



**The City of Lee's Summit**  
**Final Agenda**  
**City Council - Regular Session**

Thursday, September 21, 2017

6:15 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

(816) 969-1000

**\*\*AMENDED\*\* REGULAR SESSION NO. 44**

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INVOCATION

PLEDGE OF ALLEGIANCE

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

**1. PUBLIC COMMENTS:**

*(NOTE: Total time for Public Comments will be limited to 10 minutes.)*

**2. COUNCIL COMMENTS:**

*(NOTE: Total time for Council Comments will be limited to 5 minutes.)*

**3. APPROVAL OF CONSENT AGENDA:**

*Items on the Consent Agenda are routine business matters; were previously discussed in a Council Committee and carry a recommendation for approval; or, proposed ordinances approved unanimously by the Council on First Reading. Consent agenda items may be removed by any Councilmember for discussion as part of the regular agenda.*

- A. [2017-1486](#) Approval of Type H and S Liquor License for Fuel Espresso 29, 1317 SW Market Street.
  
- B. [BILL NO. 17-201](#) AN ORDINANCE APPROVING AMENDMENT NO. 3 TO THE BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2018, AS ADOPTED BY ORDINANCE NO. 8162, BY REVISING THE AUTHORIZED BUDGET EXPENDITURES OF THE CITY OF LEE'S SUMMIT, MISSOURI.  
(Note: First reading by City Council on September 7, 2017.)

C. [BILL NO. 17-202](#) AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN CMH PARKS, INC, A TENNESSEE CORPORATION, DBA SUMMIT CUSTOM HOMES AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR THE STONEY CREEK WEST SUBDIVISION DEVELOPMENT.  
(Note: First reading by City Council on September 7, 2017.)

D. [BILL NO. 17-203](#) AN ORDINANCE APPROVING THE EXECUTION OF THE GRANT AGREEMENT BY AND BETWEEN THE STATE OF MISSOURI, DEPARTMENT OF TRANSPORTATION TRAFFIC AND HIGHWAY SAFETY DIVISION AND THE CITY OF LEE'S SUMMIT MISSOURI FOR THE MISSOURI HIGHWAY SAFETY PROGRAM.  
(Note: First reading by City Council on September 7, 2017.)

**4. PRESENTATIONS:**

A. [2017-1426](#) Presentation and Update from Velocity LS (formerly Market Center of Ideas)

**5. PUBLIC HEARINGS:**

*Proposed ordinances considered after a public hearing will be read for the first time and forwarded to a future City Council meeting for second reading, unless deemed to be an emergency as defined in Sec. 3.13(f) of the Lee's Summit Charter. Five affirmative votes are required for approval of second reading.*

A. [2017-1456](#) PUBLIC HEARING - Application #PL2017-135 - VACATION OF RIGHT-OF-WAY - all of SE 23rd Street and SE Reiss Drive within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Highway and SE Stuart Road; Engineering Solutions, LLC, applicant.  
(NOTE: This item was CONTINUED from September 7, 2017, per Staff's request.)

1) [BILL NO. 17-204](#) AN ORDINANCE VACATING DEDICATED RIGHTS-OF-WAY FOR ALL OF SE 23RD ST. AND SE REISS DR. LOCATED WITHIN THE PLAT OF REISS INDUSTRIAL PARK, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SE M-291 HWY. AND SE STUART RD. IN THE CITY OF LEE'S SUMMIT, MISSOURI.

B. [2017-1504](#) Public Hearing for the Proposed 2017 Property Tax Levy for the City of Lee's Summit, Cass and Jackson Counties, Missouri, for the Calendar Year 2017.

1) [SUBSTITUTE BILL NO. 17-205](#) AN ORDINANCE SETTING THE TAX LEVY FOR THE YEAR 2017 FOR THE CITY OF LEE'S SUMMIT, CASS AND JACKSON COUNTIES, MISSOURI; AND, CONTAINING AN EMERGENCY CLAUSE.

**6. PROPOSED ORDINANCES - FIRST READING:**

*The proposed ordinances presented for first reading may include items with a previous hearing; an item brought directly to the City Council without a recommendation from a Council Committee; or, items forwarded from citizen Boards or Commissions. Five affirmative votes are required for approval of second reading.*

- A. [BILL NO.](#) [17-206](#) AN ORDINANCE VACATING CERTAIN EASEMENTS LOCATED WITHIN THE PLAT OF REISS INDUSTRIAL PARK, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SE M-291 HWY. AND SE STUART RD. IN THE CITY OF LEE'S SUMMIT, MISSOURI.
- B. [BILL NO.](#) [17-207](#) AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI, THE PINE TREE COMMUNITY IMPROVEMENT DISTRICT, AND NORTHERN STATES INVESTMENTS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY.
- C. [BILL NO.](#) [17-208](#) AN ORDINANCE APPROVING THE AWARD OF BID NO. 2017-042-1-3C WATER UTILITIES SCADA SYSTEM IMPROVEMENTS TO SECOND SIGHT SYSTEMS LLC AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE SAME IN THE AMOUNT OF \$396,855.14.
- D. [BILL NO.](#) [17-209](#) AN ORDINANCE APPROVING A FIRST AMENDMENT TO A PARKING LICENSE AGREEMENT WITH VOGUE CONDOMINIUMS OWNERS ASSOCIATION, INC. REDUCING THE NUMBER OF PARKING SPACES FOR WHICH THE CITY SHALL PAY A LICENSE FEE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.
- E. [BILL NO.](#) [17-210](#) AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

**7. COMMITTEE REPORTS (Committee chairs report on matters held in Committee):****8. COUNCIL ROUNDTABLE:****9. STAFF ROUNDTABLE:****10. ADJOURNMENT**

*Unless determined otherwise by the Mayor and City Council, no new agenda items shall be considered after 11:00 p.m.*

For your convenience, City Council agendas, as well as videos of City Council and Council Committee meetings, may be viewed on the City's Internet site at "www.cityofls.net".

## Packet Information

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**File #:** 2017-1486, **Version:** 2

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Approval of Type H and S Liquor License for Fuel Expresso 29, 1317 SW Market Street.

*Key Issues:*

Fuel Expresso 29 requests approval of Liquor License Type H & S. (Formerly Phillips Fuel Mart)

*Proposed City Council Motion:*

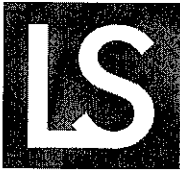
I move for approval of this liquor license as part of the Consent Agenda.

*Background:*

A background check was conducted on the managing officer and owners with no negative information found.

*Staff Recommendation:*

The Director of Liquor Control recommends approval of the Type H & S Liquor License for **Fuel Expresso 29**.



**CITY OF LEE'S SUMMIT, MISSOURI**  
**APPLICATION FOR BUSINESS LIQUOR LICENSE**

Please mark ("x") which one of the following licenses you will need for a Lee's Summit, Missouri establishment. Sunday licenses are a separate application.

- A1 - Manufacturing, brewing malt liquor (\$300.00)
- A2 - Manufacturing, brewing non-intoxicating beer (\$375.00)
- A3 - Wholesale selling of malt liquor (\$75.00)
- B1 - Manufacturing 22% or less alcohol content intoxicating liquor (\$150.00)
- B2 - Manufacturing, distilling, blending intoxicating liquor of all kinds (\$300.00)
- B3 - Wholesale selling of 22% or less alcohol-content intoxicating liquor (\$150.00)
- B4 - Wholesale selling of intoxicating liquor of all kinds (\$375.00)
- C1 - General retail selling of malt liquors, or wine, or both, by the drink **and** in the original package (\$52.50)
- C2 - Hotel retail selling of malt liquor by the drink and in the original package (\$52.50)
- C3 - Restaurant retail selling of malt liquor by the drink **and** in the original package, **including Sunday sales** (\$75.00)
- D - Retail selling of malt liquor only in the original package, **including Sunday** (22.50)
- G1 - General retail selling of intoxicating liquor of all kinds by the drink **and** in the original package (\$450.00)
- G2 - Hotel retail selling of intoxicating liquor of all kinds by the drink **and** in the original package (\$450.00)
- G3 - Restaurant retail selling of intoxicating liquor of all kinds by the drink **and** in the original package (\$450.00)
- H - Retail selling of intoxicating liquor of all kinds only in the original package (\$150.00);
- I - **Consuming** intoxicating liquor on premises not licensed to sell (C.O.L.) (\$90.00)
- J - Resort retail selling of intoxicating liquor by the drink. (\$450.00)
  
- S - **Sunday** license (\$300.00)

\$ 337.50

\$ 50 B

(Any reference to "Applicant" in this document refers to the Owner/Managing Officer.)

To be completed by applicant as (check one):

Sole Owner & Operator  Corporation  Partnership  LLC

Corporation/LLC Name: MG Fuel, LLC

Business Name: Fuel Expresso 29 Phone: \_\_\_\_\_

Business Address: 1317 SW Market Street Lee's Summit, MO 64081

(I), (We), the undersigned, hereby apply to the City of Lee's Summit, MO, for the following described license:  
Type H/S for the premises described above.

Applicant's Name: Jeannette Cambren Phone: \_\_\_\_\_

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

Place of Birth: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Place of Employment (other than business): \_\_\_\_\_

Employment Address: \_\_\_\_\_ Phone: \_\_\_\_\_

1. List all previous addresses, if less than five years at current address: \_\_\_\_\_

2. Are you a citizen of the United States of America? Yes If naturalized, give date and place of naturalization: \_\_\_\_\_

3. Will you be the person in active control and/or management (managing officer) of this business full-time? Yes If not, give complete details on the planned management and persons involved.  
\_\_\_\_\_  
\_\_\_\_\_

4. Have you or any person employed by you ever held any type of liquor license issued by the City of Lee's Summit or by the licensing authority of any state, county or city? Yes If so, please give details: Managing officer for GK Fuel Mart, Inc - Bethany & Winston Missouri  
o MG Fuels, LLC - 616 SW Jefferson  
\_\_\_\_\_  
\_\_\_\_\_

5. Has any such license listed in question #4 ever been suspended or revoked? NO If so, please give complete details: \_\_\_\_\_
6. Have you ever made application for a liquor license that was denied by the City of Lee's Summit or by the licensing authority of any state, county or city? NO If so, please give complete details: \_\_\_\_\_
7. Have you or anyone interested either directly or indirectly in the premises to be licensed hereunder or the operation thereon ever been convicted of a felony? NO If so, please give complete details: \_\_\_\_\_
8. If not a corporation/LLC, give names and business addresses of employers for the past five years. (If self-employed, state nature of business and location.): N/A
9. Is the proposed location within 300 feet of a church or school? ~~Yes~~ No
10. If existing business, from whom and when was the business purchased? New Ray, LLC  
upon receipt of license  
 Effective date of possession: 9/1/17 Name of mortgage holder, if any: \_\_\_\_\_
11. Will any distiller, wholesaler, wine maker, brewer, or supplier, or coin operated, commercial, manual or mechanical amusement devices or the employees, officers or agents thereof, have any financial interest in the retail business of the applicant for the sale of alcoholic beverages, or "C.O.L.", and will the applicant directly or indirectly borrow or accept from any such persons equipment, money, credit, or property of any kind except ordinary commercial credit for liquor sold? NO If so, please explain: \_\_\_\_\_
12. Will applicant either directly or indirectly borrow or accept from any person identified in #11 either equipment, money, credit or property of any kind except ordinary commercial credit for liquor sold? NO If so, please explain: \_\_\_\_\_

13. Will you at all times permit the entry of any officer or investigator who may have legal supervisory authority for the purpose of inspection or search; and will you permit the removal of all things and articles which may be in violation of the ordinances of Lee's Summit, Missouri, and the laws of the State of Missouri; and do you promise and agree not to violate any of the ordinances of Lee's Summit, Missouri, the laws of the State of Missouri, or the United States in the conduct of the business for which the license is sought? Yes

**IF BUSINESS IS OWNED BY A CORPORATION, COMPLETE THIS SECTION:**

Name of corporation/LLC: MG Fuel, LLC

State in which incorporated: Missouri Date of incorporation: 05/05/17

If not a Missouri corporation/LLC, date authorized to do business in Missouri: \_\_\_\_\_

Full name, complete residential address, date of birth and Social Security Number of the President, Vice President, Treasurer and Secretary of the corporation (or Members of the LLC): \_\_\_\_\_

Mukesh Goel -  
Gurraj Warya -

If stock is not publicly held, give names and residential addresses of all stockholders who hold 10% or more of the capital stock: Same

County of Jackson)

ss

State of Missouri)

I, Jeannette Cambren, being of lawful age and duly sworn upon my oath,  
(Print Applicant's Name)

do swear that the answers and information given in this application are true and complete to the best of my knowledge and belief.

Jeannette Cambren  
Applicant's Signature

Subscribed and sworn to before me this 15<sup>th</sup> day of August, 2017

Nathan Heide  
Notary Public - Notary Seal  
State of Missouri, Jackson County  
Commission #14698447  
My Commission Expires: June 26, 2018

Nathan Heide  
Notary Public

My commission expires: 06/26/18



**To Be Provided By Applicant:**

**1) The Applicant and/or Managing Officer (if different) shall provide:**

- ✓ a) Recent photograph;
- ✓ b) Copy of Missouri voter registration card;
- ✓ c) Copy of paid Missouri personal property tax receipt for year immediately preceding date of application
- ② d) Fingerprints (obtained at the Lee's Summit Police Department, Main Lobby, 10 NE Tudor Rd., Lee's Summit, MO). The Applicant and/or Managing Officer (if different) will be fingerprinted as will all officers, directors and any shareholder holding more than a ten percent (10%) interest in the business.

2) **Copy of Business License** (contact Treasury Department at 816-969-1139).

3) **Copy of Zoning Approval** (contact Planning & Development at 816-969-1600).

**4) If existing business location:**

- ① a) Copy of lease or mortgage showing Proof of Occupancy.
- b) Recent photographs of the interior and exterior of the premises to be licensed.

**5) For newly constructed or remodeled businesses:**

- a) Certificate of Occupancy Permit shall be obtained prior to the actual issuance of a city liquor license (contact Codes Administration at 816-969-1200).
- b) Complete description of the plans, specifications, and fixtures of the proposed place of business.


6) **Package Liquor Only:** Inventory Affidavit, notarized by the applicant, stating the type of business presently engaged in, or in conjunction with, which the license shall be used; **AND** stating that in his place of business the applicant has, and at all times keeps, a stock of goods having an invoice of at least \$1,000, exclusive of fixtures and intoxicating liquors.

7) **Appropriate license fee:** Make checks and money orders payable to the City of Lee's Summit. # 450

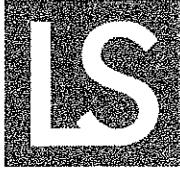
8) **Estimated date of opening?** 9/1/17

**For Office Use Only:**

It is recommended this application be APPROVED / DISAPPROVED this 28<sup>th</sup> day of August, 2017.

  
\_\_\_\_\_  
Director of Liquor Control

City Council Action:  Approved  Disapproved Date: \_\_\_\_\_



APPLICATION FOR LIQUOR LICENSE  
TYPE "S" - SUNDAY RETAIL (\$300)

The following is to be completed by the owner or managing officer:

Sole Owner & Operator  Corporation  Partnership  LLC

Applicant's Name: MG Fuel, LLC (Jeannette Cambren - Managing Officer)

Business Name: Fuel Expresso 29 Phone: \_\_\_\_\_

Business Address: 1317 SW Market Street Lee's Summit, MO 64081

I, the undersigned, hereby make application to the City of Lee's Summit, Missouri, for a Type "S" liquor license in accordance with Chapter 4, "Alcoholic Beverages" Ordinance of the City of Lee's Summit, Missouri.

County of Jackson)

SS

State of Missouri)

I, (please print) Jeannette Cambren, being of lawful age and duly sworn upon my oath, do swear that the answers and information given in this application are true and complete to the best of my knowledge and belief.

Jeannette Cambren  
Applicant's Signature

Subscribed and sworn to before me this 15<sup>th</sup> day of August 2017  
My commission expires: 06/26/18

**Nathan Heide**  
Notary Public - Notary Seal  
State of Missouri, Jackson County  
Commission #14698447  
My Commission Expires: June 26, 2018

Nathan Heide  
Notary Public

It is recommended this application be APPROVED / DISAPPROVED this 7<sup>th</sup> day of September, 2017.

[Signature]  
Director of Liquor Control

City Council Action:  Approved  Disapproved Date: \_\_\_\_\_

## Packet Information

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**File #:** BILL NO. 17-201, **Version:** 1

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AN ORDINANCE APPROVING AMENDMENT NO. 3 TO THE BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2018, AS ADOPTED BY ORDINANCE NO. 8162, BY REVISING THE AUTHORIZED BUDGET EXPENDITURES OF THE CITY OF LEE'S SUMMIT, MISSOURI.

(Note: First reading by City Council on September 7, 2017.)

Issue/Request:

AN ORDINANCE APPROVING AMENDMENT NO. 3 TO THE BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2018, AS ADOPTED BY ORDINANCE NO. 8162, BY REVISING THE AUTHORIZED BUDGET EXPENDITURES OF THE CITY OF LEE'S SUMMIT, MISSOURI

Key Issues:

On November 17, 2016, the Mayor and City Council approved a contract with Springsted Inc. to conduct a compensation and benefit study. The purpose of the study was to review the compensation and benefits provided for City employees and compare those to the comparative market.

In anticipation of the final report, the proposed amendment would allocate and authorize funding for a cost of living market adjustment equal to a 2% increase for all non-represented employees.

The annual cost for this adjustment is approximately \$430,986 across all funds of which \$340,340 would be necessary from the General Fund. The FY18 impact is expected to cost \$331,528 for the remaining 20 pay periods of the fiscal year.

Proposed City Council Motion:

I move for adoption of AN ORDINANCE APPROVING AMENDMENT NO. 2 TO THE BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2018, AS ADOPTED BY ORDINANCE NO. 8162, BY REVISING THE AUTHORIZED BUDGET EXPENDITURES OF THE CITY OF LEE'S SUMMIT, MISSOURI as part of the Consent Agenda.

Background:

On June 15, 2017, TL Cox, Vice President, Springsted Inc, presented the City Council with preliminary compensation and benefit market data. The final report which will be presented to the Mayor and City Council will include a compensation philosophy, market data, and new pay structures for review and consideration. Following delivery and presentation of the final report, staff will work to prepare documents for the Mayor and City Council's consideration that would implement the compensation philosophy and pay structures.

Presenter: Nick Edwards, Director of Administration/Interim Director of Human Resources



## **BILL NO. 17-201**

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AN ORDINANCE APPROVING AMENDMENT NO. 3 TO THE BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2018, AS ADOPTED BY ORDINANCE NO. 8162, BY REVISING THE AUTHORIZED BUDGET EXPENDITURES OF THE CITY OF LEE'S SUMMIT, MISSOURI

WHEREAS, Ordinance No. 8162, passed by the City Council on June 1, 2017, adopted the City's Budget for the Fiscal Year ending June 30, 2018; and,

WHEREAS, the City has initiated a compensation and benefit study for the purpose of evaluating the City's total reward system; and,

WHEREAS, the preliminary market information was presented to the Mayor and City Council on June 15, 2017; and,

WHEREAS, it is proposed to make a special, one time, cost of living/market pay adjustment equal to a 2% increase to the base wage for those employees not subject to a collective bargaining process; and,

WHEREAS, the adopted FY18 Budget contemplated the allocation of additional funds for wage adjustments.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the Budget for the Fiscal Year ending June 30, 2018, as adopted by Ordinance No. 8162, is hereby amended by increasing the appropriations to and expenditures of the below identified funds for the fiscal and budget year of 2017-2018, in the manner shown below.

Amended Fund	Amended Department	Added/ (Reduced)	New Amended budget
F100 General Fund	Administration	\$20,500	\$5,324,696
F100 General Fund	Development Services	\$33,000	\$3,630,057
F100 General Fund	Finance	\$21,600	\$8,603,855
F100 General Fund	Fire	\$25,300	\$17,783,582
F100 General Fund	Law	\$14,000	\$1,412,271

**BILL NO. 17-201**

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F100 General Fund	Municipal Court	\$5,200	\$882,403
F100 General Fund	Planning & Special Proj	\$5,800	\$640,048
F100 General Fund	Police	\$49,300	\$19,971,060
F100 General Fund	Public Works Engineering	\$42,400	\$5,633,602
F100 General Fund	Public Works Operations	\$8,200	\$4,944,563
F510 Airport		\$4,300	\$11,466,727
F204 Cemetery Trust Fund		\$879	\$226,476
F600 Central Building Services		\$3,200	\$1,740,462
F610 Fleet Operations		\$2,900	\$5,166,461
F201 Gamber Center		\$1,861	\$494,725
F530 Harris Park Community Ctr		\$4,704	\$1,557,516
F620 ITS Services		\$26,100	\$4,108,528
F202 Legacy Park		\$8,060	\$1,936,553

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**BILL NO. 17-201**

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Community Ctr

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F200 Parks and Recreation Fund	\$27,308	\$3,340,025
F520 Solid Waste Management	\$1,300	\$2,112,471
F203 Summit Waves	\$1,116	\$639,502
F500 Water/Sewer Fund	\$24,500	\$40,884,881
Total Adjustment:	\$331,528	\$430,986
GF	\$261,800	\$340,340

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SECTION 2. All other provisions of Ordinance No. 8162 shall remain in full force and effect, subject to Amendment No. 1 (Ordinance No. 8203) and Amendment No. 2 (Ordinance No. \_\_\_\_\_).

SECTION 3. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

SECTION 4. That should any section, sentence, or clause of this ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences or clauses.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

**BILL NO. 17-201**

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APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
Chief Counsel of Management and Operations/Deputy City Attorney  
*Jackie McCormick Heanue*



## Packet Information

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**File #:** BILL NO. 17-202, **Version:** 1

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AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN CMH PARKS, INC, A TENNESSEE CORPORATION, DBA SUMMIT CUSTOM HOMES AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR THE STONEY CREEK WEST SUBDIVISION DEVELOPMENT.

(Note: First reading by City Council on September 7, 2017.)

Issue/Request:

AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN CMH PARKS, INC, A TENNESSEE CORPORATION, DBA SUMMIT CUSTOM HOMES AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR THE STONEY CREEK WEST SUBDIVISION DEVELOPMENT

Key Issues:

February 23, 2016 - Planning Commission approved the preliminary plat for Stoney Creek West Subdivision

The approval required that the Developer enter into a Development Agreement with the City for road improvements required of the plat

Proposed City Council Motion:

I move for adoption of AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN CMH PARKS, INC, A TENNESSEE CORPORATION, DBA SUMMIT CUSTOM HOMES AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR THE STONEY CREEK WEST SUBDIVISION DEVELOPMENT as part of the Consent Agenda.

Recommendation:

Staff recommends approval

**BILL NO. 17-202**

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AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN CMH PARKS, INC, A TENNESSEE CORPORATION, DBA SUMMIT CUSTOM HOMES AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR THE STONEY CREEK WEST SUBDIVISION DEVELOPMENT

WHEREAS, on February 23rd, 2016, the Planning Commission concluded a public meeting for Application #PL2015-186, for a preliminary plat, of approximately 54 acres of land generally lying at the northeast corner of SW Pryor Rd and SW County Line Rd, owned by CMH Parks, Inc, A Tennessee Corporation, D.B.A Summit Custom Homes ("Developer"), which will be developed as Stoney Creek West subdivision ("Development"); and,

WHEREAS, following the public meeting for the Development, the Planning Commission voted to approve the application for the Development subject to the Developer entering into a development agreement with the City to provide for certain Improvements, as defined below, necessary for the Development; and,

WHEREAS, in satisfaction of the City Council's condition of approval, the Developer and the City now desire to enter into this Agreement; and,

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the development agreement between CMH Parks, Inc, A Tennessee Corporation, DBA Summit Custom Homes and the City of Lee's Summit, Missouri, attached hereto and incorporated herein by reference, is hereby approved by the City Council and the City Manager is authorized to execute the same on behalf of the City of Lee's Summit, Missouri.

SECTION 2. That this ordinance shall be in full force and effect from and after the date of its adoption, passage and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*Deputy City Clerk Trisha Fowler Arcuri*

**BILL NO. 17-202**

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APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*

**DEVELOPMENT AGREEMENT BETWEEN**  
**CMH PARKS, INC, A TENNESSEE CORPORATION, D.B.A SUMMIT CUSTOM**  
**HOMES AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR THE STONEY CREEK**  
**WEST SUBDIVISION DEVELOPMENT**

THIS AGREEMENT (“**Agreement**”) is made this \_\_\_ day of \_\_\_\_\_, 2017, by and between CMH Parks, Inc., a Tennessee Corporation, d.b.a. Summit Custom Homes, a Missouri Limited Liability Company (the “**Developer**”), and the City of Lee’s Summit, Missouri, a municipal corporation (“**City**”).

WHEREAS, on February 23rd, 2016, the Planning Commission concluded a public meeting for Application #PL2015-186, for a preliminary plat, of approximately 54 acres of land generally lying at the northeast corner of SW Pryor Rd and SW County Line Rd, on property legally described in **Exhibit A** (“**Property**”), owned by the Developer, which will be developed as the Stoney Creek West Subdivision (“**Development**”) as shown in **Exhibit B**, a map of the preliminary plat;

WHEREAS, following the public meeting for the Development, the Planning Commission voted to recommend approval for the application for the Development subject to the Developer entering into a development agreement with the City to provide for the certain Improvements, as defined below, necessary for the Development;

WHEREAS, in satisfaction of the condition of approval, the Developer and the City now desire to enter into this Agreement;

WHEREAS, the parties agree that the obligations assumed by the Developer pursuant to this Agreement are reasonably related to the impact that will be caused by the Development on the public services provided by the City and other public jurisdictions and on facilities that are constructed and maintained by the City and other public jurisdictions; and

WHEREAS, the parties have freely negotiated in good faith and this Agreement reflects the desires of the parties.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Words or terms not defined elsewhere in this Agreement shall have the following definitions:
  - A. “**Certificate of Occupancy**” as defined in Chapter 7, Lee’s Summit Building Code, as adopted by the City of Lee’s Summit.
  - B. “**City Engineer**” shall mean the City Engineer or their designated representative.

- C. **"Developer"** shall mean CMH Parks, Inc., a Tennessee Corporation, d.ba. Summit Custom Homes, a Missouri Limited Liability Company or its successors and assigns in the Property.
- D. **"Improvements"** shall mean the following improvements, and the timing of such improvements described herein, that are to be financed, designed, engineered, and constructed by the Developer in the manner set forth in this Agreement:
1. Pryor Road shall be improved to meet or exceed the interim road conditions from the existing interim road section near Napa Valley Drive to County Line Road. Interim road standards require at least two 12' paved travel lanes and 6' shoulders. Shoulders may be turf or the City may participate to provide 6' paved shoulders in lieu thereof. This improvement shall be substantially completed prior to the issuance of any building permits in the Phase 6 area depicted on the preliminary plat (and prior to or concurrent with Improvement D.2).
  2. A 200-foot, plus taper, southbound left-turn lane along Pryor Road at Georgetown Drive shall be constructed. This improvement shall be substantially completed with the Georgetown Drive connection to Pryor Road (and prior to the issuance of any building permits in the Phase 6 area depicted on the preliminary plat).
  3. A 100-foot, plus taper, eastbound left-turn lane along County Line Road at Emerald Drive shall be constructed. This improvement shall be substantially completed with the Emerald Drive connection to County Line Road (and prior to the issuance of any building permits associated with the Phase 1 area depicted on the preliminary plat in which the subject intersection is proposed).
  4. Pryor Road shall be reconstructed north of the proposed Georgetown Drive intersection to mitigate the sight obstruction caused by the roadway vertical crest. This improvement, which shall provide a minimum intersection sight distance for a 35 mph road along Pryor Road and at the intersection of Georgetown Drive, shall be substantially completed prior to or concurrent with the issuance of substantial completion for Georgetown Drive and its connection with Pryor Road (and Improvement D.1).
- E. **"Letter of Final Acceptance"** as defined in the Design and Construction manual as adopted by the City of Lee's Summit.
- F. **"Letter of Substantial Completion"** as defined in the Design and Construction manual as adopted by the City of Lee's Summit
- G. **"Staff"** shall mean employees of the City of Lee's Summit.

- H. **“Temporary Certificate of Occupancy”** as defined in Chapter 7, Lee’s Summit Building Code, as adopted by the City of Lee’s Summit.
5. **City Reimbursement of Paved Shoulders.** Unless otherwise specified herein this **Section 2**, the provisions set forth throughout the agreement shall be applicable to the financing, design, engineering and construction of Improvements including the optional paved shoulders. This section pertains only to the City option for paved shoulders and the reimbursement of construction costs for such paved shoulders in association with Improvement D (1).
- D. **Paved Shoulder Alternate.** The City may, at its option, require the construction of paved shoulders in lieu of turf shoulders in association with Improvement D (1). The Developer shall design, engineer and bid an alternate with paved shoulders for Improvement D (1) per City standards referenced in Section 3. Upon receipt of at least two bids for Improvement D (1) with alternate for paved shoulders, the Developer shall submit to the City copies of the received bids and a bid recommendation. The City shall determine and send notice in writing to Developer whether to award or not award the alternate within 10 business days of receiving the bids from Developer. The notice shall include an award recommendation and the understood amount applicable to reimbursement addressed in Section 2.B.
- E. **City to Reimburse Paved Shoulder Alternate.** If the City elects to award the alternate for paved shoulders per Section 2.A, the City shall reimburse the Developer the construction cost difference in awarded bid between the turf shoulder and paved shoulder alternate as written in City’s response to Developer for award referenced in Section 2.A. Payment to Developer by the City shall be made within 60 days of final acceptance of Improvement D(1). No reimbursement for designing, engineering or managing the construction of paved shoulders shall be provided by the City.
6. **Requirements for Improvements.** Unless otherwise specified herein, the provisions set forth in this **Section 3, “Requirements for Improvements”** shall be applicable to the financing, design, engineering and construction of the Improvements to be constructed by the Developer as required by this Agreement.
- A. **Requirement to design, engineer and construct.** The Developer, at its sole cost and expense, shall design, engineer and construct the Improvements. The City shall issue building permits for structures in the Development pursuant to the schedule set forth in **Section 4, “Timing of Building permits”** below.
- B. **Construction Costs.** All costs associated with designing, engineering and constructing the Improvements shall be paid by the Developer. No cost shall be paid by the City for designing, engineering, constructing or managing the construction of any of the Improvements.

- C. Applicable Standards and Approvals. The Improvements shall be designed, engineered, constructed, placed into service and dedicated to the City in accordance with the ordinances of the City, including, but not limited to, the City's Design and Construction Manual then in effect at the time the Improvements are constructed, and any other applicable rules, requirements and standards established by the City. All such work shall be done in good and workmanlike manner. The Developer shall be responsible for obtaining approval for any portion of the Improvements that require approval of another jurisdiction. The City agrees to cooperate in good faith with the Developer in obtaining said required approvals from other jurisdictions for the Improvements.
- D. Project Schedule. Prior to the construction of the Improvements the Developer shall submit to the City Engineer a proposed Project Schedule for the Improvements to be constructed by the Developer. No permits will be issued for the Development until the schedule has been reviewed by the City Engineer and staff of departments directly impacted by the timing of the Improvements. If conflicts with the schedule are determined, Staff shall return the schedule with comments, to be resubmitted by the Developer. The Developer shall be notified once it is determined that no conflicts exist with the schedule. The Project schedule shall be incorporated into this Agreement by addendum, and no action of the City Council will be required to incorporate the schedule.
- E. Design Phase. The Developer shall submit all preliminary design documents to the City for approval before proceeding with the construction of the Improvements. On the basis of such approved preliminary design documents, the Developer shall:
- (1) Prepare detailed drawings, plans, design data, and estimates to show the character and scope of the work to be performed by contractors for all Improvements ("**Plans**").
  - (2) Furnish to the City Engineer copies of such Plans and other documents and design data as may be required to secure approval of such governmental authorities as may have jurisdiction over design criteria applicable to the Improvements.
  - (3) Furnish the number of approval copies of the final Plans for the Improvements as the City may require.
  - (4) Ensure that the Plans conform to federal and state laws and City ordinances and regulations.
8. All final Plans shall be presented to the City Engineer for approval, and no action of the City Council will be required to incorporate the final Plans into this Agreement.

F. Construction. The Developer will construct all the Improvements according to the approved Plans. The Developer shall maintain, at its sole cost and expense, the Improvements until such time as said Improvements are accepted by the City Engineer pursuant to Section 3.J, "Dedication" of this Agreement. The Developer shall not do or permit others under it to do any work related to the construction of the Improvements until the Developer has paid for all required City and other governmental required permits and authorizations.

G. Right of Way Acquisition.

- (1) The Developer shall be responsible for acquiring or negotiating for the donation of all right-of-way or easements that are needed to construct the Improvements, including all necessary temporary construction easements.
- (2) In the event that the Developer is unable, after good faith negotiations, to acquire some or all of the right-of-way or easements necessary for those Improvements over which the City exercises jurisdiction, the Developer may submit a request to the City in the manner prescribed by Section 27, "Notice" below requesting that the City use its authority to acquire the property interests necessary for the Improvements. The City will respond to such a request within thirty (30) days of receipt of same, and in such response the City will indicate whether it agrees to enter into good faith negotiations or exercise its power of eminent domain to acquire the right-of-way or easements necessary for Improvements over which the City exercises jurisdiction. The City is not obligated to use its authority to assist in the acquisition of property interests necessary for the Improvements.
- (3) In the event the City agrees to enter into good faith negotiations or exercise its power of eminent domain to acquire the right-of-way or easements necessary for Improvements over which the City exercises jurisdiction, prior to beginning any work to acquire said right-of-way or easements, the Developer shall first execute an Acquisition Funding Agreement with the City which provides for the terms and conditions under which the Developer will place all estimated Acquisition Costs in escrow with the City prior to commencement of condemnation for right-of-way or easements. The Acquisitions Costs shall include, but shall not be limited to: the actual price paid for all right-of-way or easements, whether determined by negotiation or eminent domain; expenses related to the establishment of acquisition values of right-of-way or easements, including appraisals; legal fees, other expenses paid to third parties, and expenses incurred by the City related to acquisition of right-of-way or easements, whether through negotiation or eminent domain; and any other reasonable and necessary costs or expenses related to acquisition of the right-of-way or easements. The Acquisition Funding Agreement shall obligate the Developer to reimburse the City in full for all Acquisition Costs that result from the City's use of its authority to acquire any portion of the Improvements.



(4) The Developer shall dedicate or convey, as applicable, to the City, at no cost to the City, all property interests owned by the Developer which are necessary for the Improvements. Ten feet of property along the west plat boundary shall be dedicated right-of-way for Pryor Road. This will provide 50 feet of right-of-way east of the Pryor Road centerline, a future 100-foot right-of-way in total, a minimum necessary right-of-way for future improvements to Pryor Road (a major arterial).

H. Utility Relocation. The parties agree that all costs associated with relocating any existing utilities from any existing public or private easement, as a result of construction of the Improvements, shall be paid by the Developer, and are not the responsibility of the City. The parties agree that all costs associated with relocating any existing utilities from any existing right-of-way as a result of construction of the Improvements, which are not paid by a utility company, shall be paid by the Developer and are not the responsibility of the City.

I. Inspections and Revisions. The Developer agrees to permit City employees, agents and contractors to inspect, observe, and oversee the construction of all Improvements in order to ascertain and determine that the standards of the City have been met. The Developer shall obtain the City Engineer's approval of all revisions materially altering the design or specifications of the Improvements.

J. Dedication. Upon completion, inspection and approval of the Improvements by the City, the Developer will dedicate the Improvements to the City, for its use, operation and maintenance. The City shall be under no obligation to accept the dedication or conveyance of any Improvements constructed pursuant to this Agreement until it has been inspected and approved to the satisfaction of the City Engineer. Upon written notice of the inspection and approval of the City Engineer, the Developer agrees to convey all the Improvements to the City free and clear of all liens and encumbrances or other obligations. Said conveyance shall be by appropriate document, and shall be sufficient, in the opinion of the City Attorney, to convey marketable title of record, as set forth in Title Standard 4 of the Missouri Bar.

4. **Timing of Building Permits.**

A. Building permits will not be issued within the development for each Improvement until either a Letter of Substantial Completion or a Letter of Final Acceptance has been issued for the Improvements as outlined in Section 1. Definitions.

B. A Certificate of Occupancy will not be issued until a Letter of Final Acceptance has been issued for the Improvements as outlined in Section 1. Definitions.

5. **Indemnification.**

A. General Indemnity. The Developer shall indemnify, release, defend, be responsible for and forever hold harmless the City, its officers, agents, employees, elected

officials, and attorneys, each in their official and individual capacities, from and against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities of any character and from any cause whatsoever, brought because of bodily injury or death received or sustained, or loss or damage received or sustained, by any person, persons, or property arising out of or resulting from any act, error, or omission of the Developer or its officers, agents, employees, or subcontractors, to the extent such loss or injury arises out of or is related to the performance of this Agreement; provided, however, that the Developer need not save harmless the City from claims, demands, losses and expenses arising out of or to the extent caused by the sole negligence of the City, its employees or agents. This indemnification obligation shall survive the termination or expiration of this Agreement.

- B. No Limitations or Waiver. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement, or by a limitation of the amount or type of damages or compensation payable by or for the Developer under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Agreement, or the terms, applicability or limitation of any insurance held by the Developer. The City does not, and shall not, waive any rights against the Developer which it may have by reason of this indemnification, because of the acceptance by the City, or the deposit with the City by the Developer, of any of the insurance policies described in this Agreement. In addition, the parties agree that this indemnification by the Developer shall not be limited by reason of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- C. Notification of Claims. With respect to any claims which are subject to indemnity hereunder, the Developer shall immediately notify the City of any and all claims filed against the Developer or the Developer and the City jointly, and shall provide the City with a copy of the same. Such notice shall be given in the manner prescribed by Section 27, "Notice" of the Agreement.
- D. Use of Independent Contractors. The fact that the Developer carries out any activities under this Agreement through independent contractors shall not constitute an avoidance of, or defense to, the Developer's duty of defense and indemnification under this section.

6. Insurance.

- A. General Provisions. Prior to commencing construction of the Improvements, the Developer shall file with the City evidence of liability insurance that is consistent with the requirements of the City's Design and Construction Manual and in the amounts set forth below.
- B. Limits and Coverage. Bodily Injury and Property Damage, Commercial General Liability Coverage – Occurrence Form unless otherwise agreed by the City:

- (1) Commercial General Liability: Minimum \$2,000,000 each occurrence limit for bodily injury and property damage; \$2,000,000 policy aggregate; \$2,000,000 products and completed operations aggregate.
- (2) Automobile Liability: Minimum \$2,000,000 combined single limit for bodily injury and property damage; applicable to owned, non-owned and hired automobiles.
- (3) Workers' Compensation: As required by state statute; if exempt, must submit letter stating the exemption; employer's liability \$1,000,000 each occurrence.
- (4) Umbrella/Excess Liability: An umbrella or excess liability policy in the minimum amount of \$2,000,000 each occurrence and aggregate; at least as broad as the underlying general liability, automobile liability and employer's liability.

