6:30PM.

LaRette Reese  
City Clerk







**UNIVERSITY CITY COUNCIL  
STUDY SESSION**

5th Floor of City Hall

6801 Delmar

March 12, 2018

5:30 p.m.

**MEETING CALLED TO ORDER**

The City Council Study Session was held in Council Chambers on the fifth floor of City Hall, on Monday, March 12, 2018. Mayor Welsch called the Study Session to order at 5:35 p.m. In addition, 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; City Attorney, John F. Mulligan, Jr., Mubeen Mahmood, Mubeen Investment Group, and Deanna (Townsend) Burress, Acting City Clerk

Hearing no requests to amend the Agenda, Mayor Welsch proceeded to turn the meeting over to Mr. Rose.

**AGENDA**

*(Requested by City Manager)*

**1. RFP – Midland and Olive Blvd.**

Mr. Rose stated the study was for a presentation on a proposal to redevelopment a City owned parcel at Olive and Midland Boulevard. Mr. Rose reminded Council that a request for proposal was submitted during the winter of 2017. One proposal was received from Mubeen Investment Inc. He stated Mr. Mahmood was present and would be making the presentation to Council. Mr. Rose invited Mr. Mahmood to the podium.

Mr. Mahmood stated there was some confusion with staff regarding getting the PowerPoint presentation ready for the meeting. Mayor Welsch asked Mr. Mahmood if he would discuss/review the information provided in the Council packet. Mr. Mahmood stated that RFP was for 7301 Olive at Midland Blvd., which is the northwest corner of Olive. He believes this is very unique corner and Olive needs a lot of development in his opinion. He thinks the whole corridor is underutilized. There is good focus on the Loop area. This development could help Olive directly if we work with Washington University. As we all know there is no room to grow on the Wash U campus; sooner or later they will need to go somewhere else. University City might work with them to expand on the north side of University City; which is the Olive corridor.

DeBaliviere has a lot of apartments and a lot of Wash U. students live there. So much so that Wash U has a shuttle running every 15 minutes during peak hours and every half hour on the non-peak hours to transport their students to campus. The students are living in the city of St. Louis, although University City is closer to Washington University.

His thought is to develop something commercial and residential. Commercial would serve the tax base and residential would help the students. We would need to offer something of better value than what they are currently getting in the City of St. Louis. He would propose building studio apartments and offering them to Wash U students with the thought that they would teach a class to high school students. The Wash U students would receive a break on their rent to live in this area. This is just one idea to make the students a part of this development arrangement.

Another part of this development would be to build retail spaces. He has been in U City for 27 years and he owns the Phillips 66 gas station at Delmar and Hanley and also the strip mall at Olive and Ferguson. He has a vested interest in this town. He would like to build some commercial property on the bottom floor and bring in a variety of restaurants and shops that would cater to the needs of the community and Wash U students. It might be franchises or more unique business that might synch up with the Loop. This development if done properly could set the standard for further developments which would be a great value to the neighborhood. This could be the start of the development going east along with the developments at I-170 and Olive; and one day become one great corridor.

Mayor Welsch asked Mr. Mahmood how he envisioned the development looking and how relates to having street level commercial property in the floodplain?

Mr. Mahmood stated that he had been working with the maps received from FEMA and believes he would have to raise the ground; which would add cost to the project. He believes it's workable. The east side of the property has the greater issue so perhaps that side could be used for parking and the development would be more on the west side.

Mayor Welsch if his vision was dependent upon acquiring the two apartments building to the west?

Mr. Mahmood stated yes it that the area is significant and it would be much better if something could be worked out.

Mayor stated that she admire the thought of having Wash U but also believes there is need for other as well. Would it be mandated that the apartments be only for Wash U? They recently put up a few hundred apartments in the Loop. Could it be residential for the greater community?

Mr. Mahmood stated the apartments would be for anyone, however he is thinking of giving something back to the youth that live in University City. We could offer the Wash U students something with lower rent and also take something by giving the youth the opportunity to learn something of value from the students teaching. He is open to ideas.

Mayor Welsch if he was familiar with the commercial that closed about twelve years ago; and the challenges that they faced with the area? Why do you think this will turn out better?

Mr. Mahmood said he didn't remember exactly what was there before.

Councilmember Jennings stated there was a nail shop, Chinese restaurant, a cell phone store and a laundromat. Parking was limited.



Mr. Mahmood stated there are too many nail shops, cell phone places; we need some quality developments and very aggressive rents to have come and work with us. He wants to bring very diverse businesses and ethnicity. He wants the development to be contemporary and also to set the bar for further developments in the area of Olive Blvd. He built the development at Olive and Ferguson ten years ago, and he believes it's one of the better developments but also feels it has been better. He wants to set the bar for further developments with this new project and he wants to take the first step.

Councilmember Jennings asked if \$2.5 M was enough considering the work that will be needed because of the floodplain and parking concerns?

Mr. Mahmood said no it would not be enough. At the point it's way above \$3M. Councilmember Jennings asked if the aggressive construction schedule of one year was enough time?

Mr. Mahmood replied that already things are a little behind but that he believed it could be done.

Councilmember Jennings asked if Mr. Mahmood had contacted any major cell phone companies?

Mr. Mahmood said he would like to see a branded company like AT&T, T-Mobile or Sprint, not the smaller cellphone stores.

Councilmember Jennings asked if there was a financial need; such as a TIF? Mr. Mahmood replied that had not been discussed as of yet.

Mayor Welsch asked how the strip mall at Olive and Ferguson was doing; are the spaces occupied?

Mr. Mahmood stated that all the tenants from 9 years ago are still there. That tells you that aggressive pricing in terms of per square foot rent and he works well with the tenants and has never had any problems keeping tenants.

Mayor Welsch asked how the new strip would be different and a step or two better as stated earlier? Do you mean the finishes inside or the exterior; how would it be better?

Mr. Mahmood stated both would be better. When he built the first strip mall, there were challenges because the property at 6800 Olive was extremely steep from front to the back. It took a lot to fill the property up, a setback variance was needed. He wanted to build a two story but there wasn't enough room. This will be very different, similar to the development on Delmar (Provisions). It's a risk for him to do an expensive development but he believes it will work. Something has to happen; if you don't build they won't come.

Mayor Welsch asked if he felt the presence of Family Dollar, which has been a challenge for many years, would be a negative if this project moves forward?

Mr. Mahmood stated that he had tried to purchase that property in the past. He believes when you build something nice, it forces those around it to improve. It was also to increase the value of the neighborhood. That's why you must set the bar very high. That's a gamble he's willing to take for the neighborhood and for himself.

Councilmember Carr stated that the residents in that area have expressed the desire to have a restaurant and/or a coffee shop at the location. What kind of tenants would you bring to the space?

Mr. Mahmood stated he had spoken with Penn Station, and then he reconsidered and decided not to do fast food. He is thinking about a Bosnia bakery, coffee shop, Starbucks or Bread Company.

Councilmember Carr stated she believed people were interested in an American style restaurant, something like Applebee's. She hopes that it would be appealing to the residents that live in the immediate area.

Mr. Mahmood stated he did not think the property would be larger enough for an Applebee's. His concern with a franchise, although he is not opposed to Applebee's, is that it does not cultivate the culture. Franchises and big box stores are about the money so they pick up and leave after a few years if the numbers are not right. They are not about creating jobs or benefit to the society or the community. He would focus on solid good mom and pop operations that would give value to the community and build diversity. He would be ecstatic if a mom and pop shop wants to open a hamburger; like he built for the Spice and Grill.

Councilmember Jennings asked of 20 thousand square feet; how much would be devoted to commercial verses residential? Does the proposal have rendering included?

Mr. Mahmood replied that he would like to do 15 on commercial and 5 for residential; there are some restrictions regarding parking. There are no renderings at this point. If he receives positive feedback he would have no problem with providing renderings.

Mayor Welsch mentioned a place in Webster called the Boardwalk cafe which does not have a lot of space but is very good American and Greek food. She recommends them.

Mr. Rose asked what the architectural theme for the development would be?

Mr. Mahmood replied that the idea would be a very contemporary design; similar to design in the Loop going east.

Mr. Rose asked Mr. Mahmood which companies he has relationships with, which ones has he recruited in the past for other developments?

Mr. Mahmood stated that he has worked with the oil companies in the St. Louis area; also with Jack in Box and McDonalds. But that is not his idea for this development; he wants to go off the path and bring a cultural them here.

Mr. Rose asked if there was development that he could visit that Mr. Mahmood had done elsewhere?

Mr. Mahmood replied that has done many unique and different things. Of course you can visit the strip at Olive and Ferguson, the theater in the Galleria, several historic buildings in St. Louis City; mostly office buildings or doctor's offices.

Mr. Rose asked is this was the first mixed use development? Mr. Mahmood replied this development is different.

Councilmember Jennings asked Mr. Mahmood how many developments he has done during his career?

Mr. Mahmood stated he has done over 100 including residential; in different cities, Florida, St. Louis and Chicago.

Mayor Welsch stated this location has a number of challenges; the floodplain, the dept. and the residential directly behind. The previous strip was just one story.

Councilmember McMahon asked Mr. Mahmood is his biggest challenge was going to be bringing in the right mix of retail?

Mr. Mahmood replied that is his issue. He can build whatever, but for his own satisfaction, he wants to build something that will be for the greater good for the future. He wants to bring the variety of Loop to this side of the City. This is his vision, if Council wants something different, he can do that as well.

Mayor Welsch stated that she believes some of the variety has been lost in the Loop with the independently owned businesses when the chains started coming in. She believes there is a market in the region independently owned businesses. If this proceeds and could be a first step towards encouraging this along Olive, that would be great.

Councilmember Carr reminded everyone about Frank and Helens, which is a mom and pop restaurant. She understands the vision but would like to also remember the people that live in the area, because they would like a place to go to.

Mr. Mahmood agreed with Councilmember Carr. He stated that the owners of Spice and Grill brought their idea to him and paid for and built the building for that business. He would do it again if he was presented with the right opportunity.

Mr. Mahmood stated that he has been in the gas business for many years and has built well over the 100 in different cities. He is not proposing a gas station, which he could do in is sleep, but it would not bring value to the community. He's in the construction and petroleum business.

#### **ADJOURNMENT**

Mayor Shelley Welsch thanked Mr. Mahmood and adjourned the study session meeting at 6:13 p.m.

LaRette Reese  
City Clerk



Mubeen Investment Group Inc

VIA HAND DELIVERED & EMAIL

C/O Mubeen Mahmood

1 Outer Ladue Dr.

Saint Louis, MO, 63131

314-727-4000

**REQUEST FOR PROPOSAL (RFP)  
DEVELOPMENT OF CITY OWNED PROPERTY  
LOCATED AT NORTHWEST CORNER OF  
OLIVE AND MIDLAND BOULEVARD**

**OLIVE AND MIDLAND BOULEVARD RFP RESPONSE  
OLIVE AND MIDLAND LLC**

RESPONSE TO THE  
OLIVE AND MIDLAND BOULEVARD  
REQUEST FOR PROPOSAL  
ISSUED NOVEMBER 20<sup>TH</sup> 2017'

BY

OLIVE AND MIDLAND LLC  
(A to-be formed limited liability corporation)

Developer:

Mubeen Mahmood  
BAM Properties Inc  
3505 Mississippi Ave  
Cahokia, IL, 62206

## EXECUTIVE SUMMARY

BAM Properties as a lead developer and Mubeen Mahmood as owner is submitting this response to NORTHWEST CORNER of OLIVE and MIDLAND BOULEVARD development RFP on behalf of OLIVE and MIDLAND LLC (a to-be formed limited liability corporation), This response hopefully will meet and exceed the requirements set forth in this RFP.

OLIVE and MIDLAND LLC ("OM") brings a unique and highly informed perspective to the development to Northwest corner of Olive and Midland property, Mubeen Investment group Inc, BAM properties Inc and its officers have extensive experience of development the project and business operations having been in business for over 27 years, the development plan for this site calls for meeting challenges of floodplain and bringing architectural creativity given the depth of the parcels, yet OM recognizes the importance of Northwest corner of Olive and Midland, this site is extremely pivotal for the future growth of everything East and West of this corner, with the help of city planners, visionary developers and elected officials all the development on the eastside of this project should integrate with Delmar loop and Washington university, on the west side with Interstate 170 and china town.

OM recognizes the importance of this development at 7300 Block of Olive and Midland, we believe a Mixed use commercial and residential development will be very viable for that corner, A two story building with commercial on the ground level and student housing residential on the first floor will set the tone for future developments in the area, we believe this will be the first and initial step in connecting Olive with Washington university and the loop.

We already have a vested interested in University City with two commercial projects for several years, therefore we would like develop a unique structure

with Architectural significance to conform with recent development in the loop area and loop extension. We believe this project will bring significant tax revenue for the city, it will create commerce, employment and safe community. OM will achieve a great level of public benefit with this development through the approach it sets out in this RFP.

- An experienced and financially strong developer and development team with 2 commercial projects already in University city and several others in different cities and states.
- A development plan that will elevate the bar for future projects in the area.
- A development plan which will be attractive for student housing as well.
- A clearly defined development and project timeline.
- Market appropriate and financially feasible for tenants.
- Bring new businesses to the city.
- A project with extensive public benefit and safety.

OM will provide Washington University students very economical housing in exchange for teaching high school students computer programming and other subjects, therefore an area will be designed in this development for tutoring.

OM would like to build 20,000 square feet of commercial store front and 15 studio apartments, we are currently in discussion with few national fast food franchises' such as Penn Station, Dunkin Donut and others, further follow ups will take place once the land is secured. We believe only one restaurant can fit on this site along with other commercial businesses to compliment.

As a project developer OM and its principles have long standing commitment, history and belief in the viability and importance of each and every project it develops, with the development of Northwest corner of Olive and Midland OM would like to create a model that would encourage Washington University students to expand their presence towards Olive Boulevard, OM with this project would set a model for all future developments along Olive.



# **Section 1**

# **Cover Page**

**Response to RFP**

**Developer:**

**Olive and Midland LLC / Mubeen Mahmood  
(A to-be formed Limited Liability Corporation)**

**Architect:**

**Edin Covic  
314-578-4953**

**Contractor:**

**BAM Properties Inc  
3505 Mississippi Ave  
Cahokia, IL, 62206  
314-727-4000  
FEIN: 43-1945939**

**Land Survey and Civil Engineering:**

**Gary Ploesser  
12015 Manchester Rd  
Saint Louis, MO, 63131  
314-965-6732**

# **Section 2**

# **Project Description**

## **Section 2, Project Description:**

OM at 7300 Block of Olive Blvd will build a unique structure to compliment all recent development in the Loop area, We would recommend 2 story structure with 20,000 Square feet of commercial space on the first floor and 15 apartments on the first floor, these apartment will be designed to serve as student housing for Washington University, These apartments will be offered to University students at a very economical rate in exchange for tutoring High school students few hours a week, Commercial spaces will have a potential for fair market rate leases but still be significantly reasonable rates than the loop area.

Significant parking will be provided for commercial clients, customers and residents, all commercial spaces will be ADA compliance, ample green space will be designed around the project, we would try our best to make this a LEED standard project.

Once the site is secured by OM we would approach property owners at 7343 and 7347 Olive to purchase and incorporate those properties in this project.

Based upon our independent projections and experiences with our project at 6800 Olive we anticipate this development will generate significant tax revenue, over 50 to 75 new permanent full time and part time jobs that will benefit community residents, currently vacant corner with this development will provide safety in the community and create a link on both east and west of Olive.

OM is committed to work with the City and the community as it develops this site, this project would be directly influenced for attracting Washington University student housing and extension of loop activities on Olive, this project will set the tone for all future development in the future, OM would like to incorporate the following uses.

- Coffee shop / Bakery
- Sit-Down or Fast food restaurant
- Neighborhood oriented retail
- Game room or Party room for Birthdays and kid's activities
- Outdoor Seating
- AT & T or Sprint Mobile
- Outdoor green spaces for artwork and sculptures
- Tutoring room

Unfortunately, Gable tea room building does not incorporate with our plan therefore we recommend that it should be removed or demolished.

We have studied and enclosed several maps from Saint Louis county and FEMA, after going over many details we have concluded that elevating portions of this site and with creative design work we will be able overcome floodplain issues, that will meets and exceed all the requirements by DNR and FEMA, our project details and drawings will to be submitted to DNR to notify them with our design elements, after its approved by the city and county, this will add significant amount of expense to the project in order to complete the site work.

We would like to build a contemporary structure with LEED standards, Site plan, elevations and architectural renderings will be submitted once approved.

Site acquisition details including values, deed, legal and other particulars to be discussed if project is deemed viable.

The construction loan funding will be provided by the banks we currently work with, we believe Project cost will be around 2.5 Million Dollars, all monies will be private financing through financial institutes, we work with several financial

institutes for commercial developments, we would be able to narrow down construction cost numbers once the detail design and drawings are completed.

### **3. Project Timeline:**

The project timeline anticipates site control by OM, once all legal issues are worked out, following should be the schedule.

<b>RFP Submittal</b>	<b>January 4, 2018'</b>
<b>RFP Award</b>	<b>February 2018'</b>
<b>(Once RFP awarded architectural rendering and elevation drawings start)</b>	
<b>Completion of agreements</b>	<b>March 2018'</b>
<b>Acquisition completed</b>	<b>March 2018'</b>
<b>Community and city council/ presentation of rendering</b>	<b>April 2018'</b>
<b>Presentation of construction drawings</b>	<b>June 2018'</b>
<b>Begin planning/ permit approvals</b>	<b>July 2018'</b>
<b>Construction commencement</b>	<b>August 2018'</b>
<b>Site work Begins</b>	<b>August 2018'</b>
<b>Project completion</b>	<b>December 2018'</b>

Thank you for giving us an opportunity to respond to OLIVE and MIDLAND development RFP.



## Council Agenda Item Cover

**MEETING DATE:** April 9, 2018

**AGENDA ITEM TITLE:** Project 1362 - Sidewalk and Curb Replacement Project

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

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

**BACKGROUND:** Every two years, the City inspects all streets for deficiencies and rates them based on severity of deterioration/damage. By documenting the actual conditions of the pavement, the City is able to develop a maintenance budget, make timely repairs and use cost-effective maintenance procedures.

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

On March 28, 2018, the City opened bids for the Sidewalk and Curb Replacement Project. The tabulation of bid proposals is as follows:

Contractor	Base Bid Price
Pride Master	\$403,686.60
E. Meier	\$491,588.45
Raineri Construction	\$572,551.75
Spencer Contracting	\$628,827.00
Sweetens Concrete	\$638,846.00
RV Wagner	\$818,686.60

The lowest bidder Pride Master has worked on the previous sidewalk and curb project with satisfactory performance and ability to be flexible to the City's requests.

Funding for this proposed project comes from the Capital Improvement Sales Tax Fund fiscal year budget allocation of \$400,000 and fund balance for the remaining funds.

**RECOMMENDATION:** City Manager recommends that the City Council approve the award for the Sidewalk and Curb Replacement Project to Pride Master Inc. in the amount of \$403,686.60.

