



Agenda City Council Meeting

City Council Chambers
Historic City Hall, 830 Boonville

Ken McClure, Mayor

Zone Councilmembers

Phyllis Ferguson, Zone 1
Abe McGull, Zone 2
Mike Schilling, Zone 3
Matthew Simpson, Zone 4

General Councilmembers

Jan Fisk, General A
Craig Hosmer, General B
Andrew Lear, General C
Richard Ollis, General D

Upcoming Council Meeting Agenda March 9, 2020 6:30 p.m.

Speakers must [sign up with the City Clerk](#) to speak to an issue on the agenda.
Speakers are to limit their remarks to three to five minutes.

Note: Sponsorship does not denote Council member approval or support.

1. **ROLL CALL.**
2. **APPROVAL OF MINUTES.** February 24, 2020 City Council Meeting, And February 25, 2020 Special City Council Meeting.

Documents:

[02-24-2020.PDF](#)
[02-25-20 SPECIAL CITY COUNCIL MEETING.PDF](#)

3. **FINALIZATION AND APPROVAL OF CONSENT AGENDAS. CITIZENS WISHING TO SPEAK TO OR REMOVE ITEMS FROM THE CONSENT AGENDAS MUST DO SO AT THIS TIME.**
4. **CEREMONIAL MATTERS.**
5. **CITY MANAGER REPORT AND RESPONSES TO QUESTIONS RAISED AT THE PREVIOUS CITY COUNCIL MEETINGS.**
6. **A REPORT FROM THE CHAIR OF THE CITIZENS TAX OVERSIGHT COMMITTEE.**

7. **SECOND READING AND FINAL PASSAGE. Citizens Have Spoken. May Be Voted On. Council Bill 2020-024 Was Tabled At The February 24, 2020 City Council Meeting.**

8. **Council Bill 2020-024. (Simpson) Tabled At The February 24, 2020 City Council Meeting.**

A general ordinance amending the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning 0.69 acres of property, generally located at 3750 South Campbell Avenue, from HC, Highway Commercial district to GR, General Retail district; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission both recommend approval.) (By: TRB Kickapoo, LLC; 3750 South Campbell Avenue; Z-1-2020.)

Documents:

[2020-024.PDF](#)

9. **Council Bill 2020-037. (Schilling)**

A special ordinance granting Conditional Use Permit No. 442 for the purpose of authorizing an automotive service garage to operate within the GR, General Retail, district located at 3510 West Sunshine Street as a conditional use. (Staff and Planning and Zoning Commission recommend approval.)

Documents:

[2020-037.PDF](#)

10. **Council Bill 2020-038. (Hosmer)**

A general ordinance amending Chapter 36 of the Springfield, Missouri, City Code, 'Land Development Code,' Article III, 'Zoning Regulations,' Division 5, 'Supplemental District Regulations,' Section 36-453 'Supplemental Open Space and Yard Regulations,' and Chapter 106 of the Springfield, Missouri, City Code, 'Traffic and Vehicles,' Article 1, 'In General,' Section 106-32, 'Trees, Shrubs or other Vegetation obstructing visibility at Intersections,' both relating to vegetative obstructions in intersection sight triangles. (Planning and Zoning Commission and Staff recommend approval.)

Documents:

[2020-038.PDF](#)

11. **Council Bill 2020-039. (Fisk)**

A general ordinance amending Chapter 114 of the Springfield, Missouri, City Code, 'Vegetation,' Article II, 'Trees,' Division 1, 'Generally,' Section 114-31 'Trees on private property creating hazard to public ways.' (Staff recommends approval.)

Documents:

[2020-039.PDF](#)

12. **Council Bill 2020-040. (Simpson)**

A special ordinance approving the plans and specifications for Stormwater Improvements at Linden Avenue and Latoka Street; accepting the bid of Hartman & Company, Inc., in the amount of \$506,000.00, for the project; and authorizing the City Manager, or his designee, to enter into a contract with such bidder.

Documents:

[2020-040.PDF](#)

13. Council Bill 2020-041. (Lear)

A general ordinance amending the Springfield City Code, Chapter 10, 'Alcoholic Beverages,' by revising Section 10-62, 'Exception for general merchandise stores, restaurants, and exempt organizations,' to remove text related to certain permitted events and by adding a Section 10-66, 'Exception for Downtown and Commercial Street Events,' to authorize in City Code certain permitted events previously authorized each year by adoption of an ordinance; amending Chapter 78, 'Offenses and Miscellaneous Provisions,' Section 78-4, 'Possession, sale or consumption of alcoholic beverages in public place,' to reference the new Section 10-66; and amending Chapter 106, 'Traffic and Vehicles,' Section 106-50, 'Use of City right-of-way during Artsfest,' to reference the new Section 10-66.

Documents:

[2020-041.PDF](#)

14. Council Bill 2020-046. (City Council)

A general ordinance approving the "First Amendment to Section 3.02 – Wages, Paragraph 3," of the Collective Bargaining Agreement Between: The City of Springfield, Missouri, and Southern Missouri Professional Fire Fighters Local 152, the Bargaining Unit of the Springfield Fire Department; and authorizing the City Manager, or his designee, to execute and deliver the First Amendment on behalf of the City of Springfield, Missouri, to the Bargaining Unit.

Documents:

[2020-046.PDF](#)

15. Council Bill 2020-047. (City Council)

A general ordinance amending Chapter 2, Article III, Division 1 of the Springfield City Code, Section 2.92, known as the 'Salary Ordinance,' relating to specific salary grades within the Law Enforcement Schedule ("LES").

Documents:

[2020-047.PDF](#)

16. RESOLUTIONS. Citizens May Speak. May Be Voted On.

17. Council Bill 2020-048. (Ferguson)

A resolution declaring the intent of the City of Springfield to annex and rezone approximately 4 acres of private property and approximately 7 acres of Missouri Department of Transportation right-of-way generally located at 4912 West State Highway 266/Chestnut Expressway. (Staff recommends approval.)

Documents:

[2020-048.PDF](#)

18. EMERGENCY BILLS.

19. PUBLIC IMPROVEMENTS.

20. GRANTS.

21. AMENDED BILLS.

22. COUNCIL BILLS FOR PUBLIC HEARING. Citizens May Speak. Not Anticipated To Be Voted On.

23. **Council Bill 2020-049. (McGull)**

A general ordinance amending the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning 0.16 acres of property generally located at 2001 North Ramsey Avenue, from GM, General Manufacturing District to R-TH, Residential Townhouse District. (Staff and Planning and Zoning Commission both recommend approval.) (By: R.A.L. Property Management, LLC; 2001 North Ramsey Ave.; Z-2-2020.)

Documents:

[2020-049.PDF](#)

24. **Council Bill 2020-050. (Ferguson)**

A special ordinance vacating a public street and alley generally located in the 1500 Block of North Sherman Avenue and in the 900 Block of East Division Street. (Planning and Zoning Commission recommended denial and Staff recommends approval.)

Documents:

[2020-050.PDF](#)

25. **Council Bill 2020-051. (Simpson)**

A general ordinance amending Chapter 36 of the Springfield City Code, known as the 'Land Development Code,' Article III, 'Zoning Regulations,' Division 3, 'Administration, Enforcement and Review,' Subdivision II, 'Commissions and Boards,' Section 36-353 'Landmarks Board' and Division 4, 'District Regulations,' Subdivision II, 'Office, Institutional and Special Districts,' Section 36-404 'Landmarks,' to address procedures regarding designation of Historic Status. (Planning and Zoning Commission and Staff recommend approval.)

Documents:

[2020-051.PDF](#)

26. **FIRST READING BILLS. Citizens May Speak. Not Anticipated To Be Voted On.**

27. **Council Bill 2020-052. (Fisk)**

A special ordinance authorizing the City Manager, or his designee, to enter into a Surface Transportation Program-Urban Program Agreement with the Missouri Highways and Transportation Commission; and amending the budget of the Department of Public Works for Fiscal Year 2019-2020, in the amount of \$2,392,000.00, for the purpose of appropriating federal funds to be used in street overlay improvements.

Documents:

[2020-052.PDF](#)

28. **Council Bill 2020-053. (Lear)**

A special ordinance authorizing the City Manager, or his designee, to enter into a Surface Transportation Program-Urban Program Agreement with the Missouri Highways and Transportation Commission; and amending the budget of the Department of Public Works for Fiscal Year 2019-2020, in the amount of \$1,288,000.00, for the purpose of appropriating federal funds to be used in ADA Improvements.

Documents:

[2020-053.PDF](#)

29. **Council Bill 2020-054. (Simpson)**

A special ordinance authorizing the City Manager, or his designee, to enter into a sewer improvement developer and construction cost reimbursement agreement with Ridge Investment Group, LLC, for the purpose of constructing sewer infrastructure serving the Millwood East Development and paying the cost difference between the more expensive gravity sewer and the lift station, force main, including associated fees; and utilizing no more than \$393,541.37 from the Fiscal Year 2019-2020 Clean Water Services Fund.

Documents:

[2020-054.PDF](#)

30. **Council Bill 2020-055. (Ollis)**

A general ordinance amending Chapter 2, Article III, Division 1 of the City Code, Section 2-91, known as the 'Merit System Rules and Regulations,' by amending Merit Rule 26, 'Substance Abuse Policy;' and Merit Rule 13, 'Appeals,' Subsection 13.6, 'Personnel Board Hearing;' and establishing an effective date for said Merit Rule changes. (The Personnel Board recommends these changes.)

Documents:

[2020-055.PDF](#)

31. **Council Bill 2020-056. (Fisk)**

A special ordinance authorizing the Loan Committee, by vote, to lower the interest rate of the Business Development Loan, within the Commercial Loan Program, if the prime rate decreases throughout the year.

Documents:

[2020-056.PDF](#)

32. **Council Bill 2020-057. (McClure, Hosmer, And Ferguson)**

A general ordinance amending the Springfield City Code, Chapter 78, 'Offenses and Miscellaneous Provisions,' Article VII, 'Offenses Against Property,' by the addition of a new Section 78-285.5, 'Trespass onto real property.'

Documents:

[2020-057.PDF](#)

33. **PETITIONS, REMONSTRANCES, AND COMMUNICATIONS.**

34. **NEW BUSINESS.**

35. **UNFINISHED BUSINESS.**

36. **MISCELLANEOUS.**

37. **CONSENT AGENDA – FIRST READING BILLS. See Item #3.**

38. **Council Bill 2020-058. (Ferguson)**

A special ordinance authorizing the Director of Planning and Development to accept the dedication of public streets and easements to the City of Springfield, Missouri, as shown on the Preliminary Plat of Doling Landing, generally located at 2520 North Bolivar Road, upon the applicant filing and recording a final plat that substantially conforms to the preliminary plat; and authorizing the City Clerk to sign the final plat upon compliance with all the terms of this Ordinance. (Staff recommends that City Council accept the public streets and easements.)

Documents:

[2020-058.PDF](#)

39. **Council Bill 2020-059. (Schilling)**

A special ordinance authorizing the City Manager, or his designee, to accept a donation in the amount of \$10,000 from Mrs. Merrily Parker to support the Fire and Life Safety education programs.

Documents:

[2020-059.PDF](#)

40. **CONSENT AGENDA – ONE READING BILLS. See Item #3.**

41. **Council Bill 2020-060. (McClure)**

A resolution acknowledging the appointment of Travis Shaw by the School District of Springfield to the Tax Increment Finance Advisory Commission.

Documents:

[2020-060.PDF](#)

42. **CONSENT AGENDA – SECOND READING BILLS. See Item #3.**

43. **Council Bill 2020-042. (McGull)**

A special ordinance approving the sale of real property at 2017 North National Avenue to Blackard Rentals, LLC, for \$2,500.00; and authorizing the issuance of a deed for same.

Documents:

[2020-042.PDF](#)

44. **Council Bill 2020-043. (Hosmer)**

A special ordinance authorizing the City Manager, or his designee, to enter into a Memorandum of Understanding with the United States Department of Homeland Security, Homeland Security Investigations and the Springfield Police Department for reimbursement of overtime expenses for Springfield Police Department officers participating in joint operations with the United States Department of Homeland Security, Homeland Security Investigations; and amending the budget of the Springfield Police Department in the amount of \$4,000.00.

Documents:

[2020-043.PDF](#)

45. **END OF CONSENT AGENDA.**

46. **ADJOURN.**

Persons addressing City Council are asked to step to the microphone and clearly state their name and address before speaking.

All meetings are recorded.

In accordance with ADA guidelines, if you need special accommodations when attending any City meeting, please notify the City Clerk's Office at 864 -1443 at least 3 days prior to the scheduled meeting.

February 24, 2020
Springfield, Missouri

The City Council met in regular session February 24, 2020 in the Council Chambers at Historic City Hall. The meeting was called to order by Mayor Ken McClure. A moment of silence was observed.

Roll Call Present: Phyllis Ferguson, Jan Fisk, Craig Hosmer, Richard Ollis, Andrew Lear, Abe McGull, Matthew Simpson, Mike Schilling and Ken McClure. Absent: None.

Minutes The minutes of February 10, 2020 City Council Meeting, and February 18, 2020 and February 20, 2020 Special City Council Meetings were approved as presented.

Consent Agenda The Consent Agenda was approved as presented.

CEREMONIAL MATTERS

City Manager's Report Jason Gage, City Manager, noted the annual budget discussions would begin at the Council Lunch Workshop on February 25, 2020, at 11:30 a.m. where Finance Director, David Holtmann, and his staff will provide a fiscal year 2019 year-end review, share fiscal year 2020 revenue-to-date highlights and discuss fiscal year 2021 considerations.

Mr. Gage noted the City's Department of Workforce Development announced the results of the sixth annual Momentum State of the Workforce Survey. Results were highlighted at a February 19, 2020, luncheon attended by nearly 350 business, education and community leaders. Mr. Gage noted the key take-aways included: a continued upward trend of companies surveyed planning to increase hiring; 62% of companies reporting they were likely to expand over the next year; and 69% of those reporting they were "very unlikely" to expand somewhere else.

Mr. Gage welcomed Neil Slagle. Mr. Slagle has been named the City of Springfield's Director of Information Systems. Mr. Gage noted this position is critical in leading the City's technology needs, including those directly affecting daily operations, both emergency and routine citizen services. The IS Department serves approximately 2,500 employees across 22 departments, located in over 100 buildings throughout the City and surrounding areas. Additionally, the department supports nearly 400 software systems.

Mr. Gage noted Mr. Slagle comes to Springfield, following a 2017 retirement from the state of Michigan Department of Technology Management & Budget. He has over 23 years of experience in government, where he managed several different state agency information technology programs for the state of Michigan including the Department of Corrections, Department of the Attorney General and Department of Treasury.

Mr. Gage noted the Springfield Police Department is expanding its SPD in PE program to Westport and Study Middle Schools. Mr. Gage explained this program is a partnership between SPD and Springfield Public Schools. Police Officers attend physical education classes and lunchtime to build relationships with the students.

Mr. Gage congratulated Springfield Fire Chief David Pennington. Fire Chief Pennington has been awarded the Ambassador of the Year Award by the Center for Public Safety Excellence. The Center for Public Safety Excellence is an international technical organization that works with the most progressive fire and emergency service agencies, and most active fire professionals. The Ambassador of the Year Award recognizes an individual who goes above and beyond in their support of accreditation, credentialing, and the Center as a whole.

Mr. Gage advised the City Council about upcoming demolishing of three vacant buildings along Boonville – 827, 833 and 843-845, which are located across the street from the Busch Municipal Building. The buildings have been acquired by the City over the past few years because they are in disrepair and are considered to be dangerous buildings. Initially, a paved municipal parking lot, constructed by Public Works Street Division will replace the buildings. The lot will include 100 spaces, accessible parking for handicapped visitors to Government Plaza and lighting.

Councilman Hosmer asked Mr. Gage to look at House Joint Resolution 111, a constitutional amendment that will be submitted to voters prohibiting the City from using sobriety checkpoints. Councilman Hosmer expressed his concern this would affect local control and suggested this be placed on the City Council legislative agenda. Mayor McClure added Mr. Gage should check the state of House Joint Resolution 111.

Councilman McGull noted due to the outbreak of Coronavirus the City should consider continuity of operations if there should be an outbreak in Springfield. Mr. Gage responded there is a plan in place, however staff will continue to monitor the situation.

Mayor McClure congratulated Chief Pennington.

Mayor McClure recognized Cub Scout Pack 208 who were in attendance.

The following bills appeared on the agenda under Second Reading Bills.

**International
Property
Maintenance Code**

Sponsor: Hosmer. 2nd Amended Council Bill 2019-252 Substitute No. 1. A general ordinance amending Chapter 36 of the Springfield City Code, known as the 'Land Development Code,' by repealing Article VII, 'International Property Maintenance Code,' in its entirety, and enacting a new Article VII, 'International Property Maintenance Code.'

Mayor McClure noted 2nd Amended Council Bill 2019-252 Substitute No. 1 was first heard for public hearing on February 10, 2020 and was held over for public comment on the amendment only.

An opportunity was given for citizens to express their views.

Christine Dicken spoke in support of the proposed. She expressed her belief the proposed would be a good first step. She encouraged councilmembers to vote affirmatively on the bill and invest in ways to enforce the legislation.

Phyllis Netzer spoke in opposition of the proposed. She expressed her opinion the nuisance property rules have existed since 1995, however many neighborhoods have not improved. She noted she is not in support of more regulating and suggested positive reinforcement rather than punishment.

Peter Radecki spoke in support of the proposed. He noted there should be clarifications regarding basement usage under 306.1.2 and change the word from room to habitable space. He further noted section 402 references operable windows and is not section 402, but section 403. Mr. Radecki noted language requires the floor and walls be “impervious” to water, dampness, and moisture intrusion and this may be a construction impossibility. Mr. Radecki likes the intent of the bill urged the Councilmembers to support the proposed.

Mayor McClure asked staff for clarification on the reference to 403 being listed as 402.

Mr. Gage noted staff would verify which section was correct.

Mayor McClure also asked Mr. Radecki to supply his recommendations to the City Manager’s Office.

Becky Volz, President of Woodland Heights Neighborhood Association, spoke in support of the proposed. She noted many neighbors are tenants and live in unsuitable environments citing lack of knowledge, fear of eviction, and uninformed landlords. Ms. Volz expressed her appreciation to the City for addressing this issue.

There being no further speakers the public hearing was declared closed.