The following endorsements shall attach to the policy:

- (1) The policy shall cover personal injury as well as bodily injury.
- (2) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage.
- (3) Broad form property damage liability shall be afforded.
- (4) The City shall be listed as an additional insured.
- (5) Standard form of cross-liability shall be afforded.
- (6) 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.

The limits of liability for each policy coverage amount stated above shall be automatically adjusted upward as necessary to remain at all times not less than the maximum amount of liability set forth in Chapter 537.610 RSMo. applicable to political subdivisions pursuant to 537.600; provided that nothing herein or in any such policy shall be deemed to waive the City's sovereign immunity.

- C. Use of Contractors and Subcontractors. The Developer shall not permit any contractor or subcontractor to commence or continue work until they shall have obtained or caused to be obtained all insurance required under this Section and the City's Design and Construction Manual. Said insurance shall be maintained in full force and effect until the completion of construction of the Improvements, and issuance of a Certificate of Substantial Completion by the City or MoDOT, as appropriate.

- D. Workers' Compensation. The Developer shall ensure that all contractors or subcontractors performing work for the Developer obtain and maintain Workers' Compensation Insurance for all employees, and in case any work is sublet, the Developer shall require any subcontractors to provide Workers' Compensation insurance for all subcontractor's employees, in compliance with State laws, and to fully protect the City from any and all claims arising out of occurrences during construction of the Improvements. The Developer agrees to hold harmless, indemnify and reimburse the City for any damage, loss, costs, payments or expenses of any kind (including the City's reasonable attorney's fees) incurred or sustained by the City as a result of the failure of either the Developer or any contractor or subcontractor of the Developer to obtain and maintain such insurance. The Developer further waives its rights to subrogation with respect to any claim against the City for injury arising out of performance under this Agreement. The Developer shall provide the City with a certificate of insurance indicating Workers' Compensation coverage prior to commencing construction of the Improvements.
7. Bonds. The Developer shall, or shall ensure that its contractors shall, provide for the following bonds for the Improvements and all other public infrastructure improvements that are constructed by the Developer and dedicated to the City.
- A. Performance Bond. Prior to commencement of construction and ending upon acceptance of the Improvements by the City, the Developer shall, or shall ensure that its contractors shall, maintain a Performance Bond in a form approved by the City Attorney, in an amount equal to the cost of the Improvements covered by such bond, as determined by the City Engineer, conditioned upon the faithful performance of the provisions, terms and conditions of the construction contract. The Performance Bond shall name the City as an obligee and copies of certificates of such bond shall be delivered to the City.
- B. Payment Bonds. Prior to commencement of construction and ending upon acceptance of the Improvements by the City, the Developer shall, or shall ensure that its contractors shall, maintain a Payment Bond in a form approved by the City Attorney, in an amount equal to the cost of the Improvements covered by such bond, as determined by the City Engineer, conditioned upon the faithful payment of the provisions, terms and conditions of the construction contract. The Payment Bond shall name the City as an obligee and copies of certificates of such bond shall be delivered to the City.
- C. Maintenance Bonds. Prior to acceptance and dedication of the Improvements, the Developer shall, or shall ensure that its contractors shall, provide a Maintenance Bond in a form approved by the City Attorney, in an amount equal to fifty percent (50%) of the cost of the Improvements as approved by the City Engineer, which shall be in effect for a term of three (3) years from the date that the City issues a Certificate of Final Acceptance for such Improvements covered by the bond, conditioned upon the faithful performance of the provisions, terms and conditions of the construction

contract. The Maintenance Bond shall name the City as an obligee and copies of certificates of such bond shall be delivered to the City.

- D. **Indemnity for Failure to Provide Bonds.** The Developer shall indemnify the City and its officers and employees for any damage or loss incurred or sustained by the City, its officers or employees, as a result of the failure of the Developer or its contractors to provide the bonds set forth in this Section.
8. **Prevailing Wage.** To the extent required by law, the Developer, and all contractors and subcontractors performing work for or on behalf of the Developer with respect to the Improvements, shall pay wages in accordance with, and in all respects comply with, Missouri's Prevailing Wage Law (Sections 290.210 – 290.340, RSMo.) and all other laws relating to the payment of wages. The Developer agrees to hold harmless, indemnify and reimburse the City for any damage, loss, costs, payments or expenses of any kind (including the City's reasonable attorney's fees) incurred or sustained by the City with regard to the failure of the Developer or any contractor or subcontractor to pay prevailing wages as required by law or this Agreement. The Developer shall submit sufficient information to the City's Director of Finance to allow City staff to verify that the Developer, and its contractors and subcontractors, have complied with prevailing wage laws and regulations.
9. **Remedies.** Each party to this Agreement agrees that if it fails to perform when due any act required by this Agreement to be performed, then, in addition to whatever other remedies are available to the non-defaulting parties hereto, the non-defaulting party shall have the right to enforce specific performance of this Agreement against the defaulting party, and such non-defaulting party shall, to the extent permitted by law, be entitled to its reasonable costs, attorneys' fees and court costs in connection with such enforcement.
10. **Rights and Remedies Non-Exclusive.** No right or remedy conferred upon or reserved to any party in this Agreement is intended to be exclusive of any rights or remedies, and each and every right and remedy shall be cumulative and shall be in addition to every right and remedy given now or hereafter existing at law or in equity.
11. **Non-Waiver.** No waiver of any condition or covenant contained in this Agreement or of any breach thereof, shall be taken to constitute a waiver of any subsequent condition, covenant or breach.
12. **Applicable Law.** This Agreement shall be governed by and construed according to the laws of the State of Missouri.
13. **Venue.** In the event this Agreement is litigated, venue shall be proper only in the Circuit Court of Jackson County, and the parties expressly waive any rights to venue inconsistent therewith.
14. **City Requirements and Prior Approval.** The Developer agrees to comply with all applicable laws and City ordinances, including, but not limited to, the City's Unified Development Ordinance, the Design and Construction Manual, and all planning or

infrastructure requirements related to the development of the Property. The Developer acknowledges and agrees that the City is not, and shall not be, in any way liable for damages, losses or injuries that may be sustained as a result of the City's review and approval of any Plans or Plats of or relating to the Development, the Property or the Improvements, or as a result of the issuance of any approvals, permits, certificates or acceptances for the development or use of any portion of the Development, the Property or the Improvements. The Developer further acknowledges and agrees that the City's review and approval of any such Plans or Plats and the issuance of any such approvals, permits, certificates or acceptances does not, and shall not, in any way be deemed to insure the Developer, or any of its successors, assigns, tenants, licensees or any third party, against damage or injury of any kind at any time. The parties agree that execution of this Agreement in no way constitutes a waiver of any requirements of applicable City ordinances or policies with which the Developer must comply and does not in any way constitute prior approval of any future proposal for development.

15. **Recording and Binding Effect.** No building permits shall be issued for any structure in the development until the agreement has been fully executed. The City shall file a copy of this Agreement or a memorandum of this Agreement in the office of the Recorder of Deeds for Jackson County, Missouri ("Office"). This Agreement shall run with the land and be binding on and inure to the benefit of the parties and their respective legal representatives, successors in interest, successors and assigns. Upon certification by the City Engineer of the completion of the Developer's obligations under this Agreement, the City Manager, in his sole discretion, may execute, on behalf of the City, a document suitable for recording in the Office, in such form as is approved by the City Attorney that acknowledges the completion of the Developer's obligations under the Agreement.
16. **Time of Essence.** Time is of the essence with respect to the duties and obligations set forth herein.
17. **Estoppel Letter.** Upon request by Developer made from time to time, the City shall prepare and deliver to Developer an estoppel letter confirming for the benefit of any purchaser or lender whether the Developer is or is not in default under this Agreement and verifying the status of Developer's performance of its obligations under this Agreement.
18. **Representations.** The Developer represents that it owns the property described in **Exhibit A** on the date that this Agreement is executed. Each party represents and warrants that it (a) has made due and diligent inquiry into the facts and matters which are the subject matter of this Agreement; (b) fully understands the legal effect of this Agreement; (c) is duly authorized and empowered to execute, deliver and perform this Agreement according to its terms and conditions; and (d) has not assigned or transferred any claim against the other party that is the subject of this Agreement. The parties agree that the obligations assumed by the Developer pursuant to this Agreement are reasonably related to the impact that will be caused by the Development on the public services provided by the City and other public jurisdictions and on facilities that are constructed and maintained by the City and other public jurisdictions.

19. **No Waiver of Breach.** No waiver of any condition or covenant contained in this Agreement or any breach thereof shall be taken to constitute a waiver of any subsequent condition, covenant or breach.
20. **Rules of Construction.** Each party to this Agreement has received independent legal advice from its attorneys of choice with respect to entering this Agreement and the advisability of agreeing to the provisions herein. Because each party has had its respective legal counsel review the terms of this Agreement, the normal rules of construction to the effect that any ambiguities in its terms be resolved against the drafting party shall not be employed with regard to issues of its validity, interpretation, performance or enforcement.
21. **Assignment.** The Agreement may not be assigned or transferred, in whole or part, to any other person, firm, corporation, or entity without the prior, express, written consent of the other parties, which consent shall not be unreasonably withheld. The Developer shall request the assignment of the Agreement, with the consent of the City, to any person, firm, corporation, or entity to which any ownership interest in the Property is transferred after the date of execution of this Agreement.
22. **Entire Agreement.** This Agreement and the acts provided for herein is the entire agreement between the parties with respect to the subject matter hereof, the terms and provisions of this Agreement are contractual and not mere recitals and no alterations, amendment, modification, or interpretation hereof shall be binding unless in writing and signed by all parties.
23. **Exhibits.** All Exhibits referenced in this Agreement are incorporated into this Agreement by such reference as if set forth in full in the text of this Agreement.
24. **Headings.** The paragraph headings contained herein are for convenience in reference and are not intended to modify, expand or limit the scope of any provision of the Agreement.
25. **Severability.** Any provision of this Agreement which is not enforceable according to law will be severed herefrom, and the remaining provisions shall be enforced to the fullest extent permitted by law.
26. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.
27. **Notice.** Any notice required by this Agreement shall be deemed to be given if it is mailed by United States registered mail, postage prepaid, and addressed as hereinafter specified.

Any notice to the City shall be addressed to:

City Manager  
City Hall  
220 SE Green Street

Lee's Summit, Missouri 64063

With a copy to:

City Attorney  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

Notices to Developer shall be addressed to:

*David Price*  
*CMH Parks, Inc., a Tennessee Corporation, d.ba. Summit Custom*  
*Homes 120 SE 30<sup>th</sup> St*  
*Lee's Summit, MO 64082*

Each party shall have the right to specify that notice be addressed to any other address by giving to the other party ten (10) days' written notice thereof.

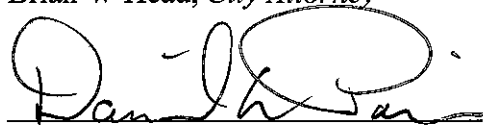
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the date first above written.

**CITY OF LEE'S SUMMIT, MISSOURI**

By: \_\_\_\_\_  
Stephen A. Arbo, *City Manager*

Attest:  
  
\_\_\_\_\_  
Denise R. Chisum, *City Clerk*

Approved as to form:

\_\_\_\_\_  
Brian W Head, *City Attorney*  
 (DEVELOPER)

By: David Price  
Its: Assistant Secretary



Notary for City of Lee's Summit

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF JACKSON    )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Stephen A. Arbo, the City Manager of the City of Lee's Summit, Missouri, a City duly incorporated and existing under and by virtue of the laws of the State of Missouri, who are personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

[SEAL]

Notary for CMH Parks Inc. a Tennessee Corporation, dba Summit Custom Homes

STATE OF Missouri )  
 ) ss.  
COUNTY OF Cass )

BE IT REMEMBERED, that on this 24th day of August 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came David W. Price the Assistant Secretary of CMH Parks Inc., d/b/a Summit Custom Homes who is personally known to me to be the same person who executed the within instrument on behalf of CMH Parks Inc., d/b/a Summit Custom Homes and such person duly acknowledged the execution of the same to be the act and deed of said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



*Jennifer Kreisel*  
NOTARY PUBLIC

My Commission Expires:

December 6, 2019

[SEAL]

**END OF DOCUMENT**

**EXHIBIT A**

LEGAL DESCRIPTION FOR PROPERTY

**EXHIBIT B**

MAP OF THE PRELIMINARY PLAT

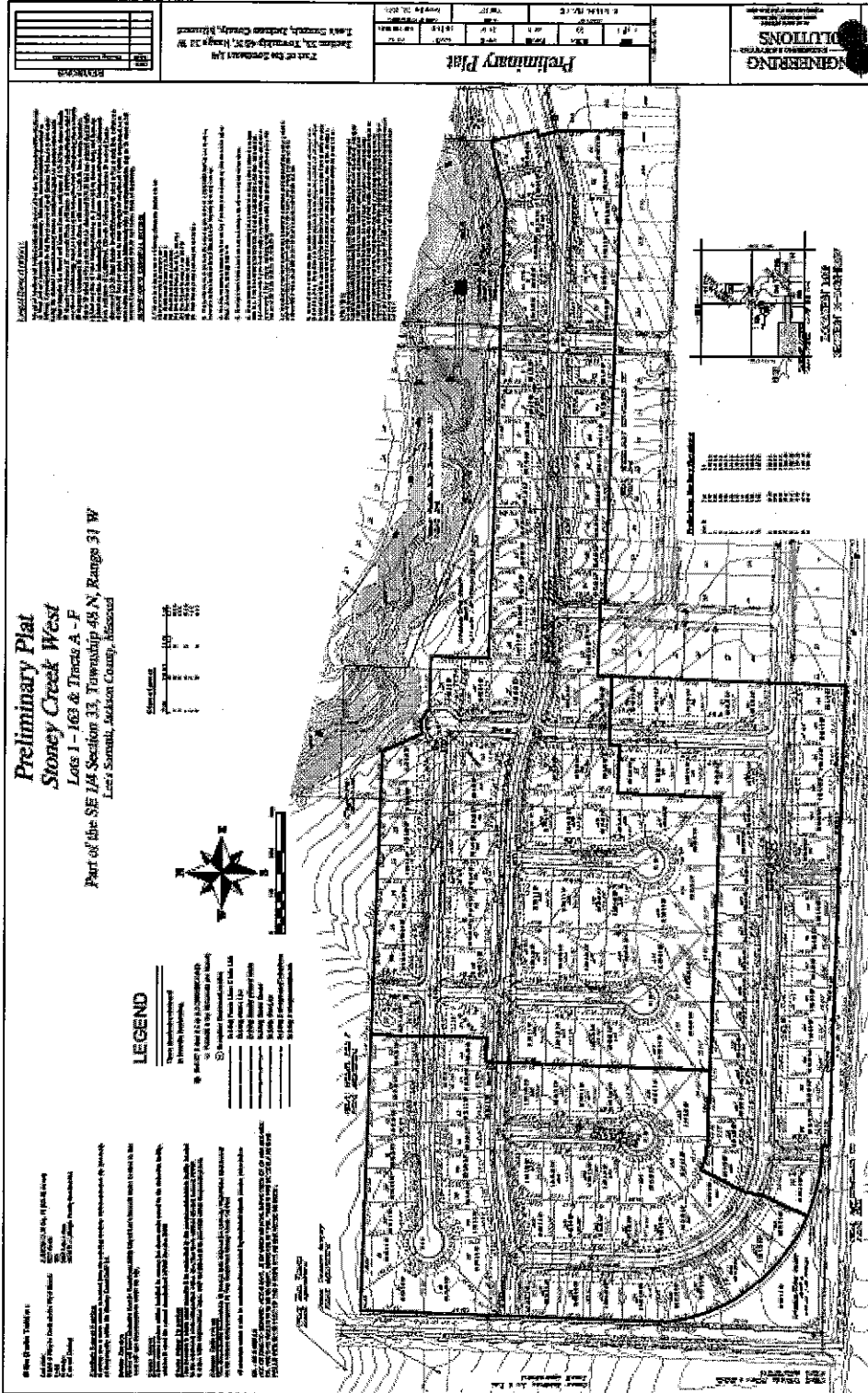
## EXHIBIT A

### LEGAL DESCRIPTION FOR PROPERTY

A tract of land located in the Southeast Quarter of Section 33, Township 48 North, Range 31 West, in Lee's Summit, Jackson County, Missouri, more particularly described as follows: Commencing at the Northeast corner of said Quarter Section, as it now exists being the Point of Commencement; thence South 01 degrees 56 minutes 38 seconds West along the East line of said Quarter Section, a distance of 329.97 feet; thence North 88 degrees 44 minutes 02 seconds West, a distance of 30.00 feet to the Westerly right of way line of Todd George Road, as it now exists being the Point of Beginning; thence North 88 degrees 44 minutes 02 seconds West, a distance of 1296.05 feet; thence South 01 degree 39 minutes 46 seconds West, a distance of 674.50 feet to a point of the Easterly right of way line of Todd George Parkway, as it now exists; thence along said Easterly right of way line the following (2) courses: 1) South 35 degrees 09 minutes 10 seconds East, a distance of 118.99 feet, 2) South 35 degrees 13 minutes 19 seconds East, a distance of 273.26 feet; thence South 88 degrees 44 minutes 01 seconds East, a distance of 1055.87 feet to a point on the Westerly right of way line of Todd George Road, as it now exists; thence along said Westerly right of way line North 01 degree 56 minutes 38 seconds East, a distance of 990.00 feet to the Point of Beginning.

# EXHIBIT B

## MAP OF THE PRELIMINARY PLAT



## Packet Information

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**File #:** BILL NO. 17-203, **Version:** 1

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AN ORDINANCE APPROVING THE EXECUTION OF THE GRANT AGREEMENT BY AND BETWEEN THE STATE OF MISSOURI, DEPARTMENT OF TRANSPORTATION TRAFFIC AND HIGHWAY SAFETY DIVISION AND THE CITY OF LEE'S SUMMIT MISSOURI FOR THE MISSOURI HIGHWAY SAFETY PROGRAM.

(Note: First reading by City Council on September 7, 2017.)

Key Issues:

The LSPD has applied for and has been awarded a grant by the Missouri Department of Transportation, Traffic and Highway Safety Division in the amount of Twenty Seven Thousand Two Hundred Fifty Dollars (\$27,250.00) for a Hazardous Moving Violation Project and a grant in the amount of Thirty Five Thousand Dollars (\$35,000.00) for a Impaired Driving Enforcement/DWI Saturation Project for the period October 1, 2017 through September 30, 2018. The purpose of the grants are to assist the City with funding in order to reduce the number and severity of traffic crashes occurring on Missouri roadways and reduce traffic fatalities and injuries.

The LSPD desires the City to accept the grant award by passing this ordinance and entering into contracts with the Missouri Department of Transportation, Traffic and Highway Safety Division for the Hazardous Moving Violation Project and the Impaired Driving Enforcement/DWI Saturation Project.

Proposed City Council Motion:

I move for adoption of AN ORDINANCE APPROVING THE EXECUTION OF THE GRANT AGREEMENT BY AND BETWEEN THE STATE OF MISSOURI, DEPARTMENT OF TRANSPORTATION TRAFFIC AND HIGHWAY SAFETY DIVISION AND THE CITY OF LEE'S SUMMIT MISSOURI FOR THE MISSOURI HIGHWAY SAFETY PROGRAM as part of the Consent Agenda.

Presenter: Travis Forbes, Lee's Summit Police Department

**BILL NO. 17-203**

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AN ORDINANCE APPROVING THE EXECUTION OF THE GRANT AGREEMENT BY AND BETWEEN THE STATE OF MISSOURI, DEPARTMENT OF TRANSPORTATION TRAFFIC AND HIGHWAY SAFETY DIVISION AND THE CITY OF LEE'S SUMMIT MISSOURI FOR THE MISSOURI HIGHWAY SAFETY PROGRAM.

WHEREAS, the City of Lee's Summit, Missouri ("City") Police Department applied for and has been awarded a grant by the Missouri Department of Transportation, Traffic and Highway Safety Division in the amount of Twenty Seven Thousand Two Hundred Fifty Dollars (\$27,250.00) for a Hazardous Moving Violation Project and a grant in the amount of Thirty Five Thousand Dollars (\$35,000.00) for an Impaired Driving Enforcement/DWI Saturation Project for the period October 1, 2017 through September 30, 2018; and,

WHEREAS, the purpose of the grants are to assist the City with funding in order to reduce the number and severity of traffic crashes occurring on Missouri roadways and reduce traffic fatalities and injuries; and,

WHEREAS, the City Council passed Resolution 17-05 in March of 2017 supporting the application for grant funding and the City's participation in the Missouri Highway Safety Program; and,

WHEREAS, the City desires to accept the grant award by entering into contracts with the Missouri Department of Transportation, Traffic and Highway Safety Division for the Hazardous Moving Violation Project and the Impaired Driving Enforcement/DWI Saturation Project.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. The State of Missouri, Department of Transportation Traffic and Highway Safety Division grant award of Twenty Seven Thousand Two Hundred Fifty Dollars (\$27,250.00) for a Hazardous Moving Violation Project and a grant award in the amount of Thirty Five Thousand Dollars (\$35,000.00) for an Impaired Driving/ DWI Saturation Project for the period October 1, 2017 through September 30, 2018, is hereby approved and the Mayor is hereby authorized to execute any and all documents related to such grant award on behalf of the City of Lee's Summit, Missouri.

SECTION 2. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

**BILL NO. 17-203**

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APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

ATTEST:

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

\_\_\_\_\_  
*Deputy City Clerk Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
*Chief Counsel of Public Safety Beth Murano*



Missouri Department of Transportation

830 MoDOT Drive  
P.O. Box 270  
Jefferson City, MO 65102  
573-751-4161  
1-800-800-2358  
Fax: 573-634-5977

August 11, 2017

Chief Travis Forbes  
Lee's Summit Police Dept.  
10 NE Tudor Rd  
Lee's Summit, MO 64063-2313

Dear Chief Forbes:

Enclosed is a contract between the Traffic and Highway Safety Division and the Lee's Summit Police Dept. for a HMV Enforcement project.

The project obligates \$27,250.00 in federal funds for the period October 01, 2017 through September 30, 2018. All expenditures should be claimed against project #18-PT-02-018.

Please review this contract carefully for any discrepancies or questions. If acceptable, have the appropriate individuals sign the Contract Cover Page and have the Project Director **initial at the bottom of each page** to indicate that he/she has reviewed the contract. The Authorizing Official and Project Director signatures on the contract must be signed by two separate individuals. After signing, please return all pages of the contract to the Traffic and Highway Safety Division.

This contract does not become effective until the Highway Safety Director has approved and signed it. No costs can be incurred by your agency prior to the Director's approval. Once the Director approves the contract, a fully executed copy will be returned to your agency.

If you have any questions concerning the project activity or reimbursement procedures, please contact Scott Wilson, Senior System Management Specialist at 573-751-5408. We look forward to working with you and your staff.

Sincerely,

Bill Whitfield  
Highway Safety Director

Enclosure



10/10/10

# CONTRACT

Form HS-1

Version: 1

05/19/2017

**Missouri Department of Transportation  
Traffic and Highway Safety Division**  
P.O. Box 270  
830 MoDOT Drive  
Jefferson City, MO 65102  
Phone: 573-751-4161  
Fax: 573-634-5977

**Project Title:** HMV Enforcement  
**Project Number:** 18-PT-02-018  
**Project Category:** Police Traffic Services  
**Program Area:** Police Traffic Services

**Funding Source:** 402 / 20.600

**Type of Project:** Initial

**Started:** 10/01/2017

**Name of Grantee**  
Lee's Summit Police Dept.

**Grantee County**  
Jackson

**Grantee Address**  
10 NE Tudor Rd  
  
Lee's Summit, MO 64063-2313

**Federal Funds Benefiting**

**State:** \_\_\_\_\_  
**Local:** \_\_\_\_\_ \$27,250.00  
**Total:** \_\_\_\_\_ \$27,250.00

**Source of Funds**

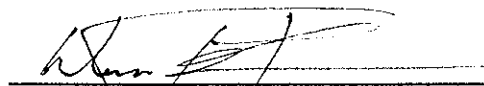
**Federal:** \$27,250.00  
**State:** \_\_\_\_\_  
**Local:** \_\_\_\_\_ \$0.00  
**Total:** \_\_\_\_\_ \$27,250.00

**Telephone**  
816-969-1700

**Fax**  
816-969-1635

**Contract Period**  
**Effective:** 10/01/2017  
**Through:** 09/30/2018

**Prepared By**  
Wilson, Scott



Authorizing Official

8-24-17

Date

 #9925

Project Director

08/23/2017

Date

Highway Safety Director

Date

It is mutually agreed by the parties executing this contract to the following: the reimbursable costs shall not exceed the **total obligated amount of \$27,250.00**; the recipient of funds shall proceed with the implementation of the program as detailed in attached forms (which become part of this agreement) and shall adhere to conditions specified in attachments (which become part of this agreement); all Federal and State of Missouri laws and regulations are applicable and any addendums or conditions thereto shall be binding; any facilities and/or equipment acquired in the connection with this agreement shall be used and maintained for highway safety purposes; the recipient of funds must comply with the Title VI of the Civil Rights Act of 1964, and the Federal Funds from other sources, excluding Federal Revenue Sharing Funds, will not be used to match the Federal funds obligated to this project.



IN ORDER TO RECEIVE FEDERAL FUNDING, THE SUBRECIPIENT AGREES TO COMPLY WITH THE FOLLOWING CONDITIONS IN ADDITION TO THOSE OUTLINED IN THE NARRATIVE OF THE CONTRACT.

**I. RELATIONSHIP**

The relationship of the Subrecipient to the Missouri Highways and Transportation Commission (MHTC) shall be that of an independent contractor, not that of a joint enterpriser. The Subrecipient shall have no authority to bind the MHTC for any obligation or expense without the express prior written approval of the MHTC. This agreement is made for the sole benefit of the parties hereto and nothing in the Agreement shall be construed to give any rights or benefits to anyone other than the MHTC and the Subrecipient.

**II. GENERAL REQUIREMENTS**

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4 - Highway Safety Act of 1966, as amended
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 - Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 - Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

**III. INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS**

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

**IV. EQUIPMENT**

**A. PROCUREMENT:** Subrecipient may use its own procurement regulations which reflect applicable state/local laws, rules and regulations provided they adhere to the following:

1. Equipment with a cost of \$3,000 or more must be purchased on a competitive bid basis, or purchased through use of state cooperative procurement;
2. Price or rate quotations shall be solicited from at least three (3) qualified sources;
3. All procurement transactions, regardless of whether by sealed bids or by negotiation, shall be conducted in a manner that provides maximum open and free competition;
4. Subrecipients shall have a clear and accurate description of the item to be purchased. Such description shall not, in competitive procurements, contain features that unduly restrict competition. A "brand name or equal" description may be used as a means to define the performance or other requirement of a procurement;
5. If for some reason the low bid is not acceptable, the Subrecipient must have written approval from the MHTC prior to bid approval and purchase.
6. Subrecipients will make a good faith effort to utilize minority and women owned businesses within resource capabilities when procuring goods and services.

**B. DISPOSITION:** The Subrecipient shall make written request to the MHTC for instructions on the proper disposition of all items of equipment provided under the terms of this contract with a cost of \$5,000 or more. Subrecipient must keep and maintain equipment with a cost of under \$5,000 until it is no longer useful for its originally intended purpose.

**C. REPLACEMENT:** No equipment may be funded on a replacement basis. Participation in equipment and manpower projects must be in addition to the Subrecipient's previous twelve months authorized strength.

**V. FISCAL RESPONSIBILITY**

**A. MAINTENANCE OF RECORDS:** The Subrecipient agrees that the Commission and/or its designees or representatives shall have access to all records related to the grant. The Subrecipient further agrees that the Missouri Department of Transportation (MoDOT) Traffic and Highway Safety (HS) Division, the National Highway Traffic Safety Administration (NHTSA), the Federal Highway Administration (FHWA) and/or any Federal audit agency with jurisdiction over this program and the Auditor of the State of Missouri or any of their duly authorized representatives may have access, for purpose of audit and examinations, to any books, documents, papers or records maintained by the Subrecipient pertaining to this contract and further agrees to maintain such books and records for three years after the date of final project disposition.

**B. REIMBURSEMENT VOUCHER, SUPPORTING DOCUMENTATION AND PAYMENT SCHEDULE:** The MHTC agrees to reimburse the Subrecipient for accomplishment of all authorized activities performed under this contract. Reimbursement proceedings will be initiated upon the receipt of a claim voucher and supporting documentation from the Subrecipient, as required by the MHTC. The voucher must reflect actual costs and work accomplished during the project period, to be submitted on the appropriate MHTC certified payroll form or in a format approved by the MHTC, and shall include project number, project period, hours worked, rate of pay, any other allowable expenditures, and must be signed by the contracting official. Vouchers should be received by the MHTC within ten (10) working days from the date of the authorizing official/project director's signature. Final payment is contingent upon receipt of final voucher. **AUDITS:** Subrecipient will be responsible for the required supporting documentation no later than 30 days after the end of the contract period.

**C. ACCOUNTING:** The Subrecipient shall maintain all documentation in file for audit review; failure to provide supporting documentation at the time of audit could result in questioned costs. The Subrecipient must document the following: (1) Receipt of federal funds, (2) date and amount paid to officers, (3) officer's timesheet (regular hours and overtime hours). Documentation shall be kept available for inspection for representatives of the MHTC for a period of three years following date of final payments. Copies of such records shall be made available upon request.

**D. OMB AUDIT:** A subrecipient that expends \$750,000 or more during the subrecipient's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of 2 CFR §200.501. A copy of the Audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. A subrecipient that expends less than \$750,000 during the subrecipient's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO). Failure to furnish an acceptable audit may be basis for refunding federal funds to the MHTC. Cost records and accounts pertaining to the work covered by this contract shall be kept available for inspection for representatives of the MHTC for a period of three (3) years following date of final payments. Copies of such records shall be made available upon request.

**VI. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)**

The State will comply with FFATA guidance, OMB Guidance on FFATA Subward and Executive Compensation Reporting, August 27, 2010,

([https://www.fsrs.gov/documents/OMB\\_Guidance\\_on\\_FFATA\\_Subaward\\_and\\_Executive\\_Compensation\\_Reporting\\_08272010.pdf](https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf)) by reporting to FSRS.gov for each sub-grant awarded:

- A. Name of the entity receiving the award;
- B. Amount of the award;
- C. Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- D. Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- E. A unique identifier (DUNS);
- F. The names and total compensation of the five most highly compensated officers of the entity if:
  1. the entity in the preceding fiscal year received-
    - a. 80 percent or more of its annual gross revenues in Federal awards;
    - b. \$25,000,000 or more in annual gross revenues from Federal awards; and
  2. the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- G. Other relevant information specified by OMB guidance.

**VII. TERMINATION**

If, through any cause, the Subrecipient shall fail to fulfill in timely and proper manner its obligation under this contract, or if the Subrecipient shall violate any of the covenants, agreements or stipulations of this contract, the MHTC shall thereupon have the right to terminate this contract and withhold further payment of any kind by giving written notice to the Subrecipient of such termination and specifying the effective date thereof, at least thirty (30) days before such date. The MHTC shall be the sole arbitrator of whether the Subrecipient or its subcontractor is performing its work in a proper manner with reference to the quality of work performed by the Subrecipient-or its subcontractor under the provisions of this contract. The Subrecipient and the MHTC further agree that this contract may be terminated by either party by giving written notice of such termination and specifying the effective date thereof, at least thirty (30) days before such date.

DC

**VIII. NONDISCRIMINATION**

(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.*), and **Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, sub-recipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR at 74087 to 74100).

The State highway safety agency-

1. Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted.
2. Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
3. Agrees to comply (and require any of its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
4. Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
5. Insert in all contracts and funding agreements with other State or private entities the following clause:

During the performance of this contract/funding agreement, the contractor/funding recipient agrees-

1. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
2. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR part 21 and herein;
3. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;

4. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
5. To insert this clause, including paragraphs 1 through 5, in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement that receives Federal funds under this program.

**IX. STATUTORY AND REGULATORY REQUIREMENTS**

**A. COMPLIANCE:** The Subrecipient must comply with the following Statutes or Rules:

1. Peace Officer Standards and Training (P.O.S.T.) Chapter 590 RSMo Department of Public Safety (DPS) certification of peace officers
2. Statewide Traffic Accident Records System (STARS) 43.250 RSMo--Law enforcement officer to file all crash reports with Missouri State Highway Patrol (MSHP).
4. Uniform Crime Reporting RSMo 43.505-Crime incident reports shall be submitted to DPS on forms or in format prescribed by DPS.
5. Racial Profiling RSMo 590.650-Law enforcement agency to file a report to the Attorney General each calendar year.
6. US DOT AND OMB REGULATIONS: The Subrecipient shall comply with all requirements of 2 CFR Parts 200 and 1201 beginning with the federal fiscal year 2016: starting October 1, 2015.

**X. PRODUCTION & DEVELOPMENT COSTS** Items produced with federal funds are within the public domain and are not bound by copyright restrictions. All items produced with federal funds, in whole or in part, must acknowledge this by clearly indicating that MoDOT Traffic and Highway Safety funding supported this effort. Examples may include, but are not limited to print materials; incentive items; audio/video productions; and training aides such as curricula or workbooks. Any materials developed under this contract must be submitted to the MHTC for approval prior to final print and distribution. Copies of all final products are to be provided to the MHTC. The MHTC has the right to reproduce and distribute materials as the MHTC deems appropriate.

**XI. INDEMNIFICATION** Option 1 below only applies to State agencies, Cities, Counties and other political subdivisions or political corporations of the State of Missouri. Option 2 applies to all other entities (e.g. non-profit, private institutions).

**OPTION 1:**

A. To the extent allowed or imposed by law, the Subrecipient shall defend, indemnify and hold harmless the MHTC, including its members and MoDOT employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Subrecipient's wrongful or negligent performance of its obligations under this Agreement. The Subrecipient may satisfy this requirement utilizing a self-funded program.

B. The Subrecipient will require any contractor procured by the Subrecipient to work under this Agreement :

1. To obtain a no cost permit from the MHTC's district engineer prior to working on the MHTC's right-of-way, which shall be signed by an authorized contractor representative (a permit from the MHTC's district engineer will not be required for work outside of the MHTC's right-of-way); and
2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the MHTC, and the MoDOT and its employees, as additional named insured's in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

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

**OPTION 2:**

The Subrecipient shall defend, indemnify and hold harmless the MHTC, including its members and the MoDOT employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Subrecipient's performance of its obligations under this Agreement .

**XII. AMENDMENTS** The Budget Proposal within this Agreement may be revised by the Subrecipient and the MHTC subject to the MHTC's approval without a signed amendment as long as the total contract amount is not altered. Prior to any revision being made to the Budget Proposal, Subrecipient shall submit a written request to the MHTC requesting the change. Any other change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the Subrecipient and the MHTC.

**XIII. MHTC REPRESENTATIVE** The MoDOT Traffic and Highway Safety Division Director is designated as the MHTC's representative for the purpose of administering the provisions of this Agreement. The MHTC's representative may designate by written notice other persons having the authority to act on behalf of the MHTC in furtherance of the performance of this Agreement.

**XIV. ASSIGNMENT** The Subrecipient shall not assign, transfer, or delegate any interest in this Agreement without the prior written consent of the MHTC.

**XV. LAW OF MISSOURI TO GOVERN** This Agreement shall be construed according to the laws of the State of Missouri. The Subrecipient shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

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

**XVII. SECTION HEADINGS** All section headings contained in this Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

**XVIII. NONSEGREGATED FACILITIES**

(Applicable to contracts over \$10,000) Subrecipient and its subcontractors, suppliers and vendors, should meet Federal requirements regarding nonsegregated facilities.

**XIX. FUNDING ORIGATION AND AUDIT INFORMATION**

The MHTC funds the following NHTSA program areas:

<u>Section</u>	<u>CFDA#</u>	<u>Program Title</u>
402	20.600	State and Community Highway Safety Programs
154	20.607	Alcohol Open Container Requirements
164	20.608	Minimum Penalties for Repeat Offenders for Driving While Intoxicated
405b	20.616	National Priority Safety Programs
405c	20.616	National Priority Safety Programs
405d	20.616	National Priority Safety Programs
405f	20.616	National Priority Safety Programs

**XX. THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)**

The State will provide a drug-free workplace by:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing a drug-free awareness program to inform employees about:
  - 1. The dangers of drug abuse in the workplace.
  - 2. The Subrecipient's policy of maintaining a drug-free workplace.
  - 3. Any available drug counseling, rehabilitation, and employee assistance programs.
  - 4. The penalties that may be imposed upon employees for drug violations occurring in the workplace.
  - 5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (A).



CONTRACT CONDITIONS - PAGE 7

- C. Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the grant, the employee will:
  - a. Abide by the terms of the statement.
  - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- D. Notifying the agency within ten days after receiving notice under subparagraph (C)(b) from an employee or otherwise receiving actual notice of such conviction.
- E. Taking one of the following actions, within 30 days of receiving notice under subparagraph (C)(b), with respect to any employee who is so convicted:
  - a. Taking appropriate personnel action against such an employee, up to and including termination.
  - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- F. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

**XXI. POLITICAL ACTIVITY (HATCH ACT)**  
**(applies to subrecipients as well as States)**

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

**XXII. CERTIFICATION REGARDING FEDERAL LOBBYING**  
**(applies to subrecipients as well as States)**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

**XXIII. RESTRICTION ON STATE LOBBYING**  
**(applies to subrecipients as well as States)**

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

XXIV. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION  
(applies to subrecipients as well as States)

Instructions for Primary Certification (States)

- A. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1300.
- B. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- C. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
- D. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- E. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of 2 CFR Part 180. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- F. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
- G. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1300.
- H. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
- I. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- J. Except for transactions authorized under paragraph F of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

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

- 1. The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

D.J.

CONTRACT CONDITIONS - PAGE 9

- b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
  - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

- A. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1300.
- B. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- C. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- D. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR Part 180. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- E. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
- F. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1300.
- G. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
- H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- I. Except for transactions authorized under paragraph E of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

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

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

**XXV. BUY AMERICA ACT**  
(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase only steel, iron and manufactured products produced in the United States with Federal funds, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification to and approved by the Secretary of Transportation.