**ATTACHMENT:** 1) Project locations list  
2) Draft project contract

**ATTACHMENT 1:**

**LOCATIONS**

<b>STREET</b>	<b>FROM</b>	<b>TO</b>
<b>Wilson</b>	<b>Shaftesbury</b>	<b>Ahern</b>
<b>Wilson</b>	<b>Ahern Ct</b>	<b>Midland Ave</b>
<b>Burch Lane</b>	<b>Wilson Ave</b>	<b>Dead End</b>
<b>Spoon</b>	<b>Putter</b>	<b>Cul De Sac</b>
<b>Abbeville</b>	<b>Jeanerette</b>	<b>Shaftesberry</b>
<b>Jeanerette</b>	<b>Abbeville</b>	<b>Shaftesberry</b>
<b>Westmoreland</b>	<b>Big Bend</b>	<b>Maryland</b>
<b>Williams</b>	<b>Maryland</b>	<b>Dead End</b>
<b>Wellesley</b>	<b>Pershing</b>	<b>Dead End</b>
<b>Wellesley</b>	<b>Waterman</b>	<b>Kingsbury</b>
<b>Brittany</b>	<b>Stanford</b>	<b>Gannon</b>
<b>Delcrest</b>	<b>Delmar W</b>	<b>Delmar E</b>
<b>Stanford</b>	<b>Cornell</b>	<b>Bemiston</b>



**CITY OF UNIVERSITY CITY, MISSOURI**

**CONTRACT**

THIS AGREEMENT, made as of the \_\_\_10th\_\_\_ day of \_\_\_April\_\_\_, 2018, by and between City of University City, MISSOURI (hereinafter called the CITY) and Pride Master, Inc., a company with offices at 16632 Old Chesterfield Road, Chesterfield, MO 63017 (herein after called the CONTRACTOR), WITNESSETH, that whereas the CITY intends to construct improvements for Project No. 1362 – Sidewalk and Curb Replacement at Various Locations, hereinafter called the PROJECT, in accordance with the Drawings, Specifications and Contract Documents prepared by the City of University City.

NOW, THEREFORE, The OWNER and CONTRACTOR for the considerations hereinafter set forth, agree as follows:

**THE CONTRACTOR AGREES** to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete in a workmanlike manner all work required for the construction of the PROJECT, in strict compliance with the Contract Documents herein mentioned, which are hereby made a part of the Contract.

- a. **Contract Time:** Work under this Agreement shall be commenced upon written Notice to Proceed, and shall be completed within one-hundred-twenty (150) calendar days of the authorization date in the Notice to Proceed.
- b. **Liquidated Damages:** The Contractor hereby expressly agrees to pay the City the sum of Two Hundred Dollars (\$200.00) per day for each and every day, Sundays and legal holidays only excepted, after calendar days have expired during or upon which said work or any part thereof remains incomplete and unfinished.
- c. **Subcontractors:** The Contractor agrees to bind every subcontractor by the terms of the Contract Documents. The Contract Documents shall not be construed as creating any contractual relation between any subcontractor and the City. No sub-contractor shall further subcontract any of his work.

THE CITY AGREES to pay, and the Contractor agrees to accept, in full payment for the performance of this Contract, the amount as stipulated in the Proposal, which is:

**Four Hundred Three Thousand, Six Hundred and Eighty Six Dollars and Sixty Cents**

**(\$403,686.60)**

Final dollar amount will be computed from actual quantities constructed as verified by the Engineer and in accordance with the unit prices set out in the Proposal.

(See following pages)

**CONTRACT DOCUMENTS:**

The Contract comprises the Contract Documents as bound herein and the Drawings. In the event that any provision of one Contract Document conflicts with the provision of another Contract Document, the provision in that Contract Document first listed below shall govern, except as otherwise specifically stated:

- A. Contract (This Instrument)
- B. Addenda to Contract Documents
- C. Conditions of the Contract
- D. Remaining Legal and Procedural Documents
  - 1. Proposal
  - 2. Instruction to Bidders
  - 3. Invitation for Bids
- E. Special Provisions
- F. Annual Wage Order
- G. Standard Specifications
- H. Drawings/Location Maps
- I. General Provisions
- J. Bonds/Attachments
  - 1. Performance & Payment Bonds
  - 2. Bid Bond

**AUTHORITY AND RESPONSIBILITY OF THE ENGINEER:**

All work shall be done under the general inspection of the Engineer. The Engineer shall decide any and all questions which may arise as to the quality and acceptability of materials furnished, work performed, rate of progress of work, interpretations of Drawings and Specifications and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor.

**SUCCESSORS AND ASSIGNS:**

This Agreement and all of the covenants hereof shall insure to the benefit of and be binding upon the Owner and Contractor respectively and his partners, successors, assigns and legal representatives. Neither the Owner nor the Contractor shall have the right to assign, transfer, or sublet his interests or obligation hereunder without consent of the other party.

**CITY OF UNIVERSITY CITY, MISSOURI**

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\* In making out this form the title that is not applicable should be struck out. For example, if the Contractor is a corporation and this form is to be executed by its president, the words "Sole owner, a partner, secretary, etc." should be struck out.

The Contract contains a binding arbitration provision that may be enforced by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

(SEAL)

Attest:

\_\_\_\_\_

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

\_\_\_\_\_

Title

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

"Contractor"

(SEAL)

Attest:

\_\_\_\_\_

City Clerk

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

CITY OF UNIVERSITY CITY

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

City Attorney

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

CITY OF UNIVERSITY CITY

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

City Manager

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





## Council Agenda Item Cover

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**MEETING DATE:** April 9, 2018  
**AGENDA ITEM TITLE:** Bloomberg Philanthropies Public Art Challenge  
**AGENDA SECTION:** City Manager's Report  
**CAN THIS ITEM BE RESCHEDULED? :** NO

---

### **BACKGROUND REVIEW:**

Bloomberg Philanthropies' Public Art Challenge encourages mayors to partner with artists, elevating the value of including the creative sector when developing solutions to significant urban issues. The program supports temporary public art projects that celebrate creativity, enhance urban identity, encourage public-private collaborations, and strengthen local economies. U.S. mayors of cities with 30,000 residents or more are invited to apply and receive up to \$1 million in funding for temporary public art projects that address an important civic issue. At least three cities will be selected in 2018 to execute their projects over a maximum of 24 months. Applications are currently open for the 2018 edition and are due April 19.

The Vernon entrance to University City is undesirable and uninviting. This section of Vernon is often called "trash alley" because of the trash that collects in the confined space of the right-of-way. Dilapidated fences and rear-facing properties further decrease the aesthetic value of this roadway.

In partnership with artists and community members, improvements including a temporary public art installation will be established that highlights the City Limit entrance of Vernon to the connection of Vernon at Ackert Walkway as a connector between City and County, and between north and south neighborhoods of University City. The design and installation of the art will include community participation. An event will be planned around the final installation of the focal piece to bring community members out to participate and celebrate the piece, as well as drawing visitors to new parts of the community they may not otherwise explore.

Proposed permanent improvements include artful crosswalks, fence replacements, raingardens or sidewalks, and other right-of-way enhancements.

This project has been presented to the Arts and Letters Commission with full support and is being developed by Public Works and Community Development coordination.

The project builds on past efforts including the Parkview Gardens Sustainable Neighborhood Plan, the Bike/Walk Master Plan, a recently funded Transportation Alternatives Program (TAP) grant project to upgrade lighting and ADA accessibility on the Ackert Walkway, and a future grant project to extend the bike/walk path from Ackert Walkway to Olive Boulevard. It also continues a long history of public art and community building in University City.

The grant requires no City funding.

**RECOMMENDATION:** Approval to apply for the Bloomberg Philanthropies Public Art Challenge.

**ATTACHMENT:** Draft outline of Bloomberg Philanthropies Public Art Challenge application

**Bloomberg Philanthropies Public Art Challenge**

**DRAFT Outline for Application**

**The Challenge:**

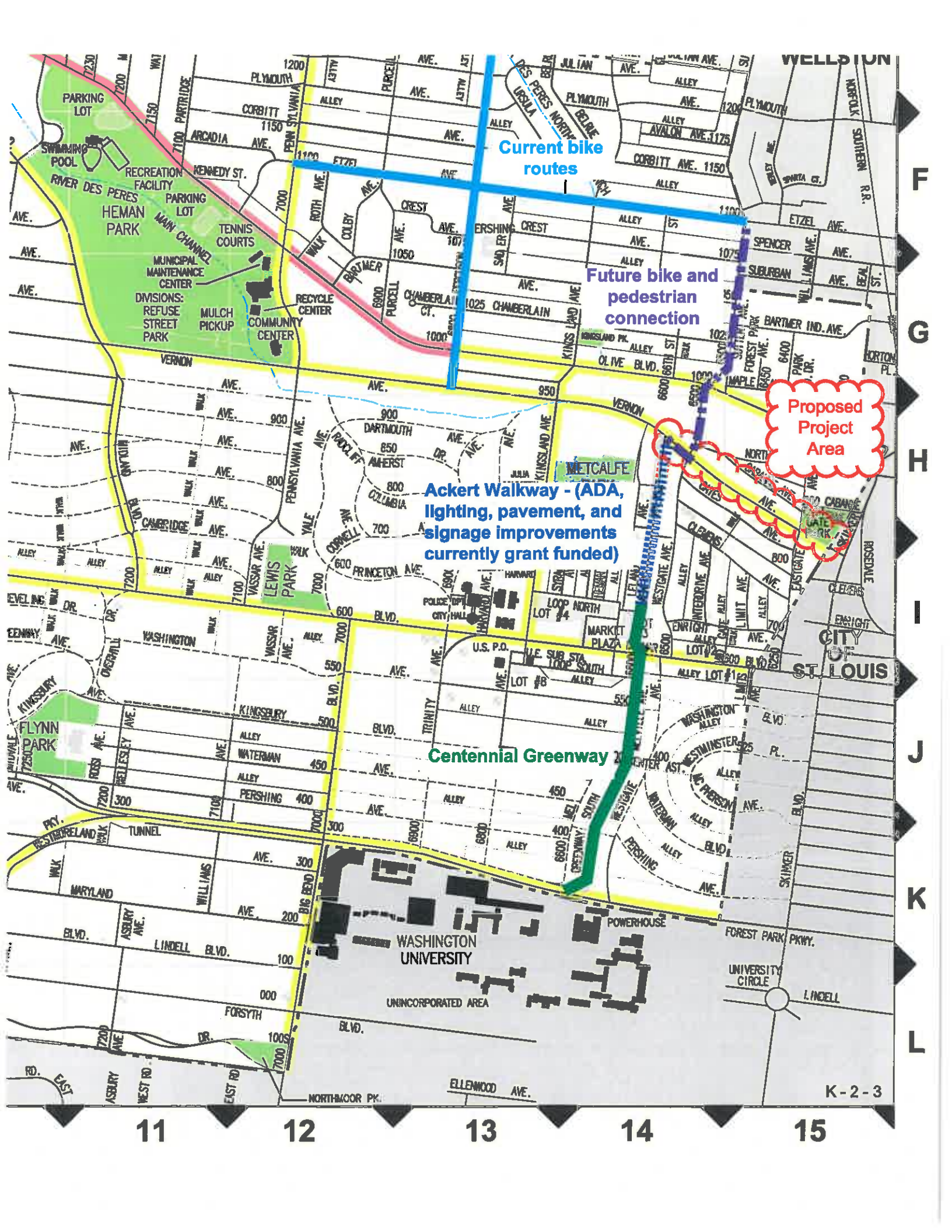
The Public Art Challenge encourages mayors to collaborate with artists to develop innovative public art projects that address critical issues in their communities. The winning project will demonstrate close collaboration between city government, artist, and cultural organizations. The project should enhance the local economy, civic identity, and residents' quality of life. Applications are currently open for the 2018 edition (due April 19).

U.S. mayors of cities with 30,000 residents or more are invited to apply and receive up to \$1 million in funding for temporary public art projects that address an important civic issue. At least three cities will be selected in 2018 to execute their projects over a maximum of 24 months.

**The Vision:** A temporary work of public art which highlights connections between disparate parts of the community, across borders of City and County, as well as across socioeconomic and physical divisions, making University City a more inclusive and accessible city for everyone.

**Proposal:** Partner with the community, artists, and cultural institutions to design a large-scale public art installation that highlights the connections between different assets and neighborhoods within University City as well as the connections between U City and the greater metropolitan region.

Project Name	Neglected to Connected Connections/Bridges/Borders, Crossroads <i>(still in progress)</i>
Potential Partners	Community Members, Arts and Letters Commission, Sam Fox School of Design at Washington University, Regional Arts Commission, Craft Alliance, St. Louis Artworks, U City Schools, Parkview Gardens Association, Great Rivers Greenways
Project Description	<p>The Vernon entrance to University City is undesirable and uninviting. This section of Vernon is often called "trash alley" because of the trash that collects in the confined space of the right-of-way. Dilapidated fences and rear-facing properties further decrease the aesthetic value of this roadway.</p> <p>In partnership with artists and community members, improvements including a temporary public art installation will be established that highlights the City Limit entrance of Vernon to the connection of Vernon at Ackert Walkway as a connector between City and County, and between different the north and south division of University City. The design and installation of the piece will include community participation. An event will be planned around the installation of the piece to bring community members out to participate and celebrate the piece, as well as drawing visitors to new parts of the community they may not otherwise explore.</p> <p>The project builds on past efforts including the Parkview Gardens Sustainable Neighborhood Plan, the Bike/Walk Master Plan, a recently funded grant project to upgrade lighting and ADA accessibility on the Ackert Walkway, and a future grant project to extend the bike/walk path from Ackert Walkway to Olive Boulevard. It also continues a long history of public art and community building in University City.</p>
Grant Award	3 Cities will be awarded up to \$1 million for their projects. No match is required for the grant.



Current bike routes

Future bike and pedestrian connection

Proposed Project Area

Ackert Walkway - (ADA, lighting, pavement, and signage improvements currently grant funded)

Centennial Greenway

CITY OF ST. LOUIS

WASHINGTON UNIVERSITY

K-2-3

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University City  
City Limit











## Council Agenda Item Cover

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**MEETING DATE:** April 9, 2018

**AGENDA ITEM TITLE:** Site Plan Review for the proposed addition to the existing Cintas facility in the "IC" – Industrial Commercial District  
6200 Olive Boulevard

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

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

**BACKGROUND:** Attached is a report and site plan application documents for the proposed building addition to the existing Cintas facility at 6200 Olive Boulevard. A Site Plan is required for this project as per Section 400.2590.A.4 of the City's Zoning Code for additions to non-residential buildings exceeding 1,000 square feet in gross floor area.

The Site Plan Review Procedures as per 400.2610–400.2640 have been followed and include:

1. Submission by Applicant
2. Completeness of Submittal Determined; Acceptance of Application
3. Interdepartmental Distribution of Application to City staff.
  - a. Interdepartmental staff review; preparation of comments.
  - b. Staff liaison refers application to a commission if appropriate/required. *This application was referred to and reviewed by the Plan Commission.*
4. Preparation of report for City Council consideration.
5. *City Council Action – action pending*

*Note: Site Plan approval by City Council does not relieve any other requirements for submission of plans or permits that are required by the University City Building Code, Right of Way Code or other applicable regulations.*

The applicant proposes to construct a 1,980 square foot addition located on the southern side of the existing Cintas building facing Cabanne Avenue proposed to be used as a fully enclosed loading dock space.

While Site Plan Review applications are not required to be reviewed by the Plan Commission, staff requested a vote of recommendation at their March 28, 2018 meeting prior to City Council's consideration. With the provision to bring the previously approved landscape plan of a former Site Plan Review into compliance, the Plan Commission unanimously recommended approval by a vote of 5 to 0. Additional details of the landscape plan are provided in the staff report.

All City of University City code requirements and staff comments have been met. For its approval, this agenda item would require a motion by the City Council.

**Attachments:**

A: Staff Report with Site Plan and Application Materials

**RECOMMENDATION:** City Manager recommends approval



**Department of Community Development**

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

**STAFF REPORT**

**MEETING DATE:** March 28, 2018, Plan Commission

**FILE NUMBER:** SPR 18-05

**COUNCIL DISTRICT:** 2

**Type of Review:** Site Plan

**Location:** 6200 Olive Boulevard

**Property Owner:** Cintas Corporation c/o Toby Deckard

**Applicant:** Patrick Hagen w/ ARCO Construction

**Requested Action:** Site Plan approval for the proposed addition to the existing Cintas facility at 6200 Olive Boulevard in the "IC" – Industrial Commercial District

**STAFF RECOMMENDATION**

Approval                       Approval with Conditions                       Denial

**Existing Zoning:** "IC" – Industrial Commercial District

**Existing Land Use:** Industrial/warehouse space for Cintas Corporation uniform service facilities

**Proposed Zoning:** No change – "IC" District

**Proposed Land Use:** No change – industrial/warehouse space

**Surrounding Zoning and Land Use:**

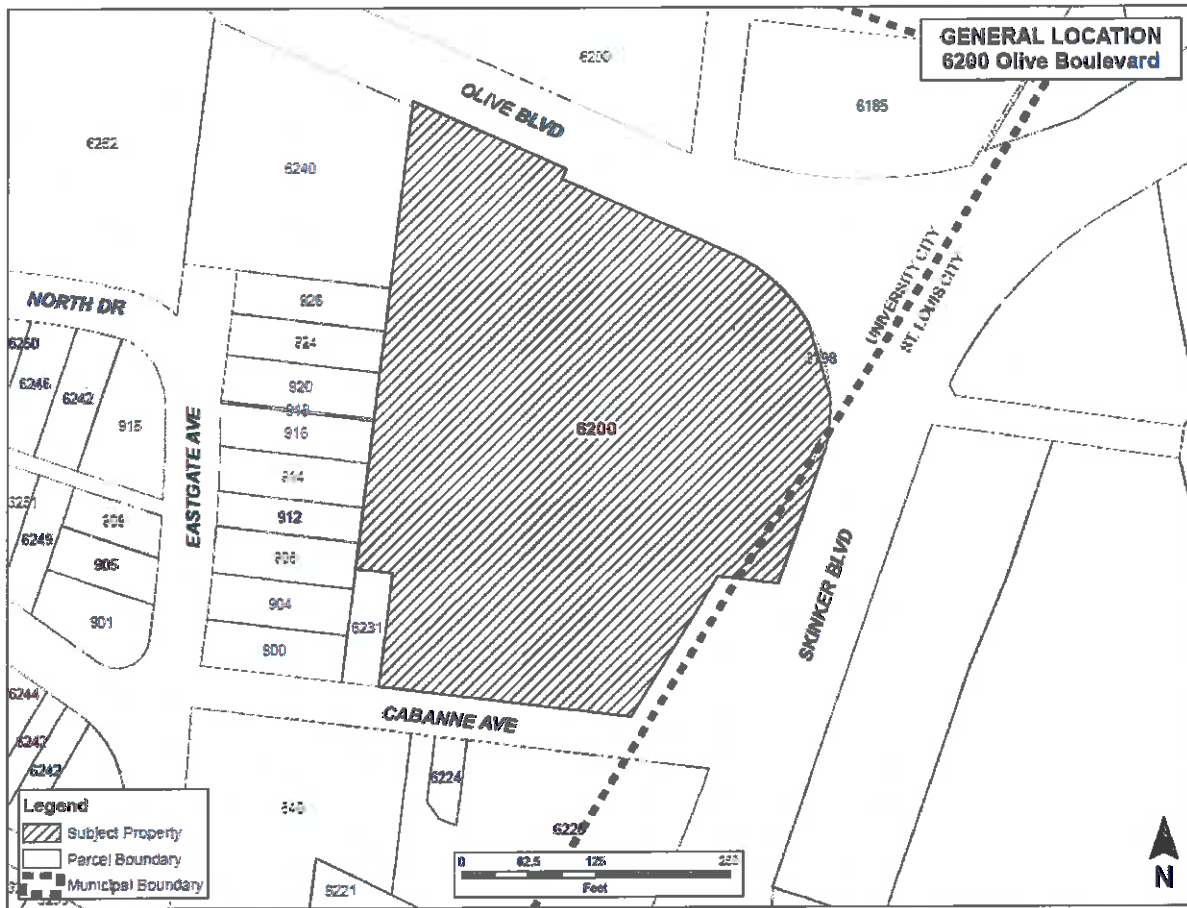
North: IC-Industrial Commercial District	Industrial
East: St. Louis City	Washington University North Campus
South: IC-Industrial Commercial District	Fast-food restaurant
West: HR-High Density Residential District	Multi-family residential

**COMPREHENSIVE PLAN CONFORMANCE**

Yes             No             No reference

**ATTACHMENTS:**

- A. Map
- B. Application documents including site plan and exterior rendering



**Existing Property**

The subject property is approximately 4.35 acres in area and is occupied by the existing Cintas Corporation uniform services facilities within an existing singular building of approximately 38,700 square feet fronting Olive Boulevard to the north, Skinker Boulevard to the east, and Cabanne Avenue to the south. The original development was constructed in 1988 and the parking lot was expanded in 2007 through the Site Plan review procedure. The single curb-cut on the northern side of the building provides access to Olive Boulevard, and there is a single curb-cut to the south providing access to Cabanne Avenue. The municipal boundary between University City and St. Louis City partially intersects the property to the east along its frontage with Skinker Boulevard.