Mayor Pro Tem Ferguson asked those in attendance for a show of hands if they were attending due to these issues. She expressed her belief the City has waited for people to do the right thing, the responsible thing, and conditions are worse. She further expressed the City cannot continue to allow irresponsible people to take properties and reduce them to slum dwellings. She noted citizens worry about the appearance of their neighborhood, the safety of children, and their health. Mayor Pro Tem Ferguson asked Council to join her in supporting the proposed.

Councilman Ollis thanked staff and Mayor Pro Tem Ferguson for their leadership and diligent effort. He also thanked the neighborhoods for patience and willingness to speak to Council. Councilman Ollis noted his support of the proposed.

Mayor McClure noted Council will vote on the bill, but asked staff to review Mr. Radecki’s comments and determine if amendments need to be prepared.

Mr. Gage noted staff did a quick review and code section 402, should be 403. He noted the language relating to the floor and walls in the basement is for areas typically comprised of concrete or blocks not referencing interior walls.

Mayor McClure asked if language was amended at this meeting, would the amendment be regarded as substantive. Ms. Lewsader noted the wording of the section is clear it should have referred to 403 and an amendment would not be regarded as substantive.

Mayor McClure moved to amend section 306.1.2.1.4 line 22 by replacing the number 402 with 403.

Councilman Simpson seconded the motion and was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

2nd Amended Council Bill 2019-252 Substitute No. 1. Ordinance 6573 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

**International
Property
Maintenance Code**

Sponsor: Ollis, Lear, and McGull. Council Bill 2019-252. A general ordinance amending Chapter 36 of the Springfield City Code, known as the 'Land Development Code,' by repealing Article VII, 'International Property Maintenance Code,' in its entirety, and enacting a new Article VII, 'International Property Maintenance Code.' (Recommended by Plans and Policies Committee.)

Council Bill 2019-252 failed due to passage of 2nd Amended Council Bill 2019-252 Substitute No. 1.

**Dangerous,
Blighted and
Nuisance Building
Code**

Sponsor: Hosmer. Council Bill 2020-007. A general ordinance amending the Springfield City Code, Chapter 26, 'Buildings and Building Regulations,' Article III, 'Dangerous, Blighted and Nuisance Building Code,' Subsection 26-62(5), to better define "open;" and Subsection 26-62(12), to add the property maintenance code to other listed codes.

Mayor McClure noted there was a public hearing on February 10, 2020 for Council Bill 2020-007 and it was amended. He further noted the hearing would be continued tonight on the amendment only.

An opportunity was given for citizens to express their views.

Peter Radecki spoke in support of the proposed. He believes the corrections added have been helpful. He further believes passing of the proposed will have the largest impact on the nuisance properties, more than even updating the property management code itself.

There being no further speakers the public hearing was declared closed.

Council Bill 2020-007. Ordinance 6575 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

Workable Program Sponsor: Ferguson. Council Bill 2020-279. A general ordinance amending Chapter 40 of the City Code, Article II, 'Workable Program,' Section 40-15; for the purpose of modifying the Workable Program's requirements regarding Payments in Lieu of Taxes.

Mayor McClure noted public hearing for Council Bill 2020-279 was held on February 10, 2020 and is now before Council for action.

Councilman Hosmer asked for an explanation of the staff recommendation.

Sarah Kerner, Economic Development Director, noted staff recommends permanently distributing the PILOTS to the taxing jurisdictions. She further noted, if it is Council's wish for abatement percentages to go back to 100%, the easiest thing to do would be to allow the sunset to expire.

Councilman Hosmer asked if the City followed staff's recommendation would the money that is not given to the developer go to the taxing jurisdictions. Ms. Kerner answered affirmatively. He asked if this included the library, schools, OTC, and people with developmental disabilities. Ms. Kerner answered affirmatively. He asked if the City eliminates the Workable Program would the money go to the developer. Ms. Kerner answered affirmatively. She noted if you eliminate the Workable Program completely, 100% abatement means a tax savings for the developer, there would be no payment to the developer, just taxes they would not have to pay. However, in this instance the reference is to percentage of the abatement. Councilman Hosmer asked if 100% of the abatement would go to the developer instead of being returned to the schools, OTC, the library. Ms. Kerner answered affirmatively. He asked if the Program was eliminated, if the But-For Test would still be available. Ms. Kerner answered affirmatively. Ms. Kerner then clarified the meaning of eliminating the Program, indicating the current Council Bill regards the sunset provision addressing the percentage of abatement. He asked if the score card would be ended. Ms. Kerner answered affirmatively noting the score card would no longer be relevant. He asked if the purposes of the score card had included job creation and energy efficiency. Ms. Kerner answered affirmatively and added preservation of existing buildings, public safety issues, having a CPTED analysis with the police department, environmental factors, and a wide variety of factors previously identified in Council discussions. He noted these items had been used to incentivize developers and help the community were the idea behind the score card. Ms. Kerner answered affirmatively.

Councilman Simpson asked how many projects have used the score card during the entirety of the pilot period. Ms. Kerner answered one.

Councilman Hosmer asked if the Workable Program has been in effect for two years. Ms. Kerner answered affirmatively. He asked if the Program required a But-For Test. Ms. Kerner answered affirmatively. She noted the But-For Test would remain in effect regardless of the sunset provision. He asked if the But-For Test was one of the

provisions of the Workable Program. Ms. Kerner answered affirmatively. He noted as no developer has used this program in the past two years, it may indicate there is not a financial need for the taxpayer money to go to the developer. Ms. Kerner answered affirmatively.

Councilman Shilling asked if there had been enough time to do a comparison to determine if the Program is not working or is detrimental. Councilman Shilling noted he would support the Workable Program and asked for this to happen if it meant eliminating the sunset clause.

Ms. Kerner noted an action must be taken before March 26, 2020 in order to keep the collection of PILOTS moving forward, otherwise it will sunset, meaning amending the existing ordinance.

Councilman Lear noted he believed the Program was well intentioned, but may need some adjustment and would be willing to entertain 100% abatement versus the current 75% cap. Additionally, he noted he likes the flexibility and the different levels of incentive and believes if left on the books with an amendment, there would be a better chance of revamping the Program than if it is allowed to sunset.

Councilman Ollis noted he was one of the original co-sponsors for the Workable Program but in practice it has not worked. He noted one of the focus points was to eradicate blight directly around the taxable jurisdictions. He also pointed out there has only been one project in two years. Councilman Ollis believes altering an existing program will create confusion, complexity and reduce the ability for the City to use incentives effectively. He would support looking at the Program more broadly but believes the bill should be voted down and will not be supporting Council Bill 2020-279.

Councilman Simpson agreed the Program was well intended but a program only used by one person is not a program that works for the City, for the goals of blight remediation, or for the tax districts involved. He noted he agrees with Councilman Lear, indicating he would like to look at a program with a flexible range from 50-100%, but the most appropriate way to do so is by using the method suggested by Councilman Ollis, using the Forward SGF comprehensive plan to determine goals people will use and advance the goals of the City. Councilman Simpson indicated he is planning to vote no.

Mayor Pro Tem Ferguson asked if no matter the vote, what would prevent the Program from being modified.

Mr. Gage responded there would not be anything to prevent the Program from being modified. He expressed modifications would depend on the outcome of the vote and how much time the Council would like before any changes are made and presented.

Mayor Pro Tem Ferguson clarified only one developer has used the program and there were two other developers interested. Ms. Kerner indicated one developer was using the program and four development plans had been approved, but only one is less than

100% abatement. She asked if the other three developers had gone through at 100%. Ms. Kerner answered affirmatively. Mayor Pro Tem Ferguson asked if there are development plans in the queue that would be affected by the vote. Ms. Kerner noted there are none.

Council Bill 2020-279 failed by the following vote: Ayes: Hosmer, Lear, and Schilling. Nays: Ferguson, Fisk, Ollis, McGull, Simpson, and McClure. None. Abstain: None.

**Official Zoning
Map and Rules for
Interpretation**

Sponsor: Simpson. Council Bill 2020-024. A general ordinance amending the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning 0.69 acres of property, generally located at 3750 South Campbell Avenue, from HC, Highway Commercial district to GR, General Retail district; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission both recommend approval.) (By: TRB Kickapoo, LLC; 3750 South Campbell Avenue; Z-1-2020.)

Councilman Simpson moved to table Council Bill 2020-024 until the March 9, 2020 City Council Meeting. The motion was seconded by Councilman Lear.

The motion was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

**Conditional Use
Permit No. 441**

Sponsor: Schilling. Council Bill 2020-025. A special ordinance granting Conditional Use Permit No. 441 for the purpose of authorizing an automotive service garage to operate within the GR, General Retail, district located at 216 West Weaver Road as a conditional use. (Staff and Planning and Zoning Commission recommend approval.) (By: McKeen Trust, LLC; 216 West Weaver Road; Conditional Use Permit 441.)

Anita Cotter, City Clerk, noted a protest petition was received and found to be insufficient at 14.12 percent and a copy of the supplemental explanation sheet has been provided at the councilmember's places. Therefore, a supermajority, or six votes, will not be required to pass the proposed.

Council Bill 2020-025. Ordinance 27828 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

**Home
Occupations**

Sponsor: Fisk. Council Bill 2020-026. A general ordinance amending Chapter 36 of the City Code, Article III, 'Zoning Regulations,' Section 36-451 for the purpose of allowing the provision of cosmetology services as a permitted home occupation. (Staff and Planning and Zoning Commission recommend approval.)

Mayor McClure noted a public hearing was held on February 10, 2020 and Council Bill 2020-026 was before Council and asked Council for question.

Councilman McGull expressed concern with enforcement, parking, infringement on single family dwellings, businesspeople moving from commercial locations to home

locations, and crime. He expressed his belief the proposed has good intentions, but there may be unintended consequences and will therefore be voting against the bill.

Councilman Hosmer asked staff about line 139. He asked if the state prohibition of altering the character of the building applied to just cosmetology or all home businesses. Mary Lilly Smith, Director of Planning and Development, noted cosmetology is the only business the state requires a separate entrance for in order to gain a license. He asked if the bill was approved by the City, would the City be abdicating responsibility to the state if additional or future changes were to be enacted by the state licensing department. Ms. Smith answered affirmatively. He noted he was not aware of any other instance in the City code where the state has jurisdiction to make changes to City code and therefore, he will be voting against the proposal.

Mayor Pro Tem Ferguson asked about line 169, regarding the amount of usable space in the home and required parking. Ms. Smith answered a garage is not required, the parking provision has existed since at least 1995, and the impact to parking is no different from a visiting guest parking on the street. Mayor Pro Tem Ferguson expressed concern about neighbor complaints related to parking. Ms. Smith responded the ordinance has existed for many years and to her knowledge there have been no complaints.

Councilman Lear asked if the provision has been in effect since at least 1995 have there been complaints related to parking. Ms. Smith noted she has not researched complaints or violations, but she is not aware of any. He asked if other communities are allowing cosmetology as a home-based business. Ms. Smith answered affirmatively and noted there has been a long history of hairdressers working from their home. He noted other types of home-based businesses such as daycares, attorneys, insurance agents, and almost any other type of business. He asked if there are regulations in terms of parking, nuisance, and noise. Ms. Smith answered affirmatively.

Councilman Schilling asked about the specific application Council Bill 2020-026 is related to. Ms. Smith noted a citizen had approached Councilman Lear who is an esthetician and would like to locate the business in her home. The citizen has complied with all statutory requirements, but the City ordinance restricts the business to haircutting and styling, it does not include the other classes included in cosmetology licensing.

Councilman Simpson noted the licensing for cosmetology and state inspections. Ms. Smith added a minimum number of education hours are required.

Councilman McGull asked if the City would be conducting inspections. Ms. Smith noted inspections would be done on a complaint basis and this is the same process for existing businesses.

Mayor McClure asked if inspections are also done by the State Board of Cosmetology. Ms. Smith answered affirmatively.

Council Bill 2020-026. Ordinance 6574 was approved by the following vote: Ayes: Ferguson, Fisk, Ollis, Lear, Simpson, Schilling and McClure. Nays: Hosmer and McGull. Abstain: None.

Vacating Right-of-Way

Sponsor: Ferguson. Council Bill 2020-027. A special ordinance vacating a portion of public right-of-way located in the 200 block of East Phelps Street upon the occurrence of certain conditions. (Staff and Planning and Zoning Commission both recommend approval.) (By: Board of Governors of Missouri State University; 200 blk East Phelps Street; Vacation 814.)

Mayor McClure noted a public hearing was held on February 10, 2020 and Council Bill 2020-027 was before Council and asked Council for questions.

Council Bill 2020-027. Ordinance 27283 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

**SpringNet
Memorandum of
Understanding**

Sponsor: Hosmer. Council Bill 2020-028. A special ordinance authorizing the City Manager, or his designee, to enter into a Memorandum of Understanding between City Utilities of Springfield, Missouri, doing business as "SpringNet" and the City of Springfield, Missouri, to allow alternate methods for permitting and cost recovery for work on City rights-of-way associated with a large, specialized project known as the SpringNet Fiber Optic Expansion Project.

Mayor McClure noted a public hearing was held on February 10, 2020 and Council Bill 2020-028 was before Council and asked Council for questions.

Mayor Pro Tem Ferguson noted she will be voting in favor and asked staff about traffic control and public notification. Dan Smith, Director of Public Works, noted the City will be working with SpringNet and the City's Public Information Office to ensure timely public notification.

Councilman Simpson noted he will be voting in favor and expressed his enthusiasm for the SpringNet project.

Council Bill 2020-028. Ordinance 27284 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

**Springfield
Convention &
Visitors Bureau
Addendum**

Sponsor: Fisk. Council Bill 2020-029. A special ordinance authorizing the City Manager to enter into an addendum to the annual agreement with the Springfield Convention & Visitors Bureau, Inc., executed on July 30, 2019; and amending the City's budget for Fiscal Year 2019-2020 in the amount of \$250,000, for the purpose of reflecting current and projected operational changes.

Council Bill 2020-029. Ordinance 27285 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

Cost Share Agreement

Sponsor: Ollis. Council Bill 2020-030. A special ordinance authorizing the City Manager, or his designee, to enter into a Cost Share Agreement between the City of Springfield, Missouri, The Board of Governors of Missouri State University and the Vecino Group for the purpose of apportionment of costs for stormwater improvements through the “IDEA Commons” development area. (Staff Recommends Approval.)

Council Bill 2020-030. Ordinance 27286 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

The following bills appeared on the agenda under Resolutions.

2020 Capital Improvements Program

Sponsor: Ollis. Council Bill 2020-033. A resolution adopting the 2020 Capital Improvements Program for the purpose of providing a schedule of public improvements for 2020 through 2025. (Planning and Zoning Commission and Staff recommend approval.)

Randall Whitman, Principal City Planner, provided a brief overview of the proposed. He noted funding and planning for the construction, maintenance and replacement of the City’s infrastructure, and public facilities over the next six-years. He noted there are 22 new projects or programs added to 2020 and 13 new projects or programs will receive funding in 2019.

Councilman Simpson asked if Mr. Tim Rosenberry, Director of Quality of Place Initiatives, would be added to these projects. Mr. Gage answered Mr. Rosenberry would be added to as many projects as possible.

Councilman Schilling asked for an estimated timeframe regarding the widening of Kansas Avenue between Walnut Lawn and Maplewood. Mr. Smith noted the project was approved, but a consultant has not yet been chosen; however, the project is slated for later this year.

An opportunity was given for citizens to express their views.

Greg Herren, General Manager for Multicraft Contractors, spoke in support of the proposed. He noted comments from visitors to Springfield regarding the continued improvements and enhancements to the City. Mr. Herren thanked the Council for their service and encouraged support of the proposed bill.

Megan Short spoke in support of the proposed. She recognized and thanked the City staff for their service and transparency, diligent work, and the information available to the public.

There being no further speakers the public hearing was declared closed.

Council Bill 2020-033. Resolution 10493 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

Annexation of 3245 West Sunshine Street

Sponsor: Schilling. Council Bill 2020-034. A resolution declaring the intent of the City of Springfield to annex 1.86 acres of private property located at 3245 West Sunshine Street. (Staff recommends approval.)

Mary Lilly Smith, Director of Planning and Development, provided a brief overview of the proposed. Ms. Smith noted this is a resolution of intent. She pointed out the city limits and indicated the property owner is asking for annexation in order to connect to city sewer.

An opportunity was given for citizens to express their views. There being no speakers the public hearing was declared closed.

Council Bill 2020-034. Resolution 10494 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

Short-Term Rental Type 2 Permit

Sponsor: Simpson. Council Bill 2020-035. A resolution granting a Short-Term Rental Type 2 Permit for the property located at 1270 East Edgewood Street for the purpose of allowing the establishment of a Short-Term Rental Type 2 pursuant to Section 36-473 of the Zoning Ordinance.

Mary Lilly Smith, Director of Planning and Development, provided a brief overview of the proposed. Ms. Smith explained short-term rental type 2 properties are rented for periods of less than 30 consecutive days, require a 500ft notification and neighborhood meeting, and an affidavit signed by 55% of the adjacent property owners. She explained if 55% of neighboring signatures are not secured, the property owner may appeal to the City Council. Ms. Smith noted she had researched the complaint database and no complaints have been filed on this property.

Councilman Ollis asked why the property owners are currently seeking an appeal when it had previously been listed as a short-term rental type 2 property. Ms. Smith responded Building Development Services and the Planning have reviewed listings on Airbnb, VRBO and Home Away to determine if all short-term rental type 2 properties had been identified and research found several properties had not finalized requirements in order to obtain their license. Ms. Smith noted the property at 1270 East Edgewood was one of those properties.

Councilman Ollis asked for clarification regarding adjacent property owners declining to sign. Ms. Smith responded a property owner declining to sign, simply means the property owner did not sign and lack of signatures cannot be construed as an indication of opposition. Ms. Smith noted the property owner and manager of 1270 East Edgewood was available to answer questions.

Councilman McGull asked if the ordinance for short-term rental type 2 properties required adjacent property owners declining to sign to list a reason for objecting. Ms. Smith noted it does not, only the signatures of property owners approving the short-term rental type 2 property. He noted the City would not know why a property owner objected to sign and suggested the City should investigate.

Councilman Simpson noted not supporting the short-term rental type 2 permit is viewed the same as opposing the short-term rental type 2 permit and therefore, would like the City to review the general process.