All items purchased must be compliant with the National Highway Traffic Safety Administration (NHTSA) interpretation of the Buy America Act including, but not limited to:

1. Items valued over \$5,000 per unit must be manufactured or assembled in the United States of America, or as allowed by a current Buy America Act waiver issued by the NHTSA;
  2. All vehicles must be manufactured or assembled in the United States of America regardless of cost.
- [www.nhtsa.gov/staticfiles/administration/programs-grants/Buy-America-Act-revised-11202015.pdf](http://www.nhtsa.gov/staticfiles/administration/programs-grants/Buy-America-Act-revised-11202015.pdf)

**XXVI. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE**  
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

**XXVII. POLICY ON SEAT BELT USE**

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Subrecipient is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov). Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, D.C. metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its website at [www.trafficsafety.org](http://www.trafficsafety.org).

**XXVIII. POLICY ON BANNING TEXT MESSAGING WHILE DRIVING**

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or -rented vehicles, Government-owned, leased or rented vehicles, or privately-owned when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

## CONTRACT REQUIREMENTS

### THE FOLLOWING REQUIREMENTS ONLY APPLY TO CONTRACTS THAT INCLUDE TRAINING

Subrecipients offering the MHTC-funded courses must adhere to the following standard elements required for training contracts:

- A. A course schedule must be presented to the MHTC program coordinator prior to the proposed training. The schedule should include: title of course; date(s); time; exact location; and agenda. Any changes to the course schedule must have prior approval from the MHTC.
- B. Each student must complete a survey form at the completion of the workshop/training. The survey will ask a series of questions concerning adequacy of: training received; instructor's presentation; training facility/location; and worth of the training.
- C. The Subrecipient must provide a sign-up sheet for every class when submitting a reimbursement request for the course (a typed list of everyone who registered is not acceptable). The sign-up sheet must capture the following information:
  1. Title of the class
  2. Date(s) and location of class
  3. Printed Name and signature of attendees (unless otherwise prohibited)
  4. Name of agency/organization of each attendee
- D. To ensure cost effectiveness, every effort should be made to enroll a minimum of fifteen (15) students per class.
- E. Copies of the student evaluations, number of students enrolled/number of students attending, agenda/syllabus/curriculum, and participant sign-up sheets must be retained in Subrecipient's files after the training has been conducted and available for MHTC review upon request.

### THE FOLLOWING REQUIREMENTS APPLY TO LAW ENFORCEMENT AGENCIES ONLY

#### **A. PROBLEM IDENTIFICATION**

Subrecipient must develop a selected traffic enforcement plan by evaluating crash data involving fatal, disabling and moderate injuries. This will be done on an annual basis to determine the highest crash locations, to include: month of year, day of week, time of day, and causation factors. This plan must be used to determine locations utilized in site selection for conducting enforcement efforts. Any changes to the enforcement plan must be made in writing to the MHTC project coordinator in advance of enforcement efforts.

#### **B. PROJECT ACTIVITIES**

1. Enforcement activities by the Subrecipient must remain at the current level. Enforcement efforts provided by this contract must be in addition to current enforcement activities.
2. Officers will be permitted and encouraged to issue multiple citations and/or written warnings to drivers who have committed several violations.
3. High visibility enforcement is a key strategy to reducing traffic crashes; therefore, law enforcement officers working overtime projects are strongly encouraged to make at least three (3) contacts per hour when conducting an enforcement project.
4. Subrecipient should report monthly or at least quarterly to MHTC using the *Grant Enforcement Activities Monthly Report Form*.
5. Subrecipient is strongly encouraged to participate in all national or state mobilization efforts in conjunction with, or at the direction of, the Traffic and Highway Safety Division. These mobilizations include, but are not limited to: Click It or Ticket campaign, impaired driving campaign, youth seat belt enforcement campaign, and quarterly enforcement efforts. Mobilization reporting efforts shall be completed using the online mobilization reporting form located at: [www.modot.mo.gov/safety](http://www.modot.mo.gov/safety).
6. Only law enforcement work performed by a duly licensed, Peace Officer Standards and Training certified law enforcement officer will be reimbursed.
7. The Subrecipient will not be eligible for reimbursement for any individual law enforcement officer working under this grant in excess of 40 hours for any two week pay period. The Subrecipient will not be eligible for reimbursement for any individual law enforcement officer working under this grant where said officer is claiming to have worked as a law enforcement officer for more than 16 hours in any 24 hour period.

**C. PARTNERSHIPS**

Law Enforcement agencies are strongly encouraged to participate in the Law Enforcement Traffic Safety Advisory Council (LETSAC) and attend the general meetings and annual conference. Agencies located within the metropolitan areas of St. Louis or Kansas City should participate in Operation Impact ( traffic safety task force).

**D. ALLOWABLE COSTS**

Full-time, part-time and reserve officers are eligible to participate in overtime enforcement projects. Part-time and reserve officers must have the same authority as a full-time permanent officer. MHTC will reimburse Subrecipient at officer's standard rate of pay in accordance with Subrecipient policies and procedures regarding standard rate of pay and overtime rate of pay. The Subrecipient will not be reimbursed at the overtime rate for work that according to Subrecipient's own policies and procedures does not constitute overtime. Non- POST certified personnel may be allowed, at the sole discretion of MHTC, in a support/administrative role.

Exceptions to allowable costs may be made with prior written permission of the MHTC.

**E. DRUNK DRIVING ENFORCEMENT PROJECTS**

1. Those officers conducting standardized field sobriety testing must have 24 hours of Standardized Field Sobriety Test training to participate in grant funded enforcement efforts.
2. Agency should participate in quarterly enforcement efforts and the national impaired driving crackdown held annually.

**F. SOBRIETY CHECKPOINTS**

Unless otherwise prohibited by state statute or appropriation,

1. The MHTC will fund enforcement agencies to conduct sobriety checkpoints in accordance with standards outlined in the Sobriety Checkpoint Reference Manual and the Sobriety Checkpoint Supervisor Training program .
2. Sobriety checkpoint enforcement efforts must be coupled with appropriate public information efforts to increase the perceived risk of arrest and to enhance the actual risk of arrest.
3. Enforcement statistics and the agency's sobriety checkpoint operations plan must be submitted with reimbursement vouchers.

D.F.

## PROBLEM IDENTIFICATION

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Hazardous Moving Violations (HMV) also known as aggressive driving is a serious problem on Missouri's roadways and has contributed substantially to traffic crashes, especially crashes resulting in death. Aggressive drivers are defined within Missouri's Blueprint to SAVE MORE LIVES as, "drivers of motorized vehicles who committed one or more of the following violations which contributed to the cause of a traffic crash: speeding; driving too fast for conditions; and/or following too close."

Aggressive drivers not only put their own lives at risk, but the lives of others as well. Of the 930 people killed, 67.4% were the aggressive driver and the other 32.6% were some other party in the incident. Of the 5,266 seriously injured, slightly more than one-half (53.9%) were the aggressive drivers and nearly one-half (46.1%) being some other person involved.

Jackson County and Lee's Summit consistently have problems with speed related crashes. The following shows comparative analysis of where Jackson County and the City of Lee's Summit rank as compared to other cities and counties in the State of Missouri for speed related crashes:

**Speed Involved:**

Jackson County - 2nd in the state with 8,134  
Lee's Summit - 6th in the state with 655

**Speed Involved Disabling Injury:**

Jackson County - 1st in the state  
Lee's Summit - 8th in the state

**Speed Involved Fatal:**

Jackson County - 1st in the state  
Lee's Summit - 8th in the state

**Top 10 Crash Locations in Lee's Summit in 2016 were:**

- 1) M-291 Highway & US 50 Highway
- 2) 3rd Street & US 50 Highway
- 3) Chipman Road & US 50 Highway
- 4) US 50 Highway & M-291 Highway
- 5) Langsford Road & M-291 Highway
- 6) M-150 Highway & M-291 Highway
- 7) Blue Parkway & M-291 Highway
- 8) M-291 Highway & Persels Road
- 9) Sam Walton Lane (Wal-Mart)
- 10) Blue Parkway & Chipman Road

**The top two Contributing Circumstances for crashes in Lee's Summit in 2016:**

Following Too Close	501 = 27%
Failed to Yield	403 = 21%
Total	904 = 48%

In 2016 the days of the week for higher number of crashes remains consistent with Monday-Saturday. The highest times for crashes in Lee's Summit begin around 6:00 a.m. and run through the day until around 9:00 p.m. when crashes drop significantly.

## GOALS/OBJECTIVES

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In 2012-2014, there were 414,173 traffic crashes in Missouri - 15.1% involved speeding. Correlating with the national data, Missouri's problem is also more significant when examining fatal crashes—of the 2,143 fatal crashes, 37.5% involved drivers who were speeding.

### Goal #1:

To decrease HMV/aggressive driving related fatalities to:

- 314 by 2013
- 299 by 2014
- 288 by 2015
- 270 by 2016

### Performance Measure:

Number of HMV/aggressive driving-related fatalities

### Benchmark:

2012 aggressive driving-related fatalities = 326  
(308 in 2013, 287 in 2014)

### Goal #2:

To decrease speed-related fatalities to:

- 312 by 2013
- 297 by 2014
- 283 by 2015
- 268 by 2016

### Performance Measure:

Number of speed-related fatalities

### Benchmark:

2012 speed-related fatalities = 326  
(302 in 2013, 276 in 2014)

### Objective:

Develop and implement a plan that focuses on hazardous moving violations (such as speeding, following too closely, driving too fast for conditions, red-light running, improper lane changes, and failure to yield) at high crash locations and corridors.

Conduct HMV enforcement efforts during the highest reported crash times throughout the day focusing on speeding, following too closely, driving too fast for conditions, red-light violations, improper lane changes, and failure to yield. These efforts will be focused on high crash locations and corridors within the city limits.

In 2014 Lee's Summit had 1,750 crashes and issued 18,363 tickets and written warnings

In 2015 Lee's Summit had 1,700 crashes and issued 17,059 tickets and written warnings

In 2016 Lee's Summit had 1,881 crashes and issued 20,376 tickets and written warnings

Lee's Summit experienced an increase in reported crashes when comparing 2015 to 2016 with an increase of 181 crashes. Lee's Summit experienced several large roadway construction projects, which attributed to some of the increased crashes. Officers conduct enforcement in these areas and make an impact while there; however, once they leave the area the poor driving behaviors return. It is anticipated Lee's Summit will once again have major roadway construction with the redevelopment of M-291 Highway over US 50 Highway.



Project Description information is captured in the supplemental section.

**SUPPLEMENTAL INFORMATION**

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<u>Question</u>	<u>Answer</u>
You must answer the following questions.	
1 Does your agency have and enforce an internal safety belt policy for all personnel?	Yes
2 Does your agency have and enforce a policy restricting cell phone use while driving?	Yes
3 Does your agency report racial profiling data annually?	Yes
4 Does your agency report to STARS?	Yes
5 Does your agency report UCR information annually?	Yes
6 Please explain any NO answer(s) to questions 1-5:	
7 Have any of your officers/personnel been debarred and are therefore not eligible to receive federal funds for reimbursement of salary, fringe benefits, or overtime?	No
8 Does your agency have adequate manpower to fully expend the funds requested in this application?	Yes
9 If NO, please explain.	
10 Have any significant changes occurred with your agency within the last year that would affect performance, including personnel or system changes?	No
11 If YES, please explain.	
12 Are you aware of any fraud, waste or abuse on grant projects in your office/agency within the last 5 years?	No
13 If YES, please explain.	
14 If your agency received Highway Safety grant funding in the last three (3) fiscal years and there were unexpended balances, please explain why.	
<p>Funds left over from DWI enforcement grants. We had a reduction in checkpoints due to the unusual amount of special events encountered by our agency. We have worked with city officials to help limit the amount of approved special events; therefore, allowing more HMV grant enforcement activities to be conducted.</p>	
15 Did your political entity receive more than 80% of its annual gross revenues in Federal Awards in your preceding fiscal year?	No
16 Did your political entity receive \$25,000,000 or more in Federal Awards in your preceding fiscal year?	No
17 If you answered NO to either question 15 and 16, DO NOT answer this question. If you answered YES to both question 15 and 16, and the public does not have access to this information, list the names and compensation amounts of the five most highly compensated employees in your business or organization (the legal entity to which the DUNS number it provided belongs).	

Please use the most current 12-months of data available for answering questions 18-23. Include ALL of your agency's statistics, not just those issued during grant activity.

18	Total number of DWI violations written by your agency.	189
19	Total number of speeding violations written by your agency.	2,327
20	Total number of HMV violations written by your agency.	4,230
21	Total number of child safety/booster seat violations written by your agency.	15
22	Total number of safety belt violations written by your agency.	248
23	Total number of sobriety checkpoints hosted.	2

Use the most current three years crash data from the Missouri State Highway Patrol (MSHP) or your internal record management system for questions 24-34.

24	Total number of traffic crashes.	5,236
25	Total number of traffic crashes resulting in a fatality.	11
26	Total number of traffic crashes resulting in a serious injury.	96
27	Total number of speed-related traffic crashes.	655
28	Total number of speed-related traffic crashes resulting in a fatality.	3
29	Total number of speed-related traffic crashes resulting in a serious injury.	23
30	Total number of alcohol-related traffic crashes.	195
31	Total number of alcohol-related traffic crashes resulting in a fatality.	3
32	Total number of alcohol-related traffic crashes resulting in a serious injury.	18
33	Total number of unbuckled fatalities.	2
34	Total number of unbuckled serious injuries.	10

Enter your agency's information below.

35	Total number of commissioned law enforcement officers.	143
36	Total number of commissioned patrol and traffic officers.	100
37	Total number of commissioned law enforcement officers available for overtime enforcement.	130
38	Total number of vehicles available for enforcement.	26
39	Total number of radars/lasers.	30

- 40 Total number of in-car video cameras. 24
- 41 Total number of PBTs. 23
- 42 Total number of Breath Instruments. 2

The following information explains the strategies your agency will use to address the traffic crash problem. This information is considered to be the Project Description and should be specific to the crash problem.

- 43 Identify primary enforcement locations.

All of US 50 Highway within the city limits - Colbern Road to Smart Road, M-291 Highway within the city limits - Colbern Road to US 50 Highway and US 50 Highway to 150 Highway, 150 Highway within the city limits - Doc Henry Road to Pryor Road, Interstate 470 within the city limits - focusing on the high crash areas and all corridors coming off highway systems within the city limits. Also, the top crash locations as determined by STARS reporting, to include known traffic complaint areas within the city limits.

- 44 Enter the number of enforcement periods your agency will conduct each month. 20

- 45 Enter the months in which enforcement will be conducted.

Enforcement efforts will be conducted all 12 months of the year.

- 46 Enter the days of the week in which enforcement will be conducted.

Typically, Monday through Saturday, which coincides with our crash statistics as being the highest crash activity times.

- 47 Enter the time of day in which enforcement will be conducted.

Officers will focus on enforcement beginning with the morning rush hours and through the evening rush hours.

- 48 Enter the number of officers assigned during the enforcement period. 12

- 49 If equipment or supplies are requested to conduct this project, explain below why it is needed and how it will be used.

DT.

## PROJECT EVALUATION

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The MHTC will administratively evaluate this project. Evaluation will be based, at a minimum, upon the following:

1. Law enforcement compliance with state UCR, Racial Profiling, and STARS reporting requirements (law enforcement contracts only)
2. Timely submission of monthly reimbursement vouchers and appropriate documentation to support reimbursement for expenditures (i.e., personal services, equipment, materials)
3. Timely submission of periodic reports (i.e., monthly, quarterly, semi-annual) as required
4. Timely submission of the Year End Report of activity (due within 30 days after contract completion date)
5. Attaining the Goals set forth in this contract\*
6. Accomplishing the Objectives\* established to meet the project Goals, such as:
  - Enforcement activities (planned activities compared with actual activities)
  - Programs (number and success of programs held compared to planned programs, evaluations if available)
  - Training (actual vs. anticipated enrollment, student evaluations of the class, student test scores on course examinations, location of classes, class cancellation information)
  - Equipment purchases (timely purchase of equipment utilized to support and enhance the traffic safety effort; documentation of equipment use and frequency of use)
  - Public awareness activities (media releases, promotion events, incentive items or education materials produced or purchased)
  - Other (any other information or material that supports the Objectives)
7. The project will be evaluated by the Traffic and Highway Safety Division through annual crash analysis .

Evaluation results will be used to determine:

- The success of this type of activity in general and this particular project specifically ;
- Whether similar activities should be supported in the future; and
- Whether grantee will receive funding for future projects.

The Lee's Summit Police Department conducts monthly reviews of officer's activities such as car stops, tickets/warnings written, and the number of crashes worked. We also review traffic crash statistics quarterly to include top crash locations (city, state or private), top contributing circumstances and citations issued. We also compare the previous year's statistics to the current year's statistics to determine effectiveness. All of this data is compiled into a report, which then allows supervision to direct traffic and patrol officer activities in the most efficient manner possible . Officers are directed to work these high priority locations in an effort to decrease traffic accidents and educate drivers . These efforts will continue to be followed to measure the department effectiveness.

D.F.

ADDITIONAL FUNDING SOURCES

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**BUDGET**

Category	Item	Description	Quantity	Cost	Total	Local	Total Requested
Equipment							
					\$0.00	\$0.00	\$0.00
Personnel							
	Overtime and Fringe	Overtime for commissioned officers to conduct HMV enforcement.	1.00	\$25,000.00	\$25,000.00	\$0.00	\$25,000.00
					\$25,000.00	\$0.00	\$25,000.00
Training							
	Professional Development	Three officers for LETSAC Conference.	3.00	\$750.00	\$2,250.00	\$0.00	\$2,250.00
					\$2,250.00	\$0.00	\$2,250.00
<b>Total Contract</b>					\$27,250.00	\$0.00	\$27,250.00

## ATTACHMENTS

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Document Type

Description

Original File Name

Date Added





Missouri Department of Transportation

Traffic and Highway Safety

830 MoDOT Drive  
P.O. Box 270  
Jefferson City, MO 65102  
573-751-4161  
1-800-800-2358  
Fax: 573-634-5977

August 11, 2017

Chief Travis Forbes  
Lee's Summit Police Dept.  
10 NE Tudor Rd  
Lee's Summit, MO 64063-2313

Dear Chief Forbes:

Enclosed is a contract between the Traffic and Highway Safety Division and the Lee's Summit Police Dept. for a Impaired Driving Enf/DWI Saturation project.

The project obligates \$35,000.00 in federal funds for the period October 01, 2017 through September 30, 2018. All expenditures should be claimed against project #18-M5HVE-03-019.

Please review this contract carefully for any discrepancies or questions. If acceptable, have the appropriate individuals sign the Contract Cover Page and have the Project Director **initial at the bottom of each page** to indicate that he/she has reviewed the contract. The Authorizing Official and Project Director signatures on the contract must be signed by two separate individuals. After signing, please return all pages of the contract to the Traffic and Highway Safety Division.

This contract does not become effective until the Highway Safety Director has approved and signed it. No costs can be incurred by your agency prior to the Director's approval. Once the Director approves the contract, a fully executed copy will be returned to your agency.

If you have any questions concerning the project activity or reimbursement procedures, please contact Scott Wilson, Senior System Management Specialist at 573-751-5408. We look forward to working with you and your staff.

Sincerely,



Bill Whitfield  
Highway Safety Director

Enclosure



1891

# CONTRACT

Form HS-1

Version: 1

05/19/2017

Missouri Department of Transportation  
Traffic and Highway Safety Division  
P.O. Box 270  
830 MoDOT Drive  
Jefferson City, MO 65102  
Phone: 573-751-4161  
Fax: 573-634-5977

Project Title: Impaired Driving Enf/DWI Saturation  
Project Number: 18-M5HVE-03-019  
Project Category: 405d Mid HVE  
Program Area: Impaired Driving

Name of Grantee  
Lee's Summit Police Dept.

Funding Source: 405d / 20.616

Type of Project: Initial

Grantee County  
Jackson

Started: 10/01/2017

Grantee Address  
10 NE Tudor Rd  
Lee's Summit, MO 64063-2313

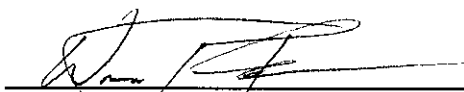
Federal Funds Benefiting  
State: \_\_\_\_\_  
Local: \_\_\_\_\_ \$35,000.00  
Total: \_\_\_\_\_ \$35,000.00

Telephone: 816-969-1700  
Fax: 816-969-1635

Source of Funds  
Federal: \$35,000.00  
State: \_\_\_\_\_  
Local: \_\_\_\_\_ \$0.00  
Total: \_\_\_\_\_ \$35,000.00

Contract Period  
Effective: 10/01/2017  
Through: 09/30/2018

Prepared By  
Wilson, Scott

  
\_\_\_\_\_  
Authorizing Official

8-29-17  
\_\_\_\_\_  
Date

Captain D. Zerger #9425  
\_\_\_\_\_  
Project Director

08/23/17  
\_\_\_\_\_  
Date

Highway Safety Director

Date

It is mutually agreed by the parties executing this contract to the following: the reimbursable costs shall not exceed the total obligated amount of \$35,000.00; the recipient of funds shall proceed with the implementation of the program as detailed in attached forms (which become part of this agreement) and shall adhere to conditions specified in attachments (which become part of this agreement); all Federal and State of Missouri laws and regulations are applicable and any addendums or conditions thereto shall be binding; any facilities and/or equipment acquired in the connection with this agreement shall be used and maintained for highway safety purposes; the recipient of funds must comply with the Title VI of the Civil Rights Act of 1964, and the Federal Funds from other sources, excluding Federal Revenue Sharing Funds, will not be used to match the Federal funds obligated to this project.



IN ORDER TO RECEIVE FEDERAL FUNDING, THE SUBRECIPIENT AGREES TO COMPLY WITH THE FOLLOWING CONDITIONS IN ADDITION TO THOSE OUTLINED IN THE NARRATIVE OF THE CONTRACT.

**I. RELATIONSHIP**

The relationship of the Subrecipient to the Missouri Highways and Transportation Commission (MHTC) shall be that of an independent contractor, not that of a joint enterpriser. The Subrecipient shall have no authority to bind the MHTC for any obligation or expense without the express prior written approval of the MHTC. This agreement is made for the sole benefit of the parties hereto and nothing in the Agreement shall be construed to give any rights or benefits to anyone other than the MHTC and the Subrecipient.

**II. GENERAL REQUIREMENTS**

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4 - Highway Safety Act of 1966, as amended
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 - Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 - Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

**III. INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS**

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

**IV. EQUIPMENT**

**A. PROCUREMENT:** Subrecipient may use its own procurement regulations which reflect applicable state/local laws, rules and regulations provided they adhere to the following:

1. Equipment with a cost of \$3,000 or more must be purchased on a competitive bid basis, or purchased through use of state cooperative procurement;
2. Price or rate quotations shall be solicited from at least three (3) qualified sources;
3. All procurement transactions, regardless of whether by sealed bids or by negotiation, shall be conducted in a manner that provides maximum open and free competition;
4. Subrecipients shall have a clear and accurate description of the item to be purchased. Such description shall not, in competitive procurements, contain features that unduly restrict competition. A "brand name or equal" description may be used as a means to define the performance or other requirement of a procurement;
5. If for some reason the low bid is not acceptable, the Subrecipient must have written approval from the MHTC prior to bid approval and purchase.
6. Subrecipients will make a good faith effort to utilize minority and women owned businesses within resource capabilities when procuring goods and services.

**B. DISPOSITION:** The Subrecipient shall make written request to the MHTC for instructions on the proper disposition of all items of equipment provided under the terms of this contract with a cost of \$5,000 or more. Subrecipient must keep and maintain equipment with a cost of under \$5,000 until it is no longer useful for its originally intended purpose.

**C. REPLACEMENT:** No equipment may be funded on a replacement basis. Participation in equipment and manpower projects must be in addition to the Subrecipient's previous twelve months authorized strength.

**V. FISCAL RESPONSIBILITY**

**A. MAINTENANCE OF RECORDS:** The Subrecipient agrees that the Commission and/or its designees or representatives shall have access to all records related to the grant. The Subrecipient further agrees that the Missouri Department of Transportation (MoDOT) Traffic and Highway Safety (HS) Division, the National Highway Traffic Safety Administration (NHTSA), the Federal Highway Administration (FHWA) and/or any Federal audit agency with jurisdiction over this program and the Auditor of the State of Missouri or any of their duly authorized representatives may have access, for purpose of audit and examinations, to any books, documents, papers or records maintained by the Subrecipient pertaining to this contract and further agrees to maintain such books and records for three years after the date of final project disposition.

**B. REIMBURSEMENT VOUCHER, SUPPORTING DOCUMENTATION AND PAYMENT SCHEDULE:** The MHTC agrees to reimburse the Subrecipient for accomplishment of all authorized activities performed under this contract. Reimbursement proceedings will be initiated upon the receipt of a claim voucher and supporting documentation from the Subrecipient, as required by the MHTC. The voucher must reflect actual costs and work accomplished during the project period, to be submitted on the appropriate MHTC certified payroll form or in a format approved by the MHTC, and shall include project number, project period, hours worked, rate of pay, any other allowable expenditures, and must be signed by the contracting official. Vouchers should be received by the MHTC within ten (10) working days from the date of the authorizing official/project director's signature. Final payment is contingent upon receipt of final voucher. **AUDITS:** Subrecipient will be responsible for the required supporting documentation no later than 30 days after the end of the contract period.

**C. ACCOUNTING:** The Subrecipient shall maintain all documentation in file for audit review; failure to provide supporting documentation at the time of audit could result in questioned costs. The Subrecipient must document the following: (1) Receipt of federal funds, (2) date and amount paid to officers, (3) officer's timesheet (regular hours and overtime hours). Documentation shall be kept available for inspection for representatives of the MHTC for a period of three years following date of final payments. Copies of such records shall be made available upon request.

**D. OMB AUDIT:** A subrecipient that expends \$750,000 or more during the subrecipient's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of 2 CFR §200.501. A copy of the Audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. A subrecipient that expends less than \$750,000 during the subrecipient's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO). Failure to furnish an acceptable audit may be basis for refunding federal funds to the MHTC. Cost records and accounts pertaining to the work covered by this contract shall be kept available for inspection for representatives of the MHTC for a period of three (3) years following date of final payments. Copies of such records shall be made available upon request.

**VI. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)**

The State will comply with FFATA guidance, OMB Guidance on FFATA Subward and Executive Compensation Reporting, August 27, 2010,

([https://www.fsrs.gov/documents/OMB\\_Guidance\\_on\\_FFATA\\_Subaward\\_and\\_Executive\\_Compensation\\_Reporting\\_08272010.pdf](https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf)) by reporting to FSRS.gov for each sub-grant awarded:

- A. Name of the entity receiving the award;
- B. Amount of the award;
- C. Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- D. Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- E. A unique identifier (DUNS);
- F. The names and total compensation of the five most highly compensated officers of the entity if:
  - 1. the entity in the preceding fiscal year received-
    - a. 80 percent or more of its annual gross revenues in Federal awards;
    - b. \$25,000,000 or more in annual gross revenues from Federal awards; and
  - 2. the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- G. Other relevant information specified by OMB guidance.

**VII. TERMINATION**

If, through any cause, the Subrecipient shall fail to fulfill in timely and proper manner its obligation under this contract, or if the Subrecipient shall violate any of the covenants, agreements or stipulations of this contract, the MHTC shall thereupon have the right to terminate this contract and withhold further payment of any kind by giving written notice to the Subrecipient of such termination and specifying the effective date thereof, at least thirty (30) days before such date. The MHTC shall be the sole arbitrator of whether the Subrecipient or its subcontractor is performing its work in a proper manner with reference to the quality of work performed by the Subrecipient-or its subcontractor under the provisions of this contract. The Subrecipient and the MHTC further agree that this contract may be terminated by either party by giving written notice of such termination and specifying the effective date thereof, at least thirty (30) days before such date.

**VIII. NONDISCRIMINATION**

(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.*), and **Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, sub-recipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR at 74087 to 74100).

The State highway safety agency-

1. Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted.
2. Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
3. Agrees to comply (and require any of its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
4. Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
5. Insert in all contracts and funding agreements with other State or private entities the following clause:

During the performance of this contract/funding agreement, the contractor/funding recipient agrees-

1. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
2. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR part 21 and herein;
3. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;

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4. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
5. To insert this clause, including paragraphs 1 through 5, in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement that receives Federal funds under this program.

**IX. STATUTORY AND REGULATORY REQUIREMENTS**

**A. COMPLIANCE:** The Subrecipient must comply with the following Statutes or Rules:

1. Peace Officer Standards and Training (P.O.S.T.) Chapter 590 RSMo Department of Public Safety (DPS) certification of peace officers
2. Statewide Traffic Accident Records System (STARS) 43.250 RSMo--Law enforcement officer to file all crash reports with Missouri State Highway Patrol (MSHP).
4. Uniform Crime Reporting RSMo 43.505-Crime incident reports shall be submitted to DPS on forms or in format prescribed by DPS.
5. Racial Profiling RSMo 590.650-Law enforcement agency to file a report to the Attorney General each calendar year.
6. US DOT AND OMB REGULATIONS: The Subrecipient shall comply with all requirements of 2 CFR Parts 200 and 1201 beginning with the federal fiscal year 2016: starting October 1, 2015.

- X. PRODUCTION & DEVELOPMENT COSTS** Items produced with federal funds are within the public domain and are not bound by copyright restrictions. All items produced with federal funds, in whole or in part, must acknowledge this by clearly indicating that MoDOT Traffic and Highway Safety funding supported this effort. Examples may include, but are not limited to print materials; incentive items; audio/video productions; and training aides such as curricula or workbooks. Any materials developed under this contract must be submitted to the MHTC for approval prior to final print and distribution. Copies of all final products are to be provided to the MHTC. The MHTC has the right to reproduce and distribute materials as the MHTC deems appropriate.

- XI. INDEMNIFICATION** Option 1 below only applies to State agencies, Cities, Counties and other political subdivisions or political corporations of the State of Missouri. Option 2 applies to all other entities (e.g. non-profit, private institutions).

**OPTION 1:**

**A.** To the extent allowed or imposed by law, the Subrecipient shall defend, indemnify and hold harmless the MHTC, including its members and MoDOT employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Subrecipient's wrongful or negligent performance of its obligations under this Agreement. The Subrecipient may satisfy this requirement utilizing a self-funded program.

**B.** The Subrecipient will require any contractor procured by the Subrecipient to work under this Agreement:

1. To obtain a no cost permit from the MHTC's district engineer prior to working on the MHTC's right-of-way, which shall be signed by an authorized contractor representative (a permit from the MHTC's district engineer will not be required for work outside of the MHTC's right-of-way); and
2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the MHTC, and the MoDOT and its employees, as additional named insured's in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

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

**OPTION 2:**

The Subrecipient shall defend, indemnify and hold harmless the MHTC, including its members and the MoDOT employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Subrecipient's performance of its obligations under this Agreement.

**XII. AMENDMENTS** The Budget Proposal within this Agreement may be revised by the Subrecipient and the MHTC subject to the MHTC's approval without a signed amendment as long as the total contract amount is not altered. Prior to any revision being made to the Budget Proposal, Subrecipient shall submit a written request to the MHTC requesting the change. Any other change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the Subrecipient and the MHTC.

**XIII. MHTC REPRESENTATIVE** The MoDOT Traffic and Highway Safety Division Director is designated as the MHTC's representative for the purpose of administering the provisions of this Agreement. The MHTC's representative may designate by written notice other persons having the authority to act on behalf of the MHTC in furtherance of the performance of this Agreement.

**XIV. ASSIGNMENT** The Subrecipient shall not assign, transfer, or delegate any interest in this Agreement without the prior written consent of the MHTC.

**XV. LAW OF MISSOURI TO GOVERN** This Agreement shall be construed according to the laws of the State of Missouri. The Subrecipient shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

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

**XVII. SECTION HEADINGS** All section headings contained in this Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

**XVIII. NONSEGREGATED FACILITIES**  
(Applicable to contracts over \$10,000) Subrecipient and its subcontractors, suppliers and vendors, should meet Federal requirements regarding nonsegregated facilities.

**XIX. FUNDING ORIGATION AND AUDIT INFORMATION**  
The MHTC funds the following NHTSA program areas:

<u>Section</u>	<u>CFDA#</u>	<u>Program Title</u>
402	20.600	State and Community Highway Safety Programs
154	20.607	Alcohol Open Container Requirements
164	20.608	Minimum Penalties for Repeat Offenders for Driving While Intoxicated
405b	20.616	National Priority Safety Programs
405c	20.616	National Priority Safety Programs
405d	20.616	National Priority Safety Programs
405f	20.616	National Priority Safety Programs

**XX. THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)**  
The State will provide a drug-free workplace by:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing a drug-free awareness program to inform employees about:
  - 1. The dangers of drug abuse in the workplace.
  - 2. The Subrecipient's policy of maintaining a drug-free workplace.
  - 3. Any available drug counseling, rehabilitation, and employee assistance programs.
  - 4. The penalties that may be imposed upon employees for drug violations occurring in the workplace.
  - 5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (A).



CONTRACT CONDITIONS - PAGE 7

- C. Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the grant, the employee will:
  - a. Abide by the terms of the statement.
  - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- D. Notifying the agency within ten days after receiving notice under subparagraph (C)(b) from an employee or otherwise receiving actual notice of such conviction.
- E. Taking one of the following actions, within 30 days of receiving notice under subparagraph (C)(b), with respect to any employee who is so convicted:
  - a. Taking appropriate personnel action against such an employee, up to and including termination.
  - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- F. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

**XXI. POLITICAL ACTIVITY (HATCH ACT)  
(applies to subrecipients as well as States)**

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

**XXII. CERTIFICATION REGARDING FEDERAL LOBBYING  
(applies to subrecipients as well as States)**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

**XXIII. RESTRICTION ON STATE LOBBYING  
(applies to subrecipients as well as States)**

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

XXIV. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

(applies to subrecipients as well as States)

Instructions for Primary Certification (States)

- A. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1300.
- B. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- C. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
- D. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- E. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of 2 CFR Part 180. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- F. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
- G. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1300.
- H. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
- I. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- J. Except for transactions authorized under paragraph F of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

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

- 1. The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

CONTRACT CONDITIONS - PAGE 9

- b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
  - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

- A. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1300.
- B. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- C. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- D. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR Part 180. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- E. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
- F. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR Parts 180 and 1300.
- G. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
- H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- I. Except for transactions authorized under paragraph E of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

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

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

**XXV. BUY AMERICA ACT**  
(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase only steel, iron and manufactured products produced in the United States with Federal funds, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification to and approved by the Secretary of Transportation.

All items purchased must be compliant with the National Highway Traffic Safety Administration (NHTSA) interpretation of the Buy America Act including, but not limited to:

1. Items valued over \$5,000 per unit must be manufactured or assembled in the United States of America, or as allowed by a current Buy America Act waiver issued by the NHTSA;
2. All vehicles must be manufactured or assembled in the United States of America regardless of cost.

[www.nhtsa.gov/staticfiles/administration/programs-grants/Buy-America-Act-revised-11202015.pdf](http://www.nhtsa.gov/staticfiles/administration/programs-grants/Buy-America-Act-revised-11202015.pdf)

**XXVI. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE**  
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

**XXVII. POLICY ON SEAT BELT USE**

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Subrecipient is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov). Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, D.C. metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its website at [www.trafficsafety.org](http://www.trafficsafety.org).

**XXVIII. POLICY ON BANNING TEXT MESSAGING WHILE DRIVING**

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or -rented vehicles, Government-owned, leased or rented vehicles, or privately-owned when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

## CONTRACT REQUIREMENTS

### THE FOLLOWING REQUIREMENTS ONLY APPLY TO CONTRACTS THAT INCLUDE TRAINING

Subrecipients offering the MHTC-funded courses must adhere to the following standard elements required for training contracts:

- A. A course schedule must be presented to the MHTC program coordinator prior to the proposed training. The schedule should include: title of course; date(s); time; exact location; and agenda. Any changes to the course schedule must have prior approval from the MHTC.
- B. Each student must complete a survey form at the completion of the workshop/training. The survey will ask a series of questions concerning adequacy of: training received; instructor's presentation; training facility/location; and worth of the training.
- C. The Subrecipient must provide a sign-up sheet for every class when submitting a reimbursement request for the course (a typed list of everyone who registered is not acceptable). The sign-up sheet must capture the following information:
  1. Title of the class
  2. Date(s) and location of class
  3. Printed Name and signature of attendees (unless otherwise prohibited)
  4. Name of agency/organization of each attendee
- D. To ensure cost effectiveness, every effort should be made to enroll a minimum of fifteen (15) students per class.
- E. Copies of the student evaluations, number of students enrolled/number of students attending, agenda/syllabus/curriculum, and participant sign-up sheets must be retained in Subrecipient's files after the training has been conducted and available for MHTC review upon request.

### THE FOLLOWING REQUIREMENTS APPLY TO LAW ENFORCEMENT AGENCIES ONLY

#### A. PROBLEM IDENTIFICATION

Subrecipient must develop a selected traffic enforcement plan by evaluating crash data involving fatal, disabling and moderate injuries. This will be done on an annual basis to determine the highest crash locations, to include: month of year, day of week, time of day, and causation factors. This plan must be used to determine locations utilized in site selection for conducting enforcement efforts. Any changes to the enforcement plan must be made in writing to the MHTC project coordinator in advance of enforcement efforts.

#### B. PROJECT ACTIVITIES

1. Enforcement activities by the Subrecipient must remain at the current level. Enforcement efforts provided by this contract must be in addition to current enforcement activities.
2. Officers will be permitted and encouraged to issue multiple citations and/or written warnings to drivers who have committed several violations.
3. High visibility enforcement is a key strategy to reducing traffic crashes; therefore, law enforcement officers working overtime projects are strongly encouraged to make at least three (3) contacts per hour when conducting an enforcement project.
4. Subrecipient should report monthly or at least quarterly to MHTC using the *Grant Enforcement Activities Monthly Report Form*.
5. Subrecipient is strongly encouraged to participate in all national or state mobilization efforts in conjunction with, or at the direction of, the Traffic and Highway Safety Division. These mobilizations include, but are not limited to: Click It or Ticket campaign, impaired driving campaign, youth seat belt enforcement campaign, and quarterly enforcement efforts. Mobilization reporting efforts shall be completed using the online mobilization reporting form located at: [www.modot.mo.gov/safety](http://www.modot.mo.gov/safety).
6. Only law enforcement work performed by a duly licensed, Peace Officer Standards and Training certified law enforcement officer will be reimbursed.
7. The Subrecipient will not be eligible for reimbursement for any individual law enforcement officer working under this grant in excess of 40 hours for any two week pay period. The Subrecipient will not be eligible for reimbursement for any individual law enforcement officer working under this grant where said officer is claiming to have worked as a law enforcement officer for more than 16 hours in any 24 hour period.