**Applicant's Request**

The current request is for Site Plan approval for the proposed 1,980 square foot addition to the existing Cintas facility to be located along the existing building's southern frontage of Cabanne Avenue to be used as a fully enclosed loading dock area with four overhead doors facing south. The exterior of the addition is proposed to be of pre-engineered metal to match the existing building. The interior of the approximately 38,700 square foot existing building is not proposed for work as part of this project. A portion of the loading dock along the west side of the existing building is also proposed to be replaced with a new concrete apron. No other new exterior modifications to the building or site are proposed.

## **Process – Required City Approvals**

**City Council:** Sections 400.2590 and 400.2630 of the Zoning Code require that site plans for new non-residential additions be reviewed and approved by City Council. In this instance, the proposed addition qualifies for review per the Zoning Code as an addition to a building or new accessory building that exceed 1,000 square feet in gross floor area. In conducting its review, City Council shall consider the staff report and the application to determine if the proposed site plan application meets the requirements of the Zoning Code. No public hearing is required.

## **Analysis**

*[The application and site plan were distributed to City Departments for review and comment. The analysis and staff recommendation sections of this report incorporate interdepartmental comments.]*

New additions to non-residential buildings that exceed 1,000 square feet in gross area such as that proposed require Site Plan review and approval by City Council. City Council's review of the site plan is to be as per Section 400.2630 of the Zoning Code and generally includes the site design and circulation, consistency with the Comprehensive Plan and other planning and development policies, parking and compatibility with adjacent properties.

The proposed 1,980 square foot addition is to be used as a fully enclosed loading dock area with four overhead doors, which is an extension of the existing uses of the facility and as such is permitted in the "IC" – Industrial Commercial District. Thus, zoning classification and the proposed use for the subject site are not at issue, and it is the opinion of staff that the proposed addition would be compatible with the surrounding areas and will not have any detrimental impact on nearby properties or uses.

All setback and height requirements as established per Section 400.640 of the Zoning Code pertaining to district regulations for the "IC" – Industrial Commercial District are found by staff to be in compliance. Additionally, there will be no change from the existing site lighting. The landscape plan approved as part of the Site Plan review procedure for the parking lot expansion in 2007 has not been maintained adequately to be in compliance in its current condition. Cintas is to provide sufficient planting to bring back to compliance the approved landscaping features when planting is appropriate. The formerly approved landscape plan is attached for reference.

The total number of parking spaces required for the entire site per Section 400.2140 pertaining to minimum parking requirements is 129 spaces, which includes spaces for fleet vehicles. As indicated on the site plan, 134 parking spaces are existing and no existing parking spaces are proposed to be removed. There is approximately 50 feet between the proposed addition and the existing parking spaces across the aisle allowing for sufficient movement of the service fleet in this area.

The addition proposal is consistent with the goals and objectives of the 2005 Comprehensive Plan update. Considering the lack of major modifications to the exterior of the building and overall site design as proposed, and the provision to bring the site into compliance with the previously approved landscape plan, it is the opinion of staff that the proposed addition would be compatible with the surrounding areas and will not have any detrimental impact on nearby residential and institutional properties or uses.

Public Works & Parks: This department has reviewed the proposed site plan in regards to general construction, forestry, and site conditions. A photometric plan is to be reviewed and approved by Public Works and Parks upon the submission of a building permit application. All other comments from Public Works and Parks have been resolved.

Fire Department: No comment.

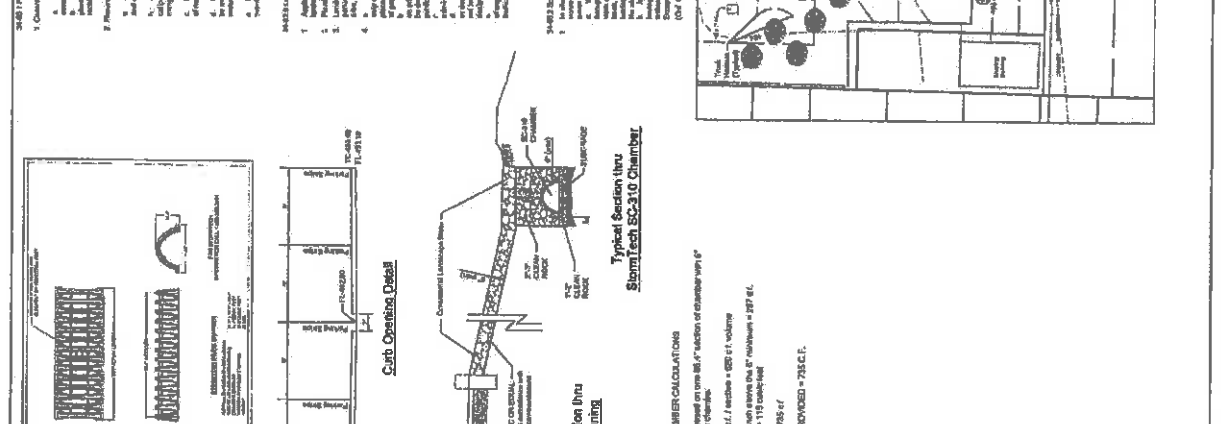
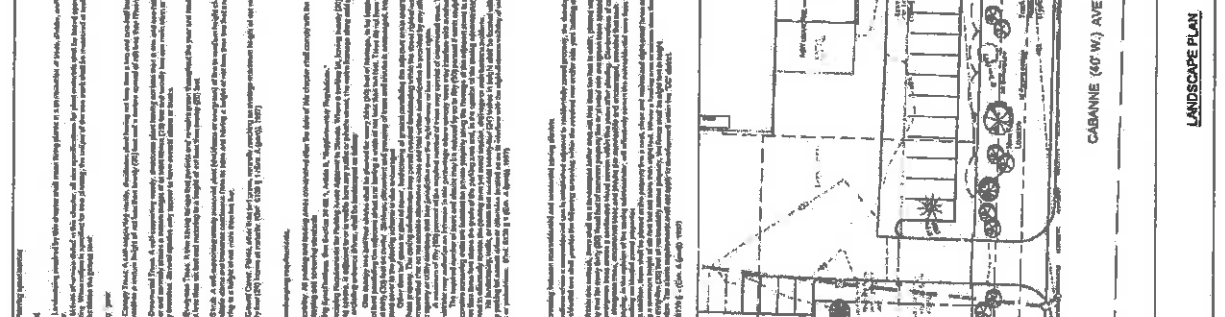
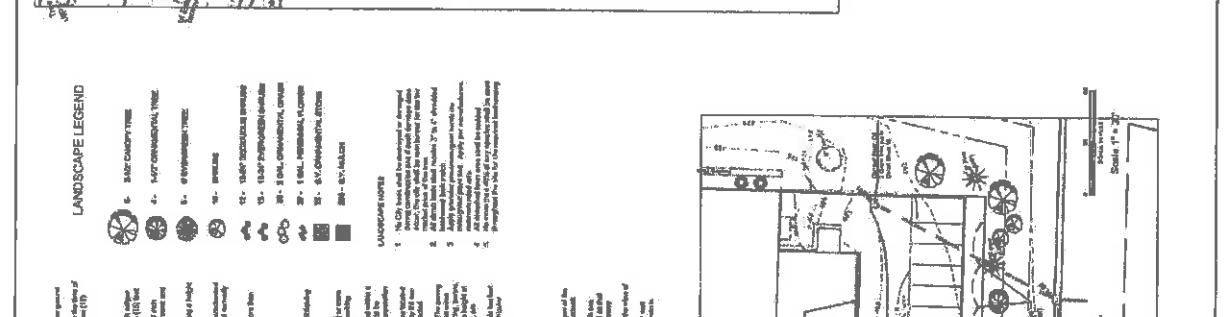
Police Department: No comment.

**Staff Recommendation**

The proposal complies with all applicable provisions of the Zoning Code and with the Site Plan Review findings of fact as set forth in the Zoning Code. Accordingly, with the provision to comply with the previously approved landscape plan, staff recommends approval of the proposed Site Plan.

1. Concept  
2. Planning  
3. Engineering  
4. Construction  
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100. Construction

Symbol	Type	Remarks	Construction Notes	Specs
[Symbol 1]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 2]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 3]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 4]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 5]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 6]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 7]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 8]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 9]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'
[Symbol 10]	Tree	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'	Plant 10' x 10' x 10'



STORMTECH CHAMBER CALCULATIONS  
All volumes are based on 15 min. TBM. of section of chamber with 6" rock surrounding the chamber.  
25' maximum depth = 631.0 c.f.t. volume  
Additional rock to reach above the 8" maximum = 97.0 c.f.t.  
237 c.f.t. = 60% total = 119 c.f.t./foot  
630 c.f.t. = 116.0 c.f.t. = 735 c.f.t.  
TOTAL VOLUME PROVIDED = 735 C.F.T.



**ZONING & LAND USE**  
**6200 Olive Boulevard**





# Department of Community Development

6801 Delmar Boulevard • University City, Missouri 63130 • 314-505-8500 • Fax: 314-862-3168

APPLICATION FOR SITE PLAN REVIEW FOR: 6200 Olive Blvd., St. Louis, MO 63130  
Address / Location / Site of Building

1. Zoning District (Check one):  
CC GC HR HRO  IC LC LR MR PA PD SR

2. State proposed use: IC

3. Describe existing premises: Pre-engineered metal building with surrounding parking

4. Describe proposed construction (please attach additional narrative): Pre-engineered building addition to match existing facade

5. State applicant's name, address and daytime telephone number: Patrick Hagen, ARCO Construction - 900 N. Rock Hill Rd, St. Louis, MO 63119 Phone: 314-835-3433

6. Applicant's interest in the property (check one):  
Owner Tenant Under contract to purchase Under contract to lease  
 Other (specify): General Contractor submitting on behalf of Owner for construction approval

7. State name and address and daytime telephone number of owner, if other than applicant:  
Toby Deckard (Cintas) - ~~314~~ 6200 Olive Blvd, St. Louis, MO 63130 - Cell: 480-267-0714

8. Check type of authorization(s) required:  
 New Development: This does not include single or two-family dwellings. (City Council approval required.)  
 Substantial Addition: Additions to buildings, or new accessory buildings, when 1) the addition or new accessory building is greater than 25% of the existing principal building; 2) the addition or new accessory building exceeds 1,000 square feet in gross floor area; 3) new curb cuts are required; or 4) when such new construction reduces existing parking or significantly modifies existing on-site circulation (this does not include single or two-family dwellings). (City Council approval required.)  
 Canopies: Canopies constructed over existing walkways, loading docks, or pump islands, where such new construction reduces existing parking or significantly modifies existing on-site circulation. (City Council approval required.)  
 Tax Exemption: Person, association, corporation, religious institution, charity or foundation that has been designated by any governmental entity as exempt from payment of any tax levied by the city seeking to purchase or occupy real property in University City per Municipal Code 400.2595. (City Council approval required.)

Amendment: Amendment to any of the above (City Council approval required.)  
 Olive Boulevard Design Guideline Review (Administrative review required.)  
 Administrative review for Zoning compliance (for other construction activity that does not meet the above-referenced criteria):

The undersigned hereby makes application for a Site Plan Review and requests the authorization to proceed with the activities described in this application.

3/9/18  
Date

Patrick Hagen - Patrick Hagen, Project Manager  
Applicant's Signature and Title

### FOR OFFICE USE ONLY

Date: \_\_\_\_\_ Application first received of \_\_\_\_\_  
Application fee in the amount of \$ \_\_\_\_\_ Receipt # \_\_\_\_\_

K-3-8



**PARKING SUMMARY**

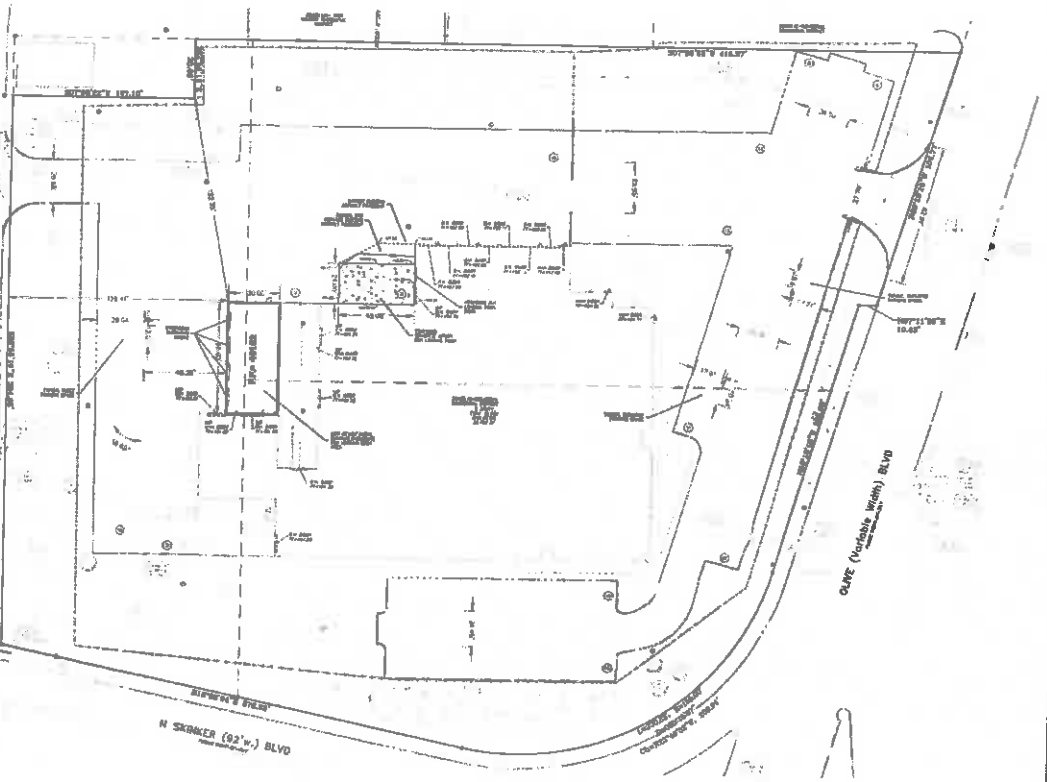
Category	Count
Surface	120
Asphalt	120
Concrete	0
Other	0
<b>Total</b>	<b>120</b>

**PERMIT DATA**

Property Name	Address	City	State	Zip
...	...	...	NC	...

**PROPERTY DATA**

Item	Value
Lot Area	...
Frontage	...
Depth	...
Volume	...



FOR INFO  
 ANCO CONSTRUCTION INC  
 1001 S. PATTON ROAD  
 WYOMING, NC 28406  
 PH: (704) 933-0715  
 FAX: (704) 933-0716

**COMMER CONSULTING, INC.**  
 6000 OLIVE BOULEVARD, ST. LOUIS, MO 63130

**SITE DEVELOPMENT PLANS FOR CINTAS**

**SITE DEVELOPMENT PLAN**

**C1.0**

DATE: 07/05  
 SCALE: AS SHOWN  
 SHEET: 1 OF 1

K-3-9

M.S.D. BASE MAP 100  
 LOC. NO. 18443030  
 ZIP CODE 63130



**CINTAS**  
READY FOR THE WORKDAY

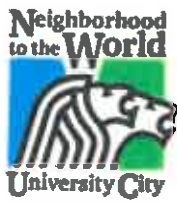
University City, MO

Exterior Perspective

SCALE: N.T.S. (1/8"=1') SJ1863 03.21.2018

**ARCO**  
MURRAY

**GMA** K-3-10  
ARCHITECTS



## Council Agenda Item Cover

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**MEETING DATE:** April 9, 2018

**AGENDA ITEM TITLE:** Site Plan Review for the proposed 21-unit garden apartment development in the "HR" – High Density Residential District  
6321 Cates Avenue

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

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

**BACKGROUND:** Attached is a report and site plan application documents for the proposed 21-unit garden apartment development at 6321 Cates Avenue. A Site Plan is required as per Section 400.2590 of the City's Zoning Code, where new developments not meeting any one specific exception exempting it from Site Plan Review are considered by City Council.

The Site Plan Review Procedures as per 400.2610-400.2640 have been followed and include:

1. Submission by Applicant
2. Completeness of Submittal Determined; Acceptance of Application
3. Interdepartmental Distribution of Application to City staff.
  - a. Interdepartmental staff review; preparation of comments.
  - b. Staff liaison refers application to a commission if appropriate/required. *This application was referred to and reviewed by the Plan Commission.*
4. Preparation of report for City Council consideration.
5. *City Council Action – action pending*

*Note: Site Plan approval by City Council does not relieve any other requirements for submission of plans or permits that are required by the University City Building Code, Right of Way Code or other applicable regulations.*

The proposed development is approximately 0.6 acre in total area bounded by Cates Avenue to the south and Vernon Avenue to the north. There is currently a vacant single-family dwelling with additional vacant property on the subject site. The applicant proposes to construct a 21-unit garden apartment development consisting of two buildings on the western side of the property with the associated parking area to the east.