Councilman Hosmer asked if short-term rental type 2 properties had to be owner occupied. Ms. Smith responded short-term rental type 2 properties do not have to be owner occupied, however the property owner of 1270 East Edgewood has both leased the property and lived in the property. He asked if the short-term rental type 2 property and the owner have the same address. Ms. Smith answered affirmatively and noted there is a limit on the number of days you can rent the property as a short-term rental type 1 properties and if you exceed the number of days (90), even if you live in the house, you must get a short-term rental type 2 permit.

An opportunity was given for citizens to express their views.

Shiloh Weaver spoke in support of the proposed. Ms. Weaver is the owner of 1270 East Edgewood. She is in favor of regulation for short-term rental type 2 properties and the process. Ms. Weaver lived in the property until May 2019 and used the property as an Airbnb from 2013-2017. She removed the property from Airbnb to serve as a caretaker for a family member. Ms. Weaver explained she is bringing her appeal forward at this time because she was out of state when the law came into effect. She hired a property manager to address the short-term rental type 2 property appeal process. Ms. Weaver stressed 1270 East Edgewood is her primary residence and she considers it her home.

Nicholas Williams spoke in support of the proposed. He noted he owns property in Rogersville and manages several properties in Springfield and the surrounding community. Mr. Williams explained he spoke with the landlords of the adjacent properties and they told him they did not want to sign for 1270 East Edgewood due to the vagueness of the verbiage and possible lack of recourse.

Councilman McGull expressed concern, indicating adjacent property owners can block short-term rental type 2 property owner permits by objecting to sign. He believes the City could accept an adjacent property owner's refusal to sign as approval or give the adjacent property owner notice of a hearing and allow non-signing adjacent property owner to speak at the hearing. Councilman McGull does not believe it is fair to people who are actively following the process to be penalized by those who are apathetic.

Councilman Simpson noted he agrees with Councilman McGull about the need to review the processes but will be voting in favor of the proposed.

Mayor McClure asked Mr. Gage to add short-term rental type 2 properties to a future City Council Lunch Workshop and the number of applications and outcomes. Mr. Gage indicated short-term rental type 2 properties can be added and noted short-term rental type 2 ordinances should be vetted in order to avoid repeated amendment to the ordinance.

Council Bill 2020-035. Resolution 10495 was approved by the following vote: Ayes: Ferguson, Fisk, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: Hosmer. Abstain: None.

EMERGENCY BILLS

PUBLIC IMPROVEMENTS

The following bill appeared on the agenda under Grants.

MoDOT Grant

Sponsor: Hosmer. Council Bill 2020-036. A resolution declaring the official intent of the City of Springfield to support the Southwest District of the Missouri Department of Transportation in its application for a 2020 Infrastructure for Rebuilding America grant to widen Interstate 44 to six lanes through the City; and pledging \$2,000,000 in matching funds upon award of said grant.

Dan Smith, Director of Public Works, presented a brief overview. He noted the proposed is due to a request from MoDOT for a grant they are submitting to improve and widen Interstate 44 from West Bypass to US 65, increasing from four lanes to six lanes, replacing six bridges, and adding a boxed culvert under Interstate 44 around Doling. Mr. Smith stressed the unique opportunity of the culvert, noting it would allow for pedestrians, connect future trail systems, and is a project alone would cost \$1,000,000. He then displayed a slide indicating previous cost shares with MoDOT. Mr. Smith explained the MoDOT widening project is a \$70,000,000 project and MoDOT is asking for \$2,000,000 from the City if the MoDOT grant is approved. He noted the money is available.

Mayor McClure asked if the City would be using federal funds to match federal funds. Mr. Smith answered affirmatively. He also noted Greene County is pledging \$1,000,000. He asked how many exits are between West Bypass and US 65. Mr. Smith noted this project covers seven miles and there are four interchanges.

Councilman McGull asked if adding extra lanes would add burden to the interchanges. Mr. Smith noted it would not and there is a possibility MoDOT would address interchanges as well; however, MoDOT has yet to consult a designer as they have not received the grant yet.

Councilman McGull expressed concern for traffic and stacking space at the interchanges. Mr. Smith responded he will pass the concern on to MoDOT.

Councilman Hosmer asked if the only planned pedestrian pass is at Doling. Mr. Smith answered affirmatively.

An opportunity was given for citizens to express their views. There being no speakers the public hearing was declared closed.

Council Bill 2020-036. Resolution 10496 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

AMENDED BILLS

The following bill appeared on the agenda under Council Bills for Public Hearing.

Conditional Use Permit No. 442 – 3510 West Sunshine

Sponsor: Schilling. Council Bill 2020-037. A special ordinance granting Conditional Use Permit No. 442 for the purpose of authorizing an automotive service garage to operate within the GR, General Retail, district located at 3510 West Sunshine Street as a conditional use. (Staff and Planning and Zoning Commission recommend approval.)

Mary Lilly Smith, Director of Planning and Development, provided a brief overview of the proposed. She noted the requesting property is located at 3510 West Sunshine and meets all 21 standards for a Conditional Use Permit.

An opportunity was given for citizens to express their views. There being no speakers the public hearing was declared closed.

Intersection Visibility

The following bills were read and discussed simultaneously.

Sponsor: Hosmer. Council Bill 2020-038. A general ordinance amending Chapter 36 of the Springfield, Missouri, City Code, 'Land Development Code,' Article III, 'Zoning Regulations,' Division 5, 'Supplemental District Regulations,' Section 36-453 'Supplemental Open Space and Yard Regulations,' and Chapter 106 of the Springfield, Missouri, City Code, 'Traffic and Vehicles,' Article 1, 'In General,' Section 106-32, 'Trees, Shrubs or other Vegetation obstructing visibility at Intersections,' both relating to vegetative obstructions in intersection sight triangles. (Planning and Zoning Commission and Staff recommend approval.)

Sponsor: Fisk. Council Bill 2020-039. A general ordinance amending Chapter 114 of the Springfield, Missouri, City Code, 'Vegetation,' Article II, 'Trees,' Division 1, 'Generally,' Section 114-31 'Trees on private property creating hazard to public ways.' (Staff recommends approval.)

Mandy Buettgen-Quinn, Engineer, provided a brief overview of the proposed. She noted vegetation, while beautiful, can become a nuisance. She noted depending on the situation, the City may leave an educational flier or pursue abatement with a citizen. Ms. Buettgen-Quinn explained there are discrepancies in the codes. She noted Section 106-32 and Section 36-453 refer to vegetation near intersections, but the yard grade versus the street grade result in radically different measurements of approved vegetation growth and height. Additionally, she noted the request to have Section 36-

453 6(b)4 stricken and all sections would refer to the table that bases the triangle side based on the classification of the roadway. Ms. Buettgen-Quinn noted another discrepancy between Section 106-32 and Section 36-453, adding there have been complaints, and noting the recommendation is to take all limbs to a height of eight feet and only allow one tree. She expressed her belief the language in the abatement code should be updated by copying what is in the BDS codes and adding it to the vegetation codes.

Mayor Pro Tem Ferguson expressed concern tree removal and trimming can be costly, and many citizens may not have the means for removal or trimming. Ms. Buettgen-Quinn responded the City will review crash history and if there is a safety issue the City would research it to determine if the area in question is the property owner's responsibility or the City's.

Councilman McGull expressed his concern regarding visibility of the traffic area. He asked for clarity regarding branches versus tree removal. Ms. Buettgen-Quinn noted tree removal would result only if it was an issue. She further noted the City would go out on a complaint basis, however if the case was dangerous, the City would abate immediately at no charge to the property owner rather than follow the notification process.

An opportunity was given for citizens to express their views. There being no speakers the public hearing was declared closed.

The following bills appeared on the agenda under First Reading Bills.

**Stormwater
Improvements –
Linden Avenue
and Latoka Street**

Sponsor: Simpson. Council Bill 2020-040. A special ordinance approving the plans and specifications for Stormwater Improvements at Linden Avenue and Latoka Street; accepting the bid of Hartman & Company, Inc., in the amount of \$506,000.00, for the project; and authorizing the City Manager, or his designee, to enter into a contract with such bidder.

Kirkland Preston, Professional Engineer, provided a brief overview of the proposed. He noted the project is located south of Sunshine and US 65 and the project is a result of longstanding community requests to improve drainage. Mr. Preston noted the project consists of removing the deteriorated retaining wall; adding channel improvements; and, underground insulation of stormwater pipe network. The scope includes City Utilities gas and water renewal and relocation with City Utilities providing reimbursement of \$180,416.25. Mr. Preston noted the City received two bids, with a low bid of \$506,000 from Hartman & Company, Inc.

An opportunity was given for citizens to express their views. There being no speakers the public hearing was declared closed,

**Alcoholic
Beverages
Exception for
Downtown and**

Sponsor: Lear. Council Bill 2020-041. A general ordinance amending the Springfield City Code, Chapter 10, 'Alcoholic Beverages,' by revising Section 10-62, 'Exception for general merchandise stores, restaurants, and exempt organizations,' to remove text related to certain permitted events and by adding a Section 10-66, 'Exception for

Commercial Street Events

Downtown and Commercial Street Events,' to authorize in City Code certain permitted events previously authorized each year by adoption of an ordinance; amending Chapter 78, 'Offenses and Miscellaneous Provisions,' Section 78-4, 'Possession, sale or consumption of alcoholic beverages in public place,' to reference the new Section 10-66; and amending Chapter 106, 'Traffic and Vehicles,' Section 106-50, 'Use of City right-of-way during Artsfest,' to reference the new Section 10-66.

Cora Scott, Director of Public Information and Civic Engagement, provided an overview. She stated community events with alcohol began with C-Street Jam a decade ago. Ms. Scott noted since this time, 12 events were requested in 2019 and there have been no issues. She explained benefits of these events include new patron attraction, economic development, and crime reduction. Ms. Scott noted the proposed would allow 14 events and the ordinance would not sunset, promoting efficiency by eliminating the need to adopt a new ordinance each year to authorize permitted events. She noted the City would keep the rigorous permitting process in place which requires review by the City's Public Safety Department and other City departments. Ms. Scott outlined the application process for groups wishing to hold a community event with alcohol.

Councilman McGull expressed his belief a standardized container should be required at events. Ms. Scott noted glass containers have not been allowed and would review Councilman McGull's suggestion.

Mayor Pro Tem Ferguson asked if people who are consuming alcohol are required to wear a wrist band. Ms. Scott answered affirmatively and added sometimes it may be a mark on the back of the patron's hand, but some type of identification is required.

Councilman Hosmer asked about the liquor liability policy amount. Ms. Scott deferred to Ms. Lewsader, City Attorney, who noted she would review the policy. Ms. Scott noted a liquor liability policy is a requirement.

An opportunity was given for citizens to express their views. There being no speakers the public hearing was declared closed.

Collective Bargaining Agreement

Sponsor: City Council. Council Bill 2020-046. A general ordinance approving the "First Amendment to Section 3.02 – Wages, Paragraph 3," of the Collective Bargaining Agreement Between: The City of Springfield, Missouri, and Southern Missouri Professional Fire Fighters Local 152, the Bargaining Unit of the Springfield Fire Department; and authorizing the City Manager, or his designee, to execute and deliver the First Amendment on behalf of the City of Springfield, Missouri, to the Bargaining Unit.

Darla Morrison, Director of Human Resources, provided an overview. The ordinance is to provide a wage package to the Fire Fighters Local 152 to adopt the arbitrator's recommendation regarding the Fiscal Year 2020 wage package comprised of merit steps. She noted there is 5% pay increase for fire captain, 3.5% pay increase for fire lieutenants, 2.5% increase for fire marshals, and 2.25% increase for equipment

operators, rescue specialists and fire fighters. Pay changes will be effective March 15, 2020 upon approval of City Council with a corresponding pay date of April 2, 2020.

An opportunity was given for citizens to express their views. There being no speakers the public hearing was declared closed.

Law Enforcement Schedule

Sponsor: City Council. Council Bill 2020-047. A general ordinance amending Chapter 2, Article III, Division 1 of the Springfield City Code, Section 2.92, known as the 'Salary Ordinance,' relating to specific salary grades within the Law Enforcement Schedule ("LES").

Darla Morrison, Director of Human Resources, provided an overview. She noted this Council Bill seeks approval for a .44% increase across the board for the Springfield Police Officer Association employees in the bargaining unit, specifically Section 18.3. Ms. Morrison explained Section 18.3 is often called a "me too" clause or agreement noting if another unit negotiates a wage package agreement greater than the package SPOA received, then SPOA will receive the difference in an across the board wage increase. She noted the package up for approval for the Fire Fighters Local 152, citing this Council Bill would authorize compliance. Pay changes will be effective March 15, 2020 upon approval of City Council with a corresponding pay date of April 2, 2020.

Councilman Hosmer asked if the "me too" clause applied to other departments. Ms. Morrison noted most public safety unions have the "me too" clause. He asked why other collective bargaining units do not have the "me too" clause. Ms. Morrison answered because the other units did not negotiate for the "me too" clause.

An opportunity was given for citizens to express their views. There being no speakers the public hearing was declared closed.

The following item appeared on the agenda under New Business.

As per RSMo. 109.230 (4), City records that are on file in the City Clerk's office and have met the retention schedule will be destroyed in compliance with the guidelines established by the Secretary of State's office.

UNFINISHED BUSINESS

MISCELLANEOUS

The following bills appeared on the agenda under Consent Agenda First Reading Bills.

Sale of Real Property - 2017 North National Avenue

Sponsor: McGull. Council Bill 2020-042. A special ordinance approving the sale of real property at 2017 North National Avenue to Blackard Rentals, LLC, for \$2,500.00; and authorizing the issuance of a deed for same.

Police Department Budget Expenses Sponsor: Hosmer. Council Bill 2020-043. A special ordinance authorizing the City Manager, or his designee, to enter into a Memorandum of Understanding with the United States Department of Homeland Security, Homeland Security Investigations and the Springfield Police Department for reimbursement of overtime expenses for Springfield Police Department officers participating in joint operations with the United States Department of Homeland Security, Homeland Security Investigations; and amending the budget of the Springfield Police Department in the amount of \$4,000.00.

The following bills appeared on the agenda under Consent Agenda One Reading Bills.

College Station Community Improvement District Board of Directors Sponsor: McClure. Council Bill 2020-044. A resolution confirming the reappointment of Martin Gugel, Scott Tillman, and Craig Wagoner to the College Station Community Improvement District Board of Directors. (Staff recommends approval.)

Council Bill 2020-044. Resolution 10497 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

Missouri Department of Health and Senior Services Grant Sponsor: Lear. Council Bill 2020-045. A special ordinance authorizing the City Manager, or his designee, to accept a grant from the Missouri Department of Health and Senior Services to support public health and emergency responder drug overdose response activities in the amount of \$15,883.00; entering into necessary agreements to carry out the grant; amending the budget of the Springfield-Greene County Health Department for Fiscal Year 2019-2020 in the amount of \$15,883.00, to appropriate the grant funds; and declaring that this bill qualifies for approval in one reading.

Council Bill 2020-045. Ordinance 27287 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

The following bills appeared on the agenda under Consent Agenda Second Reading Bills.

Preliminary Plat of Magers Crossroads Sponsor: Simpson. Council Bill 2020-031. A special ordinance authorizing the Director of Planning and Development to accept the dedication of public streets and easements to the City of Springfield, Missouri, as shown on the Preliminary Plat of Magers Crossroads at 65, generally located at 3525 East Battlefield Road, upon the filing and recording of a final plat which substantially conforms to the preliminary plat; and authorizing the City Clerk to sign the final plat upon compliance with all the terms of this Ordinance. (Staff recommends that City Council accept the public streets and easements.)

Council Bill 2020-031. Ordinance 27288 was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling and McClure. Nays: None. Abstain: None.

Confirmed Confirm the following appointment to the Springfield Convention & Visitors Bureau: Bob Belote with term to expire January 1, 2021.

Confirmed Confirm the following appointment to the Springfield Convention & Visitors Bureau: Laura Head-Elliott with term to expire January 1, 2023.

Confirmed Confirm the following appointment to the Tree City USA Citizen Advisory Committee: Laurel Bryant with term to expire December 1, 2021.

END OF CONSENT AGENDA.

Motion to Adjourn Councilman Simpson moved to Adjourn. Councilman Schilling seconded the motion, and it was approved by the following vote. Ayes: Ferguson, Fisk, Ollis, Lear, Simpson, Schilling and McClure. Nays: Hosmer and McGull. Abstain: None. The meeting adjourned at 8:55 p.m.

Prepared by
Monica Paxton

Anita J. Cotter, CMC/MRCC
City Clerk

February 25, 2020
Springfield, Missouri

The City Council met in special session February 25, 2020 in the Councilman Denny Whayne Conference Room (Busch Building, 4th Floor). The meeting was called to order by Mayor Ken McClure.

Roll Call Present: Phyllis Ferguson, Jan Fisk, Craig Hosmer, Richard Ollis, Andrew Lear, Abe McGull, Matthew Simpson, Mike Schilling, and Ken McClure. Absent: None.

SECOND READING

RESOLUTIONS

EMERGENCY BILLS

PUBLIC IMPROVEMENTS

GRANTS

AMENDED BILLS

PUBLIC HEARING

FIRST READING

NEW BUSINESS

UNFINISHED BUSINESS

MISCELLANEOUS

CONSENT AGENDA FIRST READING BILLS

CONSENT AGENDA ONE READING BILLS

CONSENT AGENDA SECOND READING

END OF CONSENT AGENDA

Closed Session Councilman Lear moved City Council hold a closed meeting to discuss legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys pursuant to Section 610.021(1), RSMo.; and leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor pursuant to Section 610.021(2), RSMo.; and this meeting, record, and vote shall be closed and the City Council shall stand adjourned at the end of the closed session.

Councilman Simpson seconded the motion, and it was approved by the following vote: Ayes: Ferguson, Fisk, Hosmer, Ollis, Lear, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: None. Abstain: None.