**C. PARTNERSHIPS**

Law Enforcement agencies are strongly encouraged to participate in the Law Enforcement Traffic Safety Advisory Council (LETSAC) and attend the general meetings and annual conference. Agencies located within the metropolitan areas of St. Louis or Kansas City should participate in Operation Impact ( traffic safety task force).

**D. ALLOWABLE COSTS**

Full-time, part-time and reserve officers are eligible to participate in overtime enforcement projects. Part-time and reserve officers must have the same authority as a full-time permanent officer. MHTC will reimburse Subrecipient at officer's standard rate of pay in accordance with Subrecipient policies and procedures regarding standard rate of pay and overtime rate of pay. The Subrecipient will not be reimbursed at the overtime rate for work that according to Subrecipient's own policies and procedures does not constitute overtime. Non- POST certified personnel may be allowed, at the sole discretion of MHTC, in a support/administrative role.

Exceptions to allowable costs may be made with prior written permission of the MHTC.

**E. DRUNK DRIVING ENFORCEMENT PROJECTS**

1. Those officers conducting standardized field sobriety testing must have 24 hours of Standardized Field Sobriety Test training to participate in grant funded enforcement efforts.
2. Agency should participate in quarterly enforcement efforts and the national impaired driving crackdown held annually.

**F. SOBRIETY CHECKPOINTS**

Unless otherwise prohibited by state statute or appropriation,

1. The MHTC will fund enforcement agencies to conduct sobriety checkpoints in accordance with standards outlined in the Sobriety Checkpoint Reference Manual and the Sobriety Checkpoint Supervisor Training program.
2. Sobriety checkpoint enforcement efforts must be coupled with appropriate public information efforts to increase the perceived risk of arrest and to enhance the actual risk of arrest.
3. Enforcement statistics and the agency's sobriety checkpoint operations plan must be submitted with reimbursement vouchers.

## PROBLEM IDENTIFICATION

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Alcohol and other drugs contribute substantially to traffic crashes on Missouri's roads, particularly those resulting in death or serious injury. In the 2012-2014 period, 414,173 traffic crashes occurred in the state. Of those, 0.5% resulted in a fatality and 2.9% involved someone being seriously injured. During the same time period, there were 19,161 traffic crashes where one or more drivers, pedestrians, and/or bicyclists were under the influence of intoxicants and in the opinion of the investigating officer their intoxicated condition was a contributing factor to the crash. In these crashes where drivers, pedestrians or bicyclists were impaired by alcohol or other drugs, 689 people were killed and another 2,447 were seriously injured. It also is important to note that substance-impaired driving is under-reported as a contributing factor in traffic crashes. This under-reporting is due to drivers undergoing injuries sustained from crashes without being tested for blood alcohol content. Also, some forms of drug impairment may not be apparent to officers on the scene. As a result, it is an even greater problem than these statistics would indicate. In addition, 86.1% of substance-impaired drivers killed also failed to wear a safety belt further compounding the problem of substance-impaired driving.

A common misconception is that substance-impaired drivers are primarily injuring and killing themselves. While that is often true, a substantial number of people killed and seriously injured in these crashes were not intoxicated by alcohol or other drugs. Their actions in these incidents probably did not contribute to the cause of the collision. Of the 689 people killed in alcohol and other drug-related traffic crashes, 71.4% were the substance-impaired drivers/pedestrians/bicyclists and 28.6% were some other involved party. Of the 2,447 seriously injured, 61.8% were the substance-impaired drivers/pedestrians/bicyclists while 38.2% were other persons in the incidents.

During FY 2013-2015, there were 63,148 motor vehicle crashes in Jackson County and 5,236 in the City of Lee's Summit. Of those 5,236 crashes, 195 were alcohol related. Of the 195 alcohol related crashes in Lee's Summit, 3 were fatalities and 18 were serious injuries. Jackson County and the City of Lee's Summit have consistently experienced a high percentage of drinking-involved crashes. The following shows comparative analysis of where Jackson County and Lee's Summit rank as compared to other cities and counties in Missouri.

### Drinking-Involved Crashes:

Jackson County - 2nd in the state

Lee's Summit - 8th in the state

### Serious Injury - Alcohol-Involved:

Jackson County - 1st in the state

Lee's Summit - 6th in the state

### Fatal - Alcohol Involved:

Jackson County - 1st in the state

Lee's Summit - tied for 6th in the state

In 2016 the Lee's Summit Police Department conducted 2 DWI Checkpoints and 10 Saturation Patrols. The department had a total of 189 DWI arrests.

The top 10 Crash Locations in Lee's Summit in 2016 were:

- 1) M-291 Highway & US 50 Highway
- 2) 3rd Street & US 50 Highway
- 3) Chipman Road & US 50 Highway
- 4) US 50 Highway & M-291 Highway
- 5) Langsford Road & M-291 Highway
- 6) M-150 Highway & M-291 Highway
- 7) Blue Parkway & M-291 Highway
- 8) M-291 Highway & Parsels Road
- 9) Sam Walton Lane (Wal-Mart)
- 10) Blue Parkway & Chipman Road

In 2016, the high crash days of the week were Monday through Saturday. The highest times for crashes were during morning and evening rush hours.

## GOALS/OBJECTIVES

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Goal: To decrease fatalities involving drivers with .08 BAC or greater to:

- 271 by 2013
- 258 by 2014
- 246 by 2015
- 233 by 2016

Performance Measure:

Number of fatalities involving drivers with .08 BAC or greater

Benchmark:

2012 fatalities involving drivers with .08 BAC or greater = 283  
(246 in 2013, 204 in 2014)

Objectives:

1. Participate in the National Impaired Driving Crackdown campaign
2. Participate in the quarterly impaired driving enforcement campaigns
3. Develop and implement a high visibility DWI enforcement plan involving saturation patrols

The Lee's Summit Police Department's goals for 2018 are to conduct 12 saturation patrols.



## PROJECT DESCRIPTION

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The Lee's Summit Police Department plans on conducting DWI saturation patrols in areas known to have alcohol related crashes and arrests. It is anticipated that performing DWI saturation patrols in and around the downtown area bar district will lower the number of intoxicated drivers on our roadways.



**SUPPLEMENTAL INFORMATION**

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<u>Question</u>	<u>Answer</u>
You must answer the following questions.	
1 Does your agency have and enforce an internal safety belt policy for all personnel?	Yes
2 Does your agency have and enforce a policy restricting cell phone use while driving?	Yes
3 Does your agency report racial profiling data annually?	Yes
4 Does your agency report to STARS?	Yes
5 Does your agency report UCR information annually?	Yes
6 Please explain any NO answer(s) to questions 1-5:	
7 Have any of your officers/personnel been debarred and are therefore not eligible to receive federal funds for reimbursement of salary, fringe benefits, or overtime?	No
8 Does your agency have adequate manpower to fully expend the funds requested in this application?	Yes
9 If NO, please explain.	
10 Have any significant changes occurred with your agency within the last year that would affect performance, including personnel or system changes?	No
11 If YES, please explain.	
12 Are you aware of any fraud, waste or abuse on grant projects in your office/agency within the last 5 years?	No
13 If YES, please explain.	
14 If your agency received Highway Safety grant funding in the last three (3) fiscal years and there were unexpended balances, please explain why.	
<p align="center">We had funds left over in the DWI grant in 2016 due to additional special events encountered by our agency. We have worked with city officials to limit the number of these events; therefore, allowing more DWI grant enforcement activities to be conducted.</p>	
15 Did your political entity receive more than 80% of its annual gross revenues in Federal Awards in your preceding fiscal year?	No
16 Did your political entity receive \$25,000,000 or more in Federal Awards in your preceding fiscal year?	No
17 If you answered NO to either question 15 and 16, DO NOT answer this question. If you answered YES to both question 15 and 16, and the public does not have access to this information, list the names and compensation amounts of the five most highly compensated employees in your business or organization (the legal entity to which the DUNS number it provided belongs).	

Please use the most current 12-months of data available for answering questions 18-23. Include ALL of your agency's statistics, not just those issued during grant activity.

18 Total number of DWI violations written by your agency.	189
19 Total number of speeding violations written by your agency.	2,327
20 Total number of HMV violations written by your agency.	4,230
21 Total number of child safety/booster seat violations written by your agency.	15
22 Total number of safety belt violations written by your agency.	248
23 Total number of sobriety checkpoints hosted.	2

Use the most current three years crash data from the Missouri State Highway Patrol (MSHP) or your internal record management system for questions 24-34.

24 Total number of traffic crashes.	5,236
25 Total number of traffic crashes resulting in a fatality.	11
26 Total number of traffic crashes resulting in a serious injury.	96
27 Total number of speed-related traffic crashes.	655
28 Total number of speed-related traffic crashes resulting in a fatality.	3
29 Total number of speed-related traffic crashes resulting in a serious injury.	23
30 Total number of alcohol-related traffic crashes.	195
31 Total number of alcohol-related traffic crashes resulting in a fatality.	3
32 Total number of alcohol-related traffic crashes resulting in a serious injury.	18
33 Total number of unbuckled fatalities.	2
34 Total number of unbuckled serious injuries.	10

Enter your agency's information below.

35 Total number of commissioned law enforcement officers.	143
36 Total number of commissioned patrol and traffic officers.	100
37 Total number of commissioned law enforcement officers available for overtime enforcement.	130
38 Total number of vehicles available for enforcement.	26
39 Total number of radars/lasers.	30

- 40 Total number of in-car video cameras. 24
- 41 Total number of PBTs. 23
- 42 Total number of Breath Instruments. 2

The following information explains the strategies your agency will use to address the traffic crash problem. This information is considered to be the Project Description and should be specific to the crash problem.

- 43 Identify primary enforcement locations.

All of US 50 Highway, M-291 Highway, 150 Highway & Interstate 470, within the city limits - focusing on the high crash areas and all corridors coming off highway systems within the city limits. Also, the downtown bar district and surrounding streets within the city limits.

- 44 Enter the number of enforcement periods your agency will conduct each month. 16

- 45 Enter the months in which enforcement will be conducted.

Each month of the year.

- 46 Enter the days of the week in which enforcement will be conducted.

Typically, Wednesday through the early morning hours of Sunday as reflected by DWI arrest statistics.

- 47 Enter the time of day in which enforcement will be conducted.

During the late night and early morning hours.

- 48 Enter the number of officers assigned during the enforcement period. 10

- 49 If equipment or supplies are requested to conduct this project, explain below why it is needed and how it will be used.

## PROJECT EVALUATION

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The MHTC will administratively evaluate this project. Evaluation will be based, at a minimum, upon the following:

1. Law enforcement compliance with state UCR, Racial Profiling, and STARS reporting requirements (law enforcement contracts only)
2. Timely submission of monthly reimbursement vouchers and appropriate documentation to support reimbursement for expenditures (i.e., personal services, equipment, materials)
3. Timely submission of periodic reports (i.e., monthly, quarterly, semi-annual) as required
4. Timely submission of the Year End Report of activity (due within 30 days after contract completion date)
5. Attaining the Goals set forth in this contract\*
6. Accomplishing the Objectives\* established to meet the project Goals, such as:
  - Enforcement activities (planned activities compared with actual activities)
  - Programs (number and success of programs held compared to planned programs, evaluations if available)
  - Training (actual vs. anticipated enrollment, student evaluations of the class, student test scores on course examinations, location of classes, class cancellation information)
  - Equipment purchases (timely purchase of equipment utilized to support and enhance the traffic safety effort ; documentation of equipment use and frequency of use)
  - Public awareness activities (media releases, promotion events, incentive items or education materials produced or purchased)
  - Other (any other information or material that supports the Objectives)
7. The project will be evaluated by the Traffic and Highway Safety Division through annual crash analysis .

Evaluation results will be used to determine:

- The success of this type of activity in general and this particular project specifically ;
- Whether similar activities should be supported in the future; and
- Whether grantee will receive funding for future projects.

\*Evaluation and requests to fund future projects will not be based solely on attaining Goals and/or Objectives if satisfactory justification is provided.

The Lee's Summit Police Department conducts monthly reviews of officer's activities such as car stops, tickets/written warnings, number of crashes worked and DWI arrests. A quarterly report is also produced, which captures top 10 crash locations (City, State, or Private); top contributing circumstances, citations, and DWI arrests. This information is compiled and provided to supervision, so that officers may be directed in their efforts in a more efficient manner. These efforts will continue to be followed and monitored for department effectiveness.



ADDITIONAL FUNDING SOURCES

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**BUDGET**

Category	Item	Description	Quantity	Cost	Total	Local	Total Requested
Personnel							
	Overtime and Fringe	Overtime for Detention Personnel to work during DWI Saturation Patrols	1.00	\$1,000.00	\$1,000.00	\$0.00	\$1,000.00
	Overtime and Fringe	Civilian dispatcher OT during saturation patrols	1.00	\$1,500.00	\$1,500.00	\$0.00	\$1,500.00
	Overtime and Fringe	Overtime for sworn officers to work DWI Saturation Patrols.	1.00	\$31,000.00	\$31,000.00	\$0.00	\$31,000.00
					\$33,500.00	\$0.00	\$33,500.00
Training							
	Professional Development	DWI State Conference & DWI Related Training	1.00	\$1,500.00	\$1,500.00	\$0.00	\$1,500.00
					\$1,500.00	\$0.00	\$1,500.00
<b>Total Contract</b>					<b>\$35,000.00</b>	<b>\$0.00</b>	<b>\$35,000.00</b>

## ATTACHMENTS

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Document Type

Description

Original File Name

Date Added





## Packet Information

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**File #:** 2017-1426, **Version:** 1

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Presentation and Update from Velocity LS (formerly Market Center of Ideas)

Issue/Request:

Presentation and Update from Velocity LS (formerly Market Center of Ideas)

Key Issues:

Market Center of Ideas Board of Directors President, Chuck Cooper, will provide a status update regarding the activities of the Board and its future direction.

Proposed City Council Motion:

N/A

Background:

The Market Center of Ideas is a 501c3 organization serving Lee's Summit Entrepreneurs. In 2016, the Board of Directors received funding through a public service agreement with the City to provide startup funds for the purpose of assisting entrepreneurs and enhancing economic development outcomes.

Presenter: Chuck Cooper, President, Market Center of Ideas

Recommendation:



Lee's Summit City Council Update  
September 21, 2017



has become.....

*velocity*  
LEE'S SUMMIT

# Our Organization...

- Community volunteers dedicated to supporting entrepreneurs
- Vested partners pursuing economic vitality for Lee's Summit residents and business owners
- 501c3 organization comprised of invested community stakeholders

## Our Board:

- Chuck Cooper
- Chip Moxley
- Jon Cundiff
- Jeff Danley
- Rosalie Newkirk
- Steve Marsh
- Mark Brigman
- Matt Baird
- Rick Viar
- Rick McDowell
- Donnie Rodgers

# Our Mission...

Provide high quality mentoring and leadership services, administrative support, and low cost facilities to growth oriented companies that will result in positive business activity and job creation in Lee's Summit, Missouri.



**velocity**  
LEE'S SUMMIT



# Who we serve...





Dec 2016: Velocity Events committee formation  
Julia Hampton, CPA; Tim Denker; Joe Mullins; Ben Rao;  
DJ Good; Chris Palmer; Seth Kakuske  
2017 event series: Business lifecycle of an entrepreneur



**VELOCITY**  
EVENTS

Free Event  
Sponsored by:  
**LS** Market Center of  
**IDEAS**

**Entrepreneur Panel  
& Networking Night**

INCLUDES  
FREE FOOD & DRINKS  
**FREE EVENT**

February 23: Velocity Events kick-off. Contra Software host. 90+ attendees. Expert panel of successful entrepreneurs.





# INNOVATE 8 PROGRAM

DESIGNED WITH CREATIVITY AND OPPORTUNITY IN MIND!

TIME: 8AM - 1:30PM  
 DATE: APR 3RD, 2017  
 LOCATION: LEE'S SUMMIT WEST HS IN LECTURE HALL

**WHAT IS IT?**  
 DISCOVER:  
 - WHAT IS INNOVATION  
 - HOW DO WE INNOVATE  
 - WHAT WE'VE INNOVATED

EXPLORE INNOVATION AND CREATE SOMETHING NEW  
 RETHINK, RETEST, & RE-DEVELOP THE PRODUCTS AND SERVICES YOU USE EVERY DAY!

SIGN UP FOR THE INNOVATE 8 PROGRAM TODAY!

Market Center  
**LS IDEAS**  
 Lee's Summit Chamber  
 UNIVERSITY OF CENTRAL MISSOURI  
 BUSINESS AND PROFESSIONAL STUDIES  
 tingle flooring



April 3: MCOI served as co-sponsor to Innovate 8 program. MCOI board members judged local high school teams' Innovation Presentations.



April 20: Determine your Ideal Business Structure. Tingle Flooring host. 70+ attendees. Expert tax and legal panel shared insight on business formation. Live business pitch.



May 18: MCOI networking and social.  
Smoke Brewing host. 30+ attendees.  
Two live business pitches.



June 15: Know Your Ask – Raising Capital. Paradise Park host. 65+ attendees. Expert panel. Business funding strategies and discussion. Two live business pitches.



July 20: Velocity networking event. Fringe Beerworks host. 20+ attendees. Two live business pitches.





August 16: Bootstrapping Your Business. Contra Software host. 3 CEO expert panel described their success stories in managing resources while scaling the business for growth. Live business pitch. Update from UCM/MIC.

# Why is it important...

- Attract, Retain,.....**Grow!**
  - Startups and Early Stage businesses account for 70% of all job growth (CBPP). Velocity Lee's Summit is a "talent scout"
- The LS job market is and will be **changing**
  - The internet has changed traditional brick & mortar strategy
  - Developing paradigm shift to co-working facilities
  - Workforce development needs are fluid
- The LS **Entrepreneur** is underserved
  - Regional resources threaten to lure away our best and brightest start-up companies

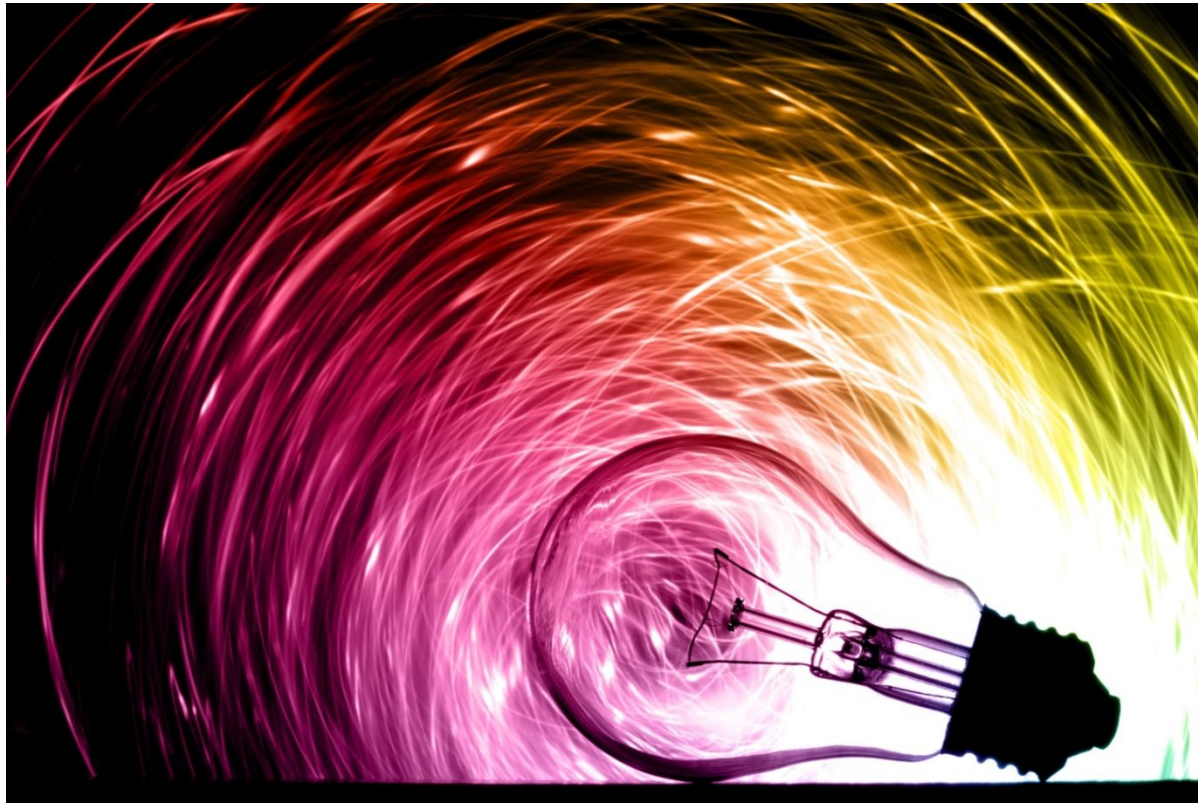
# What we need...

- Access to funding and capital
- Administrative capacity (Executive Director)
  - Grant proposal writing skills
- Continued marketing and communication efforts to build our network of Lee's Summit start-ups and rapidly growing businesses
- Support and funding to partner with Digital Sandbox, the local bona fide standard providing proof-of-concept resources to support early stage businesses
- Recognition as a Community Partner



# What we will do next...

- Continue development of the growing ecosystem as a reliable and facilitating resource for start-ups and entrepreneurs
- Enhance already top caliber programming and event value
- Strengthen Velocity's brand and identity through digital marketing and social media venues
- Secure private investment through grants and fundraising for grant competitions and community stakeholder sponsored events. Awaiting word on MTC/MOBEC grant request...
- Build key partner relationships (MIC, Bridge, R7, UCM, MCCLV, Chamber, EDC, City) through clear and strategic collaboration
- Host two Global Entrepreneurship Week events in partnership with KC SourceLink. Hosts: UCM/MIC and Fossil Forge



Velocity Lee's Summit is actively engaged with strategic partners to formalize collaborative relationships -- LS RVII, STA, MIC, UCM. As a critical hub, we seek to provide resource programs through entrepreneurial partnerships and CONNECT our local stakeholders: start-ups through scaling for growth Lee's Summit businesses, co-working facilities, secondary and post-secondary education providers, City, and our community.

# Where we go from here...

Goal 1: Develop a self sustaining fundraising plan

Goal 2: Incentivize entrepreneurial growth through grants and partnership with Digital Sandbox

Goal 3: Selection of an Executive Director

Goal 4: Secure funding for the next 3-5 years

# Our 'ask' today...

- We ask for your support:
  - Follow us on Facebook
  - Connect on LinkedIn
  - Watch for the [www.velocityleessummit.org](http://www.velocityleessummit.org)
  - Help us connect to entrepreneurs
  - Join us at Velocity Events
  - Use your decision making power to empower entrepreneurs and facilitate their ability to flourish in our Lee's Summit business environment

## Packet Information

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**File #:** 2017-1456, **Version:** 1

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PUBLIC HEARING - Application #PL2017-135 - VACATION OF RIGHT-OF-WAY - all of SE 23<sup>rd</sup> Street and SE Reiss Drive within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Highway and SE Stuart Road; Engineering Solutions, LLC, applicant.

(NOTE: This item was **CONTINUED** from September 7, 2017, per Staff's request.)

Issue/Request:

This application is to vacate all of SE 23<sup>rd</sup> St. and SE Reiss Dr. within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd. All of the property comprising Reiss Industrial Park has been purchased by Eagle Creek Family Church and is in the process of being developed into a new church. The preliminary development plan (Appl. #PL2015-131) for the Eagle Creek Church development was approved by City Council on November 19, 2015, and the final development plan (Appl. #PL2017-120) is currently under review. Development of the site also requires the property to be replatted.

The request for the vacation of rights-of-way was sent to the City's Public Works and Water Utilities Departments, as well as the private utility companies, for their input. No objections to the vacation of rights-of-way were received.

Recommendation: Staff recommends **APPROVAL** of the vacation of right-of-way.

# City of Lee's Summit

## Development Services Department

August 18, 2017

TO: Planning Commission  
FROM: Robert G. McKay, AICP, Director   
RE: **Continued PUBLIC HEARING – Application #PL2017-135 – VACATION OF RIGHT-OF-WAY – all of SE 23<sup>rd</sup> St. and SE Reiss Dr. within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd.; Engineering Solutions, LLC, applicant**

### Commentary

This application is to vacate all of SE 23<sup>rd</sup> St. and SE Reiss Dr. within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd. All of the property comprising Reiss Industrial Park has been purchased by Eagle Creek Family Church and is in the process of being developed into a new church. The preliminary development plan (Appl. #PL2015-131) for the Eagle Creek Church development was approved by City Council on November 19, 2015, and the final development plan (Appl. #PL2017-120) is currently under review. Development of the site also requires the property to be re-platted.

The request for the vacation of rights-of-way was sent to the City's Public Works and Water Utilities Departments, as well as the private utility companies, for their input. No objections to the vacation of rights-of-way were received; however, as of the date of this letter, no response has been received from Spectrum Cable. It is not expected that Spectrum Cable will object to the request. This application will not be placed on a City Council agenda until the City has received a response from all interested utility companies.

### Recommendation

Staff recommends **APPROVAL** of the vacation of right-of-way.

### Project Information

**Vacation of Right-of-way:** all of SE 23<sup>rd</sup> St. and SE Reiss Dr. within the plat of Reiss Industrial Park

**Location:** generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd.

**Zoning:** Existing right-of-way is not zoned

**Surrounding zoning and use:**

**North (across SE Stuart Rd.):** CP-2 and PI—vacant undeveloped land and Geiger Ready Mix Concrete Plant

**South:** CP-2 and CS (Planned Commercial Services)—Croft Trailers and vacant undeveloped property

**East:** AG (Agricultural)—vacant undeveloped property

**West (across S. M-291 Hwy.):** AG—vacant undeveloped property

## Background

- June 1, 1993 – The City Council approved a rezoning (Appl. #1993-011) from A (Agricultural, now AG) to C-1 (General Business, now CP-2) and M-1 (Light Industrial, now PI) on this property by Ord. #3847 for Mr. Reiss' excavating business. There was no site plan associated with the rezoning application. An existing house was to serve as the business office.
- January 24, 2008 – The City Council approved a rezoning (Appl. #2007-194) from AG, CP-2 and PI-1 to CP-2 and PI-1 and a preliminary development plan (Appl. #2007-195) for Reiss Industrial Park located at the southeast corner of Stuart Road and M-291 Highway by Ord. #6574.
- June 12, 2008 – The City Council approved the final plat (Appl. #2008-046) for *Reiss Industrial Park, Lots 1-12* by Ord. #6637.
- September 11, 2008 – The City Council approved the revised final plat (Appl. #2008-124) for *Reiss Industrial Park, Lots 1-12* by Ord. #6684. This plat was recorded at the Jackson County Recorder of Deeds Office on December 3, 2008, by instrument #2008E0124331.
- November 19, 2015 – The City Council approved a preliminary development plan (Appl. #PL2015-131) for Eagle Creek Church.
- June 9, 2017 – A minor plat application (Appl. #PL2017-128) for Eagle Creek Church was submitted to the City. Approval of the minor plat application is pending.

## Analysis of Vacation of Right-of-way

This application is to vacate all of SE 23<sup>rd</sup> St. and SE Reiss Dr. within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd. All of the property comprising Reiss Industrial Park has been purchased by Eagle Creek Family Church and is undergoing the approval process for development of the new church.

Letters were sent to the utility companies (KCP&L, Laclede Gas, AT&T, Spectrum Cable and Comcast Cable), as well as to the City's Public Works and Water Utilities Departments, for their input. No objections were received; however, as of the date of this letter, no response has been received from Spectrum Cable.

RGM/cs

Attachments:

1. Drawing and description of the rights-of-way to be vacated, date stamped June 21, 2017—1 page
2. Reduced copy of *Reiss Industrial Park, Lots 1-12*
3. Location Map

## LEE'S SUMMIT PLANNING COMMISSION

### Minutes of Tuesday, August 22, 2017

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The Tuesday, August 22, 2017, Lee's Summit Planning Commission meeting was called to order by Chairperson Norbury at 5:00 p.m., at City Council Chambers, 220 SE Green Street, Lee's Summit, Missouri.

#### OPENING ROLL CALL:

Chairperson Jason Norbury	Present	Mr. Herman Watson	Absent
Mr. Donnie Funk, Vice Chair	Present	Mr. Beto Lopez	Absent
Ms. Colene Roberts	Present	Ms. Carla Dial	Present
Mr. Don Gustafson	Present	Mr. Jeffrey Semmes	Present
Ms. Dana Arth	Present		

Also present were: Christina Stanton, Long Range Planner; Victoria Nelson, Long Range Planner; Shannon McGuire, Planner; Chris Hughey, Project Manager; Kent Monter, Development Engineering Manager; Hector Soto, Manager of Current Planning; Nancy Yendes, Chief Council of Infrastructure; and Jeanne Nixon, Secretary of Development Services.

#### APPROVAL OF AGENDA:

Chairperson Norbury announced a last-minute amendment to the agenda, as the applicants for Application P2017-142 and PL2017-143 had requested a continuance. He asked for a motion to approve the agenda as amended. On the motion of Ms. Roberts, seconded by Mr. Funk, the Planning Commission voted unanimously by voice vote to **APPROVE** the agenda as amended.

#### 1. APPROVAL OF CONSENT AGENDA

- A. **Application #PL2017-065 – FINAL PLAT** – Saddlebrook Farm, Lots 11A & 12A-12I; Ben Sharp, applicant
- B. **Application #PL2017-136 – VACATION OF EASEMENT** – all of the easements located within the plat of Reiss Industrial park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd.; Engineering Solutions, LLC, applicant
- C. **Application #PL2017-161 – SIGN APPLICATION** – Petco, 1860 NW Chipman Rd.; Midwest Sign Company, applicant
- D. **Application #PL2017-162 – SIGN APPLICATION** – Aldi, 600 SE Oldham Pkwy.; Acme Sign Inc., applicant
- E. **Application PL2017-165 – SIGN APPLICATION** – Pine Tree Plaza monument signs, 300 SW Blue Pkwy.; Acme Sign, Inc., applicant
- F. **Minutes** of the August 8, 2017 Planning Commission meeting



On the motion of Ms. Roberts, seconded by Mr. Funk, the Planning Commission voted unanimously by voice vote to **APPROVE** the Consent Agenda, Item 1A-F as published.

**2. Continued Application #PL2017-135 – VACATION OF RIGHT-OF-WAY – all of SE 23rd Street and SE Reiss Drive within the plan of Reiss Industrial park, generally located at the southeast corner of SE M-291 and SE Stuart Road; Engineering solutions, LLC, applicant**

Chairperson Norbury opened the hearing at 5:02 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Matt Schlicht of Engineering Solutions, gave his address as 50 SE 30th Street in Lee's Summit. He stated that the church had submitted a development plan two years ago. Construction plans had been approved and work started. The ground had been a platted property and the subject property was to have been about 12 commercial and industrial lots. The church had a minor plat to vacate these lots and the easement needed to be vacated as well.

Following Mr. Schlicht's presentation, Chairperson Norbury asked for staff comments.

Ms. Stanton entered Exhibit (A), list of exhibits 1-14 into the record. She confirmed that this was basically a cleanup item that was necessary for completing the development. The vacation of the easement had been on the consent agenda and this vacated the right-of-way for the property within the Reiss Industrial Park which was platted in 2008. Staff was waiting to get the last approval from one of the utility providers and the City Council hearing could not take place before that. Ms. Stanton added that staff had not heard of any issues involved.

Chairperson Norbury asked what were the items staff looked at when reviewing a request to vacate an easement or right-of-way. In this particular case the plat had gone through but the planned development had not happened. In the case of easements, staff always checked to see if anything had been installed in that ground and had to be relocated. With an existing right-of-way, they would check as to whether streets had been installed and whether streets were being realigned.

Following Ms. Stanton's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. Seeing none, he then opened the hearing for questions for the applicant or staff. There were no questions, and Chairperson Norbury then closed the public hearing at 5:12 p.m. and asked for discussion among the Commission members, or for a motion.

Mr. Funk made a motion to approve Application PL2017-135, Vacation Of Right-Of-Way, all of SE 23rd Street and SE Reiss Drive within the plan of Reiss Industrial park, generally located at the southeast corner of SE M-291 and SE Stuart Road; Engineering solutions, LLC, applicant; subject to staff's letter of August 18, 2017, specifically Recommendation Items 1 through 14. Ms. Yendes reminded Mr. Funk that the motion was to recommend approval, not to approve. Mr. Funk amended his motion to recommend approval of Application PL2017-135, and Ms. Roberts seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

On the motion of Mr. Funk, seconded by Ms. Roberts, the Planning Commission members voted unanimously by voice vote to recommend **APPROVAL** of Application PL2017-135, Vacation Of Right-Of-Way, all of SE 23rd Street and SE Reiss Drive within the plan of Reiss Industrial park, generally located at the southeast corner of SE M-291 and SE Stuart Road; Engineering solutions, LLC, applicant; subject to staff's letter of August 18, 2017, specifically Recommendation Items 1 through 14.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

**3. Application #PL2017-142 – SPECIAL USE PERMIT for a telecommunication tower: 465 SE Oldham Pkwy., Skyway Towers, applicant**

Chairperson Norbury opened the hearing at 5:14 p.m. and announced that Application PL2017-142 was continued to a date certain of September 12, 2017 to allow for proper notification. He asked for a motion to continue the hearing.

Ms. Roberts made a motion to continue Application PL2017-142 to a date certain of September 12, 2017 and Mr. Gustafson seconded. There was no discussion of the motion.

On the motion of Ms. Roberts, seconded by Mr. Gustafson, the Planning Commission voted unanimously by voice vote to **CONTINUE** Application PL2017-142 to a date certain of September 12, 2017.

**4. Application #PL2017-143 – PRELIMINARY DEVELOPMENT PLAN for a telecommunication tower: 465 SE Oldham Pkwy., Skyway Towers, applicant**

Chairperson Norbury opened the hearing at 5:15 p.m. and announced that Application PL2017-143 was continued to a date certain of September 12, 2017 to allow for proper notification. He asked for a motion to continue the hearing.

Mr. Funk made a motion to continue Application PL2017-143 to a date certain of September 12, 2017 and Ms. Roberts seconded. There was no discussion of the motion.

On the motion of Mr. Funk, seconded by Ms. Roberts, the Planning Commission voted unanimously by voice vote to **CONTINUE** Application PL2017-143 to a date certain of September 12, 2017.

**5. Continued Application #PL2017-144 – PRELIMINARY DEVELOPMENT PLAN – Kessler Ridge at New Longview, 2nd Plat, Lots 56-87 & Tract F; Inspired Homes, Inc., applicant**

Chairperson Norbury opened the hearing at 5:17 p.m. and announced that Application PL2017-144 was continued to a date certain of September 12, 2017 to allow for proper notification. He asked for a motion to continue the hearing.

Ms. Roberts made a motion to continue Application PL2017-144 to a date certain of September 12, 2017 and Ms. Arth seconded. There was no discussion of the motion.

On the motion of Ms. Roberts, seconded by Ms. Arth, the Planning Commission voted unanimously by voice vote to **CONTINUE** Application PL2017-144 to a date certain of September 12, 2017.

(The foregoing is a digest of the secretary's notes of the public hearing. The transcript may be obtained.)

## **PUBLIC COMMENTS**

There were no public comments at the meeting.

## **ROUNDTABLE**

Mr. Soto noted that the last Planning Commission meeting had included extensive public comments from a citizen concerned that an item on the Consent Agenda was approved without public input. The subject property had been next door to his home. He asked that the Commission consider moving public comments to immediately after the consent agenda. The bylaws did prescribe a specific order of business, and specified public comments for after approval of the consent agenda, "*unless otherwise agreed by the Planning Commission*". This wording gave the Commission some flexibility.

Ms. Roberts remarked that in most meetings she'd attended the public comments came earlier in the order. She could approve moving this item up. Mr. Soto responded that this was the order the City Council followed. Ms. Yendes asked if the Commission would prefer the Legal Department to draft an amendment to the bylaws that the Commission could vote on. Chairperson Norbury agreed that this would be a good idea.

## **ADJOURNMENT**

There being no further business, Chairperson Norbury adjourned the meeting at 5:20 p.m.

PC 082217

STATE PLANE TRAVERSE TABLE

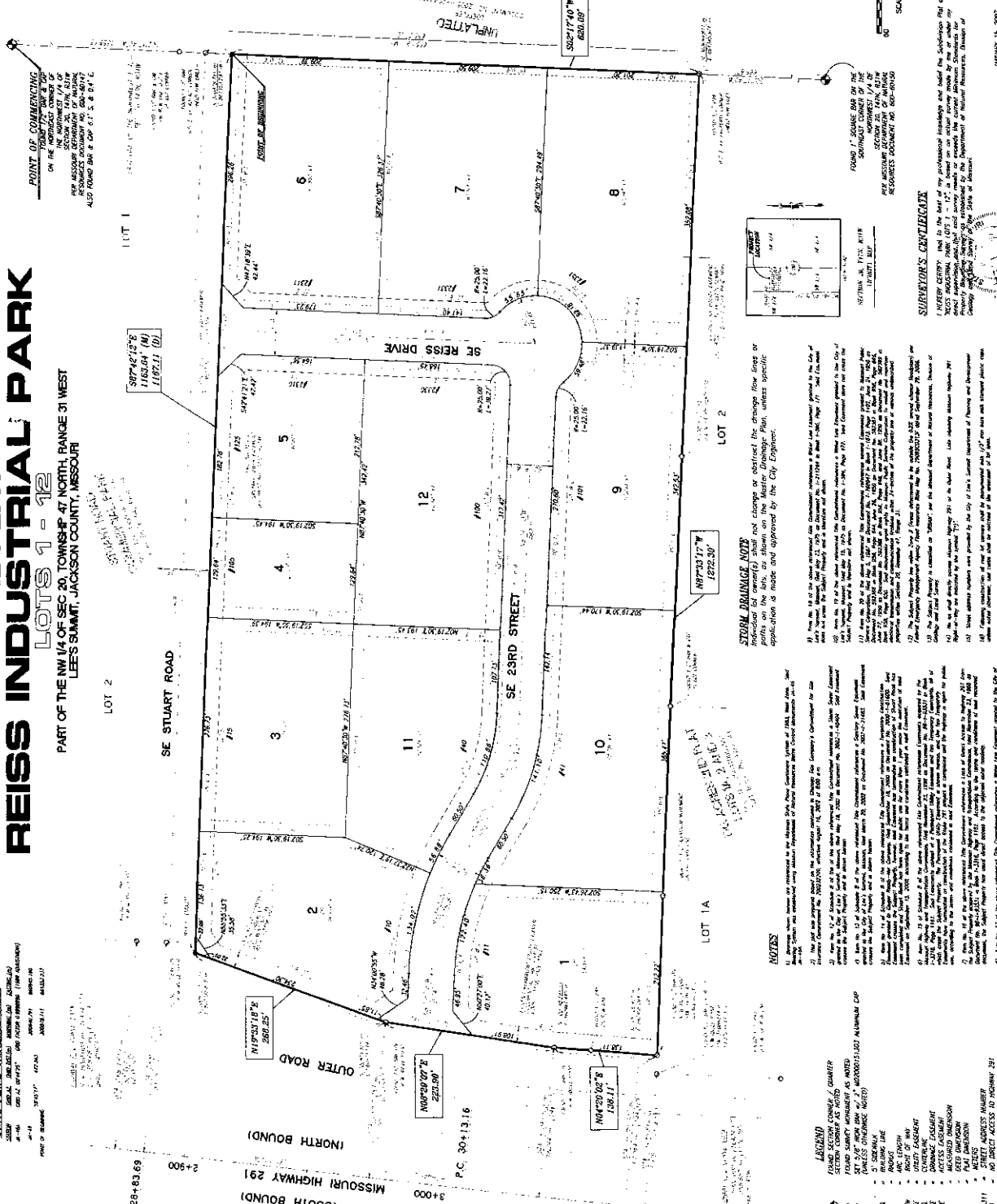
STATION	SIDE SIGHT	MEASUREMENT	REMARKS
1+00	ADJ. POINT	100.00 ± 0.01	SEE ADJ. POINT
2+00	ADJ. POINT	100.00 ± 0.01	SEE ADJ. POINT
3+00	ADJ. POINT	100.00 ± 0.01	SEE ADJ. POINT
4+00	ADJ. POINT	100.00 ± 0.01	SEE ADJ. POINT
5+00	ADJ. POINT	100.00 ± 0.01	SEE ADJ. POINT
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19+00	ADJ. POINT	100.00 ± 0.01	SEE ADJ. POINT
20+00	ADJ. POINT	100.00 ± 0.01	SEE ADJ. POINT

# FINAL PLAT

## REISS INDUSTRIAL PARK

### LOTS 1 - 12

PART OF THE NW 1/4 OF SEC. 20, TOWNSHIP 47 NORTH, RANGE 31 WEST  
LEES SUMMIT, JACKSON COUNTY, MISSOURI



**POINT OF COMMENCING**  
THE CORNER OF SECTION 20, TOWNSHIP 47 NORTH, RANGE 31 WEST, LEES SUMMIT, JACKSON COUNTY, MISSOURI.