While Site Plan Review applications are not required to be reviewed by the Plan Commission, staff requested a vote of recommendation at their March 28, 2018 meeting prior to City Council's consideration. The Plan Commission unanimously recommended approval by a vote of 5 to 0. Additional details are provided in the staff report.

All City of University City staff comments have been addressed. For its approval, this agenda item would require a motion by the City Council.

**Attachments:**

A: Staff Report with Site Plan and Application Materials

**RECOMMENDATION:** City Manager recommends approval





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

REVISED STAFF REPORT REVISED

REVISED DATE: March 29, 2018
MEETING DATE: March 28, 2018, Plan Commission
FILE NUMBER: SPR 18-03
COUNCIL DISTRICT: 2
Type of Review: Site Plan
Location: 6321 Cates Avenue
Property Owner: Pershing Investments, LLC c/o John Cusumano
Applicant: Nels Rosvall (RREAC, LLC)
Requested Action: Site Plan approval for the proposed 21-unit garden apartment development at 6321 Cates Avenue in the "HR" - High Density Residential District

STAFF RECOMMENDATION

[ X ] Approval [ ] Approval with Conditions [ ] Denial

Existing Zoning: "HR" - High Density Residential District
Existing Land Use: Vacant dwelling with additional vacant property
Proposed Zoning: No change - "HR" District
Proposed Land Use: Garden-type dwelling apartment development

Surrounding Zoning and Land Use:

North: HR-High Density Residential District Multi-family residential
East: HR-High Density Residential District Multi-family residential
South: HR-High Density Residential District Multi-family residential
West: HR-High Density Residential District Multi-family residential

COMPREHENSIVE PLAN CONFORMANCE

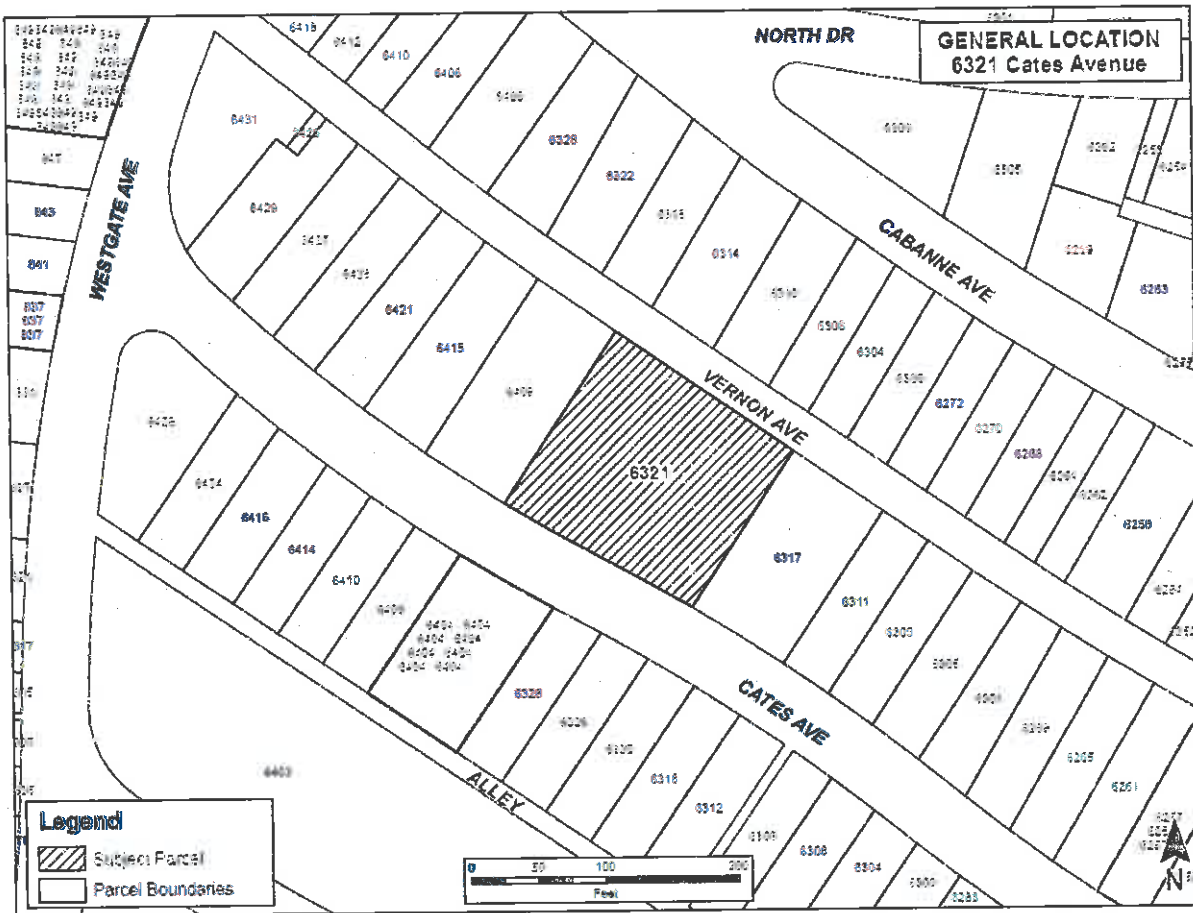
[ x ] Yes [ ] No [ ] No reference

ATTACHMENTS:

- A. Map
B. Application documents including site plan and elevation drawings

**REVISIONS TO STAFF REPORT**

The applicant presented a revised landscape plan at the Plan Commission meeting on March 28, 2018 that addressed staff's verbal comments regarding the provision of 77 square feet of additional landscaping to be located to the west of the proposed parking area and near the proposed bike parking. The applicant already proposed 383 square feet of landscaping along the eastern edge of the parking area to compensate for the lack of the 460 square feet of interior landscaping required in the parking area. Staff feels that the additional 77 square feet of proposed landscaping compensates for the full amount of interior landscaped areas lacking and meets the spirit and intent of this requirement. The revised landscape plan is included in the attachments. The remaining content of this staff report is as it was presented to the Plan Commission.





### **Existing Property**

The subject property is approximately 0.6 acre in area and is occupied by an existing vacant single-family dwelling and additional vacant property with frontage along Cates Avenue to the south and Vernon Avenue to the north. There is a drop in grade of approximately a few feet along the northern portion of the subject property fronting Vernon Avenue as similar to other adjacent properties fronting the road. The existing dwelling was constructed in 1911 and is approximately 2,090 square feet. There is one existing curb-cut along Cates Avenue that serves as a driveway for the dwelling, and there is one other concrete apron curb-cut along Cates Avenue to the additional vacant property just west of the dwelling. The property boundaries also extend into the Vernon Avenue easement as indicated in the aerial image to the right. Additionally, the property originally consisted of four separate parcels which were consolidated into one parcel in September 2017.



### **Applicant's Request**

The current request is for Site Plan approval for the proposed three story, 21-unit garden apartment development. All units are proposed to be one-bedroom units. As shown in the proposed site plan submittal, the proposed development would consist of two three-story buildings with one of the buildings fronting Cates Avenue to consist of ten (10) units and the second building located behind the first along Vernon Avenue consisting of eleven (11) units.

The development layout is designed to create a courtyard between the proposed buildings with the proposed parking area of 23 parking spaces to be located on the eastern portion of the property. Vehicular access to the proposed development would be via a single curb-cut to be located near the existing driveway curb-cut, and there will be no accessibility from Vernon Avenue.

As shown on the proposed elevations, the exterior of each of the garden apartment buildings is proposed to be a brick veneer ground floor level with board and batten style siding on the second and third floors. The gable ends of the roof structure are proposed to be of Tudor style with smooth panel siding and decorative louver trim.

### **Process – Required City Approvals**

**City Council:** Sections 400.2590 and 400.2630 of the Zoning Code require that site plans for new developments, not including single- or two-family dwellings or developments subject to the Planned Development or Conditional Use Permit procedures, be reviewed and approved by City Council. In conducting its review, City Council shall consider the staff report and the application to determine if the proposed site plan application meets the requirements of the Zoning Code. No public hearing is required.

### **Analysis**

*[The application and site plan were distributed to City Departments for review and comment. The analysis and staff recommendation sections of this report incorporate interdepartmental*

*comments.]*

New developments such as that proposed require Site Plan review and approval by City Council. City Council's review of the site plan is to be as per Section 400.2630 of the Zoning Code and generally includes the site design and circulation, consistency with the Comprehensive Plan and other planning and development policies, parking and compatibility with adjacent properties.

Garden-type dwellings such as the proposed development are permitted in the "HR" – High Density Residential District, and the proposed use is similar to surrounding uses. Thus, zoning classification and the proposed use for the subject site are not at issue, and it is the opinion of staff that the proposed use would be compatible with the surrounding areas and will not have any detrimental impact on nearby properties or uses.

Garden-type dwellings are defined in Section 400.030 of the Zoning Code as "A type of two- or three-story multiple-family dwelling containing not more than twelve (12) dwelling units with common access to all units typically provided by open or enclosed stairways and hallways. Access to the second and third floors may be provided by means of an elevator." Per the definition, the proposed development is classified as a garden-type dwelling development consisting of two buildings: one building with ten (10) units and a second building with eleven (11) units. Given the 0.6 acre size of the parcel, the maximum number of units allowed in this development per Section 400.1130.C of the Zoning Code pertaining to density and dimensional regulations for garden apartment buildings is 21 units.

All setback requirements as established per Section 400.340 of the Zoning Code pertaining to district regulations for the "HR" – High Density Residential District are found by staff to be in compliance. In the "HR" District, there is no maximum building height because building mass is regulated by setbacks and floor area ratio limitations. The proposed development meets the required ten (10) foot minimum property line setbacks and 20 foot minimum right-of-way setback from Cates Avenue. Vernon Avenue is established as an easement as depicted on the proposed site plan and therefore does not require a 20 foot setback as it is not a right-of-way. The subject property line extends into the Vernon Avenue easement and as such the proposed rear building is in compliance with setback regulations and is approximately 14 feet from the established easement at its nearest point. The proposed development also complies with the 1.0 Floor Area Ratio requirement.

Twenty-five parking spaces are required for the proposed development as per Section 400.2140 of the Zoning Code pertaining to minimum parking space requirements. All 21 units of the proposed development are to be one-bedroom units, each of which requires one parking space. A separate calculation determines the number of visitor parking spaces based on the size of the development, in this instance requiring four visitor parking spaces. Section 400.2130.J provides an exception that allows a reduction of vehicle parking spaces with the provision of parking for bicycles. Application of this exception, as depicted by the ten (10) bicycle parking spaces on the site plan, requires 23 vehicle parking spaces for the proposed development and all are provided on the site plan.

Zoning Code Section 400.1200 requires screening for the ground-mounted mechanical or electrical equipment from adjoining streets and neighboring properties, as well as for outside storage of rubbish and garbage on all four sides by an architecturally compatible sight-proof fence or wall not to be chain-link fencing. These regulations as set forth by the Zoning Code are found to be in compliance. Landscaping requirements for parking areas adjacent to

streets are established in section 400.2040 of the Zoning Code. Certain elements of the site plan pertaining to these landscaping requirements have been adjusted and are noted later in this analysis. All other regulations from this section of the Code are found to be in compliance.

Common open space is required for this development per Section 400.1140 of the Zoning Code which requires at least 15 percent of the gross area of the development be comprised of common open space. Staff finds the proposed development to be in compliance with the common open space requirements, which shall be used for recreational, park, or environmental amenity purposes for the collective enjoyment of the occupants of the development.

Per Section 400.2640 of the Zoning Code pertaining to City Council's Action of Site Plan Review, the City Council has the ability to adjust the standards set forth in the Zoning Code by 20 percent provided that it still meets the spirit and intent of such standards. The following items discussed of the proposed site plan may not meet the Zoning Code requirements due to challenges of the development site, although the applicant has demonstrated efforts above and beyond the requirements that meet the spirit and intent of the Zoning Code. These items may be approved as per the discretion of the City Council in the manner stated above:

- A strip of land paralleling the adjacent street is to have a width of not less than ten (10) feet as per Section 400.2040 of the Zoning Code. The strip of land on the site plan and landscape plan between Cates Avenue and the proposed parking area is less than ten feet in some areas due to existing dimensional problems; however, the applicant has added landscaping in this area above and beyond the required amount and has also incorporated two additional street trees further to the west to match those to be installed in this area.
- In order to comply with the parking requirements within the confines of the subject site, the proposed site plan proved challenging due to existing dimensional problems to include the 460 square feet of required interior parking area landscaping as required per Section 400.2040 of the Zoning Code. In an effort to meet the spirit and intent of this regulation, the applicant has proposed a vegetative screen along the eastern property boundary along the parking area which is similar in size to the required interior areas. This screening is not required because the neighboring property is also in the "HR" District, although the proposed screening depicted in this area meets the spirit and intent of the aesthetic portion of this requirement. The applicant is additionally proposing to plant more landscaping than is required on the north side of the parking area near Vernon Avenue, which will also serve to block any headlights from vehicles maneuvering the parking area.

The proposed garden apartment development proposal is consistent with the goals and objectives of the 2005 Comprehensive Plan update.

Public Works & Parks: This department has reviewed the proposed site plan in regards to general construction, sewer, stormwater, erosion control, forestry, and site conditions. All comments from Public Works and Parks have been resolved.

Fire Department: No comment.

Police Department: No comment.

**Staff Recommendation**

The proposal complies with all applicable provisions of the Zoning Code and with the Site Plan Review findings of fact as set forth in the Zoning Code with the exceptions noted above. The applicant is proposing features above and beyond the requirements set forth in the Zoning Code and is compensating for the deficiency noted by enhancing other proposed areas of landscaping to meet the spirit and intent. Accordingly, staff recommends approval of the proposed Site Plan.

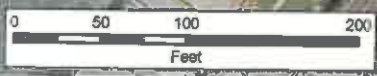
**ZONING & LAND USE**  
6321 Cates Avenue



**Legend**

- Subject Property
- Parcel Boundary
- Zoning Districts**
- HR-High Density Residential
- PA-Public Activity

Prepared by: University City Dept. of Community Development Staff - March, 2018;  
Data Source: St. Louis County Department of Revenue, GIS Datasets 2018



18-00290

Received



Department of Community Development

6801 Delmar Boulevard University City, Missouri 63130 314-505-8500 Fax: 314-862-3168

JAN 17 2018

APPLICATION FOR SITE PLAN REVIEW FOR: 6321 CATES  
Address / Location / Site of Building

Department of Community Development  
City of University City  
6801 Delmar  
University City, MO 63130

1. Zoning District (Check one):  
CC GC  HR HRO IC LC LR MR

2. State proposed use: APARTMENTS FOR LEASE.

3. Describe existing premises: VACANT LOT AND VACANT HOME.

4. Describe proposed construction (please attach additional narrative): CONVENTIONAL CONSTRUCTION MATERIAL. RENDERINGS ATTACHED.

5. State applicant's name, address and daytime telephone number: NELS ROSWALL 3 HORBS MILL ST. CHARLES, MO 63303. 314-920-5836

6. Applicant's interest in the property (check one):  
Owner Tenant Under contract to purchase Under contract to lease  
 Other (specify): DEVELOPER

7. State name and address and daytime telephone number of owner, if other than applicant:  
JOHN CASAMANO 1485 ELM WEBSTER GROVES, MO 63119  
314-575-4633

8. Check type of authorization(s) required:  
 New Development. This does not include single or two-family dwellings. (City Council approval required.)

Substantial Addition: Additions to buildings, or new accessory buildings, when 1) the addition or new accessory building is greater than 25% of the existing principal building; 2) the addition or new accessory building exceeds 1,000 square feet in gross floor area; 3) new curb cuts are required; or 4) when such new construction reduces existing parking or significantly modifies existing on-site circulation (this does not include single or two-family dwellings). (City Council approval required.)

Canopies: Canopies constructed over existing walkways, loading docks, or pump islands, where such new construction reduces existing parking or significantly modifies existing on-site circulation. (City Council approval required.)

Tax Exemption: Person, association, corporation, religious institution, charity or foundation that has been designated by any governmental entity as exempt from payment of any tax levied by the city seeking to purchase or occupy real property in University City per Municipal Code 400.2595. (City Council approval required.)

Amendment: Amendment to any of the above (City Council approval required.)

Olive Boulevard Design Guideline Review (Administrative review required.)

Administrative review for Zoning compliance (for other construction activity that does not meet the above-referenced criteria):

The undersigned hereby makes application for a Site Plan Review and requests the authorization to proceed with the activities described in this application.