Anita J. Cotter, CMC/MRCC
City Clerk

One-rdg. _____
P. Hrngs. X
Pgs. 14
Filed: 02-04-20

Sponsored by: Simpson

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020-024

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING the Springfield Land Development Code, Section 36-306, 'Official zoning
2 map and rules for interpretation,' by rezoning 0.69 acres of property,
3 generally located at 3750 South Campbell Avenue, from HC, Highway
4 Commercial district to GR, General Retail district; and adopting an
5 updated Official Zoning Map. (Staff and Planning and Zoning Commission
6 both recommend approval.)
7 _____
8

9 WHEREAS, an application has been filed for a zoning change of the property
10 generally located at 3750 South Campbell Avenue, and more fully described in "Exhibit
11 A," which is attached hereto and incorporated herein by this reference, from
12 HC, Highway Commercial district to GR, General Retail district; and
13

14 WHEREAS, following proper notice, a public hearing was held before the
15 Planning and Zoning Commission on January 9, 2020, a copy of the Record of
16 Proceedings from said public hearing being attached hereto and incorporated herein by
17 this reference as "Exhibit B," and said Commission made its recommendation; and
18

19 WHEREAS, the City has reviewed the applicant's request and prepared a staff
20 report concerning the application which is attached hereto and incorporated herein by
21 this reference as "Exhibit C;" and
22

23 WHEREAS, proper notice was given of a public hearing before City Council and
24 said hearing was held in accordance with law.
25

26 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
27 SPRINGFIELD, MISSOURI, as follows, that:
28

29 Section 1 – The property described in "Exhibit A," which is attached hereto and
30 incorporated herein by this reference, is hereby rezoned from HC, Highway Commercial
31 district, or such other zoning district as is designated on the official zoning map adopted
32 by City Council, to GR, General Retail district. Springfield Land Development Code,
33 Section 36-306, 'Official zoning map and rules for interpretation,' is hereby amended,

34 changed, and modified consistent with this Ordinance.

35
36 Section 2 – City Council hereby directs the City Manager, or designee, to update
37 the City's digital zoning map to reflect this rezoning and City Council adopts the map
38 thereby amended as the Official Zoning Map of Springfield, Missouri, as provided for in
39 Springfield Land Development Code, section 36-306, 'Official zoning maps and rules of
40 interpretation.'

41
42 Section 3 – The Official Zoning Map herein adopted shall be maintained and
43 archived in the same digital form in which this Council has approved its adoption.

44
45 Section 4 – This Ordinance shall be in full force and effect from and after
46 passage.

47
48 Passed at meeting: _____

50
51 _____
52 Mayor

53 Attest: _____, City Clerk

54
55 Filed as Ordinance: _____

56
57 Approved as to form: *Richard T. Weller*, Assistant City Attorney

58
59
60 Approved for Council action: *Jason A. Hays*, City Manager
61

EXPLANATION TO COUNCIL BILL 2020 -024

FILED: 02-04-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Amending the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning approximately 0.69 acres of property generally located at 3750 South Campbell Avenue from HC, Highway Commercial district to GR, General Retail district. (Staff and Planning and Zoning Commission both recommend approval.)

BACKGROUND INFORMATION: ZONING CASE NUMBER Z-1-2020

The applicant is proposing to rezone 0.69 acres of property generally located at 3750 South Campbell Avenue from HC, Highway Commercial district to GR, General Retail district.

The applicant intends to redevelop the property and the development standards of the GR district are more suitable for the proposed development.

REMARKS:

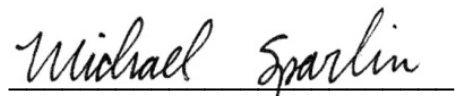
The Planning and Zoning Commission held a public hearing on January 9, 2020, and recommended to approve, by a vote of 7 to 0.

The Planning and Development staff recommends the application be approved (see the attached "Exhibit C," Development Review Staff Report).

FINDINGS FOR STAFF RECOMMENDATION:

1. This application is consistent with the *Growth Management and Land Use Plan* element of the *Comprehensive Plan* which identifies the subject property as appropriate for Medium Intensity Retail, Office. The GR district is listed as an appropriate zoning district for this land use category.
2. The GR district is consistent with the other properties located along South Campbell Street. The properties located to the south and west of the subject property are zoned GR.

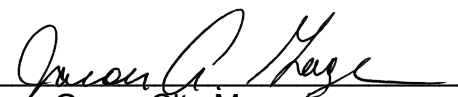
Submitted by:


Michael Sparlin, Senior Planner

Recommended by:


Mary Lilly Smith, Director

Approved by:


Jason Gage, City Manager

EXHIBITS:

Exhibit A, Legal Description

Exhibit B, Record of Proceedings

Exhibit C, Development Review Staff Report

ATTACHMENTS:

Attachment 1: Department Comments

Attachment 2: Neighborhood Meeting Summary

EXHIBIT A

LEGAL DESCRIPTION
ZONING CASE Z-1-2020

ALL OF LOT ONE OF AMENDED PLAT OF TOWN SQUARE ADDITION,
SPRINGFIELD, GREENE COUNTY, MISSOURI

EXHIBIT B

**RECORD OF PROCEEDINGS
ZONING CASE Z-1-2020
Planning and Zoning Commission – January 9, 2020**

Z-1-2020

3750 South Campbell Avenue

Applicant: TRB Kickapoo, LLC

Mr. Hosmer stated that this is a request to rezone approximately 0.69 acres of property generally located at 3750 South Campbell Avenue from HC, Highway Commercial to GR, General Retail District. The Comprehensive Plan identifies this area as an appropriate for Medium Intensity Retail, Offices or Housing. The Transportation Plan classifies South Campbell Avenue as a Primary Arterial roadway. A Traffic Impact Study will not be required as the change in zoning did not increase the trip generations. A fee in lieu of on-site stormwater detention will not be allowed, and the property is not located in a stream buffer. The GR district is consistent with the Comprehensive Plan which lists GR as an appropriate zoning district. Staff recommends approval.

Mr. Doennig opened the public hearing.

Mr. Geoffrey Butler, 319 N. Main Street, the applicant representative and we are down zoning due to the buffer yard (15 feet) that would use up 6 parking spaces and we need those parking spaces.

Mr. Doennig closed the public hearing.

COMMISSION ACTION:

Ms. Cox motioned to **approve** Z-1-2020 (3750 South Campbell Avenue). Mr. Rose seconded the motion.

Ayes: Doennig, Coltrin, Broekhoven, Cox, Thomas, Rose, and Jobe. Nays: None. Abstain: None.

Absent: Shuler and Ogilvy.



Bob Hosmer, AICP
Planning Manager

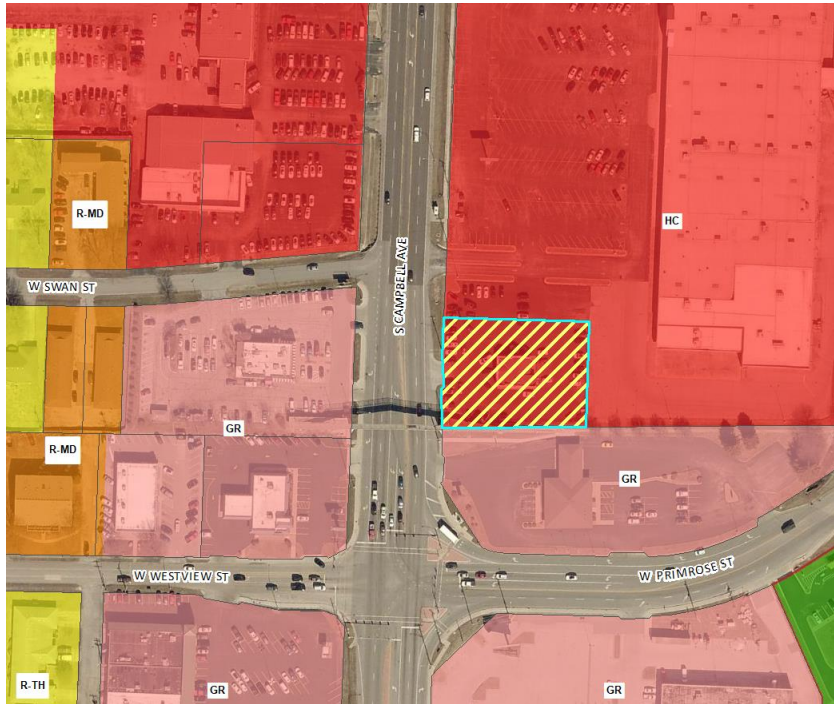
Exhibit C

PLANNING AND ZONING COMMISSION PUBLIC HEARING:

JANUARY 9, 2020

CITY COUNCIL PUBLIC HEARING:

FEBRUARY 10, 2020



CASE NUMBER:
Z-1-2020

PROJECT LOCATION: 3750 South Campbell Avenue

ACRES: 0.69 acres

EXISTING LAND USE: Vacation commercial structure

APPLICANT: TRB Kickapoo LLC

STAFF:
Michael Sparlin, Senior Planner
417-864-1091

STAFF RECOMMENDATIONS:
Approve

PROPOSED MOTION:
Move to approve Z-1-2020 as submitted.

SUMMARY OF REQUEST:

Request to rezone approximately 0.69 acres of property generally located at 3750 South Campbell Avenue from HC, Highway Commercial to GR, General Retail.

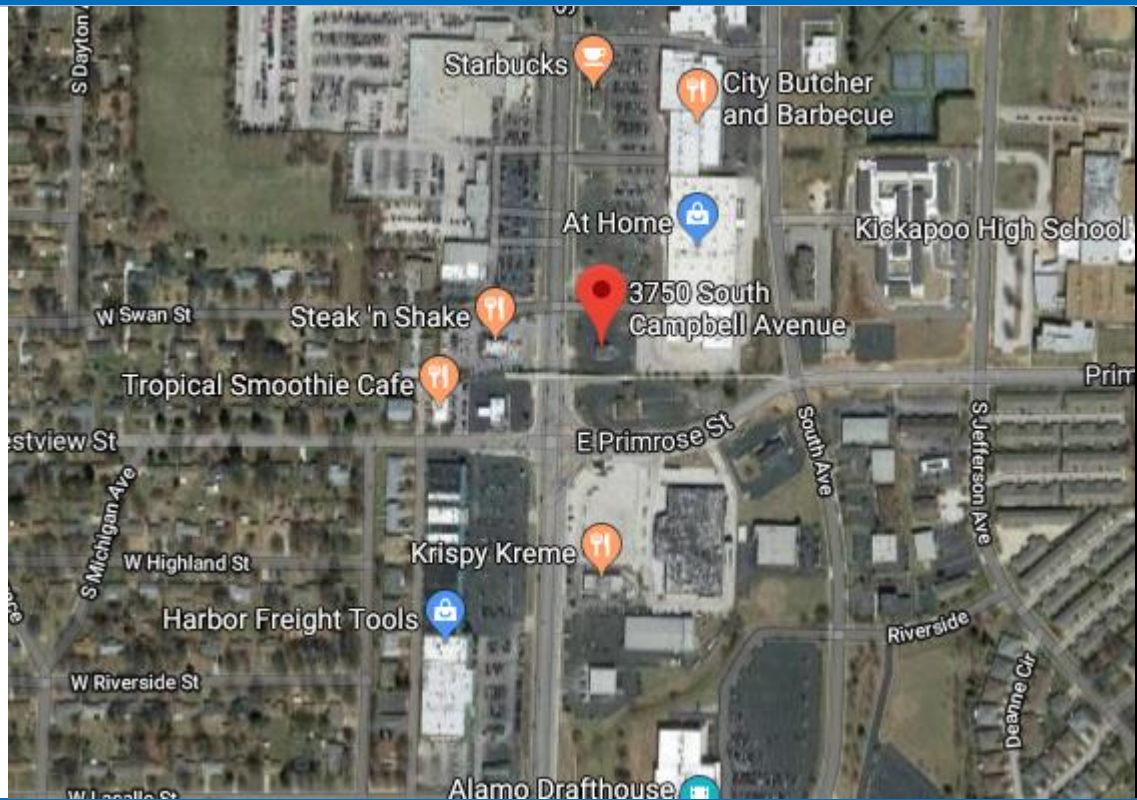
FINDINGS FOR STAFF RECOMMENDATION:

1. This application is consistent with the *Growth Management and Land Use Plan* element of the *Comprehensive Plan* which identifies the subject property as appropriate for Medium Intensity Retail, Office. The GR district is listed as an appropriate zoning district for this land use category.
2. The GR district is consistent with the other properties located along South Campbell Street. The properties located to the south and west of the subject property are zoned GR.

SURROUNDING ZONING AND LAND USES:

	NORTH	SOUTH	EAST	WEST
ZONING	HC	GR	HC	GR
LAND USE	Retail/Commercial use	Bank	Retail/Commercial use	Restaurant

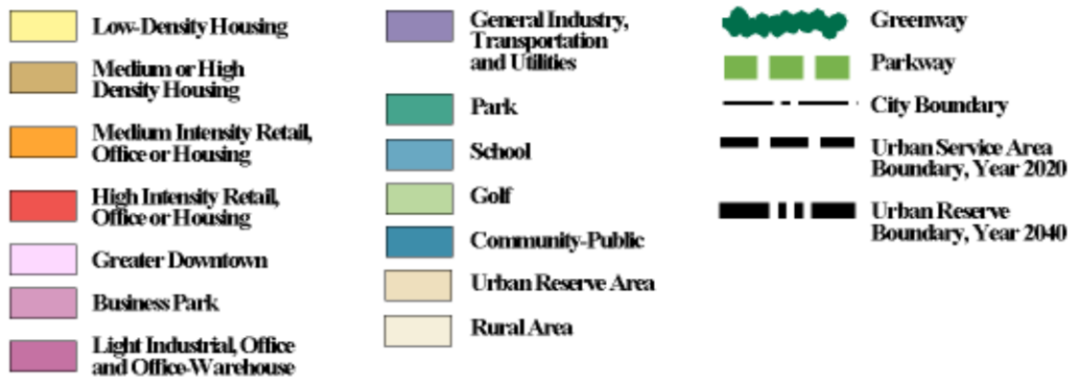
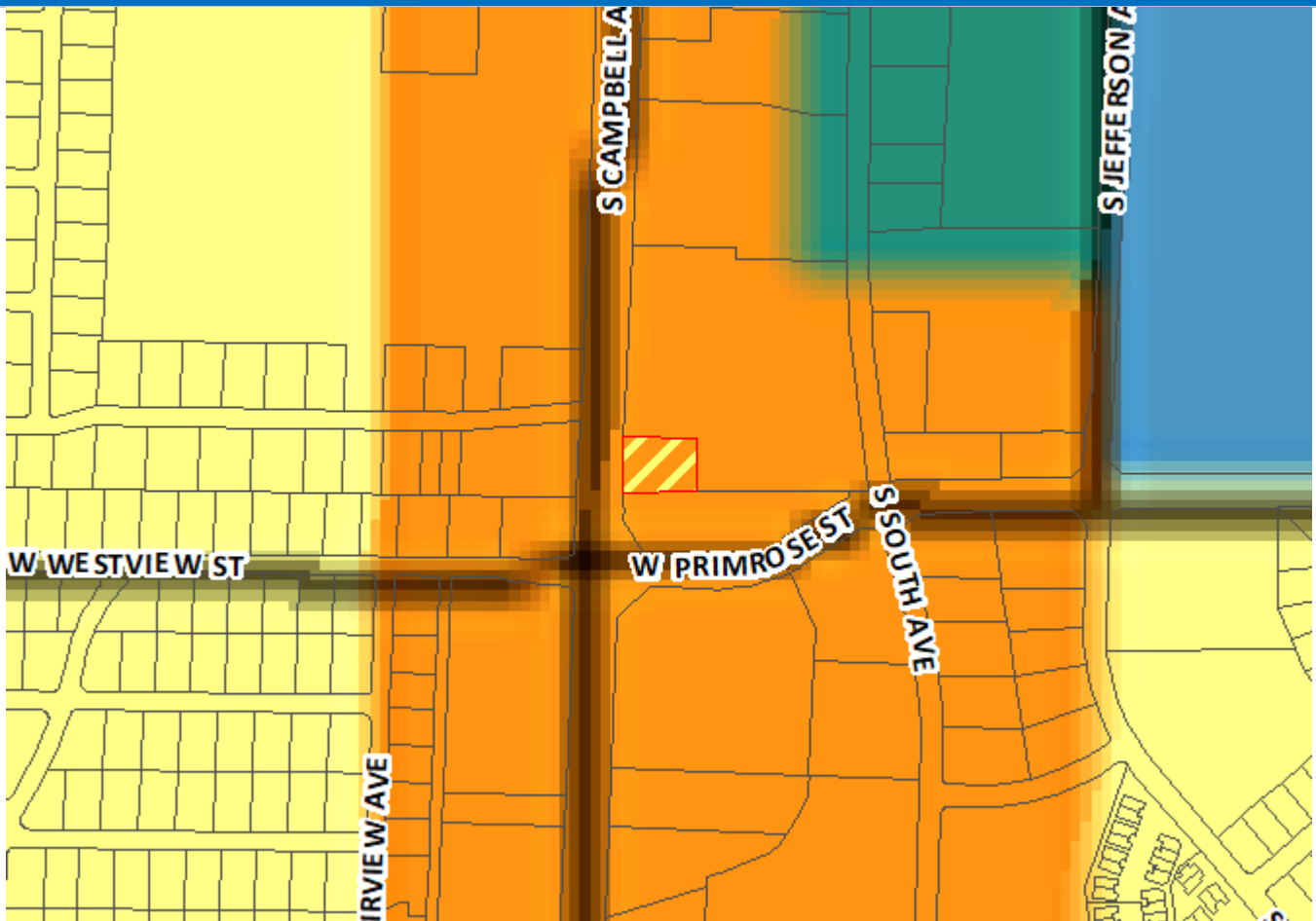
SURROUNDING LAND USES (GOOGLE MAP AERIAL VIEW):



GOOGLE MAPS STREET VIEW:



GROWTH MANAGEMENT AND LAND USE PLAN:



PROPERTY HISTORY:

The subject property was originally zoned GR with the city-wide remapping in 1995. The property was rezoned to HC in 2002.

ZONING ORDINANCE REQUIREMENTS:

CODE ITEM	REQUIREMENTS FOR GR
Maximum Structure Height	None, except that all structures shall remain below a 30-degree bulk plane as measured from the boundary of any R-SF or R-TH district.
Minimum open space	Not less than 20 percent
Maximum impervious area	Shall not exceed 80 percent of total lot area
BULK PLANE	BUFFERYARD AND LANDSCAPING
None for the subject property	No bufferyard would be required. Landscaping shall be provided according to Sec. 36-482.
30-degree bulk plane is required adjacent to R-SF zoning.	