**BOUNDARY DESCRIPTION**  
Part of the NW 1/4 of Section 20, Township 47 North, Range 31 West, Lees Summit, Jackson County, Missouri, as shown on the Survey Plat for the Lees Summit Industrial Park, recorded in the Office of the County Clerk, Jackson County, Missouri, as follows: ...

**BOUNDARY**  
The plat and the property boundaries thereon shall be subject to the following: ...

**NOTARY'S ACKNOWLEDGEMENT**  
I, Notary Public in and for the State of Missouri, do hereby certify that the foregoing is a true and correct copy of the original plat filed for record in my office on this 15th day of January, 2020, at Lees Summit, Missouri.

**CITY OF LEES SUMMIT APPROVAL**  
Approved: \_\_\_\_\_  
Mayor

**JACKSON COUNTY ASSESSOR'S APPROVAL**  
Approved: \_\_\_\_\_  
Assessor

**PREPARED BY:**  
PHOENIX ENGINEERING & SURVEYING, LLC

**SCALE:** 1" = 60'

**STORM DRAINAGE NOTES**  
1. Storm drainage map shown on this plat is to be used in conjunction with the Storm Drainage Plan, which is subject to approval by the City Engineer.

**NOTES**  
1. The owner of any lot shown on this plat is required to install the storm drainage facilities shown thereon at his own expense.

**LEGEND**  
PLAT NUMBER: 2016-012-4-331  
DRAWN BY: J. [Name]

**REVISIONS**  
1. [Description of revision]

**DATE OF SURVEY:** 12/02/20

**SHEET 1 OF 1**

**MA731-20**

#PL2017-135 --VACATION OF RIGHTS-OF-WAY  
All of SE 23rd St. & SE Reiss Dr.  
Engineering Solutions, LLC, applicant



## Packet Information

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**File #:** BILL NO. 17-204, **Version:** 1

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AN ORDINANCE VACATING DEDICATED RIGHTS-OF-WAY FOR ALL OF SE 23<sup>RD</sup> ST. AND SE REISS DR. LOCATED WITHIN THE PLAT OF REISS INDUSTRIAL PARK, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SE M-291 HWY. AND SE STUART RD. IN THE CITY OF LEE'S SUMMIT, MISSOURI.

Proposed City Council Motion:

I move for a second reading of AN ORDINANCE VACATING DEDICATED RIGHTS-OF-WAY FOR ALL OF SE 23<sup>RD</sup> ST. AND SE REISS DR. LOCATED WITHIN THE PLAT OF REISS INDUSTRIAL PARK, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SE M-291 HWY. AND SE STUART RD. IN THE CITY OF LEE'S SUMMIT, MISSOURI.

Committee Recommendation: On motion of Mr. Funk and seconded by Ms. Roberts, the Planning Commission voted unanimously by voice vote to **Recommend Approval of Appl. #PL2017-135 - VACATION OF RIGHT-OF-WAY** - all of SE 23rd St. and SE Reiss Dr. within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd.; Engineering Solutions, LLC, applicant at the August 22, 2017, Planning Commission hearing.

**BILL NO. 17-204**

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AN ORDINANCE VACATING DEDICATED RIGHTS-OF-WAY FOR ALL OF SE 23<sup>RD</sup> ST. AND SE REISS DR. LOCATED WITHIN THE PLAT OF REISS INDUSTRIAL PARK, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SE M-291 HWY. AND SE STUART RD. IN THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, Application #PL2017-135 was submitted by Engineering Solutions, LLC, requesting vacation of all of SE 23<sup>rd</sup> St. and SE Reiss Dr., rights-of-way dedicated by the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd. in Lee's Summit, Missouri; and,

WHEREAS, the rights-of-way were dedicated to the City on the final plat *Reiss Industrial Park, Lots 1 - 12* which was recorded by Instrument #2008E0124331 on December 3, 2008; and,

WHEREAS, the Planning Commission considered the request on August 22, 2017, and rendered a report to the City Council recommending that the vacation of right-of-way be approved; and,

WHEREAS, the City Council for the City of Lee's Summit has determined that no damages are ascertainable by reason of such vacation.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the following described rights-of-way are hereby and herewith vacated:

*All of SE 23<sup>rd</sup> Street and SE Reiss Drive dedicated by the plat Reiss Industrial Park, Lots 1-12.*

SECTION 2. That the City Clerk be and is hereby authorized and directed to acknowledge a copy of this ordinance and to record same in the Office of the Recorder of Deeds of the County in which the property is located.

SECTION 3. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor Randall L. Rhoads

ATTEST:

\_\_\_\_\_  
Deputy City Clerk Trisha Fowler Arcuri

**BILL NO. 17-204**

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APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*





#PL2017-135 --VACATION OF RIGHTS-OF-WAY  
All of SE 23rd St. & SE Reiss Dr.  
Engineering Solutions, LLC, applicant



## Packet Information

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**File #:** 2017-1504, **Version:** 1

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Public Hearing for the Proposed 2017 Property Tax Levy for the City of Lee's Summit, Cass and Jackson Counties, Missouri, for the Calendar Year 2017.

Issue/Request:

Public Hearing - Tax Levy for the City of Lee's Summit, Cass and Jackson Counties, Missouri, for the Calendar Year 2017.

Key Issues:

Consideration and setting of the tax levies for the General Fund; Parks and Recreation Fund; and, Debt Service Fund for the City of Lee's Summit, for the calendar year 2017 (Fiscal Year 2018).

The Assessed Valuations received from Cass County and Jackson County for Calendar Year 2017 show a net increase in assessed valuations of previously assessed property for Calendar Year 2017 compared to Calendar Year 2016 of approximately \$108,010,475 or 5.84 per cent. The Reassessment Net Growth exceeded the increase in the Consumer Price Index set by the State Tax Commission (2.1%), which requires the tax levies to be lowered to compensate for the additional increase in assessed valuations of previously assessed property.

Jackson County usually provides a revision to the Assessed Valuations in mid-September, and, as of the date of the creation of this packet form a revised amount for 2017 has not yet been received.

Proposed City Council Motion:

I move to direct staff to draft an Ordinance establishing the tax levies of  
\$0.8860 for the General Fund per \$100 of assessed valuation,  
\$0.1567 for the Parks and Recreation Fund per \$100 of assessed valuation, and  
\$0.4697 for the Debt Service Fund per \$100 of assessed valuation, for Calendar Year 2017 for a combined total of \$1.5124 per \$100 of assessed valuation.

Background:

Each year the City Council must set the tax levies to be applied to property within the City limits for the General Fund, the Parks and Recreation Fund, and the Debt Service Fund. The Cass County Assessor and Jackson County Assessor provide the assessed values for all property located within the City limits, and, state statutes require the City Council to set the tax levies by October 1, of each year. Once the tax levies are set, the levies are forwarded to the County Clerks of Cass and Jackson Counties who certify the levies, and ultimately the State Auditor's Office provides final certification of the tax levy rates. Once the tax levy rates are granted final certification, the tax levy rate is applied to the properties within the City limits, and, the resulting tax amounts are forwarded by the respective County Clerks to the County Collector's Office of Cass and Jackson Counties, respectively.

Impact/Analysis:

The valuation provided by the Cass County and Jackson County Assessor's Offices reflect the most current

valuations available through September 12, 2017. The 2017 Assessed Valuation is \$108,010,475 above the Assessed Valuation for 2016, with a 5.84% increase in the assessed valuation of previously assessed property. The Tax Commission has certified the increase in the Consumer Price Index for computation of the tax levies was 2.1% for 2017.

The total tax levy for 2016 was \$1.5398 per \$100 of assessed valuation, consisting of a tax rate of \$0.9093 per \$100 of assessed valuation for the General Fund; \$0.1608 per \$100 of assessed valuation for the Parks and Recreation Fund; and, \$0.4697 per \$100 of assessed valuation for the Debt Service Fund. Due to the increase in the previously assessed property valuations, the tax levies must be reduced under State Statutes to compensate for the amount of increase exceeding the Consumer Price Index.

Under the Assessed Valuations received as of September 12, 2017, the 2017 tax levy for the General Fund can be set at a maximum of \$0.8860 per \$100 of assessed valuation; the Parks and Recreation tax can be set at a maximum of \$0.1567 per \$100 of assessed valuation; and the Debt Service Fund tax levy can be set at a maximum of \$0.5182 per \$100 of assessed valuation. The City has not typically set the Debt Service Fund levy above \$0.4697 per \$100 of assessed valuation due to the "no tax increase" elections.

Timeline:

Start: \_\_\_\_

Finish: \_\_\_\_

Other Information/Unique Characteristics:

[Enter text here]

Presenter: Conrad E. Lamb

Recommendation: Staff recommends approval of an Ordinance setting the Tax Levy for the Year 2017 for the City of Lee's Summit, Cass and Jackson Counties, Missouri.

Committee Recommendation:

# NOTICE OF PUBLIC HEARING

A hearing will be held at 6:15 p.m., September 21, 2017 in the City Council Chambers at City Hall located at 220 S.E. Green , at which time citizens may be heard on the proposed 2017 property tax levies for the General Fund, Parks and Recreation Fund and Debt Service Fund for the City of Lee's Summit, Missouri. The tax rates are set to produce the revenues by which the budget for the fiscal year beginning July 1, 2017 shows to be required from the property tax.

<b>ASSESSED VALUATION:</b>	<b>2016</b>	<b>2017</b>
Real Estate	\$ 1,513,113,390	\$ 1,621,176,564
Personal Property	<u>337,557,063</u>	<u>337,504,364</u>
<b>Total</b>	<b><u>\$1,850,670,453</u></b>	<b><u>\$1,958,680,928</u></b>

	2016		2017	
	TAX RATE CEILING	ACTUAL TAX RATE	TAX RATE CEILING	PROPOSED TAX RATE
General Operating Fund	\$0.9093	\$0.9093	\$0.9093	\$0.8860
Parks & Recreation Fund	0.1608	0.1608	0.1608	0.1567
General Obligation Debt Service	<u>0.5004</u>	<u>0.4697</u>	<u>0.5182</u>	<u>0.4697</u>
	<b><u>\$1.5705</u></b>	<b><u>\$1.5398</u></b>	<b><u>\$1.5883</u></b>	<b><u>\$1.5124</u></b>

<b>PROPERTY TAX INCLUDED IN BUDGET:</b>	<b>FISCAL YEAR 2016-17</b>	<b>FISCAL YEAR 2017-18</b>
General Operating Fund	\$16,746,327	\$17,065,578
Parks & Recreation Fund	\$2,961,634	\$2,946,119
General Obligation Debt Service Fund	<u>\$8,661,766</u>	<u>\$8,071,441</u>
<b>Total</b>	<b><u>\$28,369,727</u></b>	<b><u>\$28,083,138</u></b>

This notice was prepared utilizing the latest data available from Cass and Jackson Counties. The final tax levy amounts will be determined based on the final assessed valuations furnished by Cass and Jackson Counties.

Stephen Arbo  
CITY MANAGER

Conrad E. Lamb  
FINANCE DIRECTOR

## Packet Information

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**File #:** SUBSTITUTE BILL NO. 17-205, **Version:** 1

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AN ORDINANCE SETTING THE TAX LEVY FOR THE YEAR 2017 FOR THE CITY OF LEE'S SUMMIT, CASS AND JACKSON COUNTIES, MISSOURI; AND, CONTAINING AN EMERGENCY CLAUSE.

Issue/Request:

AN ORDINANCE SETTING THE TAX LEVY FOR THE YEAR 2017 FOR THE CITY OF LEE'S SUMMIT, CASS AND JACKSON COUNTIES, MISSOURI

Key Issues:

Consideration of the tax levies for the General Fund; Parks and Recreation Fund; and, Debt Service Fund for the City of Lee's Summit, for the 2017 Calendar Year (Fiscal Year 2018).

The City experienced a net increase in Assessed Valuation for property that was assessed in both 2016 and 2017 of approximately \$115,449,668 (+6.23%), with new growth in Assessed Valuation in 2017 of \$29,733,278 (1.61%), resulting in a net increase in Assessed Valuation from 2016 to 2017 of \$85,716,390 on previously assessed property. The increase in previously Assessed Valuation from 2016 to 2017, will require the levies for the General Fund, and, Parks and Recreation Fund to be decreased to compensate for the increase in assessed valuation of previously assessed property, over the statutorily allowed increase for the CPI adjustment of 2.1%.

Proposed City Council Motion:

FIRST MOTION: I move for Second Reading of AN ORDINANCE SETTING THE TAX LEVY FOR THE YEAR 2017 FOR THE CITY OF LEE'S SUMMIT, CASS AND JACKSON COUNTIES, MISSOURI; AND, CONTAINING AN EMERGENCY CLAUSE.

SECOND MOTION: I move for adoption of AN ORDINANCE SETTING THE TAX LEVY FOR THE YEAR 2017 FOR THE CITY OF LEE'S SUMMIT, CASS AND JACKSON COUNTIES, MISSOURI; AND, CONTAINING AN EMERGENCY CLAUSE.

Background:

Each year, the City Council must set the tax levies to be applied to property within the City limits for the General Fund, the Parks and Recreation Fund, and the Debt Service Fund. The Cass County Assessor and the Jackson County Assessor provide the assessed values for all property located within the City limits, and, state statutes require the City Council to set the tax levies by October 1 of each year. Once the tax levies are set, the levies are forwarded to the County Clerks of Cass and Jackson Counties, who certify the levies and forward them to the State Auditor's Office for final certification. Once the tax levy rates are certified by the State Auditor's Office, the tax levy rate is applied to the properties within the City limits, and the resulting tax amounts are forwarded by the respective County Clerk to the County's Collector's Office of Cass and Jackson County, respectively, for collection from the property owners.

Impact/Analysis:

The valuation provided by the Cass County and Jackson County Assessor's Offices reflected the most current assessed valuations received by the City through September 15, 2017. The 2017 total Assessed Valuation is an increase of \$115,449,668 over the total assessed valuation computed in 2016. The value of property assessed for the first time in 2017 was \$29,733,278 (new growth) and is not included for computing the tax levy rate on previously assessed properties, and, setting the tax levies to be applied under the "Hancock Amendment". The "Hancock Amendment" limits the increase in revenues to be generated by the property tax levy to the CPI increase for the year, in 2017 it is 2.1%. Since the Assessed Value of the city's previously assessed property increased by 4.63%, or 2.53% above the CPI, the "Hancock Amendment" requires the city's tax levies for the General Fund and Parks and Recreation Fund to be "rolled back" to provide the revenue increase which is allowed.

The tax levy for the General Fund can be set at a maximum of \$0.8873 per \$100 of assessed valuation; the Parks and Recreation tax levy can be set at a maximum of \$0.1569 per \$100 of assessed valuation; and the Debt Service tax levy can be set at a maximum of \$.5219 per \$100 of assessed valuation. The City has not typically increased the Debt Service Levy above \$0.4697 per \$100 of assessed valuation due to the "no tax increase" elections.

The combined maximum 2017 City Tax Levy would be \$1.5661 if all the tax levies were set at their maximum levels, and \$1.5139 per \$100 assessed valuation if the Debt Service Levy is set at \$0.4697 per \$100 of assessed valuation.

Timeline:

Start: \_\_\_\_

Finish: \_\_\_\_

Other Information/Unique Characteristics:

[Enter text here]

Presenter: [Enter Presenter Here]

Recommendation: Staff recommends passage of an Ordinance setting the Tax Levy for the Year 2017 for the City of Lee's Summit, Cass and Jackson Counties, Missouri.

Committee Recommendation: [Enter Committee Recommendation text Here]

**SUBSTITUTE BILL NO. 17-205**

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AN ORDINANCE SETTING THE TAX LEVY FOR THE YEAR 2017 FOR THE CITY OF LEE'S SUMMIT, JACKSON AND CASS COUNTIES, MISSOURI, AND CONTAINING AN EMERGENCY CLAUSE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That there is hereby levied for the year 2017 on all property made taxable by law within the corporate limits of the City of Lee's Summit, Missouri, a tax in the amounts and for the purposes set forth below, to wit:

- \$0.8873 on each One Hundred Dollars (\$100.00) of assessed valuation for GENERAL REVENUE FUND of the City of Lee's Summit, Missouri.
  - \$0.1569 on each One Hundred Dollars (\$100.00) of assessed valuation for PUBLIC PARKS.
  - \$0.4697 on each One Hundred Dollars (\$100.00) of assessed valuation for GENERAL OBLIGATION BONDS - PRINCIPAL, INTEREST AND SINKING FUND.
- 
- \$1.5139 TOTAL LEVY on each One Hundred Dollars (\$100.00) of assessed valuation.

SECTION 2. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3. That this ordinance is necessary for the setting of the tax rates and levy for the City, and is an emergency within the meaning of Section 3.13(f)(5) of the Charter of the City of Lee's Summit, Missouri and the same shall be in full force and effect from and after the date of its passage and adoption, and the approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*



**SUBSTITUTE BILL NO. 17-205**

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---

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
*Mayor Randall L Rhoads*

ATTEST:

\_\_\_\_\_  
*Deputy City Clerk Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
*City Attorney Brian W. Head*

## Packet Information

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**File #:** BILL NO. 17-206, **Version:** 1

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AN ORDINANCE VACATING CERTAIN EASEMENTS LOCATED WITHIN THE PLAT OF REISS INDUSTRIAL PARK, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SE M-291 HWY. AND SE STUART RD. IN THE CITY OF LEE'S SUMMIT, MISSOURI.

Proposed City Council Motion:

I move for a second reading of AN ORDINANCE VACATING CERTAIN EASEMENTS LOCATED WITHIN THE PLAT OF REISS INDUSTRIAL PARK, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SE M-291 HWY. AND SE STUART RD. IN THE CITY OF LEE'S SUMMIT, MISSOURI.

Committee Recommendation: On motion of Ms. Roberts and seconded by Mr. Funk, the Planning Commission voted unanimously by voice vote to **APPROVE** the Consent Agenda as published at the August 22, 2017, Planning Commission meeting.

**BILL NO. 17-206**

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AN ORDINANCE VACATING CERTAIN EASEMENTS LOCATED WITHIN THE PLAT OF REISS INDUSTRIAL PARK, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SE M-291 HWY. AND SE STUART RD. IN THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, Application #PL2017-136 was submitted by Engineering Solutions, LLC, requesting vacation of all the easements dedicated by the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd. in Lee's Summit, Missouri; and,

WHEREAS, the easements were dedicated to the City on the final plat *Reiss Industrial Park, Lots 1 - 12* which was recorded by Instrument #2008E0124331 on December 3, 2008; and,

WHEREAS, the Planning Commission considered the request on August 22, 2017, and rendered a report to the City Council recommending that the vacation of easement be approved; and,

WHEREAS, the City Council for the City of Lee's Summit has determined that no damages are ascertainable by reason of such vacation.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the following described easements are hereby and herewith vacated:

*All easements dedicated by the plat Reiss Industrial Park, Lots 1-12.*

SECTION 2. That upon the effective date of the vacation of the easements described in Section 1 above, the City releases all right, title and interest in and to the City owned infrastructure located within the easements.

SECTION 3. That the City Clerk be and is hereby authorized and directed to acknowledge a copy of this ordinance and to record same in the Office of the Recorder of Deeds of the County in which the property is located.

SECTION 4. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

**BILL NO. 17-206**

---

APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*Deputy City Clerk Trisha Fowler Arcuri*


APPROVED AS TO FORM:

\_\_\_\_\_  
*City Attorney Brian W. Head*

# City of Lee's Summit

## Development Services Department

August 18, 2017

TO: Planning Commission  
FROM: Robert G. McKay, AICP, Director of Planning and Special Projects   
RE: **Appl. #PL2017-136 – VACATION OF EASEMENT – all of the easements located within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd.; Engineering Solutions, LLC, applicant**

### Commentary

The applicant proposes to vacate all of the easements that were dedicated by the plat of Reiss Industrial Park for the purpose of developing the site with a church. The easements conflict with the location of the proposed building. New easements will be dedicated as part of a new plat for the church. The vacation of easements does not apply to the 20' utility easement which was dedicated by Document #1998I93531, nor does it include the 15' x 20' sanitary sewer and storm sewer easements dedicated by Document #2002I0021483 and #2002I0040404, respectively.

### Recommendation

Staff recommends **APPROVAL** of the vacation of easement.

### Project Information

**Vacation of Easement:** all of the easements dedicated by the plat of Reiss Industrial Park

**Location:** generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd.

**Zoning:** CP-2 (Planned Community Commercial) and PI (Planned Industrial)

#### **Surrounding Zoning and Use:**

**North (across SE Stuart Rd.):** CP-2 and PI—vacant undeveloped land and Geiger Ready Mix Concrete Plant

**South:** CP-2 and CS (Planned Commercial Services)—Croft Trailers and vacant undeveloped property

**East:** AG (Agricultural)—vacant undeveloped property

**West (across S. M-291 Hwy.):** AG—vacant undeveloped property

### Background

- June 1, 1993 – The City Council approved a rezoning (Appl. #1993-011) from A (Agricultural, now AG) to C-1 (General Business, now CP-2) and M-1 (Light Industrial, now PI) on this property by Ord. #3847 for Mr. Reiss' excavating business. There was no site plan associated with the rezoning application. An existing house was to serve as the business office.
- January 24, 2008 – The City Council approved a rezoning (Appl. #2007-194) from AG, CP-2 and PI-1 to CP-2 and PI-1 and a preliminary development plan (Appl. #2007-195) for Reiss Industrial Park located at the southeast corner of Stuart Road and M-291 Highway by Ord. #6574.

- June 12, 2008 – The City Council approved the final plat (Appl. #2008-046) for *Reiss Industrial Park, Lots 1-12* by Ord. #6637.
- September 11, 2008 – The City Council approved the revised final plat (Appl. #2008-124) for *Reiss Industrial Park, Lots 1-12* by Ord. #6684. This plat was recorded at the Jackson County Recorder of Deeds Office on December 3, 2008, by Instrument #2008E0124331.
- November 19, 2015 – The City Council approved a preliminary development plan (Appl. #PL2015-131) for Eagle Creek Church.

**Analysis of Vacation of Easement**

The applicant proposes to vacate all of the easements located within the plat of Reiss Industrial Park, generally located at the southeast corner of SE M-291 Hwy. and SE Stuart Rd. All of the property comprising Reiss Industrial Park has been purchased by Eagle Creek Family Church and is in the process of being developed into a new church.

Letters were sent to the utility companies (KCP&L, Laclede Gas, AT&T, Spectrum Cable, and Comcast Cable), as well as to the City’s Public Works and Water Utilities Departments, for their input. No objections were received to the vacation of the easements dedicated by the *Reiss Industrial Park* plat.

**Code and Ordinance Requirements**

*The items in the box below are specific to this development and must be satisfactorily addressed in order to bring it into compliance with the Codes and Ordinances of the City.*

**Planning**

1. The vacation of easement shall be recorded prior to the issuance of any building permits on the subject property. A copy of the recorded document shall be provided to the Development Services Department.

RGM/cs

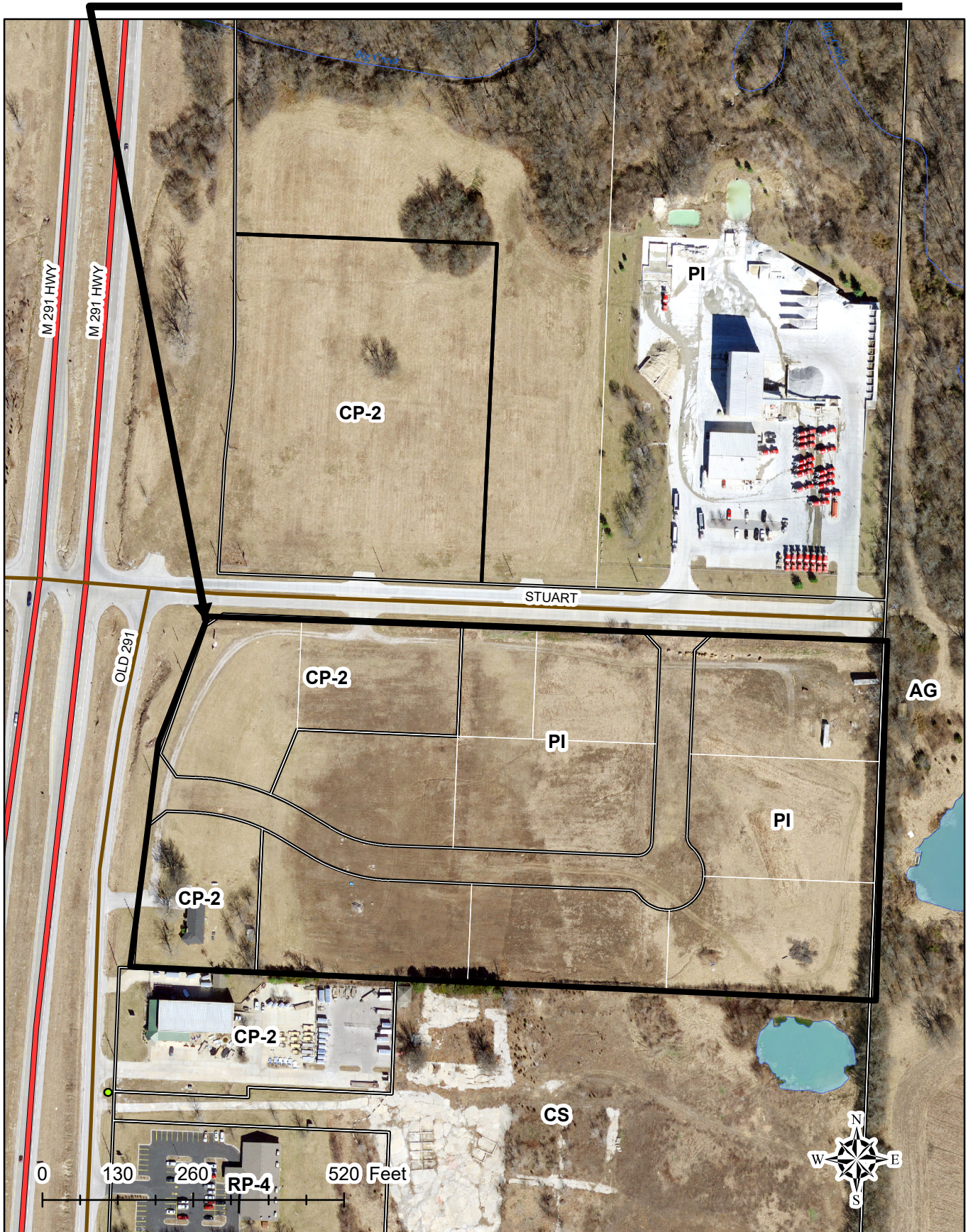
Attachments:

1. Legal description and drawing of easements to be vacated, date stamped June 21, 2017 – 1 page
2. Reduced copy of *Reiss Industrial Park, Lots 1-12*
3. Location Map



# #PL2017-136 --VACATION OF EASEMENTS

All of the easements within the plat of Reiss Industrial Park Engineering Solutions, LLC, applicant





## Packet Information

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**File #:** BILL NO. 17-207, **Version:** 1

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AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI, THE PINE TREE COMMUNITY IMPROVEMENT DISTRICT, AND NORTHERN STATES INVESTMENTS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY.

Issue/Request:

AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI, THE PINE TREE COMMUNITY IMPROVEMENT DISTRICT, AND NORTHERN STATES INVESTMENTS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY.

Key Issues:

Please see the attached memo from Gilmore Bell.

Proposed City Council Motion:

I move for second reading of AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI, THE PINE TREE COMMUNITY IMPROVEMENT DISTRICT, AND NORTHERN STATES INVESTMENTS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY.

Background:

On July 27, 2017 City Council adopted Ordinance No. 8216 approving the formation of the Pine Tree Community Improvement District as well as Ordinance No. 8195 approving the Preliminary Development Plan for renovations to the Pine Tree Plaza Shopping Center. Approval of this Ordinance and execution of the Cooperative Agreement between the City, Pine Tree Community Improvement District and Northern States Investments is necessary to set forth the respective duties and obligations with respect to the administration, enforcement, and operation of the District Sales Tax, the use of the District Revenues, and this Agreement.

**BILL NO. 17-207**

---

AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI, THE PINE TREE COMMUNITY IMPROVEMENT DISTRICT, AND NORTHERN STATES INVESTMENTS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, the City Council of the City of Lee's Summit, Missouri, did on July 27, 2017, pass Ordinance No. 8216, which approved the formation of the Pine Tree Community Improvement District (the "District"); and,

WHEREAS, Northern States Investments, LLC (the "Developer") is the current owner of the real estate which is located within the District boundaries; and,

WHEREAS, the City, the District, and the Developer are authorized under the Missouri Community Improvement District Act, Sections 67.1401, *et seq.*, RSMo, as amended, to enter into the attached Cooperative Agreement; and,

WHEREAS, the parties desire to set forth through the attached Cooperative Agreement their respective duties and obligations with respect to redevelopment within the District, the administration, enforcement, and operation of the District sales tax, and the use of the District revenues.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. The Cooperative Agreement, which is attached hereto as Exhibit A and incorporated herein by reference (the "Cooperative Agreement"), is hereby approved.

SECTION 2. The Mayor is hereby authorized to execute the Cooperative Agreement on behalf of the City.

SECTION 3. City officers and agents are each hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 4. This Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor.

PASSED by the City Council for the City of Lee's Summit, Missouri, this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

**BILL NO. 17-207**

---

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*

EXHIBIT A

COOPERATIVE AGREEMENT

[*ATTACHED*]



GILMORE & BELL PC  
2405 GRAND BOULEVARD, SUITE 1100  
KANSAS CITY, MISSOURI 64108-2521

816-221-1000 | 816-221-1018 FAX  
GILMOREBELL.COM

September 11, 2017

TO: Lee's Summit City Council  
FROM: Rich Wood  
RE: Summary of Pine Tree CID Cooperative Agreement

The following is an overview of the key provisions of the proposed Cooperative Agreement with the Pine Tree Community Improvement District (the "District") and Northern States Investments, LLC (the "Developer").

**Redevelopment Project:**

- The Developer is obligated to design and construct the Redevelopment Project in furtherance of removal of blight within the District.
- The Developer is also obligated to maintain the buildings within the area during the time the District is in existence.

**Transfers of the Redevelopment Area:**

- The Developer must give notice of the existence of the District and the sales tax in the event of any sale or lease of property within the District.
- The obligation to notify of the existence of the District is a covenant that runs with the land and is enforceable against all future owners.

**District Sales Tax:**

- The District is obligated to adopt a resolution imposing a one percent sales tax within the boundaries of the District.
- District sales tax revenues will be collected by the Department of Revenue and then remitted to the City.
- The City will administer the sales tax revenues and use the revenues to pay District costs and reimburse the Developer for Reimbursable Project Costs incurred by the Developer in the construction of the Redevelopment Project.

- District formation costs incurred by the City and the Developer will be reimbursed from District revenues.
- Operating costs of the District will also be paid from District revenues.
- The City will receive an administrative fee of 1.5% for administering the funds.
- District revenues will be disbursed by the City monthly in the following order of priority:
  - City administrative fee;
  - Operating Costs of the District;
  - City and Developer Costs of Formation;
  - Debt service on CID Obligations (if any); and
  - Reimbursement of Reimbursable Project Costs on a “pay as you go” basis.
- Once all Reimbursable Project Costs are fully reimbursed, with interest, the District will be terminated.
- The Developer has the right to pledge District revenues to the repayment of a construction loan to the extent the loan pays for Reimbursable Project Costs.

**CID Board of Directors:**

- The Board of Directors of the District will have five members.
- Two members of the Board of Directors will be representatives of the City.
- The Mayor, with the consent of the Council, will appoint successor members to the Board of Directors.
- The District is required to maintain officers’ liability insurance for the District Board of Directors.

**Reimbursement to Developer:**

- Reimbursement to the Developer is limited to the following:
  - The maximum amount of Reimbursable Project Costs, which is \$2,410,225;
  - Interest at the maximum interest reimbursement rate of the United States Department of Treasury Daily Long-Term Composite Rate, from the date Reimbursable Project Costs are certified by the City;
  - Costs of Issuance for debt which finances Reimbursable Project Costs.
- Reimbursable Project Costs must be costs which fall within one of the columns labeled “CID Reimbursable” in the CID Budget.

- The Developer must submit an application for certification of Reimbursable Project Costs to the City for approval.
- Reimbursable Project Costs will be reimbursed on a “pay as you go” basis, unless bonds are issued with the City’s approval.

**Issuance of Obligations:**

- The District is authorized to issue Obligations only with the City’s approval. This includes any indebtedness of the District.
- The term of the debt is limited to 20 years, which is the life of the District.
- The principal amount of the debt cannot exceed the maximum amount of Reimbursable Project Costs, plus costs of issuance.

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**COOPERATIVE AGREEMENT**

**among the**

**CITY OF LEE'S SUMMIT, MISSOURI,**

**the**

**PINE TREE COMMUNITY IMPROVEMENT DISTRICT,**

**and**

**NORTHERN STATES INVESTMENTS, LLC**

**dated as of**

\_\_\_\_\_, 2017

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**COOPERATIVE AGREEMENT**

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## COOPERATIVE AGREEMENT

**THIS COOPERATIVE AGREEMENT (“Agreement”)**, entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017, by and among the **CITY OF LEE’S SUMMIT, MISSOURI**, a constitutional charter city and political subdivision of the State of Missouri (the “**City**”), the **PINE TREE COMMUNITY IMPROVEMENT DISTRICT**, a community improvement district and political subdivision of the State of Missouri (“**District**” or “**CID**”), and **NORTHERN STATES INVESTMENTS, LLC**, a Missouri limited liability company (the “**Developer**”) (the City, the District and the Developer being sometimes collectively referred to herein as the “**Parties**”, and individually as a “**Party**”, as the context so requires).

### WITNESSETH:

**WHEREAS**, the City Council of the City of Lee’s Summit, Missouri (the “**City Council**”), did on July 27, 2017, pass Ordinance No. 8216, which approved the formation of the District and the Petition to Establish the Pine Tree Community Improvement District (the “**Petition**”); and

**WHEREAS**, on \_\_\_\_\_, 2017, the City Council approved Ordinance No. \_\_\_\_\_, approving this Agreement and authorizing the City to execute and to enter into this Agreement; and

**WHEREAS**, on \_\_\_\_\_, 2017, the CID Board of Directors adopted Resolution No. \_\_\_\_\_ authorizing and directing the District to enter into this Agreement; and

**WHEREAS**, the District is authorized under the CID Act (defined below), subject to qualified voter approval, to impose a district-wide sales tax and to enter into this Agreement for the administration of the District Revenues; and

**WHEREAS**, Developer is the current owner of the real estate which is located within the District boundaries; and

**WHEREAS**, the Parties desire to set forth through this Agreement their respective duties and obligations with respect to the administration, enforcement, and operation of the District Sales Tax, the use of the District Revenues, and this Agreement.

**NOW, THEREFORE**, for and in consideration of the premises, and the mutual covenants herein contained, the Parties agree as follows:

## ARTICLE 1

### DEFINITIONS, RECITALS AND EXHIBITS

**Section 1.1. Recitals and Exhibits.** The representations, covenants and recitations set forth in the foregoing recitals and the exhibits attached to this Agreement are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section, and the appropriate exhibits are incorporated into each Section of this Agreement that makes reference to an exhibit.

**Section 1.2. Definitions.** Words and terms defined elsewhere in this Agreement shall have the meanings assigned therein. Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

“**Action**” shall have the meaning set forth in **Section 8.4**.

“**Applicable Laws and Requirements**” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, policy, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any Governmental Authorities.

“**Application for Reimbursement**” means the Application for Reimbursement in substantially similar form to **Exhibit D**, filed with the City by the Developer pursuant to **Section 6.3**.

“**CID Act**” means the Missouri Community Improvement District Act, Sections 67.1401, *et seq.*, RSMo, as amended.

“**CID Board of Directors**” means the governing body of the District.

“**CID Budget**” means the budget for the CID as set forth in **Exhibit C**.

“**CID Obligations**” means bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the District pursuant to the CID Act, subject to the restrictions in **Section 7.1**.

“**CID Petition**” means the petition to establish the District, approved by the City Council on July 20, 2017, by Ordinance No. 8216.

“**City Council**” means the City Council of the City.

“**City Indemnified Parties**” shall have the meaning set forth in **Section 8.2**.

“**City Manager**” means the City Manager of the City.