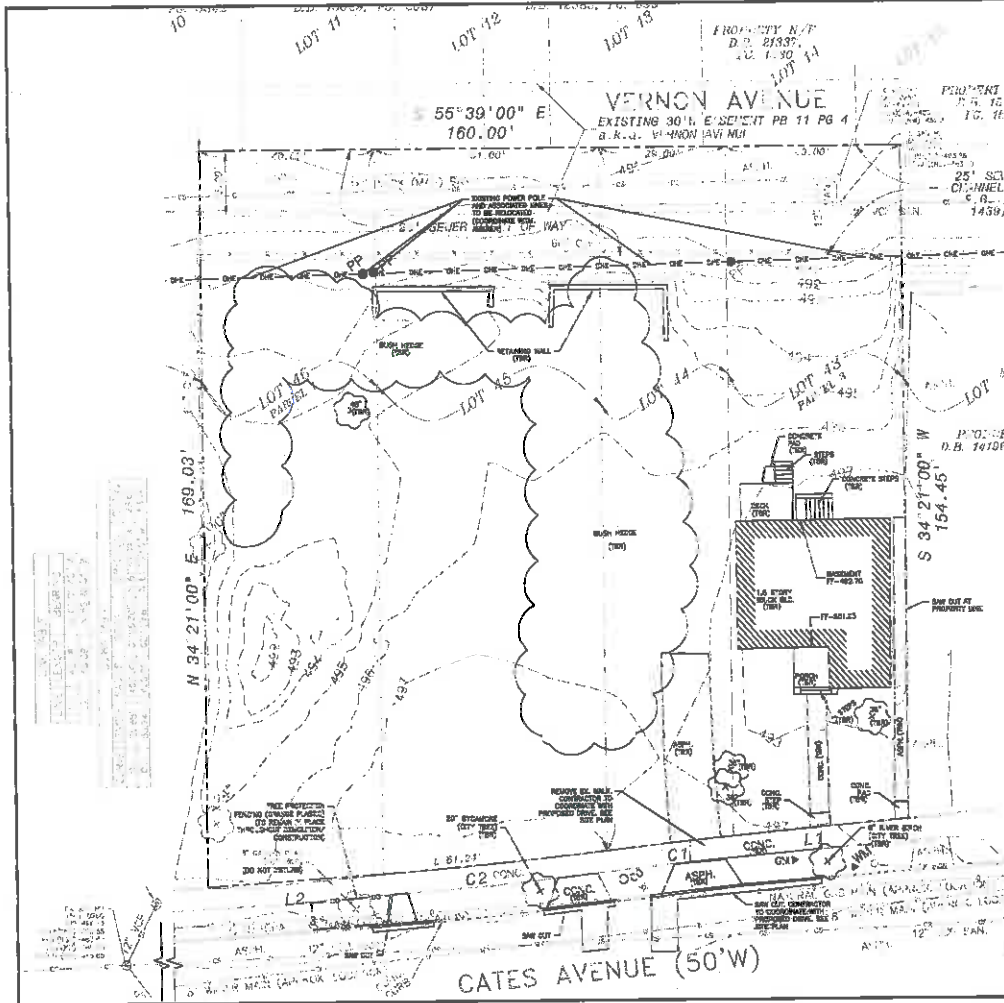
1/17/2018  
Date

Applicant's Signature and Title  
SOLE MEMBER RREIC LLC  
DEVELOPER FOR 6321 CATES

FOR OFFICE USE ONLY

Date: Application first received of  
Application fee in the amount of \$ Receipt #



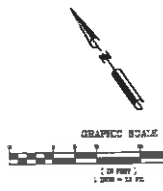


**TECHNICAL NOTES:**

1. ALL BUILDINGS SHALL BE SET BACK FROM NEIGHBORING AND PUBLIC THINGS. ALL NEIGHBORING BUILDINGS SHALL BE SET BACK BY THE CONTRACTOR TO MAINTAIN THE SAFETY OF THE GENERAL PUBLIC. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL NECESSARY PUBLIC UTILITIES. THE CONTRACTOR SHALL FOLLOW ALL FEDERAL, STATE AND LOCAL REGULATIONS WITH REGARD TO CONSTRUCTION SAFETY THROUGHOUT THE ENTIRE DURATION OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY INCREASES IN SAFETY OR PROTECTION OF PROPERTY RELATED TO THE CONSTRUCTION OF THE PROJECT.
2. UNDERGROUND UTILITIES, STRUCTURES AND OTHERS HAVE BEEN PLOTTED FROM AVAILABLE SURVEY AND RECORDS AND THEREFORE THEIR ACCURACY IS NOT GUARANTEED. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES AND STRUCTURES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES OR STRUCTURES CAUSED BY CONSTRUCTION ACTIVITY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES OR STRUCTURES CAUSED BY CONSTRUCTION ACTIVITY.
3. ANY PREVIOUSLY ACQUIRED PERMITS SHALL BE MAINTAINED COMPLETELY. THIS INCLUDES ANY AND ALL NEIGHBORING BUILDINGS.
4. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY AND PROPERLY ENFORCED BY THE CITY OF LAWRENCE, MISSOURI. THIS INCLUDES ALL FEDERAL, STATE, AND LOCAL REGULATIONS.
5. THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS NOT TO DAMAGE ANY EXISTING UTILITIES OR STRUCTURES. IF ANY DAMAGE OCCURS, THE CONTRACTOR SHALL NOTIFY THE CITY OF LAWRENCE IMMEDIATELY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING ALL DAMAGE TO UTILITIES OR STRUCTURES CAUSED BY CONSTRUCTION ACTIVITY.
6. ALL WORK IN THE CITY OF LAWRENCE CITY RIGHT-OF-WAY SHALL BE COMPLETED TO THE CITY OF LAWRENCE CITY STANDARDS.
7. ALL OFF-SITE PROPERTY CHANGES SHALL BE COMPLETED 48 HOURS IN ADVANCE OF CONSTRUCTION ACTIVITY.
8. CONSTRUCTION SHALL BE STOPPED IMMEDIATELY IN THE EVENT OF A HAZARDOUS WEATHER CONDITION OR OTHER EMERGENCY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING THE CITY OF LAWRENCE IMMEDIATELY IN THE EVENT OF A HAZARDOUS WEATHER CONDITION OR OTHER EMERGENCY.
9. STREET LIGHTS IN RIGHT-OF-WAY SHALL BE PROTECTED FROM CONSTRUCTION ACTIVITY FOR THE ENTIRE DURATION OF THE PROJECT.

**PLANNING/DESIGN INFORMATION (APPLY TO ALL CIVIL DRAWINGS):**

1. AREA OF PROPERTY = 26,883 SF = 0.61 ACRES
2. TOTAL GROSS FLOOR AREA OF EACH PROPOSED BUILDING (SEE CODE) = 1,797 SF EACH BUILDING (3,594 SF ON FIRST FLOOR, 2,843 SF ON SECOND AND THIRD FLOORS)
3. ZONING OF LOT = R-3 (SINGLE-FAMILY RESIDENTIAL DISTRICT) - SEE CITY OF LAWRENCE CITY CHARTER, ART. III, SECTION 10.010 FOR ZONING REGULATIONS.
4. COMMON OPEN SPACE (ALL AREAS OTHER THAN BALCONY, TERRACE, PATIO, AND WALKWAY AREAS) = 15,887 SF  
 COMMON OPEN SPACE / AREA OF PROPERTY = 0.59 = 41%  
 IN HIS DESIGN, ARCHITECT HAS PROVIDED COMMON OPEN SPACE PERCENTAGE OF 41% WHICH IS GREATER THAN THE MINIMUM COMMON OPEN SPACE PERCENTAGE FOR THIS DEVELOPMENT AS REQUIRED BY THE CITY OF LAWRENCE CITY CHARTER, ART. III, SECTION 10.010.
5. PARKING CALCULATIONS (SEE CODE)  
 REQUIREMENTS (SEE CODE):  
 ONE SPACE FOR EACH UNIT (ALL UNITS 1 BR) = 31 SPACES REQUIRED  
 ONE ADDITIONAL SPACE FOR EACH 2 UNITS = 4 SPACES REQUIRED  
 TOTAL SPACES REQUIRED = 35 SPACES REQUIRED  
 PROVIDED: 63 SPACES PROVIDED  
 DIFFERENTIAL OF 28 PARKING SPACES. DIFFERENTIAL WILL BE MADE UP BY USING SIDE PARKING FOR 28 OF THE 28 DIFFERENTIAL. SINCE THE DIFFERENTIAL IS 28 PARKING SPACES, TO MAKE PARKING REQUIREMENTS, 15 SIDE PARKING SPACES PROVIDED, SEE CODE.  
 ACCESSIBLE PARKING (SEE CODE) ONE VAN ACCESSIBLE PARKING SPACE HAS BEEN PROVIDED.  
 ADJACENT TO THE COMMON OPEN SPACE.  
 ALL WALKS AND DRIVEWAYS HAVE BEEN DESIGNED TO COMPLY WITH ADA REGULATIONS.

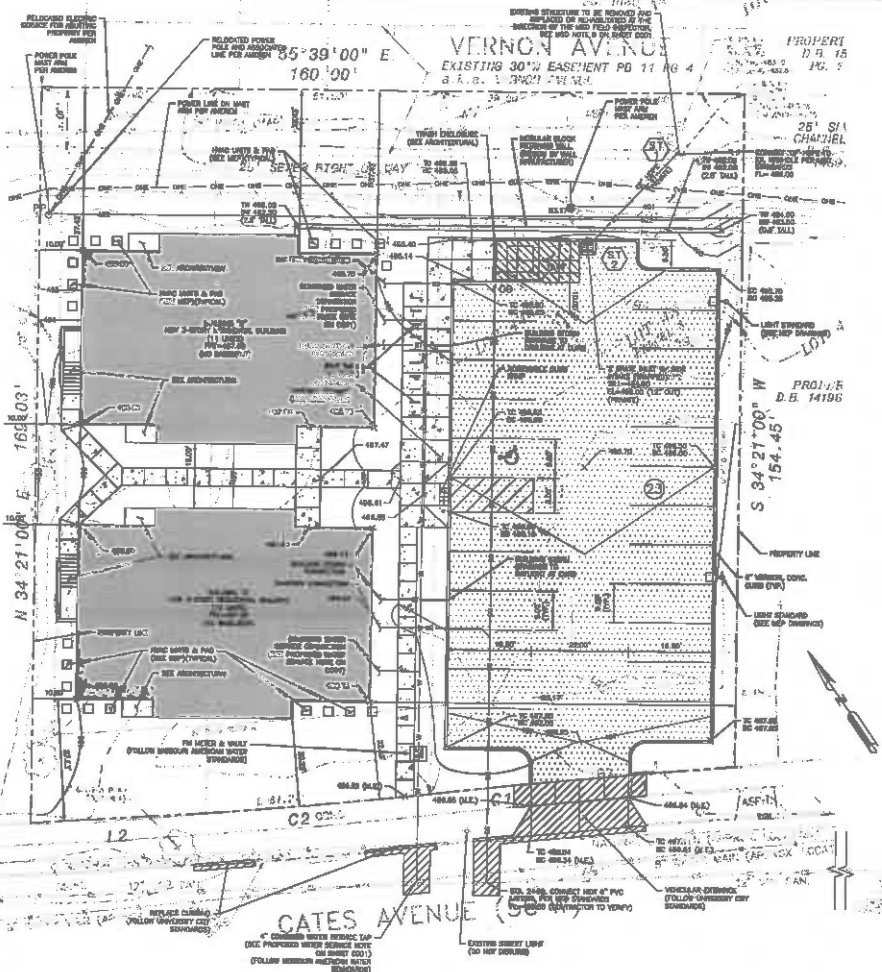


DATE: 03-23-2018  
 DRAWN BY: RFP  
 CHECKED BY: RFP  
 DESIGNED BY: RFP

**CATES AVENUE APARTMENTS**  
 UNIVERSITY CITY, MISSOURI 63108

NOT FOR CONSTRUCTION  
 EXISTING SITE AND DEMOLITION PLAN  
 MSD PROJECT # 17MS-00062  
 MSD MAP 18-11  
 C100





- SITE NOTES (APPLY TO ALL CALL SHEETS):**
- UNDERGROUND PROJECT STRUCTURES AND UTILITIES HAVE BEEN PLACED FROM AVAILABLE RECORDS AND RECORDS AND THEREFORE THEIR LOCATIONS MUST BE CONSIDERED APPROXIMATE ONLY. IF IT IS PROBABLE THAT THERE MAY BE OTHERS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING THEM PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND SHALL INCLUDE ALL NECESSARY CONSTRUCTION DETAILS IN THE CONTRACT DOCUMENTS TO AVOID DAMAGE TO EXISTING UTILITIES.
  - ALL EXISTING AND REMAINING STRUCTURES AND UTILITIES TO BE REMOVED SHALL BE DEMOLISHED TO THE FOUNDATION UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND SHALL INCLUDE ALL NECESSARY CONSTRUCTION DETAILS IN THE CONTRACT DOCUMENTS TO AVOID DAMAGE TO EXISTING UTILITIES.
  - THE LOCATION OF THE CONSTRUCTION SHALL BE APPROXIMATE ONLY. DEMOLITION SHALL BE COMPLETED PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND SHALL INCLUDE ALL NECESSARY CONSTRUCTION DETAILS IN THE CONTRACT DOCUMENTS TO AVOID DAMAGE TO EXISTING UTILITIES.
  - NO EXISTING UTILITIES SHALL BE REMOVED UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND SHALL INCLUDE ALL NECESSARY CONSTRUCTION DETAILS IN THE CONTRACT DOCUMENTS TO AVOID DAMAGE TO EXISTING UTILITIES.
  - ALL UTILITY CONNECTIONS SHALL BE COMPLETED TO THE APPROPRIATE STANDARD OF EACH RESPECTIVE UTILITY COMPANY.
  - ALL NEW SANITARY CITY MAINS OF 12" OR SMALLER SHALL BE COMPLETED TO CITY OF UNIVERSITY CITY STANDARDS.
  - CONTRACTOR SHALL MAINTAIN A MINIMUM OF 1' HORIZONTAL DISTANCE BETWEEN ANY EXISTING UTILITY LINE AND ANY SANITARY SEWER LINE.
  - ALL EXISTING REMAINING STRUCTURES SHALL BE DEMOLISHED TO THE FOUNDATION UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND SHALL INCLUDE ALL NECESSARY CONSTRUCTION DETAILS IN THE CONTRACT DOCUMENTS TO AVOID DAMAGE TO EXISTING UTILITIES.

**LEGEND**

FF	FURNISHED FLOOR SLABWORK
CO	CONCRETE
FR	FORMER FLOOR
SW	SEWER WATER LINE
FW	FRESH WATER LINE
GL	GAS LINE
SL	SANITARY LINE
EL	ELECTRIC LINE
CE	CONCRETE EXPOSED (REINFORCED)
CF	CONCRETE FINISH (REINFORCED)
CS	CONCRETE FINISH (NON-REINFORCED)

**FINISH LEVELS, FINISHING INFORMATION**

FINISH FLOOR SLABWORK (FF)	= 484.07'
SEWER MAIN (SW)	= 483.00'
SEWER MAIN (FW)	= 483.00'
SEWER MAIN (GL)	= 483.00'
SEWER MAIN (SL)	= 483.00'
SEWER MAIN (EL)	= 483.00'
ACTUAL F.L.T. CONNECTION	= 483.00'

\*VERTICAL CURVING, FINISHING LEVELS AND INTERFERENCES (CONFLICTS) SHOWN IN RED. CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL FINISHING LEVELS IN-CONSTRUCTION.

**UNIVERSITY CITY NOTES (APPLY TO ALL CALL SHEETS):**

- ALL CONCRETE IN CONTACT WITH SOIL SHALL BE SCHEDULE 40 P.I.
- SEWER MAIN LATERALS SHALL BE SCHEDULE 40 P.I.
- SEWER MAIN INSULATION SHALL BE 1" POLYURETHANE FOAM AND 1" INSULATION SHALL BE 1" POLYURETHANE FOAM.

**GRAPHIC SCALE**

1" = 20' (Horizontal)  
1" = 10' (Vertical)

**UNIVERSITY CITY**

DATE: 03-23-2010  
 DRAWN BY: J. B. BROWN  
 CHECKED BY: J. B. BROWN  
 PROJECT NO.: 17MSD-00082  
 SHEET NO.: C200

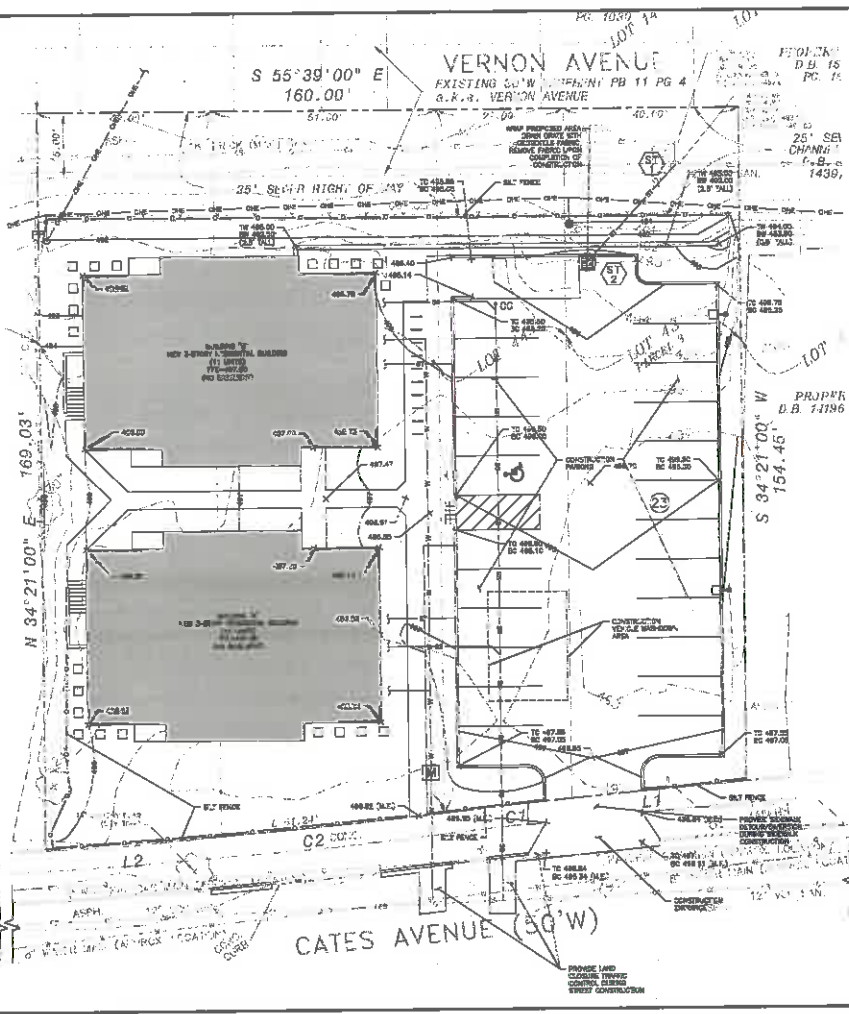
**CDI**  
 CIVIL DESIGN/INTL.  
 1000 UNIVERSITY CITY, MISSOURI 63102

**CATES AVENUE APARTMENTS**

**SITE AND GRADING PLAN**

NOT FOR CONSTRUCTION

VERNON AVENUE  
EXISTING 50' W  
G.R.A. VERNON AVENUE



EROSTON CONTROL NOTES:

1. CONTRACTOR SHALL USE SECURITY AND EROSTON CONTROL MEASURES THROUGHOUT THE DURATION OF THE PROJECT. SECURITY AND EROSTON CONTROL MEASURES SHALL BE IN PLACE BEFORE ANY COMMENCEMENT OF CONSTRUCTION AND THE EROSTON CONTROL SHALL NOT BE REMOVED UNTIL ALL EXISTING AND PROPOSED AREAS HAVE BEEN EXHAUSTED.
2. ALL EXISTING AREAS SHALL BE RESTORED AS SOON AS PRACTICAL.
3. ANY EXCESS EROSTON SHALL BE VALUED AT THE CITY SITE AT CONTRACTOR'S EXPENSE UNLESS OTHERWISE NOTICED BY OWNER'S REPRESENTATIVE.
4. CATES AVENUE AND VERNON AVENUE TO BE EXPOSED ONLY FOR GRADIENT AND MAID FROM CONSTRUCTION ACTIVITIES. ANY EXPOSURE ON MAID SHOULD BE COMPLETED BEFORE THE END OF THE DAY AND PROTECTED. ALL CLEARANCE OF AREAS SHALL BE COMPLETE TO CITY OF UNIVERSITY CITY AND MISSOURI DEPARTMENT OF NATURAL RESOURCES (DMNR) APPROVAL.
5. CITY OF UNIVERSITY CITY RESERVES THE RIGHT TO REMOVE ANYTHING IN EXCESS OF THE AREA AS NOTICED TO THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING ANYTHING REMOVED AS NOTICED TO THE SUPERVISOR OF THE CITY OF UNIVERSITY CITY AT NO ADDITIONAL COST TO THE CONTRACTOR.
6. CONTRACTOR SHALL PROVIDE NEARLY PROTECTION FOR ANY EXISTING OR EXPOSED AREAS AND/OR VERNON AVENUE RESTORED FROM PROJECT DISTURBED AREAS.
7. WHEN REMOVED BY ENGINEERS, THE CONTRACTOR SHALL NOT DISRUPT NEARBY WATER.