COMPATIBILITY WITH COMPREHENSIVE PLAN:

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the subject property as appropriate for Medium Intensity Retail, Office or Housing. City's Transportation Plan classifies South Campbell Avenue as a Primary Arterial roadway

STAFF COMMENTS:

1. The applicant is proposing to rezone approximately 0.69 acres of property generally located at 3750 South Campbell Avenue from HC, Highway Commercial to GR, General Retail. The applicant intends to redevelop the property and the development standards of the GR district are more suitable for the proposed development.
2. The GR district is consistent with the other properties located along South Campbell Street. The properties located to the south and west of the subject property are zoned GR.
3. The GR district is consistent with the *Growth Management and Land Use Plan* element which lists it as an appropriate zoning district for the Medium Intensity Retail, Office or Housing land use category.
4. The GR district is intended for uses that provide community-wide personal and business services, shopping centers and specialty shops. Commercial uses permitted in this district are generally required to conduct business activities indoors. The need for community-wide accessibility dictates that this district be located along or at the intersection of two or more arterial or higher classification streets.
5. The proposed rezoning was reviewed by City departments and comments are contained in Attachment 1.

NEIGHBORHOOD MEETING:

The applicant held a neighborhood meeting on December 10, 2019 regarding the rezoning request. A summary of the meeting is attached (Attachment 3)

PUBLIC NOTIFICATION:

The public notice was advertised in the Daily Events at least 15 days prior to the public hearing. The property was posted by the applicant at least 10 days prior to the public hearing. Public notice letters were sent out at least 10 days prior to the public hearing to all property owners within 185 feet.

Notices sent to property owners within 185 feet: Mailed: 5 Returned: 0

DEPARTMENT COMMENTS:

ATTACHMENT 1 DEPARTMENT COMMENTS

BUILDING DEVELOPMENT SERVICES COMMENTS:

No objection to rezoning.

CITY UTILITIES COMMENTS:

No objection to rezoning.

CLEAN WATER SERVICES COMMENTS:

No objection to the zoning amendment. Public sewer is available to the development.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

STREET CLASSIFICATION, RIGHT-OF-WAY, & JURISDICTION

City's Transportation Plan classifies S. Campbell Avenue as a Primary Arterial roadway. The standard right-of-way width for S. Campbell Avenue is 50-feet from the centerline. It appears additional right-of-way is not needed along S. Campbell Avenue. A survey is recommended to determine the exact amount of existing right-of-way. S. Campbell Avenue is a city maintained street.

TRAFFIC COUNTS & ON-STREET PARKING

The most recent traffic count on S. Campbell Avenue south of Battlefield Road is 31,250 vehicles per day. On-street parking is not allowed along S. Campbell Avenue.

DRIVEWAY ACCESS

There is currently one driveway access point onto the property from S. Campbell Avenue. No additional access will be allowed.

SIDEWALK

There is not existing sidewalk along the property frontage of S. Campbell Avenue. Sidewalk is required to be constructed along S. Campbell Avenue to current City Standards as a part of this development/rezoning.

TRAILS, BUS STOPS, & ADDITIONAL INFORMATION

There are no Greenway Trails in the area surrounding the property pertaining to this zoning. There are bus stops along S. Campbell Avenue. The proposed development is in an area that provides for multiple direct connections and provides for good connectivity in the area.

IMPROVEMENTS

None required. A Traffic Impact Study was not required, as the change in zoning did not increase the trip generation in the AM/PM peaks by more than 100 additional trips nor did it exceed the threshold of 1,000 additional trip-ends daily.

TRAFFIC - TABLE 1: REZONING DETAILS

	Street Name	Street Classification	On-Street Parking	Existing Street ROW from Centerline (ft.) (Approx.)	Required Street ROW from Centerline (ft.)
Street 1	S. Campbell Avenue	Primary Arterial	No	60	50
		AM Peak	PM Peak	Weekday	Weekend
	Existing Trips Generated	16	67	720	NA
	*Proposed Trips Generated	16	67	720	NA
	Additional Trips Generated	0	0	0	NA

*Proposed Trips Generated is based on the highest, most intense use permitted in the proposed rezoning, Planned Development, or Conditional Use Permit

STORMWATER COMMENTS:

The property is in the Ward Branch drainage basin. The property is not located in a FEMA designated floodplain. Staff is aware of flooding problems in the area. If the project increases the amount of impervious surfacing, detention is required according to Chapter 96. A fee in lieu of on-site stormwater detention is not applicable as no impervious area will be added. If disturbing 1 acre or greater, water quality is required. The property is not located in a stream buffer area.

Please note that development of the property will be subject to the following conditions at the time of development:

1. Post development peak run-off rates shall not exceed pre-development peak run-off rates for the 1, 10 and 100 year rain events. Any increase in impervious surfacing will require the development to meet current detention and water quality requirements.
2. If disturbing 1 acre or greater, water quality will also have to be provided.
3. Drainage easements must be provided for this conveyance.
4. Please keep in mind that more detailed stormwater calculations will have to be submitted before any permits can be approved.
5. A land disturbance permit will be required if disturbing 1 acre or greater.

Public Works Stormwater Division	Response
Drainage Basin	Ward Branch
Is property located in Floodplain?	No
Is property located on a sinkhole?	No
Is property located in a stream buffer?	No
Is stormwater fee in lieu an option?	NA

FIRE DEPARTMENT COMMENTS:

No objections to rezoning.

AFFIDAVIT OF NEIGHBORHOOD NOTIFICATION AND MEETING SUMMARY

1. Request change to zoning from: Highway Commercial to General Retail
(existing zoning) (proposed zoning)
2. Meeting Date & Time: Tuesday December 10, 2019
3. Meeting Location: 3750 South Campbell
4. Number of invitations that were sent: thirty six
5. How the mailing list was generated: by City Staff
6. Number of neighbors in attendance (attach a sign-in sheet): zero
7. List the verbal comments and how you plan to address any issues:
(City Council does not expect all the issues to be resolved to the neighborhood's satisfaction; however, the developer must explain why the issues cannot be resolved).

No one came.

8. List or attach the written comments and how you plan to address any issues:

Nothing to do

I, Geoffrey Butler (print name), attest that the neighborhood meeting was held on December 10, 2019 (month/date/year), and is at least twenty-one (21) days prior to the Planning and Zoning Commission public hearing and in accordance with the attached "Neighborhood Notification and Meeting Process."

Signature of person completing affidavit

Geoffrey Butler

Printed name of person completing affidavit

One-rdg. _____
P. Hrngs. X
Pgs. 23
Filed: 02-18-20

Sponsored by: Schilling

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 037

SPECIAL ORDINANCE _____

AN ORDINANCE

1 GRANTING Conditional Use Permit No. 442 for the purpose of authorizing an
2 automotive service garage to operate within the GR, General Retail,
3 district located at 3510 West Sunshine Street as a conditional use.
4 (Staff and Planning and Zoning Commission recommend approval.)
5 _____
6

7 WHEREAS, pursuant to Section 36-363 of the Land Development Code City
8 Council may grant permits authorizing certain enumerated conditional uses as provided
9 in the various zoning districts; and
10

11 WHEREAS, the Planning and Zoning Commission held a public hearing on
12 February 13, 2020, and the Commission found that the necessary conditions existed for
13 issuance of Conditional Use Permit No. 442 for the property located at 3510 West
14 Sunshine Street and zoned GR, General Retail; and
15

16 WHEREAS, City Council finds that sufficient evidence has been presented to
17 satisfy all applicable standards of the Land Development Code for issuance of
18 Conditional Use Permit No. 442; and
19

20 WHEREAS, the granting of such permit is deemed proper and it is not found to
21 harm the community or injure the value, lawful use, and reasonable enjoyment of
22 properties in the vicinity of 3510 West Sunshine Street.
23

24 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
25 SPRINGFIELD, MISSOURI, as follows, that:
26

27 Section 1 – Conditional Use Permit No. 442 is hereby granted in accordance with
28 and subject to the provisions of Section 36-363 of the Land Development Code.
29 Conditional Use Permit No. 442 is granted for the purpose of authorizing an automotive
30 service garage to operate as a conditional use within the GR, General Retail, district
31 located at the property described in “Exhibit B,” which is attached hereto and
32 incorporated herein by this reference, and which is generally located at 3510 West
33 Sunshine Street.

34
35 Section 2 – Building permits, certificates of occupancy, and any other required
36 permits or approvals may be issued by the duly authorized officials of the City provided
37 that such issuance is consistent with Section 36-363 of the Land Development Code,
38 any other applicable City regulation or ordinance, and the “Requirements for Conditional
39 Use Permit 442” described in “Exhibit A,” which is attached hereto and incorporated
40 herein by this reference. Additionally, the provisions contained in “Exhibit A” and “Exhibit
41 D – Attachment 3” shall govern and control the use and development of the land
42 described in “Exhibit B,” in a manner consistent with the attached site plan depicted on
43 “Exhibit D – Attachment 5.” “Exhibit D” being attached hereto and incorporated herein
44 by this reference in its entirety.
45

46 Section 3 – Any violation of the provisions of this Ordinance shall be grounds for
47 the revocation of the Conditional Use Permit granted by the adoption of this Ordinance.
48

49 Section 4 – This Ordinance shall be in full force and effect from and after
50 passage only so long as the Property and any improvements thereon conform to the
51 conditions and requirements described in Section 36-363 of the Land Development
52 Code, and other applicable City regulation or Ordinance, and this Ordinance.
53

54 Passed at meeting: _____
55

56 _____
57 Mayor
58

59 Attest: _____, City Clerk
60

61 Filed as Ordinance: _____
62

63
64 Approved as to form: Achale T. Wudu, Assistant City Attorney
65

66
67 Approved for Council action: Jason R. Hays, City Manager

EXPLANATION TO COUNCIL BILL 2020-037

FILED: 02-18-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Granting Conditional Use Permit No. 442 for the purpose of authorizing an automotive service garage to operate within the GR, General Retail, district located at 3510 West Sunshine Street as a conditional use. (Staff and Planning and Zoning Commission recommend approval.)

BACKGROUND INFORMATION: CONDITIONAL USE PERMIT NUMBER 442

The applicant is requesting approval of a Conditional Use Permit for an automotive service garage on the subject property within a GR, General Retail District. The *Zoning Ordinance* requires a use permit in the GR, General Retail District for an automotive service garage. The applicant is proposing a new Jiffy Lube store.

The *Growth Management and Land Use Plan* of the *Comprehensive Plan* designates this area as appropriate for Medium Intensity Retail, Office and Housing. The GR District is one of the appropriate zoning districts recommended for the area.

CONDITIONS:

1. The regulations and standards listed on Exhibit D - Attachment 3 shall govern and control the use and development of the land in Use Permit Number 442 in a manner consistent with the attached site plan (Exhibit D - Attachment 5).

FINDINGS FOR STAFF RECOMMENDATION:

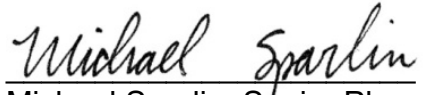
1. This application meets the approval standards for a Conditional Use Permit.
2. Approval of this request will provide for development of the subject property which is already served with public infrastructure and services and is not expected to adversely impact the surrounding properties.

REMARKS:

The Planning and Zoning Commission held a second public hearing on February 13, 2020, and recommended approval, by a vote 5 to 0 the proposed conditional use permit with changes on the tract of land described on the attached sheet (see the attached "Exhibit C," Record of Proceedings).

The Planning and Development staff recommends the application be approved with the following conditions (See attached "Exhibit A").

Submitted by:



Michael Sparlin, Senior Planner

Recommended by:



Mary Lilly Smith, Director

Approved by:



Jason Gage, City Manager

EXHIBITS:

Exhibit A, Requirements for Conditional Use Permit 442

Exhibit B, Legal Description

Exhibit C, Record of Proceedings

Exhibit D, Development Review Staff Report

ATTACHMENTS:

Attachment 1, Department Comments

Attachment 2, Requirements for Conditional Use Permit 442

Attachment 3, Standards and Responses for Conditional Use Permits

Attachment 4, Neighborhood Meeting Summary

Attachment 5, Site Plan

Exhibit A

REQUIREMENTS FOR CONDITIONAL USE PERMIT 442

1. An automotive service garage, as defined in Section 36-321 of the Zoning Ordinance, is permitted in conformance with Attachment 5.
2. The automotive service garage, as defined in Section 36-321 of the Zoning Ordinance, shall comply with all the standards listed in Attachment 3.
3. All other standards of the Zoning Ordinance and other applicable ordinances shall be adhered to.

Exhibit B

LEGAL DESCRIPTION
CONDITIONAL USE PERMIT NUMBER 442

All of Lot 4 of Parks Subdivision, Springfield, Greene County, Missouri

Exhibit C

**RECORD OF PROCEEDINGS
CONDITIONAL USE PERMIT NUMBER 442
RECORD OF PROCEEDINGS
Planning and Zoning Commission – February 13, 2020**

Conditional Use Permit 442
3510 West Sunshine Street
Applicant: Casey & Sheila Boaz

Mr. Hosmer stated that is a request to allow an automotive service garage within a GR, General Retail District generally located at 3510 West Sunshine Street. The Comprehensive Plan identifies this as an appropriate for Medium Intensity Retail, Office or Housing. The applicant is proposing to build a new Jiffy Lube store at this location. Automotive service garages require a Conditional Use Permit. The Transportation Plan classifies West Bypass and Sunshine as Expressways. A Traffic Impact Study was not required as the change did not increase the trip generations. A fee in lieu of on-site stormwater detention will not be allowed. The property is not located in a stream buffer area.

The CUP Requirements are:

- An automotive service garage is permitted in conformance with the site plan.
 - The automotive service garage shall comply with all the standards listed in Attachment 3.
 - All other standards of the Zoning Ordinance and other applicable ordinances shall be adhered to.
- Staff recommends approval.

Mr. Coltrin opened the public hearing.

Mr. Chris Johnson, 3108 S.W. Regency - Bentonville, Arkansas representing the owners and here to answer any questions.

Mr. Coltrin closed the public hearing.

COMMISSION ACTION:

Ms. Cox motioned to approve Conditional Use Permit 442 (3510 West Sunshine Street). Mr. Rose seconded the motion. Ayes: Coltrin, Cox, Ogilvy, Rose, and Jobe. Nays: None. Abstain: None. Absent: Doennig, Shuler, Thomas, and Broekhoven



Bob Hosmer, AICP
Planning Manager

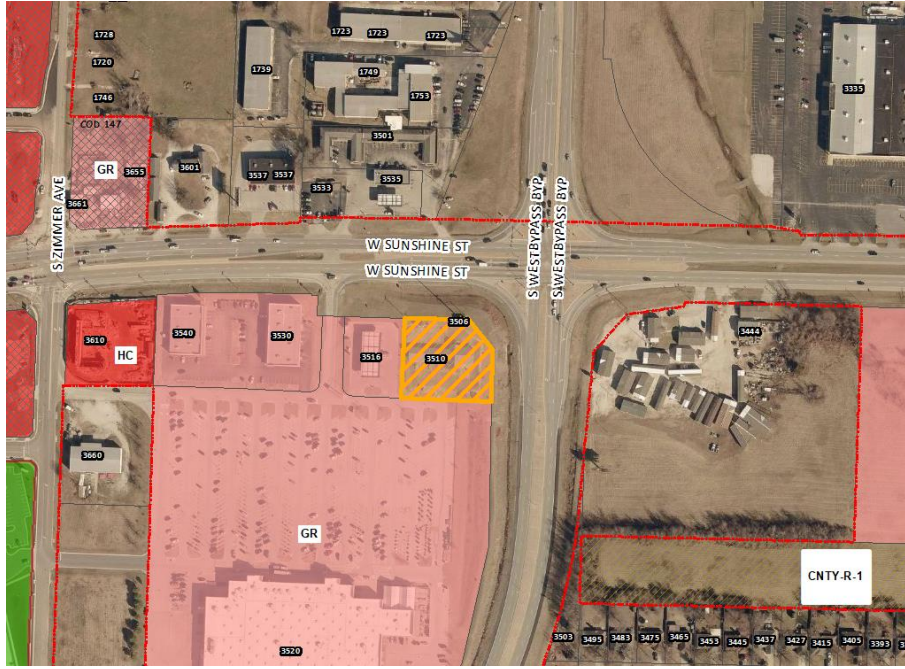
Exhibit D

PLANNING AND ZONING COMMISSION PUBLIC HEARING:

FEBRUARY 13, 2020

CITY COUNCIL PUBLIC HEARING:

FEBRUARY 24, 2020



CASE NUMBER:

Conditional Use Permit 442

LOCATION: 3510 West Sunshine Street

ACRES: Approximately 0.93 acres

EXISTING LAND USE: Car wash

APPLICANT: Casey Boaz

STAFF: Michael Sparlin, Senior Planner

STAFF RECOMMENDATIONS:

Approve w/Conditions

PROPOSED MOTION:

Move to approve Conditional Use Permit 442 as submitted.

SUMMARY OF REQUEST:

This is a request to allow an automotive service garage within a GR, General Retail District generally located at 3510 West Sunshine Street.

FINDINGS FOR STAFF RECOMMENDATION:

1. This application meets the approval standards for a Conditional Use Permit.
2. Approval of this request will provide for development of the subject property which is already served with public infrastructure and services and is not expected to adversely impact the surrounding properties.