“**County Assessor**” shall mean the County Assessor of Jackson County, Missouri.

“**Costs of Formation**” means those costs and expenses which are eligible to be paid under the CID Act and which are or have been incurred by or at the direction of the City, Developer, and the District and their staff and consultants in the process of preparing for the District, petitioning the City for formation of the District, considering the CID Petition, holding public meetings and hearings and forming the District, negotiating and approving this Agreement, and holding the first meeting of the District, including all activities through the conclusion of the first District meeting.

“**District Revenues**” means the monies actually collected, pursuant to this Agreement and the CID Act, from the imposition of the District Sales Tax.

“**District Sales Tax**” means the sales tax levied by the District on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the District boundaries pursuant to the CID Act in the maximum amount of one percent (1.0%), as established by resolution of the District and approved by the qualified voters of the District, in accordance with this Agreement.

“**Event of Default**” means any event specified in **Section 8.1** of this Agreement.

**“Excusable Delays”** means delays due to acts of terrorism, acts of war or civil insurrection, strikes, riots, floods, earthquakes, fires, tornadoes, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, national or regional material shortages, failure to obtain regulatory approval from any Federal or State regulatory body, unforeseen site conditions, material litigation by parties other than the Parties not caused by the Parties’ failure to perform, or any other condition or circumstances beyond the reasonable or foreseeable control of the applicable party using reasonable diligence to overcome which prevents such party from performing its specific duties or obligation hereunder in a timely manner.

**“Governmental Authorities”** or **“Governmental Authority”** means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence, that have jurisdiction over some or all of the Redevelopment Area and/or Redevelopment Project, including the City.

**“Mayor”** means the Mayor of the City.

**“Operating Costs”** means the actual, reasonable expenses which are necessary for the operation of the District which shall include, but are not limited to, costs associated with notices, publications, meetings, supplies, equipment, photocopying, the engagement of special legal counsel, financial auditing services performed for the District or the City on behalf of the District, and other consultants or services, and shall also include reasonable attorneys’ fees for the formation of the District.

**“Redevelopment Area”** means the property within the CID boundaries.

**“Redevelopment Project”** means the work undertaken by or at the direction of Developer or the District within the Redevelopment Area in accordance with the CID Petition.

**“Reimbursable Project Costs”** means those actual and reasonable costs and expenses of the Redevelopment Project which are set forth in the column labeled “CID Reimbursable” in the CID Budget.

**“RSMo”** means the Revised Statutes of Missouri, as amended.

## ARTICLE 2

### REPRESENTATIONS

**Section 2.1. Representations by the District.** The District represents that:

A. The District is a community improvement district and political subdivision, duly organized and existing under the laws of the State of Missouri, including particularly the CID Act.

B. The District has authority to enter into this Agreement and to carry out its obligations under this Agreement. By proper action of the CID Board of Directors, the District has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

C. The Reimbursable Project Costs are authorized in the CID Petition.

D. The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement and the performance of or compliance with the terms

and conditions of this Agreement by the District will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the District is a party or by which it or any of its property is bound, or any order, rule or regulation of any court or governmental body applicable to the District or any of its property, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the District under the terms of any instrument or agreements to which the District is a party.

E. The District acknowledges that the construction of the Redevelopment Project is of significant value to the District, the property within the District and the general public. The District finds and determines that the Redevelopment Project will promote the economic welfare and the development of the City and the State of Missouri through: (i) the creation of temporary and permanent jobs; (ii) stimulating additional development in the area near the CID; and (iii) increasing local and state tax revenues. Further, the District finds that the CID conforms to the purposes of the CID Act.

F. There is no litigation or proceeding pending or threatened against the District affecting the right of the District to execute or deliver this Agreement or the ability of the District to comply with its obligations under this Agreement or which would materially adversely affect its financial condition.

**Section 2.2. Representations by the City.** The City represents that:

A. The City is duly organized and existing under the laws of the State of Missouri as a constitutional charter city.

B. The City has authority to enter into this Agreement and to carry out its obligations under this Agreement, and the Mayor is duly authorized to execute and deliver this Agreement.

C. There is no litigation or proceeding pending or threatened against the City affecting the right of the City to execute or deliver this Agreement or the ability of the City to comply with its obligations under this Agreement.

**Section 2.3. Representations by the Developer.** The Developer represents that:

A. The Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

B. The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

C. No litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer, any member of the Developer or the Redevelopment Project which litigation, proceedings or investigations would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described

in or contemplated by the execution, delivery, validity or performance by the Developer, the terms and provisions of this Agreement.

D. The Developer acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. Developer therefore covenants, and will provide an affidavit from any general contractor directly employed by Developer to construct the Project attesting that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work related to this Agreement, and that its employees are lawfully eligible to work in the United States.

### ARTICLE 3

#### REDEVELOPMENT PROJECT

**Section 3.1. Redevelopment Project.** Developer, or its successors and assigns, will undertake the Redevelopment Project in accordance with all Applicable Laws and Requirements and the CID Petition. The District is not authorized to make, and the Developer will not receive reimbursement for, any improvements or services other than those listed in the column labelled “CID Project Estimates” in the CID Budget attached hereto as Exhibit C.

**Section 3.2. Removal of Blight.** Developer, or its successors and assigns, shall clear blight or rehabilitate to eliminate the physical blight existing in the District boundaries, or make adequate provisions satisfactory to the City for the clearance of such blight. This obligation shall be a covenant running with the land and shall not be affected by any sale or disposition of the District boundaries. Any purchaser of property in the Redevelopment Area shall acquire title subject to this obligation insofar as it pertains to the land so acquired.

**Section 3.3. Redevelopment Project Maintenance.** So long as this Agreement is in effect, Developer, or its successor(s) in interest, as owner or owners of the affected portion(s) of the District, shall maintain or cause to be maintained the buildings and improvements within the Redevelopment Area which it owns in a good state of repair and in conformity with Applicable Laws and Requirements.

**Section 3.4. Changes.** Developer shall promptly notify the City in writing of any changes in the location of the principal place of business of Developer and of any other material adverse change in fact or circumstance directly affecting the Redevelopment Project.

**Section 3.5. Use Limitations.** Developer covenants that the uses within the District boundaries shall at all times be in accordance with Applicable Laws and Requirements, including the zoning and subdivision approvals granted by the City, and all conditions thereof, for the Redevelopment Area.

### ARTICLE 4

#### TRANSFER OF THE REDEVELOPMENT AREA

**Section 4.1. Sale to Third Party.** If Developer proposes to sell, assign, transfer, convey and/or otherwise dispose of any property within the District boundaries, Developer shall insert in any document



transferring any interest in real property within the CID, and shall cause any transferee to insert language reasonably similar to the following, and shall have such document signed by the transferee indicating acknowledgment and agreement to the following provision:

**Community Improvement District:** Grantee acknowledges and consents that the Property is a part of the Pine Tree Community Improvement District (“District”) created by ordinance of the City of Lee’s Summit, Missouri (“City”), and that the District imposes a sales tax on eligible retail sales conducted within the District that will be applied toward the costs of the Redevelopment Project that provide a generalized benefit to all property within the District. Grantee shall, or shall cause any applicable tenant of Grantee, to forward to the City copies of its State of Missouri sales tax returns for the Property when and as they are filed with the Missouri Department of Revenue. Grantee hereby acknowledges and agrees that the City and the District are third party beneficiaries of the obligations in this paragraph and shall have a separate and independent right to enforce these reporting requirements.

**Section 4.2. Lease to Third Party.** Developer shall cause all leases of property in the District entered into after the date of this Agreement to contain a provision that is in substantial compliance with the following:

**Community Improvement District:** Tenant acknowledges and consents that the Leased Premises are a part of the Pine Tree Community Improvement District (“District”) created by ordinance of the City of Lee’s Summit, Missouri (“City”), that the District imposes a sales tax on Tenant’s eligible retail sales that will be applied toward the costs of the Redevelopment Project that will provide a generalized benefit to the Development. Tenant shall forward to the City copies of Tenant’s State of Missouri sales tax returns for its property located in the District when and as they are filed with the Missouri Department of Revenue. Tenant hereby acknowledges and agrees that the City and the District are third party beneficiaries of the obligations in this paragraph and shall have a separate and independent right to enforce these reporting requirements.

**Section 4.3. Consent by Developer, Tenants and Transferees.**

A. In complying with **Section 4.1** and **Section 4.2** above, the Parties acknowledge and agree that the lease or transfer document may also include an appropriate caveat indicating that language and requirements with respect to the District Sales Tax shall be of no force or effect unless and until the District Sales Tax is actually implemented in accordance with Petition and **Section 5.1**.

B. The Developer shall ensure that any documents transferring its interest in property located within the District shall make the obligations set forth in this Section a covenant running with the land that shall be enforceable against any purchaser, lessee or other transferee or possessor as if such purchaser, lessee or possessor were originally a party to and bound by this Agreement, which obligations shall only terminate upon the end of the term of the District.

C. Failure of the Developer to require that such restrictions be placed in any such lease/sales contract shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the District’s and the City’s rights of enforcement and remedies under this Agreement, or otherwise form the basis of a default on the part of the Developer hereunder.

## ARTICLE 5

### DISTRICT SALES TAX

**Section 5.1. Imposition, Collection and Administration of the District Sales Tax.** The CID Board of Directors shall adopt a resolution that (i) imposes the District Sales Tax within the District boundaries (subject to voter approval), and (ii) authorizes the City to perform all functions incident to the administration, enforcement and operation of the District Sales Tax. The District shall notify the Missouri Department of Revenue of the District Sales Tax and that the District authorizes the City, on behalf of the District, to receive from the Missouri Department of Revenue all of the District Revenues. The District Sales Tax shall be collected by the Missouri Department of Revenue as provided in the CID Act. The District official charged with formulating a budget for the District shall request that the CID Board of Directors appropriate the District Revenues in accordance with the budget, the CID Petition, and this Agreement.

**Section 5.2. Costs of Formation and Operating Costs.** The City and Developer have incurred Costs of Formation which are reimbursable pursuant to the CID Act and this Agreement. The City shall submit invoices to Developer for all Costs of Formation that have been incurred by the City, and such invoices will be paid by Developer to the City within thirty (30) days after receipt of such invoices. All payments to the City by Developer for the Costs of Formation incurred by the City, along with Costs of Formation incurred by Developer, may be reimbursed to Developer in the order of priority set forth in **Section 5.3** for reimbursement of the Costs of Formation. The Operating Costs of the District which are advanced by Developer on behalf of the District shall be reimbursed to Developer with District Revenues in the order of priority set forth in **Section 5.3** for payment and reimbursement of Operating Costs.

**Section 5.3. Distribution of the District Revenues.** Beginning in the first month following the effective date of the District Sales Tax and continuing each month thereafter until the expiration or repeal of the District Sales Tax, the District shall, not later than the fifteenth (15th) day of each month, distribute the District Revenues received in the preceding month in the following order of priority:

- A. The District shall pay the City an administration fee equal to 1.5% of District Revenues which are generated on an annual basis.
- B. The District shall pay the Operating Costs of the District and reimburse Developer for funds advanced by Developer for payment of Operating Costs.
- C. Developer shall be reimbursed for payment of the Costs of Formation.
- D. Payment of debt service or the CID Obligations authorized pursuant to **Section 7.1**.
- E. The District shall make reimbursement payments to the Developer for any Reimbursable Project Costs set forth in an approved Application for Reimbursement pursuant to **Section 6.3**, at such time as reimbursement is authorized pursuant to **Section 6.1**.

**Section 5.4. Records of the District.** Any District records pertaining to the District Sales Tax or the administration and operation of the District shall be provided to the City upon written request of the City, as permitted by law.

**Section 5.5. Abolishment of District.** Unless extended by mutual agreement of the Parties and in accordance with the CID Act, the District shall implement the procedures in the CID Act for repeal of the District Sales Tax and abolishment of the District upon the earlier of (A) the expiration of the District

Sales Tax in accordance with the District Sales Tax ballot measure as approved by the qualified electors of the District; or (B) the date that the Developer is reimbursed in full for its eligible Reimbursable Project Costs pursuant to **Article 6**. Upon repeal of the District Sales Tax, the District shall:

A. Pay all outstanding amounts set forth in **Section 5.3(A) – (E)**.

B. Retain any remaining District Revenues until such time as the District is abolished and the District has provided for the transfer of any funds remaining in a manner permitted by the CID Act.

**Section 5.6. CID Board of Directors and Insurance.**

A. The CID Board of Directors shall consist of five members, two of which will be representatives of the City.

B. All members of the CID Board of Directors shall meet all qualifications of the CID Act and the Missouri Constitution.

C. Successor members of the CID Board of Directors shall be appointed by the Mayor with the consent of the City Council as provided in the CID Petition and in compliance with Section 67.1451.5, RSMo. In the event of a vacancy on the CID Board of Directors, interim members will be elected by the remaining existing members of the CID Board of Directors in compliance with Section 67.1451.5, RSMo.

D. The District will maintain reasonable levels of directors and officers liability insurance throughout its existence.

**Section 5.7. Pledge of District Revenues and Collateral Assignment of Agreement to Lender.** Developer shall have the right to pledge its right to receive any District Revenues under this Agreement to its construction or permanent lender for the Redevelopment Project. Upon Developer's request, the City will send any such revenues to such lender directly until Developer directs otherwise. Developer shall also have the right to collaterally assign its rights and obligations under the Agreement to such lender.

**Section 5.8. Notification of Sales Tax.** Upon the District Sales Tax becoming effective, the District shall notify all existing tenants within the Redevelopment Area of the requirement to impose the District Sales Tax on the tenant's eligible retail sales.

**ARTICLE 6**

**REIMBURSEMENTS TO DEVELOPER**

**Section 6.1. Requirements of and Limitations on Reimbursement to Developer.**

A. Developer, or its successors and assigns, will develop and construct the Redevelopment Project in accordance with the CID Petition. The Developer shall only receive reimbursement for Reimbursable Project Costs, plus Costs of Issuance in accordance with Article 7 and the Maximum Interest Reimbursement in accordance with **Section 6.3.D**.

B. The District shall reimburse the Developer for Reimbursable Project Costs approved by the City pursuant to **Section 6.3**, and subject to the limitations set forth in this Section. Reimbursable Project Costs shall be reimbursed from available District Revenues and from no other source of funds. The

City shall review and certify Reimbursable Project Costs in accordance with the procedures for review of reimbursement requests as set forth in **Section 6.3**. Neither the District nor the City will have any obligation to design and construct the Redevelopment Project.

C. The maximum amount of District Revenues used to reimburse Developer for Reimbursable Project Costs shall be \$2,410,225, excluding any District Revenues used to reimburse Developer for Costs of Formation, Operating Costs, indemnification costs as set forth in **Section 8.2**, and interest as set forth in **Section 6.3(D)** (the “**Maximum Amount**”).

D. The Developer shall not be entitled to receive reimbursement of any certified Reimbursable Project Costs until issuance of a Certificate of Completion of Construction in substantially the form as **Exhibit E** for the Redevelopment Project is issued by the City.

**Section 6.2. District’s Obligation to Reimburse Developer.** The Parties agree that reimbursement of Reimbursable Project Costs will occur on a “pay as you go” basis as District Revenues are collected by the District in accordance with this Agreement. The District will only reimburse the Developer for Reimbursable Project Costs which may lawfully be paid or incurred by the District under the CID Act, which become reimbursable under the conditions and restrictions in **Section 6.1**, and which are approved pursuant to **Section 6.3**.

**Section 6.3. Reimbursement Application Process.**

A. The District appoints the City as its agent to administer the reimbursement application process. All requests for reimbursement of Reimbursable Project Costs shall be made by the Developer to the City in an Application for Reimbursement in substantially the form as **Exhibit D**. Each Application for Reimbursement shall include itemized invoices, receipts or other information, if any, reasonably requested by the City to confirm that each cost identified in the Application for Reimbursement has been incurred and qualifies for reimbursement pursuant to the CID Act and this Agreement.

B. The District will not reimburse the Developer for any cost that is not eligible for reimbursement under the CID Act or the CID Petition.

C. The Developer may submit an Application for Reimbursement to the Finance Director not more often than once each calendar month. The City shall either accept or reject each Application for Reimbursement within thirty (30) days after the submission thereof. If the City determines that any cost identified as a Reimbursable Project Cost is not eligible for reimbursement under the CID Act, the CID Petition or this Agreement, the City shall so notify the Developer in writing within said 30-day period, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other costs for reimbursement with a supplemental application for payment, subject to the limitations of this Agreement. The City may also request such additional information from the Developer as may be required to process the requested reimbursement, and the time limits set forth in this paragraph shall be extended by the duration of time necessary for the Developer to respond to such request by the City. The City’s identification of any ineligible costs shall not delay the City’s approval of the remaining costs on the Application for Reimbursement that the City determines to be eligible.

D. After the City approves an Application for Reimbursement, interest shall accrue at a rate not to exceed the United States Department of Treasury Daily Long-Term Composite Rate from the date the City approves an Application for Reimbursement of Reimbursable Project Costs until such costs are actually reimbursed with District Revenues (the “**Maximum Interest Reimbursement**”).

## ARTICLE 7

### ISSUANCE OF OBLIGATIONS

**Section 7.1. Issuance.** The District may authorize the issuance of CID Obligations upon written approval of the City subject to the following restrictions:

A. The final maturity date of the CID Obligations shall be no more than twenty (20) years from the date of issuance or the expiration of the term of the District, whichever is sooner.

B. The maximum principal amount of the CID Obligations shall not exceed \$2,410,225, plus costs of issuance.

C. Reimbursement of interest on CID Obligations shall be limited to the Maximum Interest Reimbursement.

## ARTICLE 8

### RELEASE AND INDEMNIFICATION

**Section 8.1. Survival of Termination.** The indemnification and covenants contained in this Article shall survive expiration or earlier termination of this Agreement.

**Section 8.2. Developer Indemnity.** The Developer hereby agrees that, anything to the contrary herein notwithstanding, it will defend, indemnify and hold harmless the City, its governing body members, employees and agents (collectively, the “**City Indemnified Parties**”) against any and all claims, demands, actions, causes of action, loss, damage, injury, liability and/or expense (including attorneys’ fees and court costs) to the extent resulting from, arising out of, or in any way connected with (i) the Developer’s failure to comply with any provision of this Agreement, (ii) the gross negligence or intentional misconduct of the Developer, an affiliate of the Developer, or their respective officers, employees and agents in connection with this Agreement and the Redevelopment Project (iii) the presence of hazardous wastes, hazardous materials or other environmental contaminants on any property within the District or the Redevelopment Area, or (iv) otherwise arising out of the construction of the Redevelopment Project or the administration of this Agreement. If the validity or construction of the CID Act and/or any other ordinance of the City adopted in connection with this Agreement or the CID Petition are contested in court, the Developer shall defend, hold harmless and indemnify the City from and against all claims, demands and/or liabilities of any kind whatsoever including, without limitation, any claim for attorney fees and court costs, and the Developer shall pay any monetary judgment and all court costs rendered against the City, if any. Any costs, fees, and expenses paid by Developer under this **Section 8.2** shall be Reimbursable Project Costs; provided that, if the event or circumstances giving rise to the claim against the City is due to the failure of the Developer or its contractors to comply with applicable Legal Requirements related to the construction of the Redevelopment Project or otherwise caused by the Developer’s gross negligence or intentional misconduct, no such costs, fees, and expenses paid by Developer under this **Section 8.2** shall be reimbursable.

**Section 8.3. District Indemnity.** The District hereby agrees, to the extent permitted by law, that it will defend, indemnify and hold harmless the City Indemnified Parties and the Developer, its officers, employees and agents against any and all claims, demands, actions, causes of action, loss, damage, injury, liability and/or expense (including attorneys’ fees and court costs) to the extent resulting from, arising out

of, or in any way connected with (i) the District's failure to comply with any provision of this Agreement, or (ii) the negligence or intentional misconduct of the District or its officers, employees and agents.

**Section 8.4. Notification.** If any suit, action, investigation, claim or proceeding (collectively, an "Action") is threatened, initiated or made as a result of which the Developer or the District may become obligated to one or more of the City Indemnified Parties hereunder, any one of the applicable City Indemnified Parties shall give prompt notice to the Developer and the District of the occurrence of such event. After receipt of such notice, the Developer or the District, as applicable, at their cost, shall defend, contest and otherwise protect the City Indemnified Parties against the Action utilizing counsel of the Developer's choice. The City Indemnified Parties shall cooperate in good faith with the Developer and its counsel in the defense of an Action. The Developer shall provide to the City regular periodic reports on the status of such Action. If the indemnifying party fails to timely defend, contest or otherwise protect any of the City Indemnified Parties against such Action, the City Indemnified Parties shall have the right to do so and to hire the counsel of their choice, and, if such defense is undertaken by the City Indemnified Parties after notice to the Developer and the District asserting the failure of the Developer, or the District, as applicable, to timely defend, contest or otherwise protect against such Action, the cost of such defense shall be at the expense of the Developer or the District, as applicable.

**Section 8.5. Settlements.** All proposed settlements to any Action shall be subject to the mutual approval of the Developer or the District, as applicable, and the applicable City Indemnified Parties. Neither the Developer nor the District, as applicable, nor the City Indemnified Parties, will unreasonably withhold their consent to a proposed settlement.

**Section 8.6. Invalidity of Proceedings.** Notwithstanding anything herein to the contrary, the City shall not be liable to the Developer or the District for damages or otherwise if all or any part of the CID Act, the ordinance approving the CID Petition, and/or any other ordinance of the City adopted in connection with this Agreement, the Redevelopment Project, or the CID Petition is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction. If, as a result of a final judgment, the revenue mechanisms and/or the reimbursements to the Developer contemplated by this Agreement cannot be implemented, the City and the District agree, subject to any necessary future legislative approvals by the City Council or CID Board of Directors, as applicable, to make good faith efforts to take all actions necessary to remedy any deficiencies and effectuate the intent of this Agreement.

## ARTICLE 9

### DEFAULTS AND REMEDIES

**Section 9.1. Default and Remedies.** An "Event of Default" shall occur upon the failure by any Party in the performance of any covenant, agreement or obligation imposed or created by this Agreement and the continuance of such failure for fifteen (15) days after the other Party has given written notice to such Party specifying such failure.

If any Event of Default has occurred and is continuing, then any non-defaulting party may, upon its election or at any time after its election while such default continues, by mandamus or other suit, action or proceedings at law or in equity, enforce its rights against the defaulting party and its officers, agents and employees, and require and compel duties and obligations required by the provisions of this Agreement (except that in no event shall the City enjoin the Developer to undergo any construction).

**Section 9.2. Rights and Remedies Cumulative.** The rights and remedies maintained by any Party under this Agreement and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. Any Party shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding availability of an adequate remedy at law, and any Party hereby waives the right to raise such defense in any proceeding in equity.

**Section 9.3. Waiver of Breach.** No waiver of any breach of any covenant or agreement contained in this Agreement shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of an Event of Default, a non-defaulting Party may nevertheless accept from the defaulting party, any payment or payments without in any way waiving the non-defaulting party's right to exercise any of its rights and remedies as provided herein with respect to any such default or defaults in existence at the time when such payment or payments were accepted by the non-defaulting party.

**Section 9.4. Excusable Delays.** No Party shall be deemed to be in default of this Agreement because of Excusable Delays. Excusable Delays shall extend the time of performance for the period of such Excusable Delay.

## ARTICLE 10

### MISCELLANEOUS

**Section 10.1. Effective Date and Term.** This Agreement shall become effective on the date this Agreement has been fully executed by the Parties ("**Effective Date**"). This Agreement shall remain in effect for as long as the District is legally in existence.

**Section 10.2. Modification.** The terms, conditions, and provisions of this Agreement can be neither modified nor eliminated except in writing and by mutual agreement among the City, the District and the Developer. Any modification to this Agreement as approved shall be attached hereto and incorporated herein by reference.

**Section 10.3. Jointly Drafted.** The Parties agree that this Agreement has been jointly drafted and shall not be construed more strongly against another Party.

**Section 10.4. Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

**Section 10.5. Validity and Severability.** It is the intention of the Parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State of Missouri, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

**Section 10.6. Execution of Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**Section 10.7. City Approvals.** Unless specifically provided to the contrary herein, all approvals of the City hereunder may be given by the City Manager or his or her designee without the necessity of any action by the City Council. The City Manager may seek the advice and consent of the City Council before granting any approval.

**Section 10.8. Relationship.** In the performance of this Agreement, the Developer shall act solely as an independent contractor. Neither this Agreement nor any agreements, instruments, documents, or transactions contemplated hereby shall in any respect be interpreted, deemed or construed as making the Developer a partner, joint venturer with, or agent of, the City. The City and the Developer agree that neither party will make any contrary assertion, claim or counterclaim in any action, suit, arbitration or other legal proceedings involving the City and the Developer.

**Section 10.9. Entire Agreement; Amendment.** This Agreement constitutes the entire agreement between the Parties with respect to the matters herein and no other agreements or representations other than those contained in this Agreement have been made by the Parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the Parties.

**Section 10.10. Reserved.**

**Section 10.11. Limit on Liability.** The Parties agree that:

A. No official, director, officer, agent, employee, representative, attorney or consultant of the City shall be personally or otherwise in any way liable to the Developer or the District in the event of any default, breach or failure of performance by the City under this Agreement or for any amount which may become due to the Developer or the District or with respect to any agreement, indemnity, or other obligation under this Agreement.

B, No member or shareholder of the Developer or the District and no director, officer, agent, employee, shareholder, representative or consultant of the Developer or the District shall be personally or otherwise in any way liable to the City or any third-party in the event of any default, breach or failure of performance by the Developer or the District under this Agreement or for any amount which may become due to the City with respect to any agreement, indemnity or other obligation under this Agreement.

**Section 10.12. Headings.** Headings of articles and sections are inserted only for convenience and are in no way to be construed as a limitation or expansion on the scope of the particular articles, sections or subsections to which they refer. Words in the singular shall include the plural, and vice versa, where appropriate.

**Section 10.13. Notices.** Any notice, demand, or other communication required by this Agreement to be given by either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States First Class Mail, postage prepaid, or delivered personally or by a reputable overnight delivery service to all parties listed below. Mailed notices shall be deemed effective on the third day after mailing and all other notices shall be effective when delivered.

To the City:

City of Lee's Summit, Missouri  
220 SE Green  
Lee's Summit, Missouri 64063  
Attn: City Manager



With a copy to:

Gilmore & Bell, P.C.  
2405 Grand Blvd., Suite 1100  
Kansas City, Missouri 64108  
Attn: David W. Bushek, Esq  
dbushek@gilmorebell.com

To the District:

Pine Tree Community Imp. District  
c/o Development Dynamics, LLC  
1001 Boardwalk Springs Place, Suite 50  
O'Fallon, MO 63368

To the Developer:

Northern States Investments, LLC  
601 E South  
Ozark, Missouri 65721  
Attention: Trent Overhue

or to such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this paragraph.

**Section 10.14. Waiver.** The failure of either Party to insist upon a strict performance of any of the terms or provisions of this Agreement, or to exercise any option, right or remedy contained in this Agreement, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by either Party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such Party.

**Section 10.15. Tax Implications.** The Developer and the District acknowledge and represent that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents have provided to the Developer or the District any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer and the District are relying solely upon their own tax advisors in this regard.

**Section 10.16. Exhibits.** All exhibits which are attached or referred to in this Agreement are specifically incorporated herein by reference and form an integral part hereof.

**Section 10.17. Agreement to Control.** In the event of any conflict between the terms of this Agreement and any other agreements between the City and the Developer or the District, the provisions of this Agreement shall control and supersede the conflict.

**Section 10.18. Recordation of Memorandum of Agreement.** The Parties agree to execute and deliver a Memorandum of this Agreement in proper form for recording and/or indexing in the appropriate land or governmental records. Such Memorandum shall be recorded by the Developer, and proof of recording shall be provided to the City.

**Section 10.19. Estoppel.** Upon Developer's request, the City shall deliver a written instrument to Developer or any other person, firm or corporation specified by Developer, duly executed and acknowledged, certifying that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modifications; whether or not Developer has observed and performed all of the terms, covenants and

conditions on the part of Developer to be observed and performed, and if not, specifying the same; and such other matters as reasonably requested by Developer.

*[Remainder of this page intentionally left blank]*

**IN WITNESS WHEREOF**, the parties hereto have set their hands and seals the day and year first above written.

**CITY OF LEE’S SUMMIT, MISSOURI**

By: \_\_\_\_\_  
Randall L. Rhoads  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Denise R. Chisum  
City Clerk

**STATE OF MISSOURI        )**  
  **) SS.**  
**COUNTY OF JACKSON     )**

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me appeared Randall L. Rhoads, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the **CITY OF LEE’S SUMMIT, MISSOURI**, a constitutional charter city and political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its City Council, and said Randall L. Roads acknowledged said instrument to be the free act and deed of said City.

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

\_\_\_\_\_  
Notary Public

[SEAL]

**DISTRICT:**

PINE TREE COMMUNITY IMPROVEMENT  
DISTRICT

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

ATTEST:

\_\_\_\_\_  
Secretary

**CERTIFICATE OF ACKNOWLEDGEMENT**

STATE OF MISSOURI)

) ss

COUNTY OF JACKSON )

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2017, before me, a Notary Public in and for said state, personally appeared the Chairman of the Pine Tree Community Improvement District, known to me to be the person who executed the within Intergovernmental Cooperative Agreement on behalf of the Pine Tree Community Improvement District and acknowledged to me that he executed the same for the purposes therein stated.

Subscribed and affirmed before me this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**DEVELOPER:**

NORTHERN STATES INVESTMENTS, LLC

By: \_\_\_\_\_  
Trent Overhue, \_\_\_\_\_

**CERTIFICATE OF ACKNOWLEDGEMENT**

STATE OF MISSOURI        )  
  ) ss  
COUNTY OF JACKSON     )

On this \_\_\_ day of \_\_\_\_\_, in the year 2017, before me, a Notary Public in and for said state, personally appeared Trent Overhue, the \_\_\_\_\_ of Northern States Investments, LLC, a Missouri limited liability company, known to me to be the person who executed the within Intergovernmental Cooperative Agreement on behalf of said limited liability company and acknowledged to me that he executed the same for the purposes therein stated.

Subscribed and affirmed before me this \_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

My Commission Expires:

## EXHIBIT A

### LEGAL DESCRIPTION OF CID AREA

TRACT 1: A tract of land in the Northeast quarter of Section 7, Township 47, Range 31, in Lee's Summit, Jackson County, Missouri, more particularly described as follows:

Commencing at the Southwest corner of the East one half of the Northeast Quarter of said Section 7; thence North 0 degrees 00 minutes 00 Seconds East, along the West line of the East one half of said Northeast Quarter of said Section 7, 990.24 feet to a point on the West line of Mission Road, said point being the Southeast corner of Lot 116, of Lots 109 to 117, BAYLES ADDITION, a subdivision in the City of Lee's Summit, Jackson County, Missouri and being the Northeast corner of the second of the two tracts described in Document No. I-584524 in Book I-1341 at page 1036, and being the point of beginning; thence South 0 degrees 00 minutes 00 seconds East along the West line of the East one half of the Northeast quarter of said Section 7 and the West line of Mission Road, a distance of 74.83 feet to the Northwest corner of the tract as described in Document No. I-584525 in Book I-1341 at page 1037; thence North 88 degrees 45 minutes 20 seconds East, along the North line of said tract, 789.36 feet to the Northeast corner of said tract; thence South 1 degree 14 minutes 40 seconds East, along the East line of said tract, 102.01 feet to the Northwest corner of the tract as described in document No. I-604652 in Book I-1380 at Page 2240; thence North 88 degrees 45 minutes 20 seconds East, along the North line of said tract, 125.07 feet; thence North 1 degree 14 minutes 40 seconds West, along said Northerly line, 11.00 feet thence North 88 degrees 45 minutes 29 seconds East, along said Northerly line 101.07 feet to the Northeast corner of said tract, and being on the West line of Jefferson Street; thence South 5 degrees 06 minutes 12 seconds East, along the West line of Jefferson Street, 169.90 feet to the Southeast corner of the tract as described in Document No. 678928 in Book 1226 at Page 318 thence South 88 degrees 45 minutes 20 seconds West, along the south line of said tract, 300.00 feet to the Southwest corner of said tract and being on the East line of the tract as described in Document No. I-5584524 in Book I-1341 at Page 1036; thence South 5 degrees 06 minutes 12 seconds East, along said East line and the East line of the tract as described in Document No. I-344326 in Book I-867 at Page 1796, 323.75 feet to the Southeast corner of said tract and the Northerly right-of-way line of U.S. Highway 50; thence South 87 degrees 41 minutes 37 seconds West along said Northerly right-of-way line, 9.91 feet; thence South 87 degrees 56 minutes 47 seconds West, along said Northerly right-of-way line 179.91 feet thence North 80 degrees 08 minutes 13 seconds West along said Northerly right-of-way line, 199.27 feet; thence North 62 degrees 52 minutes 34 seconds West along said Northerly right-of-way line, 689.64 feet; thence continuing along said Northerly right-of-way line Northwesterly on a 5,663.62 feet radius chord curve to the right at a distance of 271.94 feet (long Chord = North 61 degrees 16 minutes 58 seconds West 271.91 feet) to a point on a curve on the Easterly line of Madison Street; thence Northeasterly on a 193.27 feet radius curve to the left a distance of 281.01 feet (Long chord = North 49 degrees 50 minutes 23 seconds East 256.90 feet) along the East line of said Madison Street to the Southwest corner of Lot 117 of Lots 109 to 117, BAYLES ADDITION said being the Northwest corner of the second of the two tracts described in Document No. I-58424 in Book I-1341 at Page 1036; thence North 89 degrees 23 minutes 32 seconds East, along the South line of Lots 117 and 116 a distance 280.63 feet to the Point of Beginning except the following described tract.

TRACT 2: A parcel of land in the East half of the Northeast quarter of section 7, Township 47, Range 31, Jackson County, Missouri described as commencing at the Southwest corner of said East half, thence North 00 degrees 00 minutes 00 seconds East along the West line of said East half a distance of 567.86 feet to the North right-of-way line of Missouri U.S. Highway 50; thence South 62 degrees 52 minutes 34 seconds East along said Right-of-way line a distance at 180.64 feet to the Point of Beginning; thence North 27 degrees 05 minutes 39 seconds East a distance of 112.00 feet; thence South 62 degrees 52 minutes 34 seconds East a distance of 75.25 feet; thence South 27 degrees 05 minutes 39 seconds West a distance of 112.00 feet to the North right-of-way line Missouri U.S. Highway 50; thence North 62 degrees 52 minutes 34 seconds West along said right-of-way line a distance of 75.25 feet to the Point of Beginning.

**EXHIBIT B**  
**DEPICTION OF CID AREA**



**EXHIBIT C**  
**CID BUDGET**

**Pine Tree Community Improvement District Project Estimates**

Description	Total Project Cost	
	Estimates	CID Project Estimates
Acquisition of Land and Existing Buildings	\$ 3,937,000	
<b>Exterior Improvements:</b>		
Front Façade	\$ 1,690,000	\$ 1,690,000
Roofing	\$ 595,380	\$ -
<b>Paving and Landscaping:</b>		
Parking Lot	\$ 221,225	\$ 221,225
Signage - at front of center	\$ 49,000	\$ -
Signage - along Jefferson	\$ 35,000	\$ -
Landscape	\$ 150,000	\$ -
Lighting	\$ 150,000	\$ -
Handicap/Repair broken curbing	\$ 105,000	\$ 105,000
Site Work	\$ 50,000	\$ -
Storm Water Improvements	\$ 35,000	\$ -
<b>Current Price Chopper into Three Suites</b>		
Demo, New HVAC, Gas, Electric, Sewer, Water Meters, Restrooms for each Suite, Concrete Flooring, Dividing Walls, Divide out building into two separate tenants and get to white box condition	\$ 1,125,000	
<b>Vacant Unit Improvements:</b>		
Suite 276, 280, 286, 298	\$ 100,000	
Suite 300 - Planet Fitness	\$ 300,000	
Suite 300 - Harbor Fitness	\$ 250,000	
Suite 300 - Middle Section	\$ 200,000	
Suite 306, 316, 318, 324, 340, 354	\$ 255,000	
Interior Improvements		\$ 394,000
Capitalized Interest (From to )		
Cost of Issuance (i.e. accounting, legal, etc.)		
Contingency/Professional Fees	\$ 60,000	\$ -
<b>Total Project Costs</b>	<b>\$ 9,307,605</b>	<b>\$ 2,410,225</b>

25.9%



**EXHIBIT D**

**FORM OF APPLICATION FOR REIMBURSEMENT**

**APPLICATION FOR REIMBURSEMENT**

TO: City of Lee’s Summit, Missouri  
Attention: Mayor

Re: Pine Tree Community Improvement District

*Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperative Agreement dated as of \_\_\_\_\_, 2017 (the “**Agreement**”) among the City of Lee’s Summit, Missouri (the “**City**”), the Pine Tree Community Improvement District and Northern States Investments, LLC (the “**Developer**”). In connection with said Agreement, the undersigned hereby states and certifies that:*

1. Each item listed on *Schedule 1* hereto is a Reimbursable Project Cost and was incurred in connection with the construction of Redevelopment Project.
2. These Reimbursable Project Costs have been paid by the Developer and are reimbursable under the Agreement.
3. Each item listed on *Schedule 1* has not previously been paid or reimbursed from money derived from the District Revenues and no part thereof has been included in any other Application previously filed with the City.
4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
5. All necessary permits and approvals required for the work for which this application relates have been issued and are in full force and effect.
6. All work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.
7. If any cost item to be reimbursed under this application is deemed not to constitute a Reimbursable Project Cost within the meaning of the Agreement, the Developer shall have the right to substitute other eligible costs for payment hereunder.
8. The Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes an Event of Default under the Agreement.
9. All of the Developer’s representations set forth in the Agreement remain true and correct as of the date hereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NORTHERN STATES INVESTMENTS, LLC**

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

Name: \_\_\_\_\_

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

Approved for Payment this \_\_\_\_ day of \_\_\_\_\_, 20\_\_:

**CITY OF LEE'S SUMMIT, MISSOURI**

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

Name: \_\_\_\_\_

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

**EXHIBIT E**

**FORM OF CERTIFICATE OF COMPLETION OF CONSTRUCTION**

**CERTIFICATE OF COMPLETION OF CONSTRUCTION**

The undersigned, NORTHERN STATES INVESTMENTS, LLC (the “Developer”), pursuant to that certain COOPERATIVE AGREEMENT (the “Cooperative Agreement”) effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the CITY OF LEE’S SUMMIT, MISSOURI (the “City”), a constitutional charter city and political subdivision duly organized and existing under the Constitution and laws of the State of Missouri, and Developer, hereby certifies to the City as follows:

1. That as of \_\_\_\_\_, 20\_\_\_\_, the construction of the Redevelopment Project (as such term is defined in the Cooperative Agreement) has been completed in accordance with the Cooperative Agreement.
2. The Redevelopment Project has been completed in a good and workmanlike manner and in accordance with the plans and specifications of the City.
3. The Redevelopment Project has achieved substantial completion as defined in the principal construction contract.
4. This Certificate of Completion of Construction is being issued by the Developer to the City in accordance with the Cooperative Agreement to evidence the Completion of Construction and the Developer’s satisfaction of all obligations and covenants with respect to constructing the Redevelopment Project.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperative Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**NORTHERN STATES INVESTMENTS,  
LLC,**  
a Missouri limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACCEPTED:**

**CITY OF LEE'S SUMMIT, MISSOURI**

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

Name: \_\_\_\_\_

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

(Insert Notary Form(s) and Legal Description)

## Packet Information

---

**File #:** BILL NO. 17-208, **Version:** 1

---

AN ORDINANCE APPROVING THE AWARD OF BID NO. 2017-042-1-3C WATER UTILITIES SCADA SYSTEM IMPROVEMENTS TO SECOND SIGHT SYSTEMS LLC AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE SAME IN THE AMOUNT OF \$396,855.14.