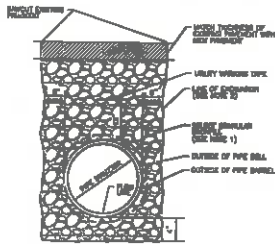
DATE	03/22/2016
PROJECT	VERNON AVENUE APARTMENTS
OWNER	VERNON AVENUE APARTMENTS
DESIGNER	CDI
CHECKED BY	CDI
DATE	03/22/2016
PROJECT	VERNON AVENUE APARTMENTS
OWNER	VERNON AVENUE APARTMENTS
DESIGNER	CDI
CHECKED BY	CDI
DATE	03/22/2016

VERNON AVENUE APARTMENTS  
UNIVERSITY CITY, MISSOURI 63108

NOT FOR CONSTRUCTION  
EROSTON CONTROL  
PLAN

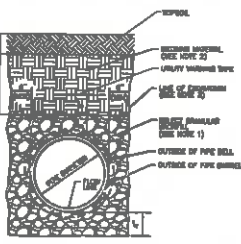
MSD PROJECT # 17MSD-00062  
MSD MAP # 8-H

C201



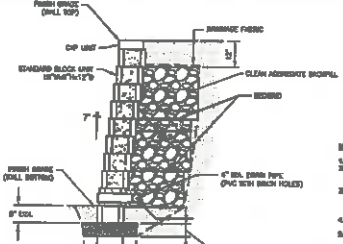
- NOTE:
1. SELECT SMOOTH RIBBED WALL SHEETS OF GRADED SANDSTONE OR CONCRETE. CONTACT MANUFACTURER FOR SPECIFIC SIZES AND WEIGHTS OF SHEETS. (SEE NOTE 2)
  2. CONCRETE SHALL BE REINFORCED PER SHEETS AND FINISHED PER SHEET MANUFACTURER'S RECOMMENDATIONS. USE ALL CORNER, EDGE, INTERNAL AND END REINFORCEMENT.

**A** UTILITY TRENCH - UNDER PAVEMENT  
NOT TO SCALE



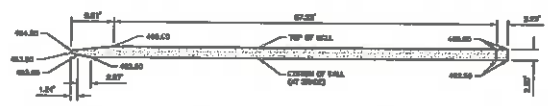
- NOTE:
1. SELECT SMOOTH RIBBED WALL SHEETS OF GRADED SANDSTONE OR CONCRETE. CONTACT MANUFACTURER FOR SPECIFIC SIZES AND WEIGHTS OF SHEETS. (SEE NOTE 2)
  2. CONCRETE SHALL BE REINFORCED PER SHEETS AND FINISHED PER SHEET MANUFACTURER'S RECOMMENDATIONS. USE ALL CORNER, EDGE, INTERNAL AND END REINFORCEMENT.
  3. FINISH SHALL BE REINFORCED PER SHEETS AND FINISHED PER SHEET MANUFACTURER'S RECOMMENDATIONS. USE ALL CORNER, EDGE, INTERNAL AND END REINFORCEMENT.

**B** UTILITY TRENCH - UNDER LAWN  
NOT TO SCALE

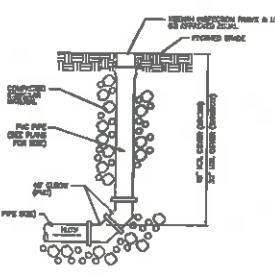


- NOTE:
1. MODULAR BLOCK UNIT SHEETS ARE APPROVED. PROVIDE ONE (1) WALL OF BLOCKS, BLOCKS LARGER THAN 4 INCHES. A FEET OF LEAD.
  2. FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS. FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS. FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS.
  3. THE FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS. FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS.
  4. THE FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS. FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS.
  5. THE FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS. FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS.
  6. THE FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS. FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS.
  7. THE FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS. FINISH GRADE SHALL BE FINISHED PER THE SHEET MANUFACTURER'S RECOMMENDATIONS.

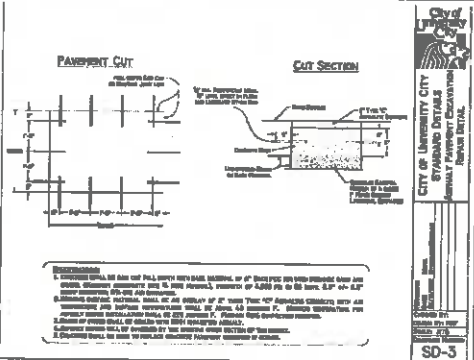
**C** MODULAR BLOCK RETAINING WALL  
NOT TO SCALE



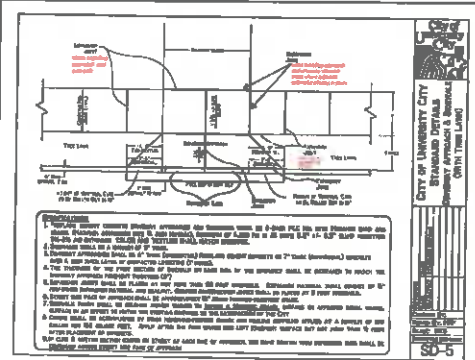
**D** WALL PROFILE  
1" = 10"



**F** CLEANOUT  
NOT TO SCALE



**E** PAVEMENT PATCH (UNIV. CITY STD. DETAIL SD-3)  
NOT TO SCALE



**G** DRIVEWAY APPROACH (UNIV. CITY STD. DETAIL SD-5)  
NOT TO SCALE

UNIVERSITY CITY, MISSOURI

DATE: 03-22-2018

PROJECT: GATES AVENUE APARTMENTS

DESIGNER: GATES AVENUE APARTMENTS

CONTRACT NO.: 17MSD-00082

MAP NO.: 18-M

NOT FOR CONSTRUCTION

SD-3

SD-5

C300



**Table 01-1.5.1** Sizing of Symbols on Typical Application Diagram

Symbol	Minimum Sizing
Arrow	3/16"
Arrow with text	3/16"
Circle	3/16"
Circle with text	3/16"
Rectangle	3/16"
Rectangle with text	3/16"
Triangle	3/16"
Triangle with text	3/16"
Circle with cross	3/16"
Circle with dot	3/16"
Circle with horizontal line	3/16"
Circle with vertical line	3/16"
Circle with diagonal line	3/16"
Circle with wavy line	3/16"
Circle with zigzag line	3/16"
Circle with dashed line	3/16"
Circle with dotted line	3/16"
Circle with long dashed line	3/16"
Circle with long dotted line	3/16"
Circle with long dash-dot line	3/16"
Circle with long dash-dot-dot line	3/16"
Circle with long dash-dot-dot-dot line	3/16"
Circle with long dash-dot-dot-dot-dot line	3/16"

**Table 01-1.5.2** Sizing of Letter Codes on Typical Application Diagram

Letter Code	Minimum Sizing
Normal	3/16"
Small	3/32"
Very Small	1/32"
Extra Small	1/64"

**Table 01-1.5.3** Placement for Detailing Paper Length

Detailing Paper Length	Minimum Sizing
11" x 17"	3/16"
14" x 22"	3/16"
18" x 28"	3/16"

**Figure 01-16. Lane Closure on a Minor Street (D-16)**

**Notes:**

- This TFC should be used only for lane-closure details on minor streets.
- If the work is to be done at night, the work area should be illuminated by portable lighting.
- When the work is to be done at night, the work area should be illuminated by portable lighting.
- When the work is to be done at night, the work area should be illuminated by portable lighting.

**Figure 01-16. Lane Closure on a Minor Street (D-16)**

**Notes:**

- This TFC should be used only for lane-closure details on minor streets.
- If the work is to be done at night, the work area should be illuminated by portable lighting.
- When the work is to be done at night, the work area should be illuminated by portable lighting.
- When the work is to be done at night, the work area should be illuminated by portable lighting.

**Table 01-1.5.4** Sizing of Symbols on Typical Application Diagram

Symbol	Minimum Sizing
Arrow	3/16"
Arrow with text	3/16"
Circle	3/16"
Circle with text	3/16"
Rectangle	3/16"
Rectangle with text	3/16"
Triangle	3/16"
Triangle with text	3/16"
Circle with cross	3/16"
Circle with dot	3/16"
Circle with horizontal line	3/16"
Circle with vertical line	3/16"
Circle with diagonal line	3/16"
Circle with wavy line	3/16"
Circle with zigzag line	3/16"
Circle with dashed line	3/16"
Circle with dotted line	3/16"
Circle with long dashed line	3/16"
Circle with long dotted line	3/16"
Circle with long dash-dot line	3/16"
Circle with long dash-dot-dot line	3/16"
Circle with long dash-dot-dot-dot line	3/16"
Circle with long dash-dot-dot-dot-dot line	3/16"

**Table 01-1.5.5** Sizing of Letter Codes on Typical Application Diagram

Letter Code	Minimum Sizing
Normal	3/16"
Small	3/32"
Very Small	1/32"
Extra Small	1/64"

**Table 01-1.5.6** Placement for Detailing Paper Length

Detailing Paper Length	Minimum Sizing
11" x 17"	3/16"
14" x 22"	3/16"
18" x 28"	3/16"

**Figure 01-16. Lane Closure on a Minor Street (D-16)**

**Notes:**

- This TFC should be used only for lane-closure details on minor streets.
- If the work is to be done at night, the work area should be illuminated by portable lighting.
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- When the work is to be done at night, the work area should be illuminated by portable lighting.

**Figure 01-16. Lane Closure on a Minor Street (D-16)**

**Notes:**

- This TFC should be used only for lane-closure details on minor streets.
- If the work is to be done at night, the work area should be illuminated by portable lighting.
- When the work is to be done at night, the work area should be illuminated by portable lighting.
- When the work is to be done at night, the work area should be illuminated by portable lighting.

**NOT FOR CONSTRUCTION**

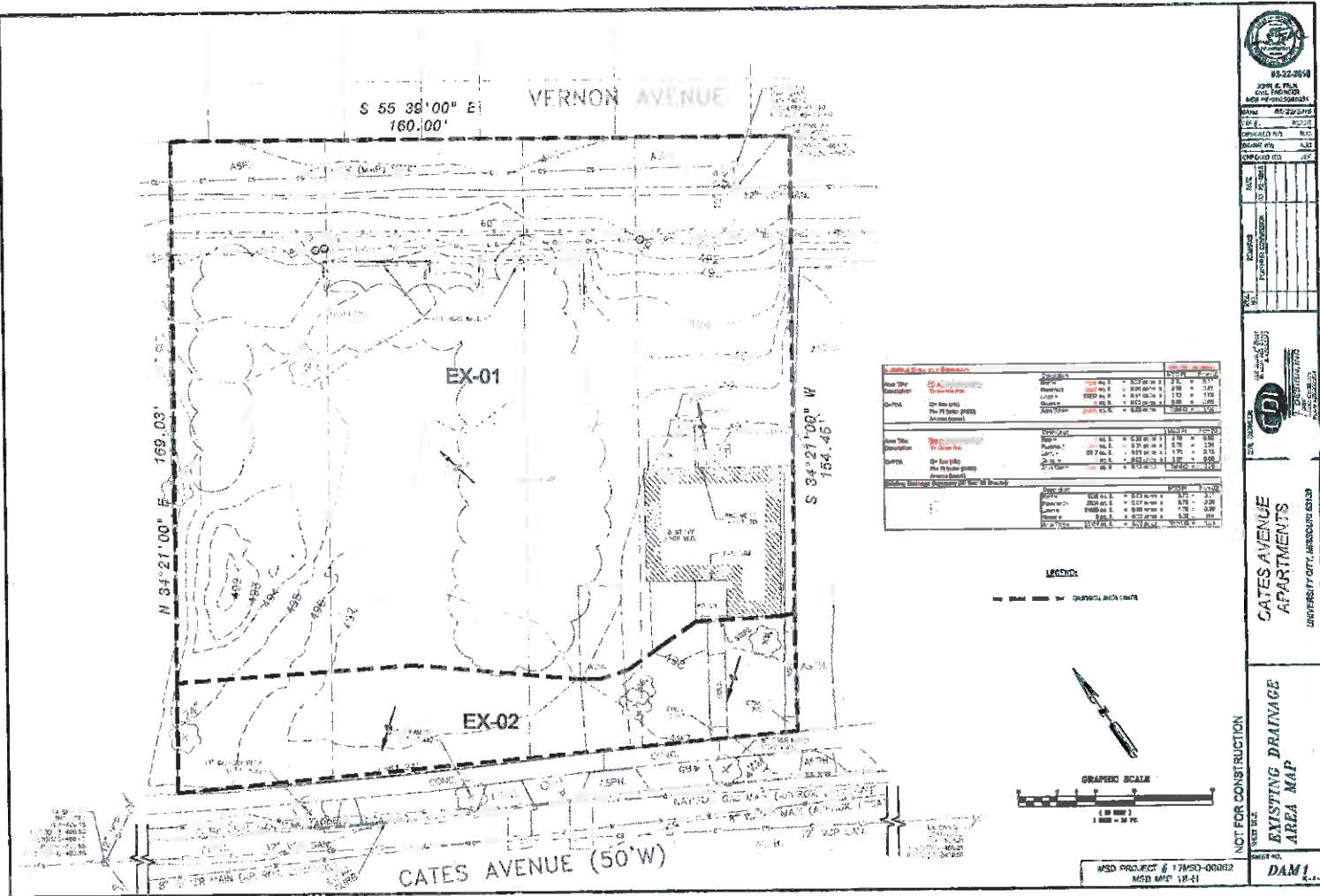
TRAFFIC CONTROL DETAILS

CATES AVENUE APARTMENTS

UNIVERSITY CITY, MISSOURI 63108

MSD PROJECT # 17MSD-00082  
MSD MAP 18-N  
C302

DATE: 08-23-2016  
BY: J. [unreadable]  
CHECKED BY: [unreadable]  
DATE: 08-23-2016



Job Data			
Job No.	17MSD-00002	Sheet No.	1 of 1
Project Name	CATES AVENUE APARTMENTS	Date	08/22/2018
Client	CDI	Scale	AS SHOWN
Drawn By	J. [Name]	Checked By	[Name]
Project Location	CATES AVENUE, ST. LOUIS, MO	Project Status	PLANNING

Area Data			
Area	154.45' x 169.03'	Area	26,110.00 sq ft
Perimeter	638.51'	Perimeter	638.51'
Volume	154.45' x 169.03' x 4'	Volume	41,376.00 cu ft
Weight	154.45' x 169.03' x 4' x 150 lb/cu ft	Weight	6,206,400 lb

**JOHN C. FINK**  
 CIVIL ENGINEER  
 STATE OF MISSOURI  
 LICENSE NO. 12345  
 EXPIRES 08/22/2018

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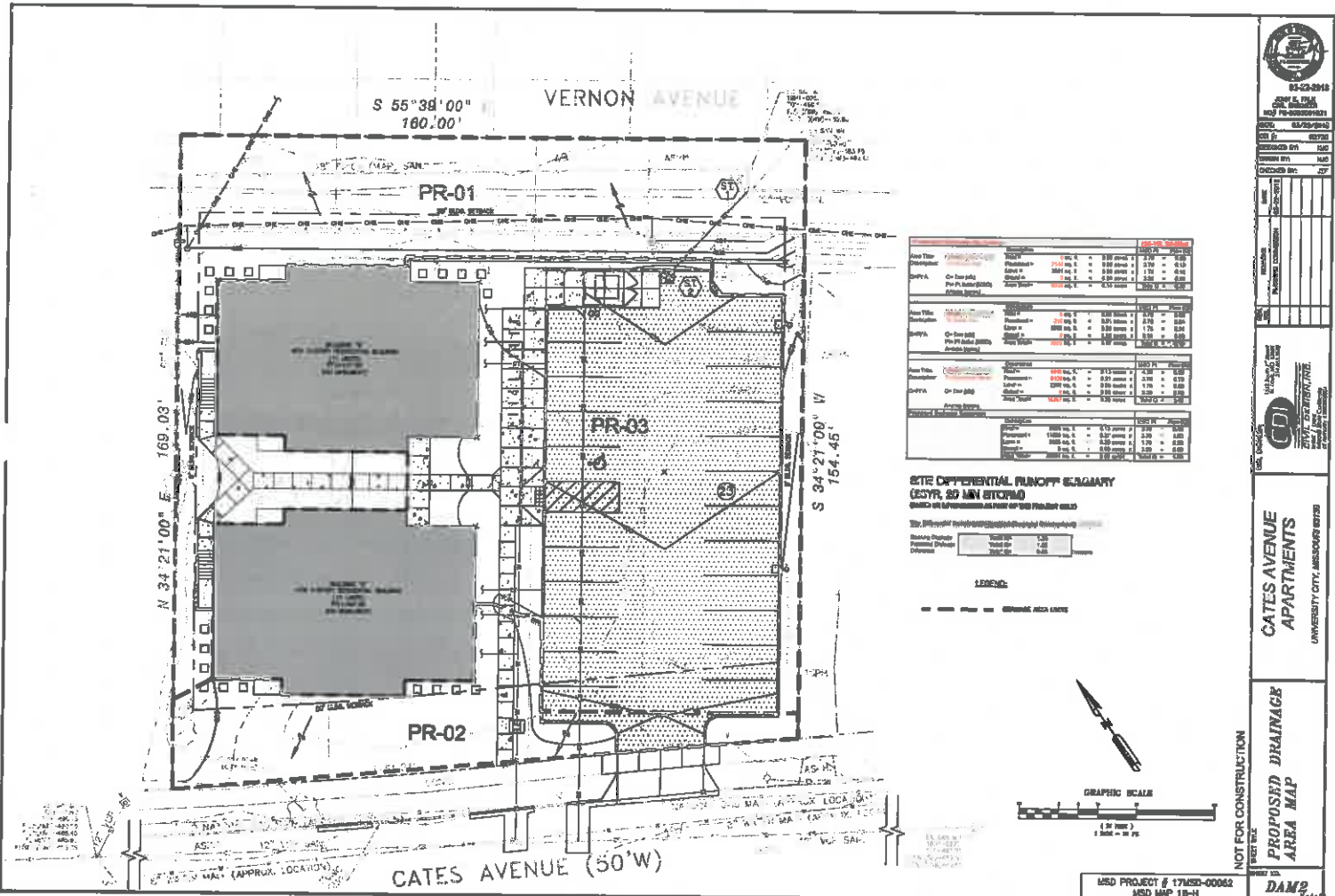
**CDI**  
 CIVIL DESIGN INC.  
 1000 S. GARDEN ST.  
 ST. LOUIS, MO 63103  
 TEL: 314.433.1234  
 FAX: 314.433.5678  
 WWW.CDI-CIVIL.COM

---

**CATES AVENUE APARTMENTS**  
 EXISTING DRAINAGE AREA MAP

---

NOT FOR CONSTRUCTION  
 PROJECT NO. 17MSD-00002  
 SHEET NO. DAM1-1



S 55°38'00"  
160.00'