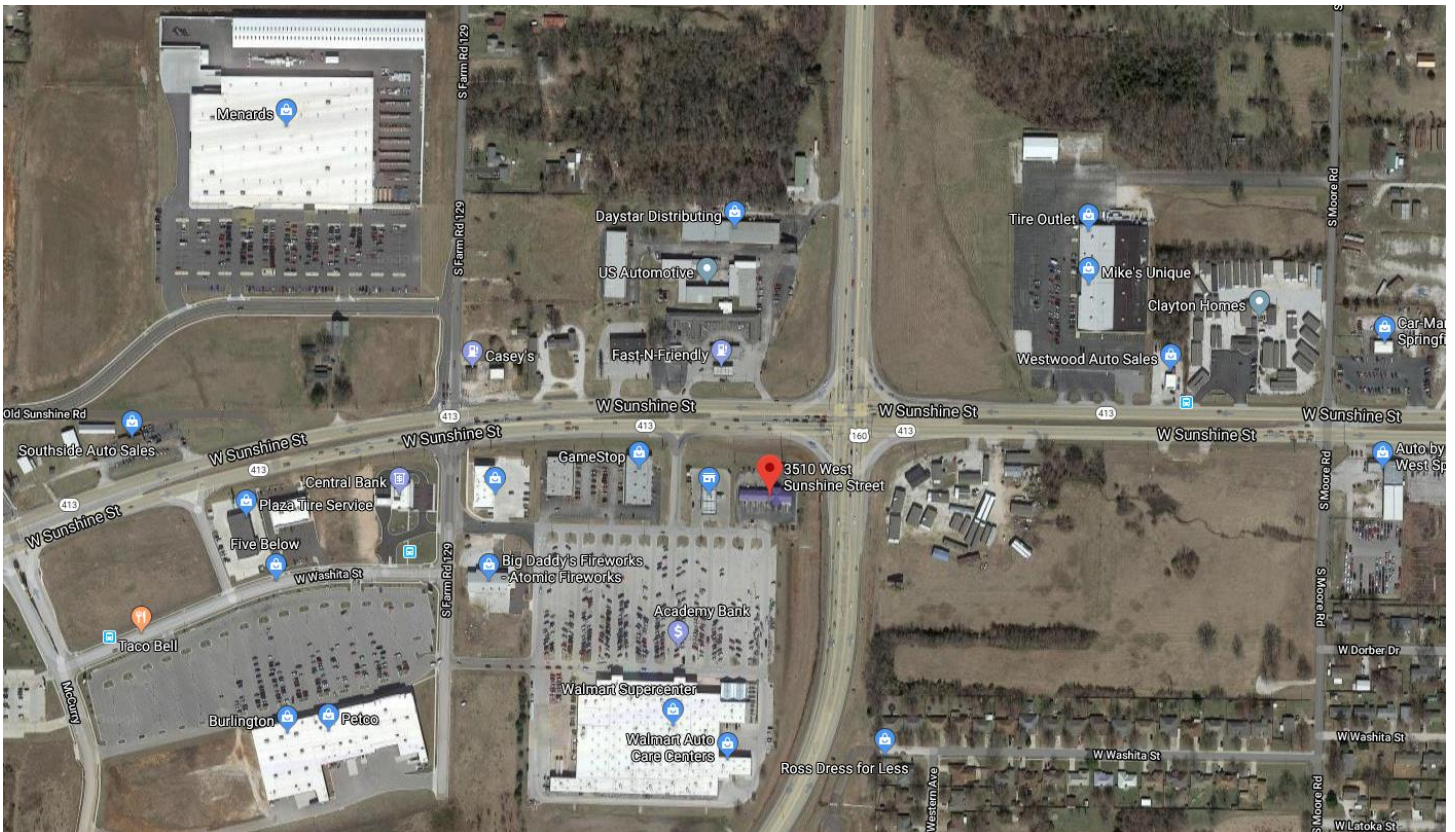
SURROUNDING ZONING AND LAND USES:

	NORTH	SOUTH	EAST	WEST
ZONING	County C-2	GR	County C-2	GR
LAND USE	Commercial/Retail uses	Supermarket	Manufactured Home sales/storage	Gas Station

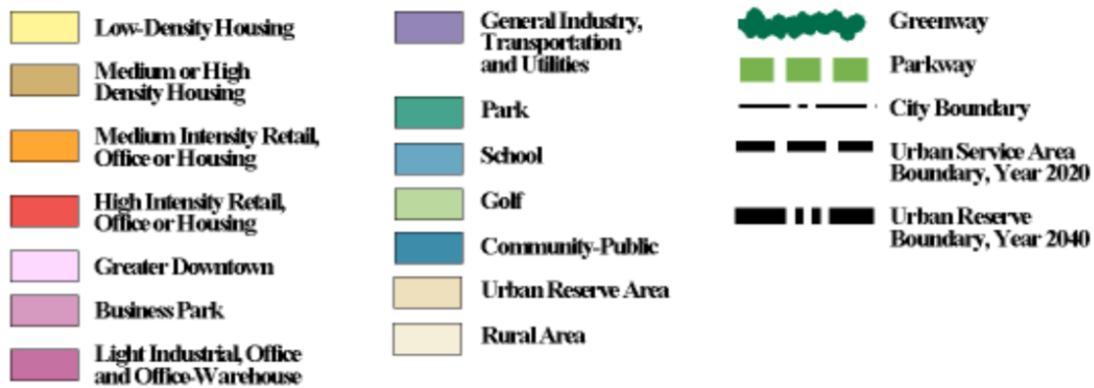
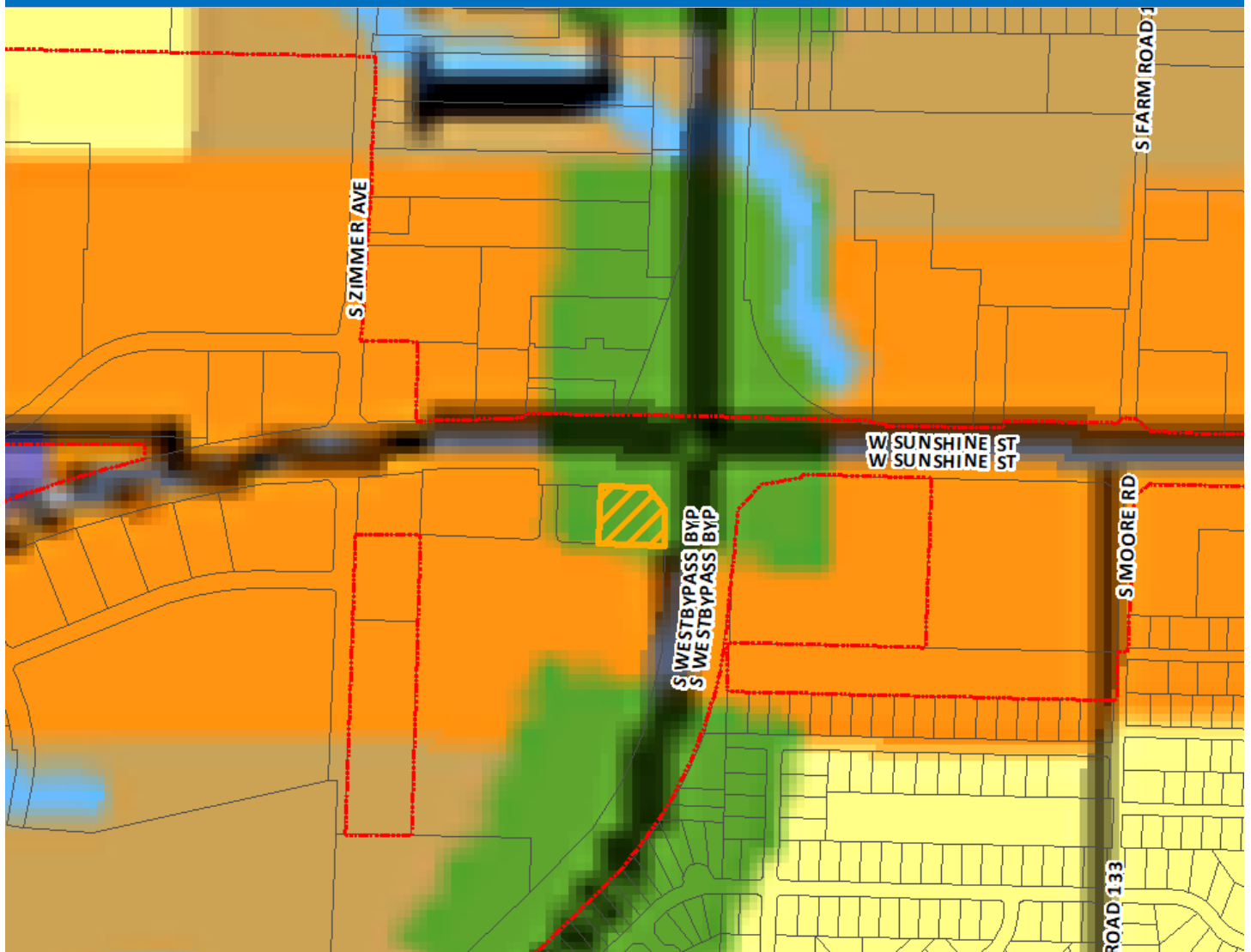
SURROUNDING LAND USES (GOOGLE MAP AERIAL VIEW):



GOOGLE MAPS STREET VIEW:



GROWTH MANAGEMENT AND LAND USE PLAN:



PROPERTY HISTORY:

The subject property was annexed in the City April 2000 and rezoned to GR, General Retail in June 2000.

A Conditional Use Permit was approved by City Council in September 2001 to allow a car wash.

ZONING ORDINANCE REQUIREMENTS:

Sec. 36-363. - Conditional Use Permit

- (1) *Purpose.* The conditional use permit procedure is designed to provide the planning and zoning commission and the city council with an opportunity for discretionary review of requests to establish or construct uses or structures which may be necessary or desirable in a zoning district, but which may also have the potential for a deleterious impact upon the health, safety and welfare of the public. The purpose of the review is to determine whether the proposed location of the use or structure is appropriate and whether it will be designed and located so as to avoid, minimize, or mitigate any potentially adverse effects upon the community or other properties in its vicinity. The discretionary conditional use permit procedure is designed to enable the planning and zoning commission and the city council to impose conditions upon such uses and structures that are designed to avoid, minimize or mitigate potentially adverse effects upon the community or other properties in the vicinity of the proposed use or structure, and to deny requests for a conditional use permit when it is apparent that a proposed use or structure will or may cause harm to the community or injury to the value, lawful use and reasonable enjoyment of other properties in the vicinity of the proposed use or structure.
- (8) *Period of validity.*
 - (a) No conditional use permit shall be valid for a period longer than 18 months from the date on which the city council grants the conditional use permit, unless within such 18-month period:
 1. A building permit is obtained and the erection or alteration of a structure is started; or
 2. An occupancy permit is obtained and the conditional use commenced.The city council may grant one additional extension not exceeding 18 months, upon written application, without notice or hearing provided such grant is approved by city council prior to the expiration of the original 18-month period. No additional extension shall be granted without complying with the notice and hearing requirements for an initial application for a conditional use permit. This additional extension shall be considered to have begun on the date of expiration of the original conditional use permit regardless of when this additional extension is granted by city council.
 - (b) When a conditional use is discontinued or abandoned for a period of 12 consecutive months (regardless of any reservation of an intent not to abandon or to resume such use), such use shall not thereafter be reestablished or resumed unless a new conditional use permit is granted by city council consistent with this section. The burden of proof shall be on the property owner to show that the conditional use has not been discontinued or abandoned for a period of 12 consecutive months or longer.
- d. *Damage or destruction.* In the event that the principal building or structure on the property is damaged or destroyed, by any means, to the extent of more than 75 percent of the replacement cost of the building or structure at the time such damage occurred, such building or structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located and the property shall not continue to be used for the uses permitted by the provisions of this section.

COMPATIBILITY WITH COMPREHENSIVE PLAN:

The *Growth Management and Land Use Plan* of the *Comprehensive Plan* designates this area as appropriate for Medium Intensity Retail, Office or Housing. The intensity of land development in these areas is expected to be greater and General Retail uses are appropriate. The *Growth Management and Land Use Plan* identifies the West Bypass and Sunshine Street intersection as an Activity Center. Activity centers are locations of significant business and high-density housing development.

STAFF COMMENTS:

1. The applicant is requesting approval of a Conditional Use Permit for an automotive service garage on the subject property within a GR, General Retail District. The *Zoning Ordinance* requires a use permit in the GR, General Retail District for an automotive service garage. The applicant is proposing a new Jiffy Lube store.
2. The *Growth Management and Land Use Plan* of the *Comprehensive Plan* designates this area as appropriate for Medium Intensity Retail, Office and Housing. The GR District is one of the appropriate zoning districts recommended for the area. The intensity of land development in these areas is expected to be greater and General Retail uses are appropriate.
3. The *Growth Management and Land Use Plan* identifies the West Bypass and Sunshine Street intersection as an Activity Center. Activity centers are locations of significant business and high-density housing development.
4. The proposed detached sign must be located outside of any right-of-way, easements or sight triangles and meet all requirements of Section 36-454 of the Zoning Ordinance.
5. Staff has reviewed the applicant's request for a Conditional Use Permit and has determined that it satisfies the standards for Conditional Use Permits outlined in Section 36-363 (10) (Attachment 3) of the Zoning Ordinance. Any development of this property must also follow the GR, General Retail District requirements.
6. The proposed Conditional Use Permit was reviewed by City departments and comments are contained in Attachment 1.

NEIGHBORHOOD MEETING:

The applicant held a neighborhood meeting on January 23, 2020 regarding the request for a Conditional Use Permit. A summary of this meeting is included in Attachment 4.

PUBLIC NOTIFICATION:

The public notice was advertised in the Daily Events at least 15 days prior to the public hearing. The property was posted by the applicant at least 10 days prior to the public hearing. Public notice letters were sent out at least 10 days prior to the public hearing to all property owners within 185 feet.

Notices sent to property owners within 185 feet:	Mailed: 3	Returned: 0
--	-----------	-------------

DEPARTMENT COMMENTS:

ATTACHMENT 1

DEPARTMENT COMMENTS FOR CONDITIONAL USE PERMIT 440

BUILDING DEVELOPMENT SERVICES COMMENTS:

No comments.

CITY UTILITIES COMMENTS:

No issues with CUP.

CLEAN WATER SERVICES COMMENTS:

No objection to CUP. Public sewer is available for the development.

FIRE DEPARTMENT COMMENTS:

No issues.

MODOT COMMENTS:

No comments.

STORMWATER DIVISION COMMENTS:

The property is in the Wilsons Creek drainage basin. The property is not located in a FEMA designated floodplain. Staff is aware of flooding problems in the area. If the project increases the amount of impervious surfacing, detention is required according to Chapter 96. A fee in lieu of on-site stormwater detention will not be allowed and detention will be required. Water quality is not applicable since the site is less than one acre. The property is not located in a stream buffer area.

Please note that development of the property will be subject to the following conditions at the time of development:

1. Post development peak run-off rates shall not exceed pre-development peak run-off rates for the 1, 10 and 100 year rain events. Any increase in impervious surfacing will require the development to meet current detention and water quality requirements.
2. If disturbing 1 acre or greater, water quality will also have to be provided.
3. Drainage easements must be provided for this conveyance.
4. Please keep in mind that more detailed stormwater calculations will have to be submitted before any permits can be approved.
5. A land disturbance permit will be required if disturbing 1 acre or greater.

Public Works Stormwater Division	Response
Drainage Basin	Wilsons Creek
Is property located in Floodplain?	No
Is property located on a sinkhole?	No
Is property located in a stream buffer?	No
Is stormwater fee in lieu an option?	No

TRAFFIC DIVISION COMMENTS:

STREET CLASSIFICATION, RIGHT-OF-WAY, & JURISDICTION

City's Transportation Plan classifies W. Sunshine Street as an Expressway roadway and S. West Bypass as an Expressway roadway. The standard right-of-way width for W. Sunshine Street is 65 feet from the centerline. The standard right-of-way width for S. West Bypass is 65 feet from the centerline. It appears additional right-of-way is not needed along W. Sunshine Street or S. West Bypass. In addition, it appears there is adequate right of way for the sight triangle at the intersection of W. Sunshine Street and S. West Bypass. A survey is recommended to determine the exact amount of existing right-of-way. W. Sunshine Street and S. West Bypass are both state maintained streets.

TRAFFIC COUNTS & ON-STREET PARKING

The most recent traffic count on W. Sunshine Street west of S. West Bypass is 9,383 vehicles per day. The city does not have a traffic count for S. West Bypass. On-street parking is not allowed along W. Sunshine Street or S. West Bypass.

DRIVEWAY ACCESS

There are no direct driveway access points onto the property from W. Sunshine Street or S. West Bypass. Existing access is taken from the Walmart Supercenter property that can be accessed from W. Sunshine Street and S. Zimmer Rd or the right in/right out access on W. Sunshine Street just west of the S. West Bypass intersection. No additional access points will be allowed.

SIDEWALK

There is not existing sidewalk along the property frontage of W. Sunshine Street or S. West Bypass. The existing infrastructure meets current MoDOT Standards as both are under MoDOT jurisdiction. Sidewalks will not be required.

TRAILS, BUS STOPS, & ADDITIONAL INFORMATION

There are a no Greenway Trails in the area surrounding the property pertaining to this zoning. There are no bus stops along W. Sunshine Street or S. West Bypass, however there is a bus stop on W. Washita Street which is located off of S. Zimmer Rd. The proposed development is in an area that provides for multiple direct connections and provides for good connectivity in the area.

IMPROVEMENTS

None required. A Traffic Impact Study was not required, as the change in zoning did not increase the trip generation in the AM/PM peaks by more than 100 additional trips nor did it exceed the threshold of 1,000 additional trip-ends daily.

TRAFFIC - TABLE 1: PLANNED DEVELOPMENT/CONDITIONAL USE PERMIT DETAILS

	Street Name	Street Classification	On-Street Parking	Existing Street ROW from Centerline (ft.) (Approx.)	Required Street ROW from Centerline (ft.)
Street 1	W. Sunshine Street	Expressway	No	140	65
Street 2	S. West Bypass	Expressway	No	120	65



	AM Peak	PM Peak	Weekday	Weekend
Existing Trips Generated	8	8	108	
*Proposed Trips Generated	10	9	69	
Additional Trips Generated	2	1	-39	

*Proposed Trips Generated is based on the highest, most intense use permitted in the proposed rezoning, Planned Development, or Conditional Use Permit

REQUIREMENTS FOR APPROVAL:

ATTACHMENT 2 REQUIREMENTS FOR CONDITIONAL USE PERMIT 442

1. An automotive service garage is permitted in conformance with Attachment 5.
2. The automotive service garage shall comply with all the standards listed in Attachment 3.
3. All other standards of the Zoning Ordinance and other applicable ordinances shall be adhered to.