Key Issues:

- The current SCADA communications system is in need of replacement as AT&T is providing a reduced level of support and reliability for the leased copper communication lines.
- The Water Utilities Department will spend nearly \$450,000 this year on the leased copper lines.
- The Water Utilities Department is scheduled to move into the new facility this fall and AT&T has indicated it will not relocate the leased copper line service to the new facility.
- The Water Utilities Department engaged HDR Engineering, Inc to create a SCADA Master Plan which evaluated the future needs of our SCADA program as well as various methods of communications.
- The radio system will be augmented with fiber connections at the largest facilities to support the increased level of data and opportunity for expansion at those sites.
- This contract will complete the SCADA Communications construction as recommended by the SCADA Master Plan.
- The City advertised and bid this project and recieved 3 bids.
- Second Sight Systems has been determined to be the lowest responsive and responsible bidder.

Proposed City Council Motion:

FIRST MOTION: I move for a second reading of AN ORDINANCE APPROVING THE AWARD OF BID NO. 2017-042-1-3C WATER UTILITIES SCADA SYSTEM IMPROVEMENTS TO SECOND SIGHT SYSTEMS LLC AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE SAME IN THE AMOUNT OF \$396,855.14.

Background:

The SCADA System was originally constructed using AT&T leased POTs (Plain Old Telephone) lines for its communications backbone to all the remote water and waste water sites. These lines have worked well for many years but over time the utility's systems have become more complex and the data files are now larger and more numerous than ever before which is causing the lines to reach their limit at several of the larger remote sites.

To compound this issue AT&T is moving towards retiring these lines and encouraging the utility to seek other alternatives by increasing the lease rates while decreasing support. Water Utilities has been reviewing alternatives for several years to find the correct technology to replace the leased copper lines. The utility has worked with public safety

to review microwave transmission, has reviewed the possibility of fiber connections, has piloted a cellular communication option and had a varieties of issues with consistency and potential costs with all of those options.

The proposed radio communications will operate a lower licensed commercial frequency in the 173-450 mhz range and provide good coverage to all the remote facilities. This type of communication has been used for years and is quite reliable and cost effective. The draw back to the use of radio frequencies is bandwidth and speed of the signal, which is why this plan will also employ the use of fiber at the larger facilities.

Staff Recommendation: Staff Recommends AN ORDINANCE APPROVING THE AWARD OF BID NO. 2017-042-1-3C WATER UTILITIES SCADA SYSTEM IMPROVEMENTS TO SECOND SIGHT SYSTEMS LLC AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE SAME IN THE AMOUNT OF \$396,855.14.

Presenter: Jeff Thorn, P.E. Assistant Director of Engineering Services, Lee's Summit Water Utilities

Staff Recommendation: Steff recommends approval of AN ORDINANCE APPROVING THE AWARD OF BID NO. 2017-042-1-3C WATER UTILITIES SCADA SYSTEM IMPROVEMENTS TO SECOND SIGHT SYSTEMS LLC AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE SAME IN THE AMOUNT OF \$396,855.14.

Committee Recommendation: The September 19 Public Works Committee meeting was cancelled due to a lack of agenda items.

## **BILL NO. 17-208**

---

AN ORDINANCE APPROVING THE AWARD OF BID NO. 2017-042-1-3C WATER UTILITIES SCADA SYSTEM IMPROVEMENTS TO SECOND SIGHT SYSTEMS LLC AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE SAME IN THE AMOUNT OF \$396,855.14.

WHEREAS, the Water Utilities Department operates and maintains the Supervisory Control and Data Acquisition (SCADA) system as part of the operation of the water and wastewater systems in Lee's Summit; and,

WHEREAS, the City of Lee's Summit hired HDR Engineering, Inc. to provide a master plan for the future of the SCADA system in Lee's Summit; and,

WHEREAS, AT&T is currently planning to phase out the phone lines which provide the backbone for the communications system for SCADA; and,

WHEREAS, the SCADA Master Plan Recommends a radio system to replace the leased copper lines that are being phased out; and,

WHEREAS, on August 3, 2017, City Staff advertised the Invitation to Bid on the City's website; and,

WHEREAS, as of the closing of the time for submission of bids, a total of 3 contractors submitted bids; and,

WHEREAS, after evaluation of the bids received, Second Sight Systems LLC. was determined to be the lowest and most responsible bidder for Bid No. 2017-042-1-3C

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the City Council of the City of Lee's Summit, Missouri hereby authorizes the award of bid no. 2017-042-1-3C generally for the purpose of Water Utilities SCADA Improvements to Second Sight Systems LLC, in the amount of \$396,855.14.

SECTION 2. That the Agreement by and between the City of Lee's Summit, Missouri and Miles Excavating, Inc. for the services contained in bid no. 2017-042-1-3C generally for the purpose of Water Utilities SCADA Improvements to Second Sight Systems LLC, in the amount of \$396,855.14 said agreement being attached hereto as Exhibit A and incorporated herein by reference be and hereby is approved and the City Manager is authorized to execute the same by and on behalf of the City.

SECTION 3. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

**BILL NO. 17-208**

---

PASSED by the City Council of the City of Lee's Summit, Missouri this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy City Attorney  
*Jackie McCormick Heanue*





844.789.9111  
info@ssrf.com  
www.ssr.com

Utility Field Services • SCADA Systems • Tower Services

7 September 2017

To: HDR & the City of Lee's Summit MO  
From: Second Sight Systems  
Re: Proposal for the Water Utilities SCADA System Improvement; Bid No. 2017-042-1-3C

It is with great enthusiasm that **Second Sight Systems** presents a proposal to HDR and the City of Lee's Summit MO for the Water Utilities SCADA System Improvement project. As part of our solution, Second Sight will take the role of lead contractor and engage the services of **Larson Data Communications** who is under a contractual retainer to serve as a technical consultant and advisor throughout the duration of the project. This two-party approach will provide HDR and the City of Lee's Summit with the most qualified SCADA technical resources in the marketplace who can also meet 100% of the bid specifications.

Second Sight is an authorized GE MDS™ Full Service Partner for the state of Missouri and has RF engineers on staff who have earned certification status at the GE factory in Rochester, NY. Our authorization status grants us most favorable pricing rights for the portfolio of GE MDS™ products and assures our customers that the MDS™ solution for their SCADA system will be installed and configured by GE MDS™-qualified technicians.

As part of our end-to-end solution, Second Sight also has Comtrain-certified communication tower technicians on staff. Our tower climbers have experience in cellular and utility communication tower installations and meet the highest level of industry safety standards. Without having to outsource tower services to a third party, HDR and the City of Lee's Summit can feel confident that the solutions delivered to them by our RF engineers will be well-coordinated and deployed by our own tower technicians with the same level of service and support.

**Larson Data Communications** will be retained as an advisor to Second Sight and will play a significant role with the installation and post-installation technical support. Larson is intimately knowledgeable of the project specifications, having completed the site survey for HDR and authoring the system specs for this project. There is simply no other firm more familiar with the performance requirements for this project than Larson Data Communications.

***The collaborative approach between Second Sight Systems and Larson Data Communications will deliver the safest, most comprehensive and technically sound option for this project.***

We look forward to your response and the opportunity to work with HDR Engineering and the City of Lee's Summit MO.

Respectfully,

**Jim Strite**  
Sales Manager  
Second Sight Systems

# BID FORM FOR CONSTRUCTION CONTRACTS

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

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Article 9 – Bid Submittal.....	5



- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in SC-4.02 as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in SC-4.06 as containing reliable "technical data."
- E. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 3.01.E above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

#### **ARTICLE 4 – BIDDER'S CERTIFICATION**

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;

- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
  - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
  - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
  - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### **ARTICLE 5 – BASIS OF BID**

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the price(s) identified in the Bid Worksheet submitted electronically via the Quest vBid system at [www.QuestCDN.com](http://www.QuestCDN.com).

#### **ARTICLE 6 – TIME OF COMPLETION**

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

#### **ARTICLE 7 – ATTACHMENTS TO THIS BID**

- 7.01 The following documents are submitted with and made a condition of this Bid:
  - A. Required Bid security in accordance with Article 8 of the Instructions to Bidders (C-200);
  - B. Addendum Acknowledgement Page for each Addendum
  - C. List of Proposed Subcontractors
  - D. List of Proposed Manufacturers and Suppliers

- E. List of Project References
- F. Required Bidder Qualification Statement with Supporting Data
- G. Affidavit of Non-Collusion
- H. Work Authorization Affidavit signed and notarized
- I. Documentation affirming enrollment and participation in a federal work authorization program.

**ARTICLE 8 – DEFINED TERMS**

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

**ARTICLE 9 – BID SUBMITTAL**

9.01 This Bid is submitted by:

If Bidder is:

An Individual

Name (typed or printed): \_\_\_\_\_

By: \_\_\_\_\_  
(Individual’s signature)

Doing business as: \_\_\_\_\_

A Partnership

Partnership Name: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_



A Corporation

Corporation Name: Second Sight Systems, LLC (SEAL)

State of Incorporation: Missouri

Type (General Business, Professional, Service, Limited Liability): \_\_\_\_\_

By: Todd Deibel

(Signature -- attach evidence of authority to sign)

Name (typed or printed): Todd Deibel

Title: President/Manager  
(CORPORATE SEAL)

Attest Jim Strite

Date of Qualification to do business in Missouri is 03 / 01 / 2016

A Joint Venture

Name of Joint Venture: \_\_\_\_\_

First Joint Venturer Name: \_\_\_\_\_ (SEAL)

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

(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_

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

Second Joint Venturer Name: \_\_\_\_\_ (SEAL)

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

(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): \_\_\_\_\_

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

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

## BID WORKSHEET

Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

### **Section A - Base Bid**

#### **Water Utilities SCADA System Improvements**

<b>Item No.</b>	<b>Description</b>	<b>Unit</b>	<b>Estimated Quantity</b>	<b>Bid Unit Price</b>	<b>Bid Price</b>
A-1.	All work under the Bidding Documents	LS	1	\$ 396,855.14	\$ 396,855.14
Total of All Base Bid Prices: Three Hundred Ninety Six Thousand Eight Hundred Fifty Five and 14/100				\$ 396,855.14	
(Words)				Dollars & No Cents	



### Consulting Agreement

This Consulting Agreement (the “Agreement” or “Consulting Agreement”) states the terms and conditions that govern the contractual agreement between **LARSON DATA COMMUNICATIONS** having its principal place of business at 220 S. Kimball St., Mitchell, SD 57301 (the “Consultant”), and **SECOND SIGHT SYSTEMS, LLC** (the “Lead Contractor”) who agrees to be bound by this Agreement.

WHEREAS, the Consultant offers technical consulting services to support the development of a proposal and execution of installation services related to the City of Lee’s Summit RFP for the water utility SCADA system; and

WHEREAS, the Lead Contractor desires to retain the services of the Consultant to render consulting services with regards to technical support, network optimization programming, and customer training according to the terms and conditions herein.

NOW, THEREFORE, In consideration of the mutual covenants and promises made by the parties hereto, the Consultant and the Lead Contractor (individually, each a “Party” and collectively, the “Parties”) covenant and agree as follows:

#### 1. Term

This Agreement shall begin on **9/1/17** and continue for six (6) months and automatically renews for an additional six (6) months unless one Party provides written notice to the other Party.

a. Either Party may terminate this Agreement for any reason with thirty (30) days written notice to the other Party.

#### 2. Consulting Services

The Consultant agrees that it shall provide its expertise to the Lead Contractor and act as an exclusive consultant and advisor to the Lead Contractor. Consultant will advise Lead Contractor in developing a comprehensive proposal that will address all system specifications outlined in the HDR and Lee’s Summit RFP document. Should Lead Contractor ultimately be awarded the contract from the City of Lee’s Summit, Consultant will be retained throughout the installation phase including the completion of the system deployment and will be expected to provide hands-on support for all network programming and optimization, customer on-call technical support, and post-installation training (the “Consulting Services”).

#### 3. Compensation

Refer to *Amendment “A”*

#### 4. Intellectual Property Rights in Work Product

The Parties acknowledge and agree that the Lead Contractor will hold all intellectual property rights in any new or unique work product resulting from the Consulting Services including, but not limited to,



844.789.9111  
info@sssr.com  
www.sssrf.com

Utility Field Services • SCADA Systems • Tower Services

copyright and trademark rights. The Consultant agrees not to claim any such ownership in such work product's intellectual property at any time prior to or after the completion and delivery of such work product to the Lead Contractor.

#### 5. Confidentiality

The Consultant shall not disclose to any third party any details regarding the Lead Contractor's business, including, without limitation any information regarding any of the Lead Contractor's customer information, business plans, or price points (the "Confidential Information"), (ii) make copies of any Confidential Information or any content based on the concepts contained within the Confidential Information for personal use or for distribution unless requested to do so by the Lead Contractor, or (iii) use Confidential Information other than solely for the benefit of the Lead Contractor.


#### 10. Applicable Law

This Consulting Agreement and the interpretation of its terms shall be governed by and construed in accordance with the laws of the State of Missouri and subject to the exclusive jurisdiction of the federal and state courts located in Jefferson County, Missouri.

IN WITNESS WHEREOF, each of the Parties has executed this Consulting Agreement, both Parties by its duly authorized officer, as of the day and year set forth below.

**LARSON DATA COMMUNICATIONS ("Consultant")**

**SECOND SIGHT SYSTEMS, LLC ("Lead Contractor")**

Signature: 

Name: Michael E. Larson

Date: 6 September, 2017

Signature: *Todd Deibel*

Name: Todd Deibel

Date: 6 September 2017



**GEMDS**

Industrial Wireless  
Networks

# Product Training Session

THIS IS TO CERTIFY THAT

**Andrew Krekow**

HAS SUCCESSFULLY COMPLETED MDS PRODUCT LINE AND APPLICATION TRAINING FOR

**Orbit Certification**

In Rochester, NY July 25<sup>th</sup> - 29<sup>th</sup>

Instructor: Alex Boyd



**Product Training Session**



*This Certifies That*

**Andrew Krekow**

Has successfully completed MDS Product Line and Application Training for the:

**Industrial Wireless Data Communications Technology  
& GE MDS Orbit Product Suite Training**

Conducted by Larson Data Communications, in Mitchell, SD

December 13th - 15th, 2016

  
\_\_\_\_\_  
Aaron Gerfen

INSTRUCTOR  
Senior Systems Technician

  
\_\_\_\_\_  
Mike Larson

INSTRUCTOR  
Senior Systems Engineer



**State of Missouri**  
**Jason Kander, Secretary of State**  
 Corporations Division  
 PO Box 778 / 600 W. Main St., Rm. 322  
 Jefferson City, MO 65102

**LC001475151**  
**Date Filed: 3/16/2016**  
**Jason Kander**  
**Missouri Secretary of State**

**Amendment of Articles of Organization**

*(Submit with filing fee of \$25.00)*

Charter #: LC001475151

1. The current name of the limited liability company is SCADA Holdings, LLC

2. The effective date of this document is the date it is filed by the Secretary of State of Missouri, unless a future date is otherwise indicated:

*(Date may not be more than 90 days after the filing date in this office)*

3. State date of occurrence that required this amendment: 3/1/2016  
*Month/Day/Year*

4. The articles of organization are hereby amended as follows:

Section 1 shall be deleted in its entirety and, in lieu thereof, the following shall be substituted in its place and stead: "The name of the company is Second Sight Systems, LLC."

New Name (if applicable): Second Sight Systems, LLC

5. (Check if applicable) This amendment is required to be filed because:

- management of the limited liability company is vested in one or more managers where management had not been so previously vested.
- management of the limited liability company is no longer vested in one or more managers where management was previously so vested.
- a change in the name of the limited liability company.
- a change in the time set forth in the articles of organization for the limited liability company to dissolve.

6. This amendment is (check either or both):

- authorized under the operating agreement
- required to be filed under the provisions of RSMo Chapter 347
- both

In Affirmation thereof, the facts stated above are true and correct:

(The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo)

Todd Deibel  
*Authorized Signature*

TODD DEIBEL  
*Printed Name*

03/16/2016  
*Date*

LLC-12 (11/2009)

Name and address to return filed document:
Name: <u>Thomas E. Pulliam</u>
Address: <u>Email: tepulliam@aol.com</u>
City, State, and Zip Code: _____

# STATE OF MISSOURI



**Jason Kander**  
**Secretary of State**

## CERTIFICATE OF AMENDED ARTICLES OF ORGANIZATION

WHEREAS,

*Second Sight Systems, LLC*  
*LC001475151*

FORMERLY,

*SCADA Holdings, LLC*

filed its amended Articles of Organization with this office and WHEREAS that filing was found to conform to the Missouri Limited Liability Company Act;

NOW, THEREFORE, I, JASON KANDER, Secretary of State of the State of Missouri, by virtue of authority vested in me by law do hereby certify and declare that the above entity's Articles of Organization are amended.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 16th day of March, 2016.

  
Secretary of State





	Bid # 2017-042-1-3C	
		September 7, 2017 / 2:00 PM
	Water Utilities SCADA Improvements	
	Bidder	Bid
1	R. E. Pedrotti Company	\$ 498,000.00
2	Second Sight Systems	\$ 396,855.14
3	A.W. Schultz, Inc.	\$ 548,500.00
4		
5		
6		
7		
8		
9		
	Engineer's Estimate	\$ 484,888.00

## Packet Information

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**File #:** BILL NO. 17-209, **Version:** 1

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AN ORDINANCE APPROVING A FIRST AMENDMENT TO A PARKING LICENSE AGREEMENT WITH VOGUE CONDOMINIUMS OWNERS ASSOCIATION, INC. REDUCING THE NUMBER OF PARKING SPACES FOR WHICH THE CITY SHALL PAY A LICENSE FEE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.

Issue/Request:

AN ORDINANCE APPROVING A FIRST AMENDMENT TO A PARKING LICENSE AGREEMENT WITH VOGUE CONDOMINIUMS OWNERS ASSOCIATION, INC. REDUCING THE NUMBER OF PARKING SPACES FOR WHICH THE CITY SHALL PAY A LICENSE FEE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.

Key Issues:

The Vogue Condominium Owner's Association (VCOA) desires to amend the Parking License Agreement between the VCOA and the City for the public parking within the Vogue Condominium parking garage. The main goal of the amendments is to create a more defined delineation between public and private parking spaces within the parking garage.

Highlighted below are the substantive changes proposed within the First Amendment to the Parking License Agreement:

- \* **Language to clarify/delineate public/private parking spaces** - the proposed amendment would allow public parking on the eastern half of the garage (both upper and lower decks), and private/resident parking on the western half of the garage (both upper and lower decks).
- \* **Reduce the number of public parking spaces from 28 to 24** - with the proposed changes to the parking arrangement to create a better understood delineation of public/private parking spaces, the publicly available parking spaces would be reduced by 4 spaces.
- \* **Reduce the fees paid by City for use of public parking spaces** - fees revised to reflect reduction of public parking spaces from 28 to 24 spaces.
- \* **Reduction in duration of Parking License Agreement term** - reducing the term of the Parking License Agreement from 20 years to 18 years to maintain original duration within the agreement.
- \* **Updated Owner contact information** - to reflect current ownership/contacts
- \* **City ability to tow vehicles** - incorporated language that would allow the City to tow illegally parked vehicles in designated public parking spaces.

Proposed City Council Motion:

AN ORDINANCE APPROVING A FIRST AMENDMENT TO A PARKING LICENSE AGREEMENT WITH VOGUE CONDOMINIUMS OWNERS ASSOCIATION, INC. REDUCING THE NUMBER OF PARKING SPACES FOR WHICH THE CITY SHALL PAY A LICENSE FEE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY - I move for second reading.

Background:

In 2006 the Hartley Block Tax Increment Financing Plan that included the construction of a parking garage intended to accommodate the redevelopment project as well as provide public parking within the garage. After working through many different challenges to complete the project, the City entered into a Parking License Agreement (Ordinance No. 7503) with said Parking License Agreement becoming effective on June 15, 2015 upon completion of the parking garage. The Owner requests to amend the Parking License Agreement to bring clarity to the public/private parking arrangement therefore the First Amendment to the Parking License Agreement is being presented for consideration and approval.

Impact/Analysis:

If approved, there would be a reduction in the number of publicly designated parking spaces within the VCOA parking garage and fees would be reduced accordingly (28 public spaces reduced to 24 public spaces). The VCOA and City feel that providing a clearer delineation of public and private spaces will assist in compliance and enforcement of parking within the parking structure.

Presenter:

Mark Dunning, Assistant City Manager - Development Services and Communications

Recommendation: Staff recommends approval of the proposed amendments

## **BILL NO. 17-209**

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AN ORDINANCE APPROVING A FIRST AMENDMENT TO A PARKING LICENSE AGREEMENT WITH VOGUE CONDOMINIUMS OWNERS ASSOCIATION, INC. REDUCING THE NUMBER OF PARKING SPACES FOR WHICH THE CITY SHALL PAY A LICENSE FEE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.

WHEREAS, by passage of Ordinance No. 7503, the City Council approved a Development Agreement by and between the City and CML-HOM HAF, LLC, for the completion of parking garage improvements of the Hartley Block Tax Increment Financing Redevelopment Plan which included the City licensing 28 spaces in the garage; and,

WHEREAS, Ordinance No. 7503 approved the form of the license which the City has entered into with the Vogue Condominiums Owners Association, Inc. (VCOA), the owner of the garage structure, as provided for in the Development Agreement; and,

WHEREAS, VCOA has requested an Amendment of the License Agreement to provide that the public and private parking spaces be more uniformly allocated which will result in the condominium residents gaining four additional parking spaces and the City four less parking spaces and that the spaces be designated; and,

WHEREAS, the City has the right to waive the total number of 28 spaces provided for in the Development Agreement and accept fewer with the ability to add or subtract from that number by amending the actual Parking License Agreement with the owner of the parking garage; and

WHEREAS, the license fee of \$30.00 per space is paid based on the number of the parking spaces the City has a right to use under the License Agreement; and,

WHEREAS, the City is desirous of waiving its right under the Development Agreement to 28 spaces and is willing to reduce that number to up to 24 spaces with the further ability to reduce or increase the number with an adjustment of the license fee to be paid with written mutual consent.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the Amended Parking License Agreement between the Vogue Condominiums Owners Association, Inc., a true and accurate copy being attached hereto as "Exhibit A" and incorporated herein by reference as though fully set forth, be and hereby is approved.

SECTION 2. That the City Manager is hereby authorized to execute said Public Service Agreement by and on behalf of the City of Lee's Summit, Missouri.

SECTION 3. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor

**BILL NO. 17-209**

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SECTION 4. That should any section, sentence, or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences or clauses.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*Deputy City Clerk Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
*Mayor Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
*Deputy City Clerk Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
Chief Counsel of Infrastructure and Planning  
*Nancy Kelley Yendes*

## Amended Parking License Agreement

This Amended Parking License Agreement (this "Agreement") is made as of \_\_\_\_\_, 2017, by and between Vogue Condominiums Owners Association, Inc., Missouri not-for-profit corporation ("Owner"), and The City of Lee's Summit, Missouri, a political subdivision of the State of Missouri ("City").

### RECITALS:

A. Owner owns the two level parking garage located on the property described on Exhibit A attached hereto and incorporated herein by reference in downtown Lee's Summit, Missouri (the "Parking Garage").

B. City desires to have the irrevocable right to use certain parking spaces in the Parking Garage for public parking, and Owner is willing to grant such right, upon and subject to the terms and provisions hereinafter set forth, as provided for in the certain Development Agreement between the City and CML-MO HAF, LLC, dated January 23, 2015 (the "Development Agreement"). Unless the context clearly provides otherwise, all undefined terms used in the Agreement shall have the meaning provided for in the Development Agreement.

NOW, THEREFORE, in consideration of mutual covenants and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and City hereby agree as follows:

1. License. Subject to the terms and provisions of this Agreement, Owner grants to City the irrevocable right, during the term of this Agreement, to use 24 parking spaces within the Parking Garage, in such locations as provided below in Section 4, for the parking of passenger automobiles and non-commercial light-duty trucks by the City and members of the general public ("Permitted Users") and for no other use or purpose.

2. Term. The term of this Agreement shall commence on \_\_\_\_\_ (the "Effective Date") and expire on the date that is eighteen (18 ) years after the Effective Date. Upon the expiration or termination of the Agreement, City shall surrender the Parking Spaces.

3. License Fee.

3.1 At the time of this Amended License Agreement, City shall have the right to use 24 parking spaces, which number may be changed with the mutual consent of the City as approved by the City Manager and the Owner. City shall, during the term of this Agreement and subject to annual appropriation by the City Council, pay to Owner for the use of the parking spaces a monthly fee ("License Fee") currently comprised of (i) \$720 (approximately \$30.00 a month for each of the 24 parking spaces) (the "Parking Fee") plus (ii) the "Additional Fee" (as calculated and defined in Section 3.3 below). The License Fee shall be payable on the first day of each calendar month in advance without demand, set-off or deduction. If the number of parking spaces is increased or decreased, the License Fee shall be adjusted on a pro rata basis. If the Effective Date of this Agreement is not the first day of a calendar month, the License Fee for the fractional calendar month in which the Effective Date occurs shall be prorated on a per diem basis, and the License Fee for such fractional calendar month shall be payable by City to Owner within ten business days of the Effective Date. City shall deliver the License

Fee to Owner at Vogue Condominiums Owners Association, Inc. c/o Sara Baughter, Treasurer, 319 SE Doulgas Street, Unit 102 Lee's Summit, MO 64063 or to such other address as Owner shall designate to City in writing. Other than the License Fee being charged to City, Owner agrees that during the term of this Agreement, Owner shall not charge the members of the general public using the 24, or such number as agreed to, parking spaces in the Parking Garage a separate fee or charge for the use of such parking spaces.

3.2 On the first anniversary of the Effective Date and as of each anniversary thereafter during the term of this Agreement, (each such date being referred to as an Adjustment Date), the Parking Fee shall be adjusted by multiplying the same by a fraction, the numerator of which is the CPI as of the Adjustment Date, and the denominator of which is the CPI as of the Effective Date; however, in no event shall the Parking Fee ever decrease below the amount of the License Fee payable for the period immediately prior to the Adjustment Date, notwithstanding a decrease in the CPI. The "CPI" shall mean the Consumer Price Index for all Urban Consumers (U.S. city average; base 1982-84 = 100), published by the Bureau of Labor Statistics of the United States Department of Labor. If at any time during the term, the "CPI" shall be discontinued or published less frequently, (i) Owner shall substitute an official index published by the Bureau of Labor Statistics, or a successor or comparable governmental agency, which reasonably reflects and monitors consumer prices, or (ii) the base year (1982-84 = 100) or other base year used in computing the CPI is changed, the figures used in making the foregoing adjustments shall accordingly be changed so that all changes in the CPI are taken into account notwithstanding any change in the base year.

3.3 In addition to the License Fee, City shall, subject to annual appropriation by the City Council, pay Owner an additional fee ("Additional Fee") equal to the "City's Proportionate Share" (as defined below) of the amount of real estate taxes Owner pays each year that are attributable to the Parking Garage. The "City's Proportionate Share" shall mean the sum obtained by dividing the total number of parking spaces in the Parking Garage by the total number of parking spaces in the Parking Garage that the City has the right to use. The City's Proportionate Share is estimated to be .50 (24/48) based upon the City using 24 parking spaces of the estimated 48 parking spaces in the Parking Garage. The Additional Fee shall be paid in monthly installments at the same time the Parking Fee is paid and shall be based on one twelfth (1/12) of Owner's reasonable estimate of the amount of real estate taxes attributable to the Parking Garage for the calendar year in which the Additional Fee is being paid (and Owner agrees that this estimate will be based on the real estate taxes attributable to the Parking Garage in the preceding calendar year if available). Owner shall provide City with such reasonable documentation as the City may require to evidence Owner's estimated calculation of the Additional Fee and the parties shall make an annual adjustment to the Additional Fee once the Owner receives the actual real state tax bill and can calculate the real estate taxes attributable to the Parking Garage for the calendar year in which the Additional Fee is being paid. Once the year end adjustment of the Additional Fee has been determined, (i) Owner will refund any overpayment of the Additional Fee to City within 30 days thereafter or (ii) the City will make an additional payment associated with the Additional Payment to Owner within 30 days thereafter.

#### 4. Locations of Parking Spaces and Towing of Illegally Parked Vehicles.

4.1. City acknowledges and agrees that the residents of the Vogue Condominiums have the right to use 24, or such number as mutually agreed to, reserved parking spaces (the "Unit Owner Parking Spaces") in the Parking Garage. The Unit Owner Parking Spaces shall be the 24 parking spaces

on the western portion of the upper and lower decks of the parking garage. The Unit Owner Parking Spaces will be clearly designated or marked by Owner as "Reserved" for use by the residents of the Vogue Condominiums only.

4.2 The 24, or such number as mutually agreed to, parking spaces assigned for use by the City shall be 24 parking spaces situated on the eastern portion of the upper and lower decks of the parking garage. At all times the City shall have the right to use 24 parking spaces in the Parking Garage.

4.3. City acknowledges and agrees that the City and its Permitted Users shall only be permitted to park their vehicles in those parking spaces located on the eastern portion of the upper and lower decks of the parking garage as assigned to City by Owner. City may use signage to identify the City's spaces. If any vehicles of City or City's Permitted Users are parked in the Unit Owner Parking Spaces or in any other portion of the Parking Garage other than the 24 spaces assigned for use by the City, or if City or any of its Permitted Users are otherwise in violation of any rules or regulations promulgated by Owner hereunder, then in addition to Owner's other rights and remedies, Owner may, at its option, tow any impermissibly parked vehicles or cause them to be towed at the expense of the owner of the vehicle that is impermissibly parked.

4.4 City agrees that the storage of vehicles and the extended parking of vehicles (more than 2 consecutive days) in the Parking Garage is strictly prohibited. If the City or Permitted Users violate this provision, Owner may, at its option, tow any vehicle in violation of this provision at the expense of the owner of the vehicle.

4.5 Owner maintains its right to enforce restrictions within the Parking Garage including the towing of any illegally parked vehicles when Owner deems it proper as provided by law. However, the Owner may consent to the City towing a vehicle that is illegally parked in a designated public space upon a written request by the City to tow such vehicle or request the City to tow a vehicle that is illegally parked in a designated public space. The City shall have total discretion to decide whether or not to tow any illegally parked vehicle from a designated public space.

5. Maintenance of Parking Garage. Owner shall, at its sole cost and expense, maintain the Parking Garage in good condition and repair in accordance with all applicable laws, ordinances and regulations of governmental authorities having jurisdiction over the Parking Garage.

6. Rules and Regulations; Compliance with Laws. City shall comply and shall cause all of its Permitted Users to comply with (a) all rules and regulations from time to time reasonably promulgated by Owner with respect to the operation and use of the Parking Garage so long as the rules apply to all users of the Parking Garage and are uniformly enforced by Owner, and (b) all applicable laws, ordinances and regulations of all governmental authorities having jurisdiction over the Property with respect to the use of the Parking Garage.

7. Default. If the License Fee or any other charge payable hereunder shall be unpaid on the date payment is required by the terms of this Agreement, and such failure is not remedied within 15 days after Owner has given written notice thereof to City, then City shall be in default under this Agreement and Owner shall have the right, in addition to any other rights and remedies Owner may have at law or in equity, to immediately terminate this Agreement by giving written notice thereof to City. If Owner so elects to terminate this Agreement and all rights of City hereunder shall terminate as of the date of such notice. If City fails to perform or comply with any other term or provision of this



Agreement, and such failure shall not be remedied within 30 days after Owner has given written notice thereof to City, then City shall be in default under this Agreement and Owner shall have the right to seek enforcement of any rights and remedies Owner may have at law and in equity.

8. Liability.

8.1. City accepts the parking spaces therein assigned to City from time to time in their as-is condition. City and its Permitted Users shall use the Parking Garage at their own risk. Owner and its agents and employees shall not be liable for any injury, death, property damage, theft or disappearance occurring in, on or about the Parking Garage to City, any Permitted User of City or their respective vehicles or the contents thereof, or to anyone else claiming by, through or under any of them, except to the extent caused by the negligence or willful misconduct of Owner. Owner shall not be required to provide any security service for the Parking Garage and Owner shall not be liable in any manner whatsoever to City, any Permitted User or any third party by reason of Owner's failure to act in providing security for the Parking Garage. City hereby waives, and releases and discharges Owner from, any and all claims, demands, actions and causes of action it may have for any and all loss, cost, expense, damage or injury to persons or property of City or its Permitted Users by or from any cause whatsoever, except to the extent caused solely and directly by the gross negligence or willful misconduct of Owner.

8.2. City agrees that City shall look solely to the estate of Owner in the Parking Garage for the collection of any judgment (or other judicial process) requiring the payment of money by Owner upon any default by Owner under this Agreement, subject, however, to the prior rights of the holder of any mortgage encumbering the Parking Garage or any part thereof, and no other assets of Owner shall be subject to levy, execution or other judicial process for the satisfaction of any such claim, and Owner shall not be liable for any such default except to the extent of Owner's estate in the Parking Garage.

9. Casualty Damage. If the Parking Garage is damaged by a casualty in a manner or to an extent which prevents the use of some or all of City's assigned parking spaces, and Owner fails to promptly assign substitute parking spaces to City within the Parking Garage, then the License Fee payable hereunder shall be equitably abated in accordance with the nature and duration of the interference caused by such casualty.

10. No Assignment. The license herein granted is personal to the City named herein and is not assignable. City shall not assign this Agreement or any of its rights hereunder, nor shall City permit any person or party other than City's Permitted Users to use the parking spaces assigned to City hereunder.

11. Notices. Notices to Owner and City under this Agreement will be addressed to and mailed or delivered to the address set forth below. Notices will be personally delivered or given by registered or certified mail, return receipt requested. Notices delivered personally will be deemed to have been given as of the date of delivery and notices given by mail will be deemed to have been given forty-eight (48) hours after the time said properly addressed notice is placed in the mail. Each party may change its address from time to time by written notice given to the other as specified above.

To Owner: Vogue Condominiums Owners Association, Inc.  
c/o Dawnetta Dugan, President  
319 SE Douglas Street, Unit 106  
Lee's Summit, MO 64063

To City: City of Lee's Summit, Missouri  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063  
Attention: City Manager  
Telephone No. 816.969.1010  
Facsimile No. \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

12. Indemnity. To the extent allowed by law, including, without limitation, the Missouri Constitution, City agrees to hold Owner, and its agents, servants and employees, harmless and to indemnify each of them from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising out of City's negligent acts or omissions in the performance of its obligations or rights under this Agreement, or relating to City's breach or default under this Agreement, or City's use or occupancy of the Parking Garage y, unless caused by the gross negligence or willful misconduct of Owner. Owner agrees to hold City, and its agents, servants, elected and appointed officials, now or formerly holding office, officers and employees, harmless and to indemnify each of them from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising out of Owner's negligent acts or omissions, or relating to Owner's breach or default under this Agreement, or Owner's use or occupancy of the Parking Garage or caused by Owner, unless caused by the gross negligence or willful misconduct of City. This indemnity provision shall survive termination or expiration of this Agreement.

13. No Estate in Land; Covenants Running with the Property. It is expressly agreed that under this Agreement, City is only granted an irrevocable license to use the parking spaces as permitted hereunder, and not a leasehold or other estate in land or any other possessory interest in the parking spaces, and that City's interest hereunder is not subject to levy, execution and sale and is not assignable. The parties acknowledge and agree that no provision of this Agreement shall in any way be construed as creating: (a) any joint venture between Owner and City, or (b) any agency relationship between Owner and City (the parties acknowledge that each party is an independent contractor of the other and shall in no way be responsible for any acts or omissions of the other or its agents, employees or contractors). This Agreement shall bind and inure to the benefit of the parties and their respective heirs, legal representatives, successors, successors-in-interest and assigns. The City shall record a copy of this Agreement, or a memorandum of this Agreement, in the office of the Recorder of Deeds for Jackson County, Missouri.

14. Sale. In the event of a sale or conveyance by Owner of its interests in the Parking Garage, this Agreement shall remain in full force and effect and the same shall operate to release Owner from any future liability (but not from any liability on account of matters prior to the date of such sale) upon any covenants or conditions, express or implied, herein contained in favor of City, and in such

event City agrees to look solely to the responsibility of the successor in interest of Owner. City agrees to attorn to the purchaser and assignee.

15. General Provisions. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. If suit is brought because of a default under this Agreement by either party and a default is established, the prevailing party shall be entitled to recover all expenses incurred in connection with such default and such suit, including, without limitation, attorneys' fees and court costs. This Agreement represents the entire agreement between the parties hereto with respect to the subject matter hereof, and no change may be made hereto unless made in writing and signed by both parties.

The remainder of this page is intentionally blank.  
The parties' signatures are on the next page.

IN WITNESS WHEREOF, Owner and City have executed this Parking License Agreement to be effective as of the date first set forth above.

OWNER:

VOGUE CONDOMINIUM OWNERS ASSOCIATION, INC.  
A Missouri not-for-profit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY:

CITY OF LEE'S SUMMIT,  
a political subdivision of the State of Missouri

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

Name: \_\_\_\_\_

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

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

## **Parking License Agreement**

This Parking License Agreement (this "**Agreement**") is made as of June 15, 2015, by and between **Vogue Condominiums Owners Association, Inc.** a Missouri not-for-profit corporation ("**Owner**"), and **The City of Lee's Summit**, Missouri, a political subdivision of the State of Missouri ("**City**").

### RECITALS:

A. Owner owns the two level parking garage located on the property described on Exhibit A attached hereto and incorporated herein by reference in downtown Lee's Summit, Missouri (the "**Parking Garage**").