VERNON AVENUE

PR-01

PR-03

PR-02

N 34°21'00" E  
169.03'

S 34°21'00" W  
154.45'

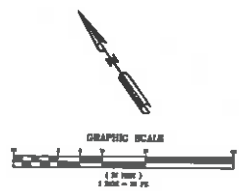
CATES AVENUE (50'W)

Area Title	Area Type	Area Code	Area Description	Area Area (sq. ft.)	Area Perimeter (ft.)	Area Volume (cu. ft.)	Area Weight (lb.)
Area 1	Concrete	101	100 sq. ft.	100	100	100	100
Area 2	Asphalt	102	200 sq. ft.	200	200	200	200
Area 3	Grass	103	300 sq. ft.	300	300	300	300
Area 4	Soil	104	400 sq. ft.	400	400	400	400
Area 5	Other	105	500 sq. ft.	500	500	500	500

**SITE DIFFERENTIAL RUNOFF SUMMARY**  
(ESYR, 30 MIN STORM)

Runoff Category	Runoff Rate (in/hr)	Runoff Volume (cu. ft.)
Roof	1.00	100
Impervious	0.50	50
Permeable	0.10	10
Total	1.60	160

**LEGEND**  
--- Proposed Area Lines



MSD PROJECT # 17MSD-00062  
MSD MAP 1B-H

**DAM2**

UNIVERSITY CITY, MISSOURI 63108

**CATES AVENUE APARTMENTS**

**PROPOSED DRAINAGE AREA MAP**

NOT FOR CONSTRUCTION

DATE: 04/20/2018

PROJECT: 17MSD-00062

MAP: 1B-H

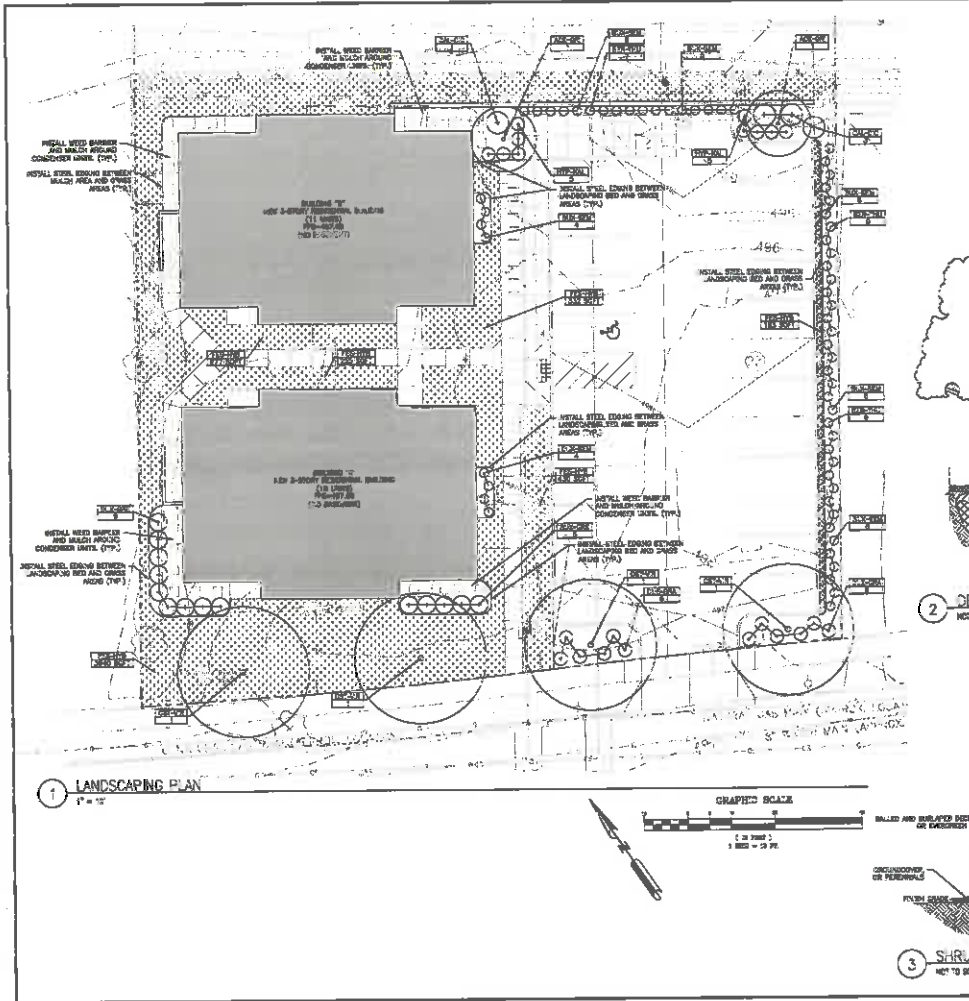
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DATE: 04/20/2018

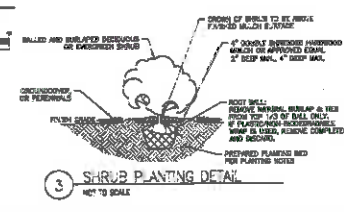
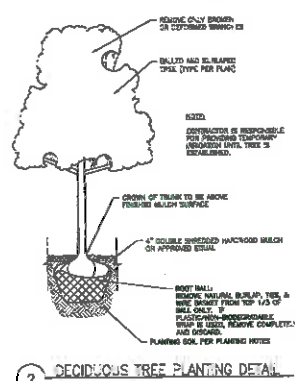
PROJECT: 17MSD-00062

MAP: 1B-H

SCALE: AS SHOWN



KEY	SPECIES/COMMON NAME	METHOD	SIZE	REMARKS
KEY-001	SPRUE	BAR	3 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-002	SPRUE	BAR	4"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-003	SPRUE	BAR	4 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-004	SPRUE	BAR	5"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-005	SPRUE	BAR	5 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-006	SPRUE	BAR	6"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-007	SPRUE	BAR	6 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-008	SPRUE	BAR	7"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-009	SPRUE	BAR	7 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-010	SPRUE	BAR	8"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-011	SPRUE	BAR	8 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-012	SPRUE	BAR	9"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-013	SPRUE	BAR	9 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-014	SPRUE	BAR	10"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-015	SPRUE	BAR	10 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-016	SPRUE	BAR	11"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-017	SPRUE	BAR	11 1/2"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE
KEY-018	SPRUE	BAR	12"	TRUNKS MUST BE STRAIGHT & FREE OF DAMAGE



**NOT FOR CONSTRUCTION**

**LANDSCAPING PLAN**

**CATES AVENUE APARTMENTS**

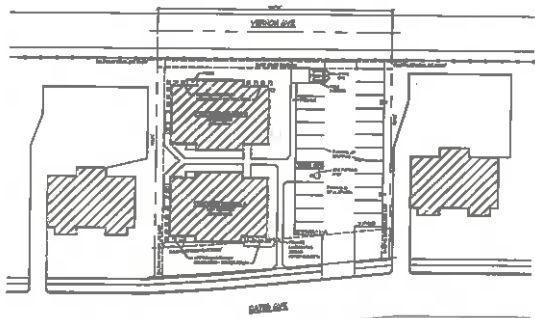
UNIVERSITY CITY, MISSOURI 63130

MSD PROJECT # 17MSD-CC062  
MSD MAP 1B-H

**L100**

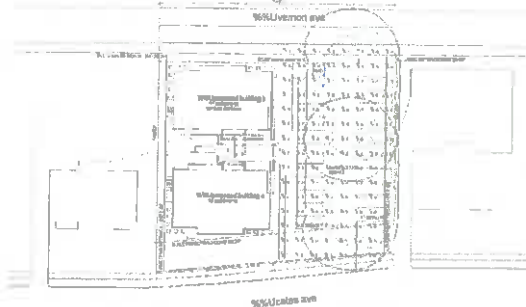
DATE: 03/25/2018  
DRAWN BY: BST  
CHECKED BY: BST  
DESIGNED BY: BST





4 ARCHITECTURAL SITE PLAN  
SCALE 1" = 30'-0"

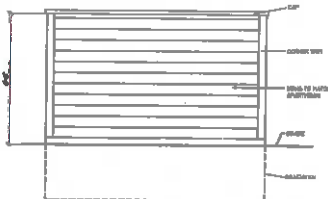
SITE PLAN  
SCALE 1" = 30'-0"



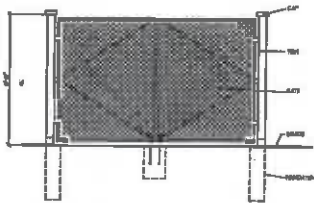
%%Uette plan  
SCALE 1" = 30'-0"

NO.	DESCRIPTION	DATE	BY	CHECKED	SCALE	DATE	BY	REVISIONS
1	REVISED	10/14/14	J.M.	J.M.	1" = 30'-0"	10/14/14	J.M.	1. REVISED
2	REVISED	10/14/14	J.M.	J.M.	1" = 30'-0"	10/14/14	J.M.	2. REVISED

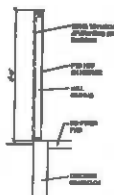
1 SITE PHOTOMETRIC PLAN  
SCALE 1" = 30'-0"



5 TRASH SCREENING (SIDE/REAR)  
SCALE 1/2" = 1'-0"



6 TRASH SCREENING (GATE)  
SCALE 1/2" = 1'-0"



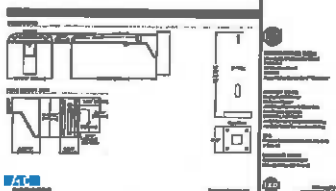
7 TRASH SCREENING (SECTION)  
SCALE 1/2" = 1'-0"

**Remarks:**

1. All lighting fixtures shall be of the following type: [specifications]

2. All lighting fixtures shall be of the following type: [specifications]

3. All lighting fixtures shall be of the following type: [specifications]



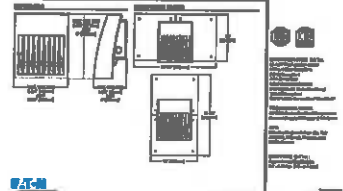
2 PARKING LOT LIGHT  
SCALE 1/2" = 1'-0"

**Remarks:**

1. All lighting fixtures shall be of the following type: [specifications]

2. All lighting fixtures shall be of the following type: [specifications]

3. All lighting fixtures shall be of the following type: [specifications]



3 BUILDING LIGHT  
SCALE N.T.S.

**thd**

**TIM HOLLERBACH**  
DESIGNER

1000 UNIVERSITY AVENUE, SUITE 100  
ANNAPOLIS, MD 21403  
TEL: 410-293-1100  
WWW.THOLLERBACHDESIGN.COM

Professional Seal

The Professional Seal and the name of the holder hereof are the property of the Board of Professional Engineers, Architects, Surveyors and Landscape Architects of the State of Maryland. Any use of the seal or name of the holder hereof for any purpose other than that authorized by the Board shall be cause for disciplinary action.

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**85% PROGRESS SET - NOT FOR CONSTRUCTION - FOR PRICING ONLY**

**APARTMENTS FOR:**  
**CATES AVE APARTMENTS**  
6321 - 6405 CATES AVENUE  
UNIVERSITY CITY, MD 63130

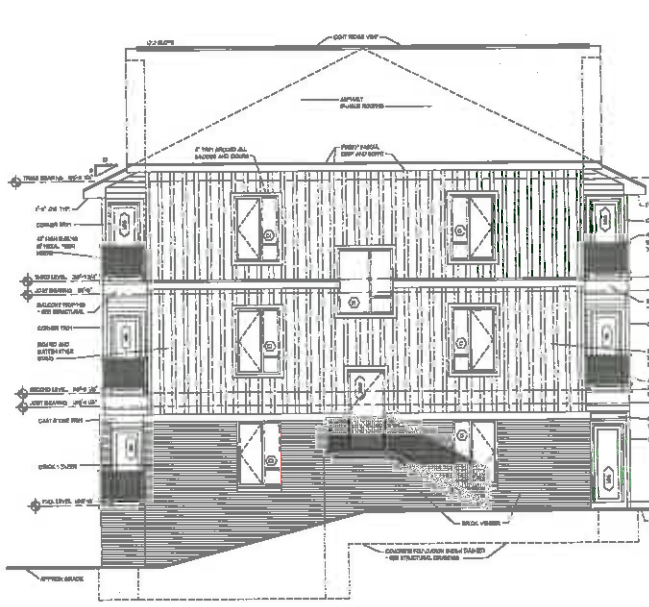
**SITE PHOTOMETRIC PLAN**

**PH-1**

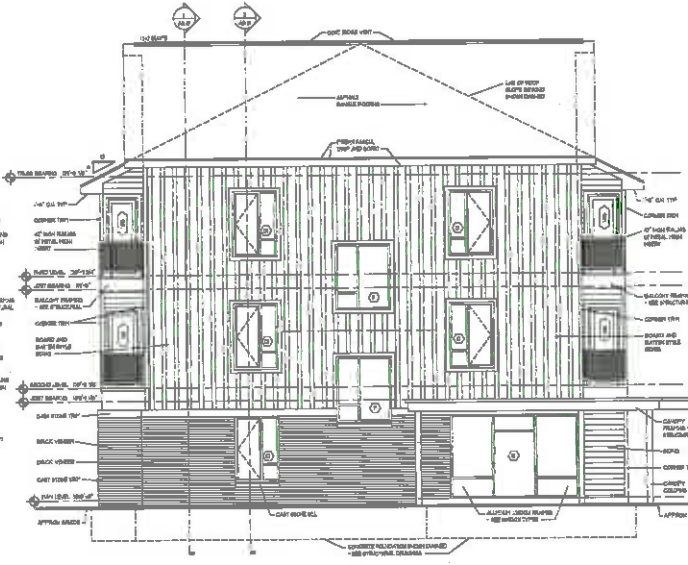


T.M. HOLLERBACH  
DESIGN  
1800 JEFFERSON BLVD  
PUEBLO, CO. 81001  
761.243.8877  
www.thd.com

The Professional seal of the architect is required for the preparation of the contract documents and the contract documents shall be prepared by the architect. The architect shall be responsible for the design and construction of the building. The architect shall be responsible for the design and construction of the building.



1 SIDE ELEVATION - BUILDING B  
SCALE: 1/8" = 1'-0"



2 PARKING LOT ELEVATION - BUILDING A AND B  
SCALE: 1/8" = 1'-0"

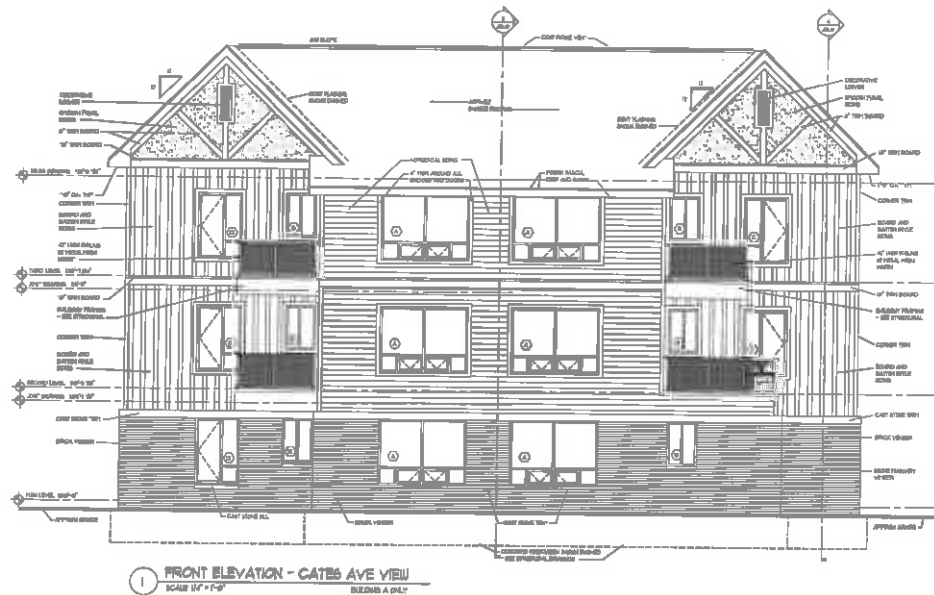
95% PROCESS SET - NOT FOR CONSTRUCTION - FOR PRICING ONLY

APARTMENTS FOR:  
**CATES AVE APARTMENTS**  
6521 - 6405 CATES AVENUE  
UNIVERSITY CITY, MD 62

NO. SHEETS	17/18
NO. OF SHEETS	06.09.2018
NO. OF SHEETS	
NO. OF SHEETS	
NO. OF SHEETS	

BUILDING ELEVATIONS

**A2.0**



The Professional seal affixed to this drawing indicates that the architect has prepared the project or checked the preparation of the project shown on this drawing. No other person has prepared or checked the project shown on this drawing. The seal and signature are the responsibility of the professional.

**PROFESSIONAL SEAL:**  
 TIM HULLERBACH  
 ARCHITECT  
 LICENSE NO. 10725  
 410-291-4500

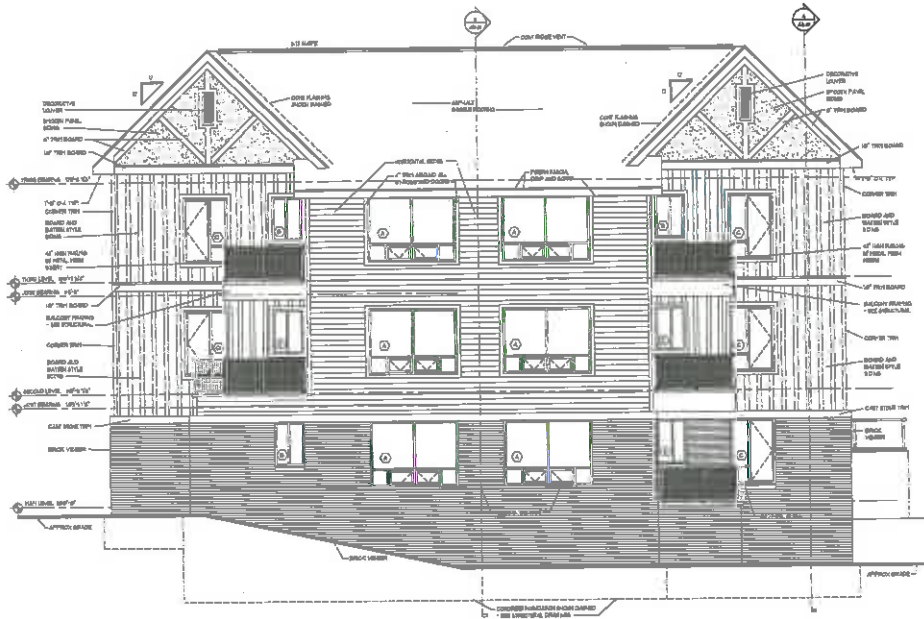
**FOR RECORD:**  
 PROJECT: CATES AVE APARTMENTS, INC.  
 200 WEST TOWNS LANE  
 ANNAPOLIS, MD 20701  
 410-291-4500

**95% PROGRESS SET - NOT FOR CONSTRUCTION - FOR PRICING ONLY**  
**APARTMENTS FOR:**  
**CATES AVE APARTMENTS**  
 5521 - 5405 CATES AVENUE  
 UNIVERSITY CITY, MD 21146

JOB NUMBER	17181
DATE OF DRAWING	02.26.2019
PROJECT	

**BUILDING ELEVATIONS**

**A2.1**



1 REAR ELEVATION - VERNON AVE VIEW  
SCALE 1/4" = 1'-0"



The Professional seal affixed to this drawing certifies that the Architect has prepared or caused the preparation of the drawings shown on this drawing, that he or she is a duly licensed professional engineer and that he or she is not providing engineering services to the project shown on this drawing.