STANDARDS FOR CONDITIONAL USE PERMIT 442

ATTACHMENT 3

36-363 (10) Standards. An application for a conditional use permit shall be granted only if evidence is presented at the public hearing which establishes the following:	Applicant's Response:	Staff response:
1. The proposed conditional use will be consistent with the adopted policies in the Springfield Comprehensive Plan.	Correct, the proposed facility will comply with the comprehensive plan.	This application is consistent with the <i>Growth Management and Land Use Plan</i> of the <i>Comprehensive Plan</i> which designates this area as appropriate for High Intensity Retail, Office or Housing. The GR District is one of the appropriate zoning districts recommended for this area. The GR district allows automotive service garages with a Conditional Use Permit.
2. The proposed conditional use will not adversely affect the safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site.	Correct, the site will adhere to all regulations for safety of it and surrounding businesses pedestrians or patrons.	Public Works Traffic Division has reviewed the application and has determined that conditional use will not adversely affect safety of the motoring public and of pedestrians. Traffic comments are provided in Attachment 1.
3. The proposed conditional use will adequately provide for safety from fire hazards and have effective measures of fire control.	Correct. the site will adhere to all regulations for fire safety.	The Fire Department has reviewed this request and has no concerns with regard to safety from fire hazards and fire controls. Fire comments are provided in Attachment 1.
4. The proposed conditional use will not increase the hazard to adjacent property from flood or water damage.	Correct. The property will have safety effective drainage system adhering to current conditions.	Public Works Stormwater Division has reviewed this request and provided comments in Attachment 1. The development is required to meet development standards for stormwater management. The development of the property will be subject to the following conditions at the time of development: 1. Post development peak run-off rates shall not exceed pre-development peak run-off rates for the 1, 10 and 100 year rain events. Any increase in

36-363 (10) Standards. An application for a conditional use permit shall be granted only if evidence is presented at the public hearing which establishes the following:	Applicant's Response:	Staff response:
		impervious surfacing will require the development to meet current detention and water quality requirements. 2. If disturbing 1 acre or greater, water quality will also have to be provided. 3. Drainage easements must be provided for this conveyance. 4. Please keep in mind that more detailed stormwater calculations will have to be submitted before any permits can be approved. 5. A land disturbance permit will be required if disturbing 1 acre or greater.
5. The proposed conditional use will not have noise characteristics that exceed the sound levels that are typical of uses permitted as a matter of right in the district.	Correct. the site will adhere to all acceptable noise sound levels typical of uses permitted as a matter of right in the district.	It is not expected that the proposed use will have noise characteristics that exceed Zoning Ordinance standards.
6. The glare of vehicular and stationary lights will not affect the established character of the neighborhood, and to the extent such lights will be visible from any residential district, measures to shield or direct such lights to eliminate or mitigate such glare are proposed.	Correct. The proposed orientation of the building as well as facility procedures will eliminate or mitigate such glare to surrounding vehicles or residents.	It is not expected that the proposed use will negatively affect neighborhood districts. The subject property is not located adjacent to residential and is in an area of more intense commercial/retail uses.
7. The location, lighting, and type of signs and the relationship of signs to traffic control is appropriate for the site.	Correct. We will comply with all the lighting and signage regulations and codes. A pylon sign will be constructed along the easterly Right of Way of West Bypass US-160. It will be built within allowable codes, namely the zoning ordinance and will be congruent with other existing nearby signs of its type.	The development will be subject to the signage standards on the Zoning Ordinance.
8. Such signs will not have an adverse effect on any adjacent properties.	Correct. The property will utilize existing sign locations and follow regulations set forth.	The development will be subject to the signage standards on the Zoning Ordinance and is not expected to have an adverse effect on any adjacent properties

36-363 (10) Standards. An application for a conditional use permit shall be granted only if evidence is presented at the public hearing which establishes the following:	Applicant's Response:	Staff response:
9. The street right-of-way and pavement width in the vicinity is or will be adequate for traffic reasonably expected to be generated by the proposed use.	Correct. We will comply with all the traffic and pavement design regulations and codes.	No additional right-of-way is required for the adjacent streets.
10. The proposed conditional use will not have any substantial or undue adverse effect upon, or will lack amenity or will be incompatible with, the use or enjoyment of adjacent and surrounding property, the character of the neighborhood, traffic conditions, parking utility facilities, and other matters affecting the public health, safety and general welfare.	Correct. The proposed Jiffy Lube will not be incompatible with the use or adversely affect the surrounding property. We feel that this automotive service station will enhance the retail corridor and fill a need for Springfield residents in this area.	It is not anticipated that the proposed automotive service garage will have an adverse effect or be incompatible with the adjacent and surrounding properties which are used for commercial/retail uses.
11. The proposed conditional use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations. In determining whether the proposed conditional use will so dominate the immediate neighborhood, consideration shall be given to: a. The location, nature and height of buildings, structures, walls and fences on the site; and b. The nature and extent of landscaping and screening on the site.	Correct. The site layout and characteristics will follow applicable regulations to not dominate the immediate vicinity or interfere with the development in the area. The locations and height of the proposed Jiffy Lube will fit into existing patterns of development along this retail corridor and not dominate the immediate vicinity. The site will have adequate landscaping and screening as required by the zoning ordinance. As such a substantial buffer yard exists along both streets and will be adhered to.	The standards of the Zoning Ordinance adequately address these issues.
12. The proposed conditional use, as shown by the application, will not destroy, damage, detrimentally modify or interfere with the enjoyment and function of any significant natural topographic or physical features of the site.	Correct. The proposed Jiffy Lube will not destroy, damage, detrimentally modify, or interfere with the enjoyment and function of any significant natural topographic or physical features of the site.	It is not expected that the proposed development will negatively affect any significant natural topography or physical features. The subject property is developed as a car wash, which is currently not operating.
13. The proposed conditional use will not result in the destruction, loss or damage of any natural, scenic or historic feature of significant importance.	Correct. The proposed Jiffy Lube will not result in the destruction of any natural scenic features. Per the City of Springfield GIS Map, the site does not reside in an Historic District.	The applicant's response adequately addresses this condition. The site is currently a car wash and does not appear to have important natural, scenic or historic features.
14. The proposed conditional use otherwise complies with all applicable regulations of the Article, including lot size requirements, bulk regulations,	Correct. the site otherwise adheres to all regulations including lot size requirements, bulk regulations, use limitations and performance standards.	The proposed use complies with applicable regulations with regard to lot size, bulk

36-363 (10) Standards. An application for a conditional use permit shall be granted only if evidence is presented at the public hearing which establishes the following:	Applicant's Response:	Staff response:
use limitations and performance standards.		regulations, use limitations and performance standards.
15. The proposed conditional use at the specified location will contribute to or promote the welfare or convenience of the public.	Correct. the site will be designed to follow the surrounding developments lot organization in order to promote welfare or convenience of the public.	The proposed development will contribute to the existing retail and service businesses. The <i>Growth Management and Land Use Plan</i> of the <i>Comprehensive Plan</i> designates this area as appropriate for Medium Intensity Retail, Office or Housing. The intensity of land development in these areas is expected to be greater and General Retail uses are appropriate.
16. Off-street parking and loading areas will be provided in accordance with the standards set out in 36-455, 36-456 and 36-483 of this Article, and such areas will be screened from any adjoining residential uses and located so as to protect such residential uses from any injurious effect	Correct. the site will adhere to all regulations for parking, loading areas and residential adjacency.	The <i>Growth Management and Land Use Plan</i> of the <i>Comprehensive Plan</i> designates this area as appropriate for Medium Intensity Retail, Office or Housing. The intensity of land development in these areas is expected to be greater and General Retail uses are appropriate.
17. Adequate access roads or entrance or exit drives will be provided and will be designed so as to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.	Correct. the site will use the current development traffic circulation into and exiting the site.	Public Works Traffic Division and MODOT have reviewed the proposed site plan and has determined that it meets this condition.
18. The vehicular circulation elements of the proposed application will not create hazards to the safety of vehicular or pedestrian traffic on or off the site, disjointed vehicular or pedestrian circulation paths on or off the site, or undue interference and inconvenience to vehicular and pedestrian travel.	Correct. the site will use the current development traffic and pedestrian circulations into and exiting the site to enable us to remain congruent to the adjoining development.	Public Works Traffic Division and MODOT have reviewed the proposed site plan and has determined that it will not create these hazards.
19. The proposed use, as shown by the application, will not interfere with any easements, roadways, rail lines, utilities and public or private rights-of-way.	Correct. The proposed Jiffy Lube will not interfere with any easements, roadways, rail lines, utilities, or public or private Right of Ways.	The applicant's response adequately addresses this condition.
20. In the case of existing structures proposed to be converted to uses requiring a conditional use permit, the structures meet all fire, health, building, plumbing and electrical requirements of the City of Springfield.	We will be constructing a new building. Existing building will be demolished. This question is not applicable. A new structure is planned for this development. The development will adhere to	The applicant's response adequately addresses this condition. The development is required to adhere to all standards of the

36-363 (10) Standards. An application for a conditional use permit shall be granted only if evidence is presented at the public hearing which establishes the following:	Applicant's Response:	Staff response:
	all standards of the Zoning Ordinance and other applicable ordinances.	Zoning Ordinance and other applicable ordinances.
21. The proposed conditional use will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.	Correct. the site will use the existing services provided to the property.	This request will provide for the productive use of the subject property which is already served with public infrastructure and services.

AFFIDAVIT OF NEIGHBORHOOD NOTIFICATION AND MEETING SUMMARY

1. Conditional Use Permit for: Jiffy Lube
2. Meeting Date & Time: January 23rd, 2020 4:00-6:30 PM
3. Meeting Location: 3510 W. Sunshine St. Springfield, MO
4. Number of invitations that were sent: 20
5. How was the mailing list generated: City
6. Number of neighbors in attendance (attach a sign-in sheet): 0
7. List the verbal comments and how you plan to address any issues:
(City Council does not expect all of the issues to be resolved to the neighborhood's satisfaction; however, the developer must explain why the issues cannot be resolved.)

N/A

8. List or attach the written comments and how you plan to address any issues:

N/Aw

I, Chris Johnson (*print name*), attest that the neighborhood meeting was held on December 12 2019 (*month/date/year*), and is at least twenty-one (21) days prior to the Planning and Zoning Commission public hearing and in accordance with the attached "Neighborhood Notification and Meeting Process."

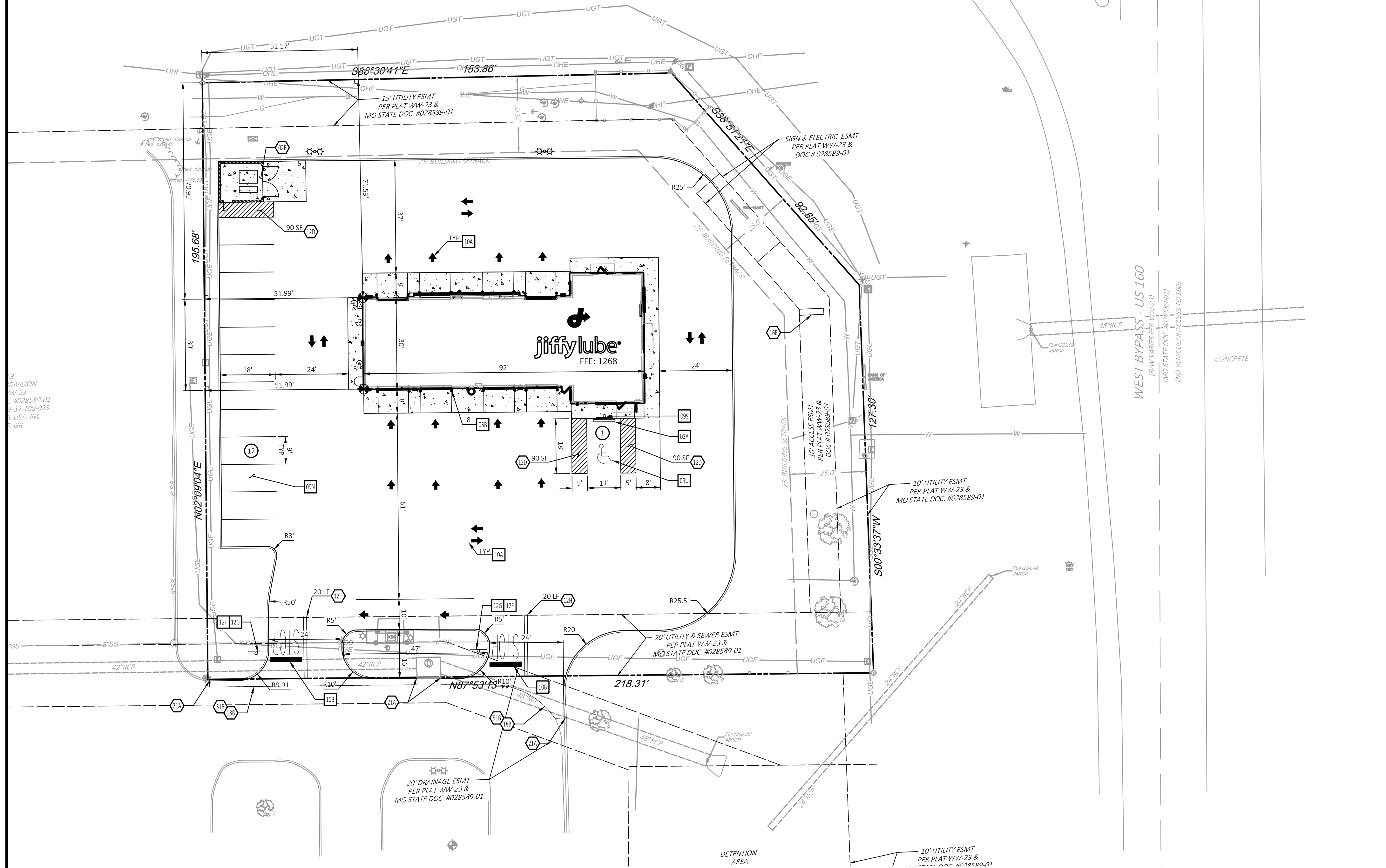


Signature of person completing affidavit

Chris Johnson

Printed name of person completing affidavit

ATTACHMENT 5



SITE NOTES

- 02E TRASH DUMPSTER ENCLOSURE (PER ARCH. PLANS). MATERIALS TO MATCH BUILDING.
12D 4 INCH WIDE PAINTED YELLOW STRIPES, 2.0 FOOT O.C. @ 45 DEGREES (SEE SIZE INDICATED AT SYMBOL).
12H 4 INCH DOUBLE TRAFFIC YELLOW LANE STRIPE (SEE LENGTH INDICATED AT SYMBOL).
16E MONUMENT SIGN.
18D MATCH EXISTING PAVEMENT ELEVATIONS.
21A TAPER CURB TO MATCH EXISTING CURB.
51B LIMITS OF SAWCUT AND PAVEMENT REMOVAL.
70A VICTOR STANLEY BENCH OR APPROVED EQUAL. DETAIL LOCATED ON THIS PAGE.
70B PARK PICNIC TABLE.

SITE DETAILS

- 02A PRECAST CONCRETE WHEEL STOP
05B GUARD POST
09N 90 DEGREE PARKING
09S ACCESSIBLE / VAN ACCESSIBLE PARKING SIGN
09U ACCESSIBLE PARKING SYMBOL
10A TRAFFIC FLOW ARROW
10B STOP BAR
12G STOP SIGN

SITE INFORMATION

ZONING	C-5 (GENERAL COMMERCIAL)
SETBACKS	
NORTH	25' BUILDING; 0' LANDSCAPE
SOUTH	0' BUILDING; 0' LANDSCAPE
EAST	25' BUILDING; 0' LANDSCAPE
WEST	0' BUILDING; 0' LANDSCAPE
JIFFY LUBE	4,042 SF
BAYS	4

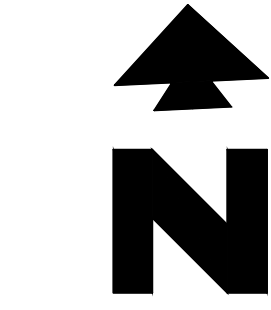
ACREAGE SUMMARY TABLE

PARCEL	± 40,348 SF (0.93 AC)	
PERVIOUS AREA	± 03,811 SF (0.32 AC)	
IMPERVIOUS AREA	± 26,537 SF (0.61 AC)	
PARKING TABLE		
	SPACES REQUIRED	SPACES PROVIDED
WORK BAYS	N/A	4 BAYS
EMPLOYEES	N/A	6 EMPLOYEES
STANDARD CAR PARKING	9 SPACES	12 SPACES
ACCESSIBLE PARKING	1 SPACE	1 SPACE
TOTAL CAR PARKING	10	13 SPACES

NOTE: PER CODE, THE REQUIRED PARKING WILL BE 1 SPACE PER BAY + 1 SPACE PER EMPLOYEE.

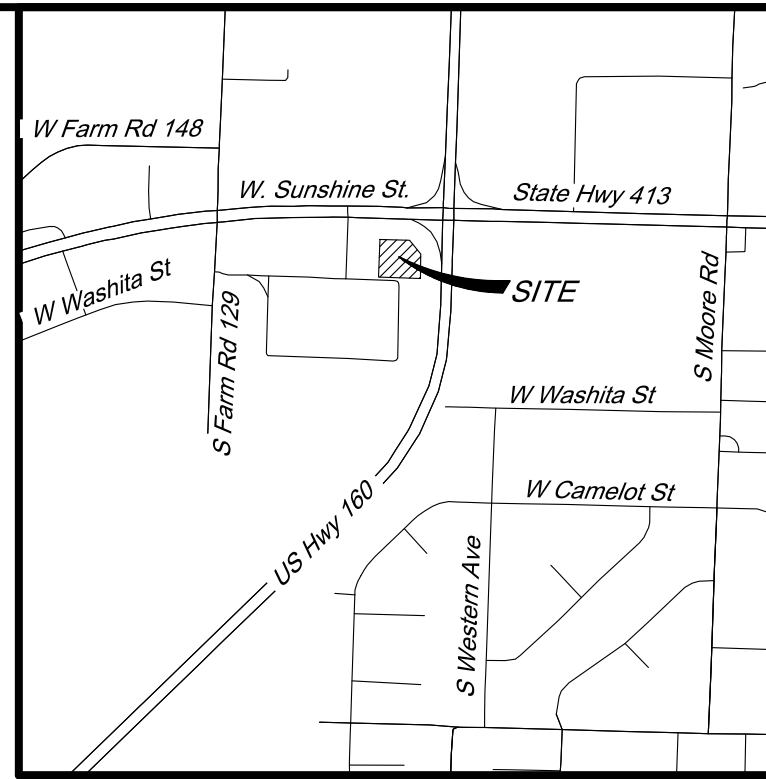


Know what's below.
Call before you dig.