B. City desires to have the irrevocable right to use certain parking spaces in the Parking Garage for public parking, and Owner is willing to grant such right, upon and subject to the terms and provisions hereinafter set forth, as provided for in the certain Development Agreement between the City and CML-MO HAF, LLC, dated January 23, 2015 (the "**Development Agreement**"). Unless the context clearly provides otherwise, all undefined terms used in the Agreement shall have the meaning provided for in the Development Agreement.

NOW, THEREFORE, in consideration of mutual covenants and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and City hereby agree as follows:

1. **License.** Subject to the terms and provisions of this Agreement, Owner grants to City the irrevocable right, during the term of this Agreement, to use 28 parking spaces within the Parking Garage, in such locations as provided below in Section 4, for the parking of passenger automobiles and non-commercial light-duty trucks by the City and members of the general public ("**Permitted Users**") and for no other use or purpose.

2. **Term.** The term of this Agreement shall commence on June 15, 2015 (the "**Effective Date**") and expire on the date that is twenty (20) years after the Effective Date. Upon the expiration or termination of the Agreement, City shall surrender the Parking Spaces.

3. **License Fee.**

3.1 City shall, during the term of this Agreement and subject to annual appropriation by the City Council, pay to Owner for the use of the parking spaces a monthly fee ("**License Fee**") comprised of (i) \$840 (approximately \$30.00 a month for each of the 28 parking spaces) (the "**Parking Fee**") plus (ii) the "**Additional Fee**" (as calculated and defined in Section 3.3 below). The License Fee shall be payable on the first day of each calendar month in advance without demand, set-off or deduction. If the Effective Date of this Agreement is not the first day of a calendar month, the License Fee for the fractional calendar month in which the Effective Date occurs shall be prorated on a per diem basis, and the License Fee for such fractional calendar month shall be payable by City to Owner within ten business days of the Effective Date. City shall deliver the License Fee to Owner at c/o Newmark Grubb Zimmer, PO Box 411299, Kansas City, MO 64141, or to such other address as Owner shall designate to City in writing. Other than the License Fee being charged to City, Owner agrees that during the term of this Agreement, Owner shall not charge the members of the general public using the 28 parking spaces in the Parking Garage a separate fee or charge for the use of such parking spaces.

3.2 On the first anniversary of the Effective Date and as of each anniversary thereafter during the term of this Agreement, (each such date being referred to as an **Adjustment Date**), the

Parking Fee shall be adjusted by multiplying the same by a fraction, the numerator of which is the CPI as of the Adjustment Date, and the denominator of which is the CPI as of the Effective Date; however, in no event shall the Parking Fee ever decrease below the amount of the License Fee payable for the period immediately prior to the Adjustment Date, notwithstanding a decrease in the CPI. The "CPI" shall mean the Consumer Price Index for all Urban Consumers (U.S. city average; base 1982-84 = 100), published by the Bureau of Labor Statistics of the United States Department of Labor. If at any time during the term, the "CPI" shall be discontinued or published less frequently, (i) Owner shall substitute an official index published by the Bureau of Labor Statistics, or a successor or comparable governmental agency, which reasonably reflects and monitors consumer prices, or (ii) the base year (1982-84 = 100) or other base year used in computing the CPI is changed, the figures used in making the foregoing adjustments shall accordingly be changed so that all changes in the CPI are taken into account notwithstanding any change in the base year.

3.3 In addition to the License Fee, City shall, subject to annual appropriation by the City Council, pay Owner an additional fee ("**Additional Fee**") equal to the "City's Proportionate Share" (as defined below) of the amount of real estate taxes Owner pays each year that are attributable to the Parking Garage. The "City's Proportionate Share" shall mean the sum obtained by dividing the total number of parking spaces in the Parking Garage by the total number of parking spaces in the Parking Garage that the City has the right to use. The City's Proportionate Share is estimated to be .59 (28/48) based upon the City using 28 parking spaces of the estimated 48 parking spaces in the Parking Garage. The Additional Fee shall be paid in monthly installments at the same time the Parking Fee is paid and shall be based on one twelfth (1/12) of Owner's reasonable estimate of the amount of real estate taxes attributable to the Parking Garage for the calendar year in which the Additional Fee is being paid (and Owner agrees that this estimate will be based on the real estate taxes attributable to the Parking Garage in the preceding calendar year if available). Owner shall provide City with such reasonable documentation as the City may require to evidence Owner's estimated calculation of the Additional Fee and the parties shall make an annual adjustment to the Additional Fee once the Owner receives the actual real estate tax bill and can calculate the real estate taxes attributable to the Parking Garage for the calendar year in which the Additional Fee is being paid. Once the year end adjustment of the Additional Fee has been determined, (i) Owner will refund any overpayment of the Additional Fee to City within 30 days thereafter or (ii) the City will make an additional payment associated with the Additional Payment to Owner within 30 days thereafter.

#### **4. Locations of Parking Spaces.**

4.1. City acknowledges and agrees that the residents of the Vogue Condominiums have the right to use 20 reserved parking spaces (the "**Unit Owner Parking Spaces**") in the Parking Garage from time to time designated by Owner. The Unit Owner Parking Spaces will be clearly designated or marked by Owner as "Reserved" for use by the residents of the Vogue Condominiums only.

4.2 The 28 parking spaces assigned for use by the City shall be 28 parking spaces in the Parking Garage that are not designated as "Reserved" for the exclusive use of the residents of the Vogue Condominiums. Owner shall have the right to change, at any time and from time to time, the location of the Unit Owner Parking Spaces and the 28 parking spaces assigned for use by the City shall change accordingly, but at all times the City shall have the right to use 28 parking spaces in the Parking Garage.

4.3. City acknowledges and agrees that the City and its Permitted Users shall only be permitted to park their vehicles in those parking spaces assigned to City by Owner. If any vehicles of City or City's Permitted Users are parked in the Unit Owner Parking Spaces or in any other portion of the Parking Garage other than the 28 spaces assigned for use by the City, or if City or any of its Permitted Users are otherwise in violation of any rules or regulations promulgated by Owner hereunder, then in addition to Owner's other rights and remedies, Owner may, at its option, tow any impermissibly parked



vehicles or cause them to be towed at the expense of the owner of the vehicle that is impermissibly parked.

4.4 City agrees that the storage of vehicles and the extended parking of vehicles (more than 2 consecutive days) in the Parking Garage is strictly prohibited. If the City or Permitted Users violate this provision, Owner may, at its option, tow any vehicle in violation of this provision at the expense of the owner of the vehicle.

**5. Maintenance of Parking Garage.** Owner shall, at its sole cost and expense, maintain the Parking Garage in good condition and repair in accordance with all applicable laws, ordinances and regulations of governmental authorities having jurisdiction over the Parking Garage.

**6. Rules and Regulations: Compliance with Laws.** City shall comply and shall cause all of its Permitted Users to comply with (a) all rules and regulations from time to time reasonably promulgated by Owner with respect to the operation and use of the Parking Garage so long as the rules apply to all users of the Parking Garage and are uniformly enforced by Owner, and (b) all applicable laws, ordinances and regulations of all governmental authorities having jurisdiction over the Property with respect to the use of the Parking Garage.

**7. Default.** If the License Fee or any other charge payable hereunder shall be unpaid on the date payment is required by the terms of this Agreement, and such failure is not remedied within 15 days after Owner has given written notice thereof to City, then City shall be in default under this Agreement and Owner shall have the right, in addition to any other rights and remedies Owner may have at law or in equity, to immediately terminate this Agreement by giving written notice thereof to City. If Owner so elects to terminate this Agreement and all rights of City hereunder shall terminate as of the date of such notice. If City fails to perform or comply with any other term or provision of this Agreement, and such failure shall not be remedied within 30 days after Owner has given written notice thereof to City, then City shall be in default under this Agreement and Owner shall have the right to seek enforcement of any rights and remedies Owner may have at law and in equity.

**8. Liability.**

8.1. City accepts the parking spaces therein assigned to City from time to time in their as-is condition. City and its Permitted Users shall use the Parking Garage at their own risk. Owner and its agents and employees shall not be liable for any injury, death, property damage, theft or disappearance occurring in, on or about the Parking Garage to City, any Permitted User of City or their respective vehicles or the contents thereof, or to anyone else claiming by, through or under any of them, except to the extent caused by the negligence or willful misconduct of Owner. Owner shall not be required to provide any security service for the Parking Garage and Owner shall not be liable in any manner whatsoever to City, any Permitted User or any third party by reason of Owner's failure to act in providing security for the Parking Garage. City hereby waives, and releases and discharges Owner from, any and all claims, demands, actions and causes of action it may have for any and all loss, cost, expense, damage or injury to persons or property of City or its Permitted Users by or from any cause whatsoever, except to the extent caused solely and directly by the gross negligence or willful misconduct of Owner.

8.2. City agrees that City shall look solely to the estate of Owner in the Parking Garage for the collection of any judgment (or other judicial process) requiring the payment of money by Owner upon any default by Owner under this Agreement, subject, however, to the prior rights of the holder of any mortgage encumbering the Parking Garage or any part thereof, and no other assets of Owner shall be subject to levy, execution or other judicial process for the satisfaction of any such claim, and Owner shall not be liable for any such default except to the extent of Owner's estate in the Parking Garage.

**9. Casualty Damage.** If the Parking Garage is damaged by a casualty in a manner or to an extent which prevents the use of some or all of City's assigned parking spaces, and Owner fails to promptly assign substitute parking spaces to City within the Parking Garage, then the License Fee payable hereunder shall be equitably abated in accordance with the nature and duration of the interference caused by such casualty.

**10. No Assignment.** The license herein granted is personal to the City named herein and is not assignable. City shall not assign this Agreement or any of its rights hereunder, nor shall City permit any person or party other than City's Permitted Users to use the parking spaces assigned to City hereunder.

**11. Notices.** Notices to Owner and City under this Agreement will be addressed to and mailed or delivered to the address set forth below. Notices will be personally delivered or given by registered or certified mail, return receipt requested. Notices delivered personally will be deemed to have been given as of the date of delivery and notices given by mail will be deemed to have been given forty-eight (48) hours after the time said properly addressed notice is placed in the mail. Each party may change its address from time to time by written notice given to the other as specified above.

To Owner: Vogue Condominiums Owners Association  
c/o Newmark Grubb Zimmer  
PO Box 411299  
Kansas City, MO 64141  
Attention: Kim Wieland  
Telephone No. 816.268.4221  
Facsimile No. \_\_\_\_\_  
E-mail Address: kwieland@ngzimmer.com

To City: City of Lee's Summit, Missouri  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063  
Attention: City Manager  
Telephone No. 816.969.1000  
Facsimile No. \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

**12. Indemnity.** To the extent allowed by law, including, without limitation, the Missouri Constitution, City agrees to hold Owner, and its agents, servants and employees, harmless and to indemnify each of them from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising out of City's negligent acts or omissions in the performance of its obligations or rights under this Agreement, or relating to City's breach or default under this Agreement, or City's use or occupancy of the Parking Garage, unless caused by the gross negligence or willful misconduct of Owner. Owner agrees to hold City, and its agents, servants, elected and appointed officials, now or formerly holding office, officers and employees, harmless and to indemnify each of them from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising out of Owner's negligent acts or omissions, or relating to Owner's breach or default under this Agreement, or Owner's use or occupancy of the Parking Garage or caused by Owner, unless caused by the gross negligence or willful misconduct of City. This indemnity provision shall survive termination or expiration of this Agreement.

**13. No Estate in Land; Covenants Running with the Property.** It is expressly agreed that under this Agreement, City is only granted an irrevocable license to use the parking spaces as permitted hereunder, and not a leasehold or other estate in land or any other possessory interest in the parking spaces, and that City's interest hereunder is not subject to levy, execution and sale and is not assignable. The parties acknowledge and agree that no provision of this Agreement shall in any way be construed as creating: (a) any joint venture between Owner and City, or (b) any agency relationship between Owner and City (the parties acknowledge that each party is an independent contractor of the other and shall in no way be responsible for any acts or omissions of the other or its agents, employees or contractors). This Agreement shall bind and inure to the benefit of the parties and their respective heirs, legal representatives, successors, successors-in-interest and assigns. The City shall record a copy of this Agreement, or a memorandum of this Agreement, in the office of the Recorder of Deeds for Jackson County, Missouri.

**14. Sale.** In the event of a sale or conveyance by Owner of its interests in the Parking Garage, this Agreement shall remain in full force and effect and the same shall operate to release Owner from any future liability (but not from any liability on account of matters prior to the date of such sale) upon any covenants or conditions, express or implied, herein contained in favor of City, and in such event City agrees to look solely to the responsibility of the successor in interest of Owner. City agrees to attorn to the purchaser and assignee.

**15. General Provisions.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. If suit is brought because of a default under this Agreement by either party and a default is established, the prevailing party shall be entitled to recover all expenses incurred in connection with such default and such suit, including, without limitation, attorneys' fees and court costs. This Agreement represents the entire agreement between the parties hereto with respect to the subject matter hereof, and no change may be made hereto unless made in writing and signed by both parties.

The remainder of this page is intentionally blank.  
The parties' signatures are on the next page.

IN WITNESS WHEREOF, Owner and City have executed this Parking License Agreement to be effective as of the date first set forth above.

**OWNER:**

**VOGUE CONDOMINIUM OWNERS ASSOCIATION, INC.,**  
a Missouri not-for-profit corporation

By: [Signature]  
Name: Jay Polin  
Title: Board member

By: [Signature]  
Name: Alex Diaz  
Title: Board member

STATE OF Florida )  
COUNTY OF Miami-Dade ) ss.

On this 1st day of June, 2015, before me, a Notary Public in and for said County and State, personally appeared Jay Polin, to me personally known to be the person who executed the foregoing instrument, and who, by me duly sworn, did say that he/she is the Board member of Vogue Condominiums Owners Association, Inc., a Missouri not-for-profit corporation, and that said instrument was signed in behalf of said corporation as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

[Signature]  
Notary Public  
Printed Name: Michelle Shaffer

My Commission expires:  
July 5, 2015



STATE OF Florida )  
COUNTY OF Miami-Dade ) ss.

On this 1st day of June, 2015, before me, a Notary Public in and for said County and State, personally appeared Alex Diaz, to me personally known to be the person who executed the foregoing instrument, and who, by me duly sworn, did say that he/she is the Board member of Vogue Condominiums Owners Association, Inc., a Missouri not-for-profit corporation, and that said instrument was signed in behalf of said corporation as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.


[Signature]  
Notary Public

My Commission expires:  
July 5, 2015



**CITY:**

**CITY OF LEE'S SUMMIT,**  
a political subdivision of the State of Missouri

By:   
Name: Stephen A. Arbo  
Title: City Manager

STATE OF MISSOURI    )  
                                  )    ss.  
COUNTY OF JACKSON    )

On this 15<sup>th</sup> day of June, 2015, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Steve Arbo, City Manager of the City of Lee's Summit, Missouri, a city duly incorporated and existing under and by virtue of the laws of the State of Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said City, and such person duly acknowledged the execution of the same to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

My Commission Expires:

4-9-16

  
NOTARY PUBLIC



JULIE C. PRYOR  
My Commission Expires  
April 9, 2016  
Jackson County  
Commission #12517227

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

Units 101 through 110, both inclusive; Units 201-208, both inclusive; Units 311, 313, 315 AND 317, all in VOGUE CONDOMINIUMS REPLAT, a subdivision in Lee's Summit, Jackson County, Missouri, together with an undivided interest in the common elements as set forth in the Amended and Restated Declaration of Condominium for the Vogue Condominiums recorded June 1, 2015 as Document No. 2015E0046158.

## Packet Information

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**File #:** BILL NO. 17-210, **Version:** 1

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AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

**Issue/Request:**

AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

**Key Issues:**

- o This ordinance would provide for the City to use the power of eminent domain (condemnation) to acquire Right of Way, Temporary Construction Easements, and Permanent Easements through up to 11 parcels for roadway improvements located along Ward Road.
- o City Staff has tried to acquire the necessary easements through negotiation but has been unsuccessful.
- o Eminent domain is used only after negotiations based upon appraisal estimates of fair market value have failed to reach an agreement.

**Proposed City Council Motion:**

FIRST MOTION: I move for a second reading of AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE

CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

Background:

Improvements to Ward Road were approved by Lee's Summit voters as part of the 2007 Capital Sales Tax Renewal, hereinafter referred to as the "Project". This Project is primarily a complete streets project that includes sidewalk, shared-use path, street lighting, curb and gutter, enclosed storm drains, utility relocations, culvert extensions, roadway widening to accommodate one vehicular lane in each direction of travel with turning lanes, pavement marking, signing, and pavement improvements, hereinafter referred to as the "Improvements."

The original project scope extended from County Line Road south to Fenwick Road because it was the last cross street entirely within the corporate limits of Lee's Summit. The project was later directed to be extended south to Raintree Parkway, which requires building west portions of the road outside the City Limits in unincorporated areas of Cass County. The improvements outside the City's jurisdiction will be along Ward Road from approximately 1,150 feet south of Fenwick Drive to Raintree Parkway, 163rd Street, and then transition to match the existing road at Gore Road. The work will be fully funded through the Lee's Summit Capital Sales Tax Renewal.

Currently, the City and Cass County have an Intergovernmental Agreement to coordinate maintenance and capital improvements of the shared road. That agreement was approved by the City Council in 2009 by passage of Ordinance No. 6842 and a modified agreement was passed by City Council in July 2017 that would continue maintenance of the new road and include snow removal, pothole patching, and storm drainage maintenance.

City Staff conducted public meetings to share the preliminary plans and initiated communications directly with Cass County Public Works and Cass County Commissioners to review the project scope. Cass County Commissioners and a few residents voiced specific objections to installing a sidewalk on the west side of the road and the City's proposal to annex the right of way.

Upon the request of Cass County, the City advised unincorporated Cass County residents, located along the west side of the road, there would be no annexation of private property. The residents would retain their status as residents in the unincorporated portions of Cass County. Both positive and negative comments were received regarding the proposed improvements and annexation.

Cass County decided to move forward with an intergovernmental agreement to continue the current roadway maintenance arrangement rather than allow annexation of the public right of way. Cass County also approved the agreement on the condition that the proposed sidewalk along the west limits of the project is not built. All other proposed design characteristics remain: 3-lane road with sidewalk along entire east side, 10-foot trail north of SW Fenwick Road.

Right of way acquisition within Cass County commenced in July 2017 following approval of the modified agreement by both Cass County and the City. Most of the right of way has been acquired along the Project area. However, negotiations with some property owners along the west side of the roadway have not been successful and this has delayed acquisition of temporary and permanent easements. While many of the owners have been agreeable, the remaining properties mentioned in Exhibit B of the proposed ordinance have delayed acquisition, and failure to acquire



those easements will delay the project. In order to begin construction on schedule by spring 2018, acquisition of properties must be concluded prior to project bid. Final Plans are being designed and are expected to be approved with bidding specifications and prepared for bid by February 2018.

Impact/Analysis:

Failure to obtain the necessary rights of way and easements through eminent domain will delay the project or significantly increase the cost of easement acquisition.

Timeline:

Start: upon approval of Ordinance

Finish: Spring 2018

Other Information/Unique Characteristics:

[Enter text here]

Presenter: George Binger, Deputy Director of Public Works / City Engineer

Staff Recommendation: Staff recommends approval of AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

Committee Recommendation: The September 19 Public Works Committee meeting was cancelled due to a lack of agenda items.



## **BILL NO. 17-210**

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AN ORDINANCE DETERMINING AND DECLARING THE NECESSITY OF ACQUIRING FOR PUBLIC USE CERTAIN PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR ROAD IMPROVEMENTS ASSOCIATED WITH THE WARD ROAD IMPROVEMENT PROJECT (COUNTY LINE ROAD TO 163RD ST); AUTHORIZING THE CITY MANAGER AND HIS DESIGNEES TO NEGOTIATE FOR THE PURPOSE OF ACQUIRING THE NECESSARY INTERESTS IN LAND; AND AUTHORIZING THE CITY ATTORNEY AND HIS DESIGNEES TO INSTITUTE CONDEMNATION PROCEEDINGS IF SUCH INTERESTS IN LAND CANNOT BE ACQUIRED BY PURCHASE THROUGH GOOD FAITH NEGOTIATIONS.

WHEREAS, the City Council for the City of Lee's Summit, Missouri deems it necessary, desirable, advisable and in the public interest to obtain certain permanent easements and temporary construction easements for the purpose of constructing roadway improvements, as specified in the proposed project plans and specifications on file with the Lee's Summit Public Works Department, together with all appurtenances thereto, under, over, upon, across and through certain tracts of land within Unincorporated Cass County, Missouri; and,

WHEREAS, the City has the authority by virtue of Sections 88.010 to 88.070, 88.073, 88.077 and 82.240 of the Revised Statutes of the State of Missouri, 2016, as amended, and by virtue of the Charter of the City of Lee's Summit, Missouri, to acquire private property by condemnation proceedings for any public or municipal use, including uses or purposes stated herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That it is hereby found, determined and declared that it is necessary and in the public interest for the public purpose of constructing road improvements as depicted in Exhibit "A" attached hereto and incorporated by reference as if fully set forth herein in the City of Lee's Summit, Jackson County, Missouri, pursuant to proposed plans and specifications on file with the Lee's Summit Public Works Department, to acquire, by purchase or condemnation proceedings, certain permanent easements and temporary construction easements for such public improvements, including but not limited to installation, maintenance and repair of a storm sewer line, curb and gutter, and all work incidental and subsidiary thereto all of which are situated in the City of Lee's Summit, Cass County, Missouri, or Unincorporated Cass County, Missouri, and are legally described in Exhibit "B" attached hereto and incorporated by reference as if fully set forth herein.

SECTION 2. That the City Manager and his designees are hereby authorized to negotiate with the owners of property herein described for the purpose of acquiring certain permanent easements and temporary construction easements, relating to the property herein described.

SECTION 3. That the City Manager and his designees are hereby authorized to execute necessary documents, to pay and disburse funds to property owners, others holding property rights and escrow agents pursuant to negotiated agreements.

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SECTION 4. That, in the event of failure, following good faith negotiations, to reach agreement on the amount of compensation to be paid for such permanent easements and temporary construction easements, and the acquisition thereof by purchase, the City Attorney and his designees, including special counsel, are hereby authorized and directed to institute condemnation proceedings for the purpose of acquiring such permanent easements and temporary construction easements in the manner provided by the Revised Statutes of Missouri.

SECTION 5. That this ordinance shall be in full force and effect from and after the date of its passage, adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED by the Mayor of said city this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor *Randall L. Rhoads*

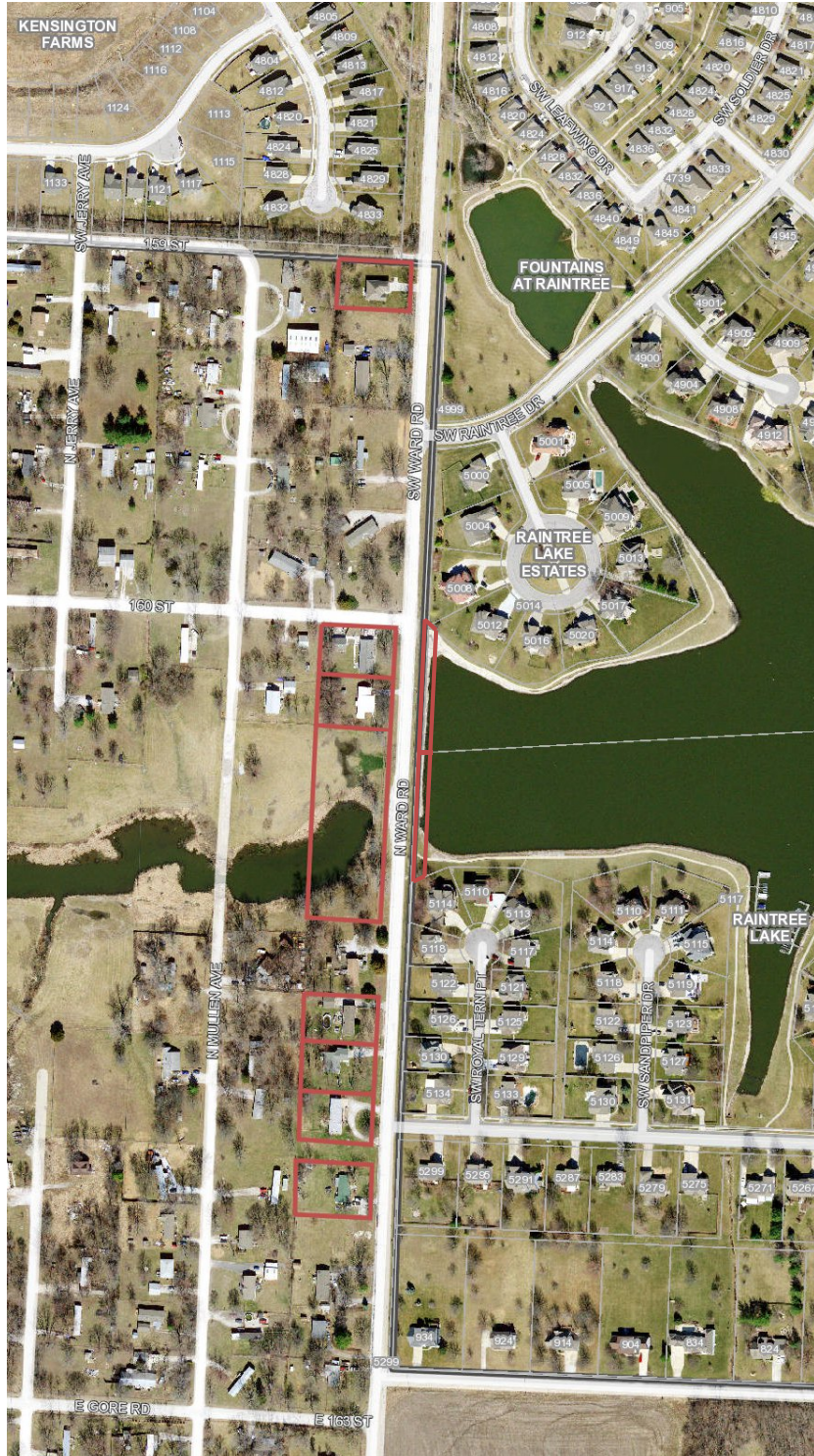
ATTEST:

\_\_\_\_\_  
Deputy City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

\_\_\_\_\_  
Chief Counsel of Infrastructure and Planning  
*Nancy K. Yendes*

**EXHIBIT A**



## **BILL NO. 17-210**

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### **EXHIBIT B**

#### **PERMANENT RIGHT-OF-WAY DEDICATION (Raintree, Tract 39A)**

All that part of the Southwest Quarter of Section 6, Township 46 North, Range 31 West, in the City of Lee's Summit, Cass County, Missouri, described as follows:  
Commencing at the intersection of the South subdivision line of RAINTREE LAKE ESTATES 3 RD PLAT, a subdivision of record in the city of Lee's Summit, Cass County, Missouri, and the existing East right-of-way line of Southwest Ward Road, according to the record plat thereof; thence North 61°23'11" West, along the Westerly prolongation of said South subdivision line, same being the existing Easterly right-of-way line of said Southwest Ward Road as now established, a distance of 11.13 feet to its intersection with the East line of the West 40.00 feet of said Southwest Quarter of Section 6, said point also being the Point of Beginning; thence North 61°23'11" West, continuing along the Westerly prolongation of said South subdivision and the existing Easterly right-of-way line of Southwest Ward Road, a distance of 16.69 feet to a point on the East line of the West 25.00 feet of the Southwest Quarter of said Section 6, said point being a point of deflection in the existing Easterly right-of-way line of said Southwest Ward Road; thence South 02°37'03" West, along the East line of the West 25.00 feet of the Southwest Quarter of said Section 6, same being said Easterly right-of-way line, a distance of 275.26 feet to a point of deflection in said existing Easterly right-of-way line; thence North 86°54'27" East, continuing along said existing Easterly right-of-way line, a distance of 15.07 feet to its intersection with the East line of the West 40.00 feet of the Southwest Quarter of said Section 6; thence North 02°37'03" East, along the East line of the West 40.00 feet of the Southwest Quarter of said Section 6, a distance of 266.44 feet to the Point of Beginning. Containing 4,063 square feet, more or less.

#### **TEMPORARY CONSTRUCTION EASEMENT (Raintree, Tract 39A)**

All that part of the Southwest Quarter of Section 6, Township 46 North, Range 31 West, in the City of Lee's Summit, Cass County, Missouri, described as follows:  
Beginning at the intersection of the South subdivision line of RAINTREE LAKE ESTATES 3RD PLAT, a subdivision of record in the City of Lee's Summit, Cass County, Missouri, with the existing East right-of-way line of Southwest Ward Road, according to the record plat thereof; thence North 61°23'11" West, along the Westerly prolongation of said South subdivision line, same being the existing Easterly right-of-way line of said Southwest Ward Road as now established, a distance of 11.13 feet to its intersection with the East line of the West 40.00 feet of said Southwest Quarter of Section 6; thence South 02°37'03" West, along the East line of the West 40.00 feet of the Southwest Quarter of said Section 6, a distance of 110.40 feet; thence South 87°22'57" East, departing the East line of the West 40.00 feet of the Southwest Quarter of said Section 6, a distance of 10.00 feet to a point on the East line of the West 50.00 thereof; thence North 02°37'03" East, along the East line of the West 50.00 feet of the Southwest Quarter of said Section 6, a distance of 105.52 feet to the Point of Beginning. Containing 1,080 square feet, more or less.

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### **TEMPORARY CONSTRUCTION EASEMENT (Raintree, Tract 40)**

All that part of the Southwest Quarter of Section 6, Township 46 North, Range 31 West, in the City of Lee's Summit, Cass County, Missouri, described as follows:

Beginning at the Northwest corner of Lot 916, RAIN TREE LAKE LOTS 804 THRU 945 AND 975 THRU 990, a subdivision of record located in the City of Lee's Summit, Cass County, Missouri, said point also being on the existing East right-of-way line of Southwest Ward Road as now established; thence North 02°37'03" East, along the existing East right-of-way line of said Southwest Ward Road, a distance of 154.59 feet; thence South 87°22'57" East, departing the existing East right-of-way line of said Southwest Ward Road, a distance of 10.00 feet to a point on a line that is 10.00 feet East of and parallel with the existing East right-of-way line thereof; thence South 02°37'03" West, along a line that is 10.00 feet East of and parallel with the existing East right-of-way line of said Southwest Ward Road, a distance of 150.00 feet to a point on the North line of said Lot 916; thence South 67°58'18" West, along the North line of said Lot 916, a distance of 11.00 feet to the Point of Beginning.

Containing 1,523 square feet, more or less.

### **TEMPORARY CONSTRUCTION EASEMENT (Koch, Tract 81)**

All of the East 10.00 feet of the of Lot 176A, RESURVEY OF MULLENDIKE LOTS 174 & 175 & 176, a survey of record in Cass County, Missouri.

Containing 1,091 square feet, more or less.

### **TEMPORARY CONSTRUCTION EASEMENT (Yates, Tract 88)**

All that part of Lot 168, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri, being described as follows:

Commencing at the Northeast corner of said Lot 168; thence North 86°50'34" West, along the North line of said Lot 168, a distance of 10.00 feet to the Point of Beginning; thence North 86°50'34" West continuing along the said North line, a distance of 10.00 feet to a point on the West line of the East 20.00 feet of said Lot 168; thence South 02°37'03" West, along the West line of the East 20.00 feet of said Lot 168, a distance of 111.98 feet to a point on the South line of said Lot 168; thence South 86°50'34" East, along said South line, a distance of 15.56 feet; thence North 00°13'30" West, departing said South line, a distance of 112.17 feet to the Point of Beginning.

Containing 1,431 square feet, more or less.

### **PERMANENT DRAINAGE EASEMENT (Yates, Tract 88)**

All that part of Lot 168, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri, being described as follows:

Beginning at the Northeast corner of said Lot 168, thence South 02°37'03" West, along the East line of said Lot 168, a distance of 111.98 feet to the Southeast corner thereof; thence North 86°50'34" West, along the South line of said Lot 168, a distance of 4.44 feet; thence North 00°13'30" West, departing the said South line, a distance of 112.17 feet to a

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point on the North line of said Lot 168; thence South 86°50'34" East, along the North line of said Lot 168, a distance of 10.00 feet to the Point of Beginning.  
Containing 808 square feet, more or less.

### **TEMPORARY CONSTRUCTION EASEMENT (Raintree, Tract 89)**

All of those parts of Lots 165 thru 167, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri, described as follows: Commencing at the Northeast corner of said Lot 167; thence North 86°50'34" West, along the North line of said Lot 167, a distance of 4.44 feet to the Point of Beginning; thence North 86°50'34" West, continuing along the North line of said Lot 167, a distance of 15.56 feet to a point on the West line of the East 20.00 feet of said Lot 167; thence South 02°37'03" West, along the West line of the East 20.00 feet of said Lot 167, a distance of 68.73 feet; thence South 62°40'11" West, departing the West line of the East 20.00 feet of said Lot 167, a distance of 63.48 feet; thence South 02°37'03" West, across Lots 167 and 166, distance of 63.48 feet; thence North 62°40'11" East a distance of 86.56 feet to a point on the East line of said Lot 166; thence North 02°37'03" East, along the East line of said Lots 166 and 167, a distance of 17.31 feet to a point on the East line of said Lot 167; thence South 62°40'11" West, departing the East line of said Lot 167, across said Lots 167 and 166, a distance of 51.58 feet; thence North 27°19'49" West a distance of 15.00 feet; thence North 62°40'11" East, across Lots 166 and 167 a distance of 60.02 feet; thence North 00°13'30" West a distance of 86.12 feet to the Point of Beginning.

Containing 4,982 square feet, more or less.

And: Commencing at the Southeast corner of said Lot 165; thence North 02°37'03" East, along the East line of said Lot 165, a distance of 5.25 feet to the Point of Beginning; thence North 02°37'03" East, continuing along the East line of said Lot 165, a distance of 34.75 feet; thence North 86°47'45" West, departing said East line, a distance of 75.00 feet; thence South 02°37'03" West a distance of 40.00 feet to a point on the South line of said Lot 165; thence South 86°47'45" East, along said South line, a distance of 7.14 feet; thence North 12°55'02" East, departing said South line, a distance of 16.62 feet; thence South 77°04'58" East a distance of 65.95 feet to the Point of Beginning.

Containing 2,274 square feet, more or less.

### **PERMANENT DRAINAGE EASEMENT (Raintree, Tract 89)**

All of those parts of Lots 165 thru 167, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri, described as follows:

Beginning at the Northeast corner of said Lot 167; thence South 02°37'03" West, along the East line of said Lot 167, a distance of 103.19 feet; thence South 62°40'11" West departing the East line of said Lot 167, across Lots 167 and 166, a distance of 51.58 feet; thence North 27°19'49" West, a distance of 15.00 feet; thence North 62°40'11" East, across said Lots 166 and 167, a distance of 60.02 feet; thence North 00°13'30" West a distance of 86.12 feet to a point on the North line of said Lot 167; thence South 86°50'34" East, along the North line of said Lot 167, a distance of 4.44 feet to the Point of Beginning.

Containing 1,036 square feet, more or less.

And: Beginning at the Southeast corner of said Lot 167; thence North 86°47'45" West, along the South line of said Lot 167, a distance of 67.86 feet; thence North 12°55'02" East,



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departing said South line, a distance of 16.62 feet; thence South 77°04'58" East a distance of 65.95 feet to a point on the East line of said Lot 167; thence South 02°37'03" West, along the East line of said Lot 167, a distance of 5.25 feet to the Point of Beginning. Containing 726 square feet, more or less.

### **PERMANENT RIGHT-OF-WAY DEDICATION (Raintree, Tract 90)**

All of the East 20.00 feet of the North One-Half of Lot 164, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri.  
Containing 1,120 square feet, more or less.

### **TEMPORARY CONSTRUCTION EASEMENT (Ford, Tract 92)**

All that part of Lot 162, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri, being described as follows:  
Commencing at the Southeast corner of said Lot 162; thence North 86°50'34" West, along the South line of said Lot 162, a distance of 7.00 feet to the Point of Beginning; thence North 86°50'34" West, continuing along said South line, a distance of 31.00 feet to a point on the West line of the East 38.00 feet of said Lot 162; thence North 02°37'03" East, along the West line of the East 38.00 feet of said Lot 162, distance of 111.78 feet to a point on the North line of said Lot 162; thence South 86°50'34" East, along the North line of said Lot 162, a distance of 34.27 feet; thence South 04°29'48" West a distance of 99.77 feet to a point on West line of the East 7.00 feet of said Lot 162; thence South 02°37'03" West, along the West line of the East 7.00 feet of said Lot 162, a distance of 12.04 feet to the Point of Beginning.  
Containing 3,628 square feet, more or less.

### **PERMANENT DRAINAGE EASEMENT (Ford, Tract 92)**

All that part of Lot 162, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri, being described as follows:  
Beginning at the Southeast corner of said Lot 162; thence North 02°37'03" East, along the East line of said Lot 162, a distance of 111.78 feet to the Northeast corner of said Lot 162; thence North 86°50'34" West, along the North line of said Lot 162, a distance of 3.73 feet; thence South 04°29'48" West, departing the North line of said Lot 162, a distance of 99.77 feet to a point on the West line of the East 7.00 feet of said Lot 162; thence South 02°37'03" West, along the West line of the East 7.00 feet of said Lot 162, a distance of 12.04 feet to a point on the South line of said Lot 162; thence South 86°50'34" East, along the South line of said Lot 162, a distance of 7.00 feet; to the Point of Beginning.  
Containing 619 square feet, more or less.

### **TEMPORARY CONSTRUCTION EASEMENT (Englesby, Tract 93)**

All of the West 31.00 feet of the East 38.00 feet of Lot 161, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri.  
Containing 3,472 square feet, more or less.

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### **PERMANENT DRAINAGE EASEMENT (Englesby, Tract 93)**

All of the East 7.00 feet of Lot 161, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri.  
Containing 784 square feet, more or less.

### **TEMPORARY CONSTRUCTION EASEMENT (Stepaniak, Tract 94)**

All of the West 16.00 feet of the East 23.00 feet of Lot 160, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri.  
Containing 1,792 square feet, more or less.

### **PERMANENT DRAINAGE EASEMENT (Stepaniak, Tract 94)**

All of the East 7.00 feet of Lot 160, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri.  
Containing 784 square feet, more or less.

### **TEMPORARY CONSTRUCTION EASEMENT (Carpenter, Tract 95)**

All of the East 5.00 feet of Lot 159, MULLENDIKE ADDITION, a subdivision of record in Cass County, Missouri.  
Containing 560 square feet, more or less.