T.H. HOLLERBACH DESIGN, LLC  
1000 SPRINGWOOD  
ARLINGTON, VA 22202  
703-441-1100  
www.thhollerbachdesign.com

NOT FOR CONSTRUCTION - FOR PRICING ONLY  
APARTMENTS FOR:  
**CATES AVE APARTMENTS**  
6321 - 6405 CATES AVENUE  
UNIVERSITY CITY, MO 64116

DATE	17-21
ISSUE NO.	03.08.2018
REVISION	

BUILDING ELEVATIONS

**A2.3**



## Council Agenda Item Cover

**MEETING DATE:** April 9, 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:** Unfinished 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**

<b>Pay Grade</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
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



<b>SCHEDULE A (CONTINUED)</b>						
<b>Grade</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
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
	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>	<b>Step G</b>
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)**

<b>Title</b>	<b>Pay Grade</b>	<b>Minimum</b>	<b>Maximum</b>
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

<b>SCHEDULE D</b>	<b>ANNUAL BASE PAY</b>		
	<b>Pay Grade</b>	<b>Minimum</b>	<b>Maximum</b>
<b>Title</b>			
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 (6<sup>th</sup>) year through the seventh (7<sup>th</sup>) 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 (8<sup>th</sup>) year through the tenth (10<sup>th</sup>) 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 (11<sup>th</sup>) year through the fourteenth (14<sup>th</sup>) 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 (15<sup>th</sup>) 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 (8<sup>th</sup>) year through the tenth (10<sup>th</sup>) 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 (11<sup>th</sup>) year through the twentieth (20<sup>th</sup>) 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 (21<sup>st</sup>) 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

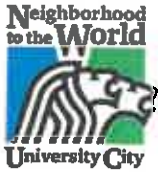
ATTEST:

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

CERTIFIED TO BE CORRECT AS TO FORM:

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





## University City EMPLOYMENT OPPORTUNITY

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

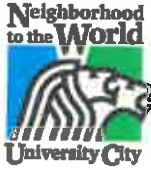
- Telephone, computers, copy machine, fax, printers, scanner.
- Able to operate City issued truck.

#### 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

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**MEETING DATE:** April 9, 2018  
**AGENDA ITEM TITLE:** MCIMETRO AGREEMENT AND SETTLEMENT  
**AGENDA SECTION:** Unfinished Business  
**CAN THIS ITEM BE RESCHEDULED? :** Yes

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### **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 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 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 506.220 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:

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 Welsch, Mayor

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

ATTEST:

\_\_\_\_\_  
LaRette Reese, City Clerk

By: *[Signature]*

Print Name: Robert E. McLean

Title: Service Director Engineering

Date: 3/22/18

(CORPORATE SEAL)

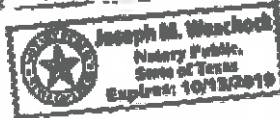
STATE OF Texas                    )  
  ) ss.  
COUNTY OF Dallas                )

The forgoing instrument was acknowledged before me this 22<sup>nd</sup> March, 2018, by ROBERT E. McLEAN, on behalf of MCImetro 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 515 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.

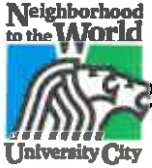
5. Wireless Facility Locations or Facilities approved: None.

**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

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**MEETING DATE:** April 9, 2018

**AGENDA ITEM TITLE:** XO Agreement **AGENDA**

**SECTION:** Unfinished Business **CAN THIS**

**ITEM BE RESCHEDULED? :** Yes

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### **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 1.1), 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 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.



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 67.1848 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 \$543,499.76 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 MCI/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 Bindings.** 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

3. "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  
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 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**

11.4 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 22<sup>ND</sup> MARCH, 2010, by ROBERT F. MCEWEN, on behalf of XO Communications Services, LLC. This person is personally known to me or has produced Photo ID as identification.

[Signature]  
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 815 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)**



**Plan Commission**  
**February 28, 2018 Meeting Minutes**  
*Approved 3-28-18*

The Plan Commission held their regular meeting at the Heman Park Community Center located at 975 Pennsylvania Avenue, University City, Missouri on Wednesday, February 28, 2018. The meeting commenced at 6:30 pm.

**1. Roll Call**

**Voting Members Present**

Rosalind Williams (Chairperson)  
Michael Miller  
Peggy Holly  
Ellen Hartz  
Cynthia Head  
Judith Gainer  
Cirri Moran

**Voting Members Absent**

None

**Non-Voting Council Liaison Present**

Rod Jennings

**Staff Present**

Gregory Rose, City Manager  
John Mulligan, City Attorney  
Andrea Riganti, Director of Community Development  
Andrew Stanislav, Planner & Zoning Administrator

**2. Approval of Minutes**

**2.a. January 31, 2018 Plan Commission meeting**

Prior to discussion of the minutes, Ms. Riganti asked the Plan Commission to consider a motion to move the public hearing portions of the agenda to coincide with their respective items under new business. A motion was made by Mr. Miller to move the public hearings under new business. The motion was seconded by Ms. Moran and carried unanimously.

A motion was made by Mr. Miller to approve the January 31, 2018 meeting minutes. The motion was seconded by Ms. Moran. Ms. Williams requested that her comments specific to shared parking, the CUP recognized in the district itself, and garages as a principle use be added to the minutes. A motion was made by Mr. Miller to approve the January 31, 2018 meeting minutes with these additions. The motion was seconded by Ms. Moran and carried unanimously.

**3. Hearings – None**

**4. Old Business – None**

**5. New Business**

**5.a. Conditional Use Permit – PC 18-03 – To allow the parking structure at 560 Trinity Avenue to accommodate off-site parking requirements for the adjacent and proposed COCA (Center of Creative Arts) expansion and renovation project**

Ms. Riganti introduced the proposed Conditional Use Permit (CUP) by providing background and contextual information. She stated that a recent Text Amendment to the Zoning Code was approved on February 26, 2018 regarding off-site parking requirements, which requires a CUP for a parking structure of at least 200 parking spaces in order to accommodate the parking requirements of adjacent properties. Ms. Riganti also presented the findings of fact criteria for the Commission's review from Section 400.2720 of the Zoning Code and explained the proposed users of the garage's parking spaces.

Steve Condrin, representative of the applicant Washington University, provided a summary of the CUP request. Mr. Condrin thanked the Commission for their support thus far regarding their recommendation for approval of the Text Amendment at their January meeting. He explained to the Commission that the parking structure met the 200 space requirement in order to seek a CUP to accommodate off-site parking requirements for adjacent properties, and he also noted that the physical elements were previously approved through the Site Plan Review process and are not part of this application request. Mr. Condrin noted that COCA may provide more details during the succeeding agenda item.

**Questions / Comments / Discussion by Plan Commission:**

- There was discussion involving the existing and proposed seat capacity of COCA's performance space in relation to the parking requirement calculations. Ms. Riganti stated that the 128 parking spaces required were calculated based on the seat capacity as well as the other uses in the building. Ms. Holly also clarified the net increase in seat capacity, and the applicant for COCA's CUP stated that this information will be addressed during their presentation.
- Commission members inquired about the duration of the lease between COCA and Washington University. Mr. Condrin stated that the lease duration is up to 60 years total, consisting of a 30 year initial lease with a following 30 year renewal option. He further stated that the lease runs with the land, including any potential successors to COCA. In response to an inquiry beyond the 60 year lease, Mr. Condrin stated that it is too speculative to comment on considering the large timeframe.
- Enforcement of parking regulations was questioned in the area, specifically during scheduled events at 560 Music Center and COCA and how scheduling of these events would be handled. Mr. Condrin stated that COCA may be able to provide additional details, though Washington University and COCA possess an ongoing dialogue to share information regarding potential future events to avoid parking issues. He also noted that the lease agreement includes rules that can be enforced, and the university's parking and transportation team will be increased if necessary.
- It was questioned whether commercial parking structures were permitted in the "PA" District considering the use of this structure by an adjacent property to accommodate their parking requirements, specifically noted for the future redevelopment of the Delmar-Harvard building. Ms. Riganti stated that this CUP would allow the parking structure to accommodate off-site parking requirements and that all future parking structures meeting the requirements in the Zoning Code to do so will also require a CUP to be used for this purpose. Mr. Mulligan referenced the recent Text Amendment which references a lease, which is not the same as a commercial parking lot open to the public and is a narrow exception given the criteria established by the Text Amendment.

- Will there be a charge by patrons of COCA to use the parking structure? Mr. Condren stated that there is a lease payment established by the agreement, and Jeff Ryan (applicant for the following agenda item) stated that COCA will not be charging users of their allocated parking spaces within the garage.
- Ms. Williams stated that the parking structure has gone from an accessory to the principle use which needs to be cleared up in the Code beyond the recent Text Amendment which requires a CUP.

Ms. Williams requested staff's comments. Ms. Riganti stated that staff recommends approval with the conditions as established in attachment "A" of the staff report.

#### Public Hearing:

It was clarified that members of the public who wished to speak were concerned with the following agenda item and not this request for a CUP. The public hearing for this agenda item was officially closed.

A motion was made by Mr. Miller to recommend approval of the CUP subject to meeting the conditions as identified in attachment "A." The motion was seconded by Ms. Holly.

Mr. Miller clarified that the issue presently at hand with this agenda item was to allow the parking structure to accommodate the off-site parking requirements for an adjacent property as some of the issues discussed were provided for at last month's meeting pertaining to the Text Amendment.

Ms. Williams called for a vote and the motion passed unanimously by a vote of 7-0.

Ms. Riganti stated that the next step was for this item to be considered by City Council and is planned to be scheduled for their meeting on March 12, 2018.

#### **5.b. Conditional Use Permit – PC 18-04 – Modification of the minimum property line setback requirements to the east and south and to the building height requirements for the proposed COCA expansion and renovation project at 524 Trinity Avenue**

Ms. Riganti introduced the proposed Conditional Use Permit (CUP) by providing background and contextual information. She explained that this agenda item has previously been considered and recommended for approval by the Historic Preservation Commission as well as the Traffic Commission with conditions. She also explained that the off-site parking requirements would be met by the preceding CUP agenda item recommended for approval this evening.

Applicant Jeff Ryan with Christner, Inc. provided an overview of the proposed project through a presentation. He described the relationship between the COCA expansion project and the 560 Trinity Avenue parking garage including access and parking requirements, the removal of the 10,000 square foot addition from 2004 and its relevance to the parking calculations, and the programmatic features of the overall project. He stated that the proposed addition is 45,000 square feet, which includes a new 460 seat theater in place of the former 425 seat theater, which is proposed for reuse as other studio space. Mr. Ryan further explained the setback reduction and height requests in the CUP in context of the neighborhood and local historic district. He stated that the setback reduction to the south would allow the proposed expansion to follow that of the existing non-conforming

building, and the setback reduction to the east would be enhanced with greater landscaping and is supported by the neighboring property owner (Epworth). He also noted that the height increase would be less than that of the existing building (54 feet) and is only for the fly of the theater located at the rear (south end) of the property. Mr. Ryan also explained the traffic impact analysis previously reviewed by the Traffic Commission, stating that overall activity increased 15 percent during peak hours with low impacts on the eight intersections analyzed.

#### Questions / Comments / Discussion by Plan Commission:

- It was asked that Mr. Ryan review the construction staging and parking plans. Mr. Ryan stated that the plan presented to the Traffic Commission was still the current plan and has not changed. He did not have his presentation slides to the Traffic Commission at this time. He stated that they would plan to eliminate parking on Trinity and explained to the Commission their plans for a temporary drop-off area for patrons of COCA. He further explained a detailed summary on the parking calculation, mentioning that the 24 spaces behind Epworth would still be utilized by some of COCA's staff in addition to the 128 spaces leased from the 560 Trinity Avenue garage.
- It was clarified that the parking requirements are based on the multiple types of uses within COCA as outlined earlier by Mr. Ryan and are not solely based on the number of seats in the theater. The use of the spaces behind Epworth was also clarified.
- What happens when the ADA dedicated parking spaces are filled? Mr. Ryan noted that the number of required ADA spaces per the parking requirements are met in the garage, although he did not know the number at this time.

#### Public Hearing:

Two members of the public who submitted speaker request forms stated that they did not have any comments at this time.

- 1) Tom Schulz, property owner of 510 Trinity Ave. – stated that he has no parking designated for his property except for on the street, and he passed out paper copies of his concerns to the Commission members. Mr. Schulz was concerned that the traffic flow to the south of COCA within the alley was not addressed as the alley is extremely dangerous and noted previous incidents in the past year involving trash pickup services damaging the garages along the alley. He further stated that the air conditioning and mechanical units at COCA are located near his property and the noise created by each unit is projected loudly and should be relocated or studied for screening purposes. Mr. Schulz questioned waste pickup during this construction period as he experienced five weeks without pick up during construction related to Washington University properties due to trucks blocking the alley. He noted that he is concerned with the off-street parking of the project although he does positively view the parking garage under construction and the lack of a cut through to the alley with the proposed expansion. Mr. Schulz further suggested signage for pedestrian safety along the west end of the alley near Trinity Avenue, and he stated that parking issues are exacerbated by the Washington University Danforth Campus construction, with the university not adhering to their own staff parking.

Mr. Ryan responded, stating that the dumpsters are to be relocated behind the new expansion away from the mentioned corner per the site plan. He further stated that while the mechanical units are not proposed to be moved, they are near the end of



their useful life and will be replaced with new units which have fewer decibels. He also stated that they can look into reducing the sound in the alley.

- 2) Janet Pierson, property owner of 6803 Kingsbury Blvd. – stated that she owns property at the opposite end of the block from Mr. Schulz. She stated that the noise caused by these mechanical units is disturbing and carries across the hard surfaces in the area causing issue beyond just those in proximity to the units.

Mr. Ryan stated that they will be sensitive to this issue when replacing the units to try to resolve the noise concerns. He also explained a few items related to traffic construction and parking previously discussed at Traffic Commission.

Ms. Moran also stated that as she understood, the elimination of parking along Trinity would not impact the street south of alley toward Kingsbury, providing parking for the tenants of Mr. Schulz's property. Ms. Holly noted that attachment "A" of the staff report requires a detailed traffic control and parking plan to be reviewed by the City as part of the permit approval process with staff involving the concerns from this meeting.

Ms. Riganti confirmed that the construction traffic and control parking plan will be reviewed by the departments of Public Works and Parks and Community Development which would be developed in consultation and shared with the neighbors. She also stated that the concerns not directly relating to this application or its conditions will be handled separately between the City and Washington University upon review of Mr. Schulz's handouts and comments. The public hearing for this agenda item was officially closed.

Ms. Riganti stated that staff finds the CUP request to be acceptable noting Mr. Ryan's presentation materials with thorough information on its neighborhood context, the site plan requirements have been met, and the off-site parking requirements have been met with COCA's agreement with Washington University. Ms. Riganti further noted the conditions of approval and made note of the performance standards set forth in the Zoning Code pertaining to noise.

Based on previous review by the Historic Preservation Commission and Traffic Commission, a motion was made by Mr. Miller to recommend approval of the CUP along with its conditions as identified in attachment "A." The motion was seconded by Ms. Holly.

Some Commission members noted that the agenda packet materials, including the Historic Preservation Commission minutes, were helpful in preparation of this meeting as it helped provide answers prior to this meeting.

Ms. Williams questioned the east elevation in relation to blocking light to the adjacent building. Mr. Ryan explained the height of the roof is only at its maximum near the south end of the property to accommodate the theater space, which abuts the parking lot portion of the adjacent property. The height of the building is roughly 35 feet toward on the northern end near Washington Avenue.

Ms. Williams questioned how the parking lot behind Epworth would be accessed and whether it would be reserved for staff. Mr. Ryan stated that the parking lot would be

accessed off of the alley, similarly to the other parking lots along the alley. He stated that he believes it would be reserved for staff as to keep patrons from using the alley.

Ms. Williams called for a vote and the motion passed unanimously by a vote of 7-0.

Ms. Riganti stated that the next step was for this item to be considered by City Council and is planned to be scheduled for their meeting on March 12, 2018.

Ms. Moran stated that based on the comments of Mr. Schulz and her own personal experience, she wished to reiterate what was said at the last Plan Commission meeting for City Manager Mr. Rose that there is a dire need for a comprehensive parking and traffic study for this quadrant of the City which includes the Loop and neighboring areas. She stated that there are more intensive uses in this area compared to approximately ten to 20 years ago which are impacting the neighborhoods, specifically noting parking related to Washington University, nearby churches and their accessory uses, and the location of polling places. She further stated that this study has been requested since the Loop Trolley project.

## **6. Other Business**

### **6.a. Annual Report for calendar years 2016 – 2017. *Informational Only – No Vote Required***

Ms. Riganti stated that this agenda item was for informational purposes only, and Mr. Stanislav distributed the annual report to the Commission members.

### **6.b. Public Comments**

- 1) Janet Pierson, property owner of 6803 Kingsbury Blvd. – stated that she was in support of Ms. Moran's comments regarding a parking and traffic study for this area of the City. She stated that this study is urgently needed since these neighborhoods have become default parking for nearby institutions, especially for those churches that do not have adequate parking for their accessory uses.

Mr. Rose stated that the City is currently going through the budget for the next fiscal year and work plan which was perfecting timing to consider this study to propose to the Mayor and City Council. He stated that this would be a good project to involve the Traffic Commission as well as this Commission. He stated that these comments have been heard and he will have a better idea as to the timing of this project at a later date.

## **7. Reports**

### **7.a. Code Review Committee Report – None**

### **7.b. Comprehensive Plan Committee Report – None**

### **7.c. Council Liaison Report – None**

### **7.d. Department Report**

Ms. Riganti stated that there was no report, but that it was remiss to not introduce the City Manager, Ms. Rose at the start of the meeting and welcomed him to this meeting. Mr. Rose thanked Ms. Riganti and stated that he looks forward to providing support and value to these meetings in the future.

Ms. Williams stated that the Plan Commission would benefit from a type of orientation, especially for the newer members, to look at the major issues that are not currently addressed by the Zoning Code and to better identify the role of the Commission. She proposed a work session or training prior to the next Plan Commission meeting. The Commission members agreed that they would benefit from this type of activity.

#### **8. Adjournment**

The meeting adjourned at 8:05 pm.