0 20' 30' 40'
SCALE IN FEET

NOTE:
SEE ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF PORCHES, RAMPS, VESTIBULE, SLOPED PAVING, TRUCK DOCKS, BUILDING UTILITY ENTRANCE LOCATIONS AND PRECISE BUILDING DIMENSIONS.



Vicinity Map

Not to Scale

SITE BENCHMARK

Benchmark #1: Mag Nail located in Wal-Mart parking lot approximately 104.8' Southwest of storm drainage manhole and approximately 158.1' South to a sanitary sewer manhole. Mag nail is located West of benchmark #2 approximately 229.0', just South of island. Unable to shown on drawing.
N=492058.95'
E=1392197.42'
Elev.=1265.97'

Benchmark #2: 1/2" Rebar with CEI Cap located in East island in Wal-Mart parking lot approximately 60.2' South of a storm drainage manhole and approximately 25.0' South of a light pole (2 lamp) in the same island.
N=492060.13'
E=1392426.36'
Elev.=1266.27'

LEGEND

EXISTING

Boundary Line	Centerline	Easement Line	Flood Zone Line	UGTV	UGE	Overhead Electric Line	Hedge Line	Gas Line	FOC	Overhead Electric Line	Sanitary Sewer Line	Storm Drainage Pipe	Underground Telephone Line	Water Line	Chainlink Fence Line	Benchmark (BM)	Found Monument (As Noted)	Set 5/8" Rebar "LS4251"	Found Nail (As Noted)	Found Chiseled "X"	Found Right-of-Way Sign Post	Electric Meter	Water Meter	Drainage Manhole (DMH)	Grate Inlet (GI)	Fire Hydrant	Sewer Manhole (SMH)	Unknown Manhole	Sewer Clean Out	Bollard / Guard Post	Guy Wire / Anchor	Utility Pole	Light Pole Straight	Light Pole Overhanging	Light Pole (2 Lamps)	Electric Riser	Gas Riser	Telephone Riser	Electric Vault	Fiber Optic Vault	Unknown Optic Vault	Air / Vacuum Machine	Irrigation Control Box	Automated Teller Machine (ATM)	Single Pole Pylon Sign	Bush	Tree (Deciduous)	Traffic Sign (Type of Sign)	Warning Fiber Optic Line Sign	Warning Telephone Line Sign	Polyvinyl Chloride Pipe	Reinforced Concrete Pipe
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PROPOSED

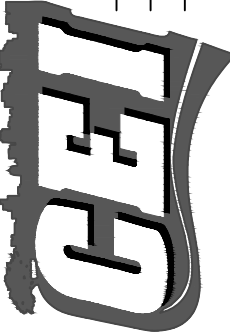
PROPERTY LINE/RIGHT OF WAY LINE	CONCRETE CURB AND GUTTER. SEE DETAIL PAVING PLAN	COMBINATION INLET	FLARED END SECTION	GREASE TRAP / OIL & WATER SEPARATOR	BUILDING CONTROL POINT	PROPOSED PARKING SPACES	LIMITS OF SIDEWALKS AND CONCRETE APRONS (PER ARCHITECTURAL PLANS)
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GENERAL SITE NOTES

- A. ALL DIMENSIONS SHOWN ARE TO THE FACE OF CURB UNLESS OTHERWISE NOTED.
B. ALL CURB RETURN RADII SHALL BE 2' AS SHOWN TYPICAL ON THIS PLAN, UNLESS OTHERWISE NOTED.
C. UNLESS OTHERWISE SHOWN, CALLED OUT OR SPECIFIED HEREON OR WITHIN THE SPECIFICATIONS: ALL CURB AND GUTTER ADJACENT TO ASPHALT PAVING SHALL BE INSTALLED PER DETAIL 01A. ALL CURBING ADJACENT TO CONCRETE PAVING SHALL BE INSTALLED PER DETAIL 01B. PAVEMENT SHALL BE INSTALLED IN ACCORDANCE WITH DETAIL 08A OVER THE ENTIRE PARKING LOT AREA AND ALL APPROACH DRIVES. ALL PARKING LOT STRIPING INCLUDING ACCESSIBLE AND VAN ACCESSIBLE SPACES SHALL BE PAINTED PER DETAIL: 09N.
D. ALL PARKING LOT SIGN BASE SUPPORTS SHALL BE INSTALLED PER DETAIL 12F.
E. ALL ACCESSIBLE PARKING STALLS SHALL HAVE SIGNAGE INSTALLED PER DETAIL 09S.
F. PRIOR TO ANY CONSTRUCTION IN RIGHT-OF-WAY, CONTRACTOR SHALL INSTALL TRAFFIC CONTROL IN ACCORDANCE WITH MUTCD.

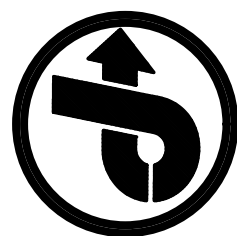
REVISIONS		
NO.	DATE	DESCRIPTION

Engineering Associates, Inc.

ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS • ENVIRONMENTAL SCIENTISTS(479) 273-9472
FAX (479) 273-08443108 S.W. REGENCY PARKWAY, SUITE 2
Bentonville, AR 72712

GUGGENHEIM DEVELOPMENT SERVICES, LLC

SITE PLAN

3510 WEST SUNSHINE STREET
SPRINGFIELD MISSOURI

jiffylube®

INITIAL DESIGN			1/28/20
			DATE
ADS	CSJ	EJB	EJB
DPOR	PM	DES	DRW

JOB NO.: 31393 DWG NAME: 31393 SP	SHEET NO. C-2.0
DATE 1/28/20 3:42 PM REV-0	

One-rdg. _____
P. Hrngs. X
Pgs. 30
Filed: 02-18-20

Sponsored by: Hosmer

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 038

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING Chapter 36 of the Springfield, Missouri, City Code, 'Land Development
2 Code,' Article III, 'Zoning Regulations,' Division 5, 'Supplemental District
3 Regulations,' Section 36-453 'Supplemental Open Space and Yard
4 Regulations,' and Chapter 106 of the Springfield, Missouri, City Code,
5 'Traffic and Vehicles,' Article 1, 'In General,' Section 106-32, 'Trees,
6 Shrubs or other Vegetation obstructing visibility at Intersections,' both
7 relating to vegetative obstructions in intersection sight triangles. (Planning
8 and Zoning Commission and Staff recommend approval.)
9 _____

10
11 WHEREAS, the City Code, Sections 36-453 and 106-32 both deal with
12 vegetative sight obstructions in intersections; and
13

14 WHEREAS, staff has discovered code contradictions between the two sections
15 based on their definitions and applications; and
16

17 WHEREAS, the proposed changes will harmonize and clarify sight triangle
18 enforcement; and
19

20 WHEREAS, following proper notice, a public hearing was held before the
21 Planning and Zoning Commission on January 9, 2020, for the amendments to Chapter
22 36. A copy of the Record of Proceedings from said public hearing is attached hereto
23 and incorporated herein by this reference as "Exhibit A," and said Commission made its
24 recommendation for approval of the proposed changes with a vote of 8 to 0.
25

26 Whereas, the City has reviewed the proposed Code amendments and prepared
27 a staff report concerning said amendments which is attached hereto and incorporated
28 herein by this reference as "Exhibit B."
29

30 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
31 SPRINGFIELD, MISSOURI, as follows, that:
32

33 Section 1 – Chapter 36 of the Springfield, Missouri, City Code, 'Land

Development Code,' Article III, 'Zoning Regulations,' Division 5, 'Supplemental District Regulations,' Section 36-453, 'Supplemental Open Space and Yard Regulations,' is hereby amended to read as follows:

(Note: Language to be added is underlined and language being removed is ~~stricken~~.)

Sec. 36-453. - Supplemental open space and yard regulations.

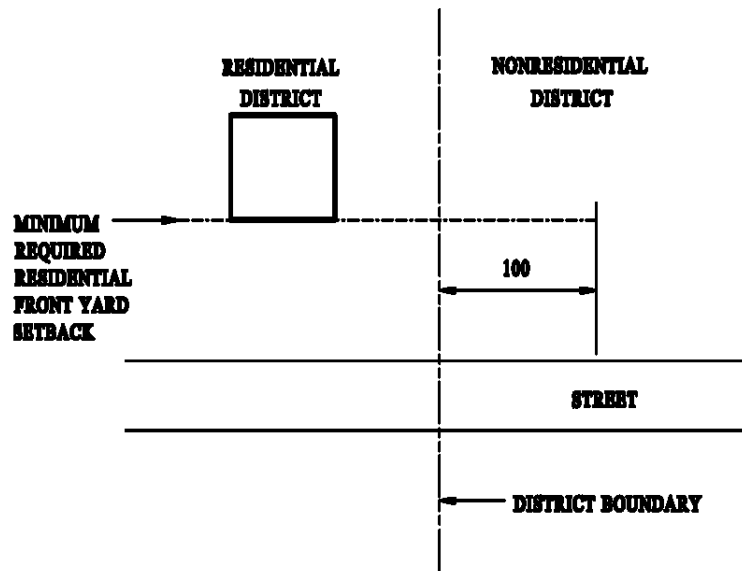
(1) Front yard regulations. All property shall have a front yard of not less than prescribed by this article unless otherwise permitted within this section:

(a) On interior lots, a new building other than garages or carports may be erected, structurally altered, or enlarged within the minimum required front yard setback only if both adjacent lots fronting the same street are developed and the existing front yard setback on both lots is less than the minimum front yard setback required by the zoning district. In such case, the front yard setback line shall not be less than the setback of the two adjacent developed lots fronting the same street.

(b) On corner lots, a new building other than garages or carports may be erected, structurally altered, or enlarged within the minimum required front yard setback only if the adjacent lot fronting the same street is developed and the existing front yard setback on the lot is less than the minimum front yard setback required by the zoning district. In such case, the front yard setback line shall not be less than the setback of the adjacent developed lot fronting the same street; nor, shall the building be located in any area formed by a triangle measured 25 feet along the right-of-way lines from the intersection of adjacent right-of-way lines.

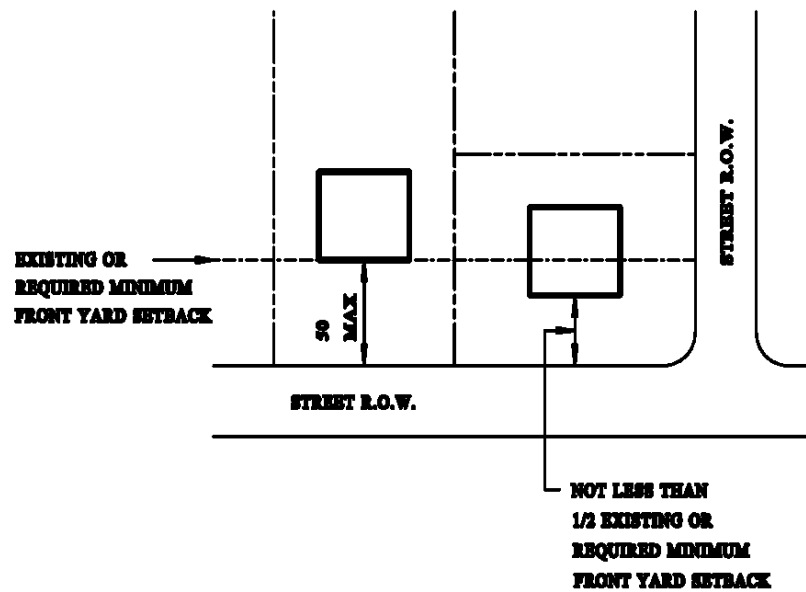
(c) Where property on one side of the street between two intersecting streets, is located in a nonresidential district and a residential district, the front yard setback required in the residential district shall apply to the nonresidential district. This requirement shall not apply beyond the first 100 feet of frontage zoned nonresidential (Figure 5-2). No parking is permitted within the required front yard setback.

Figure 5-2



- (d) On cul-de-sacs, the front yard setback line shall be located on the lot so that it is parallel to a line drawn tangent to the cul-de-sac right-of-way line at the center of the lot frontage. The front yard setback line shall be located at a distance from the cul-de-sac right-of-way line where the length of the front yard setback line is equal to the minimum lot width required in the zoning district and the resulting front yard setback is at least equal to the minimum required in the zoning district.
- (2) Side yards—Corner lots.
- (a) On a corner lot, the side yard requirement shall be the same as for interior lots except when the lot to the rear of the corner lot faces the street adjacent to the side of the corner lot, in which case the corner lot shall have a side yard, adjacent to the street, equal to not less than one-half the existing or required front yard setback of the lot to the rear of the corner lot, whichever is greater. However, existing buildings with a front yard setback greater than 50 feet shall be figured at 50 feet when determining the average setback line (Figure 5-4).

Figure 5-4



- (b) Garage doors for residential uses shall be located a minimum of 20 feet from the side lot line, unless the required setback is greater, when the vehicular access to a lot is from a street adjacent to the side lot line and the garage door is generally parallel to the side lot line.
- (3) Yards open. Except as specified in this section, yards required by this article shall be open and unobstructed to the sky.
- (4) Exceptions as to yard regulations. The following exceptions shall be made as to yard and area regulations:
 - (a) Peculiar shape of yard. Where the yard regulations cannot reasonably be complied with or their application determined on lots of peculiar shape or location on hillside lots, such regulations may be modified or determined by the board of adjustment, as provided in section 36-365, variances.
 - (b) Variations from major thoroughfare plan. Where the city council has adopted right-of-way of greater or lesser width from those established by the major thoroughfare plan of the city, the right-of-way as established by the city council shall apply. That right-of-way width shall be used in determining yard requirements.
 - (c) Lot width regulation modified. Where an odd-shaped lot has more than the required area for its particular district, the width of such lot may be computed in the most buildable portion having minimum area requirements; provided it complies with all bulk and open space requirements for the particular district.

- 117 (d) Parking area in rear yard. A parking area may occupy a required rear yard or
118 any part thereof if in conformance with sections 36-480, screening and fencing,
119 and 36-482, landscaping and bufferyards.
120
- 121 (e) Loading space in rear yard. A loading space may occupy a required rear yard
122 or any part thereof provided the adjacent rear lot is designated the same or a
123 more intense zoning classification and if in conformance with sections 36-480,
124 screening and fencing, and 36-482, landscaping and bufferyards.
125
- 126 (f) Building line established on approved final plat. If a building line, on an
127 approved final plat, establishes a setback greater than required by this article,
128 the setback on the final plat shall be required.
129
- 130 (5) Permitted projections and structures in required yards. The following shall not be
131 considered to be obstructions when located in a required yard:
132
- 133 (a) In all yards.
- 134
- 135 1. Cornices, eaves, gutters, belt courses, sills, awnings, canopies or other
136 similar architectural features, shall not extend or project into a required side
137 yard more than two feet and shall not extend or project into a required front
138 or rear yard more than three feet.
139
- 140 2. Open, unenclosed fire escapes shall not extend or project into any front,
141 side or rear yard more than four feet.
142
- 143 3. Open, unenclosed stairways or balconies, not covered by a roof or canopy,
144 shall not extend or project into a required rear yard more than three feet,
145 and such balconies shall not extend into a required front yard more than
146 three feet.
147
- 148 4. Enclosing
149 or temporary enclosing of open porches, steps, platforms, carports or
150 landing places and outside open stairways which extend into minimum
151 required yards is prohibited.
152
- 153 5. Any retaining wall shall be permitted in any required yard.
154
- 155 6. Any fence or hedge, in the front yard shall comply with the provisions of
156 subsection 36-453(6).
157
- 158 7. Fixed awnings, canopies, and marquees shall be located at least eight feet
159 above the sidewalk and shall not project closer than two feet to the curb
160 line.
161
- 162 8. Attached or detached pump island canopies and customer service shelters
in commercial and industrial districts may extend to the vertical plane of the

front and side property lines subject to the following conditions:

- a. The minimum height from the underside of the roof to the average ground level shall be 13½ feet.
 - b. No portion of the structure shall be located in or over any existing or required utility easement without prior written approval of the appropriate agency.
 - c. No portion of the structure shall be located in or over the required right-of-way of an adjacent street based on the classification of the street (subsection 36-303(17)).
 - d. The area beneath the roof shall be open and unobstructed to the ground level except for pump islands, fuel pumps, tables, chairs, and trash receptacles.
 - e. Decorative boxes and plantings shall not exceed three feet above ground level.
 - f. Attendant service booths located on the service island may be permitted and shall not be located closer to the front property line than the minimum required building setback line.
 - g. Advertising signs shall be prohibited on any portion of the roof and supporting posts or columns.
 - h. Two vertical clearance signs and two customer directional signs not exceeding one and one-half square feet in area and located at least eight feet above ground level shall be permitted.
 - i. Structures shall not occupy more than 50 percent of the area between the required building setback line and the vertical plane of the front property line.
9. Open terraces, not including permanently roofed-over terraces or porches, shall not extend more than ten feet into a required yard provided said terrace is at least ten feet from the rear or front lot line, three feet from the side lot line on interior lots and five feet from the side lot line adjacent to the street on corner lots and not over four feet above the average level of the adjoining lot.
 10. One-story bay windows shall not project more than 30 inches into a yard.

- 207 11. Chimneys may project 18 inches or less into the yard, provided that such
208 projection does not reduce the width of a side yard to less than three feet.
209
210 12. Statuary, arbors and trellises.
211
212 13. Flag poles.
213
214 14. Signs, when permitted by section 36-454, signs.
215
216 15. Open porches, platforms, landing places and carports that do not extend
217 above the first floor of the building shall not project more than ten feet into
218 any yard provided, and said projection shall be at least ten feet from the
219 rear or front lot line, three feet from the side lot line on interior lots and five
220 feet from the side lot line adjacent to the street on corner lots.
221
222 16. Air conditioning machinery located on an exterior pad.
223
224 17. Surface parking in an office, institutional, business, commercial or
225 industrial zoning district.
226
227 18. Automatic teller machines (ATMs).
228
229 19. Telephone booths.
230
231 (b) In any yard except a front yard:
232
233 1. A child's playhouse or a storage building not exceeding 100 square feet in
234 gross floor area and ten feet in height.
235
236 2. Recreational equipment and clotheslines.
237
238 3. Fences not exceeding seven feet in height and which comply with the
239 provisions of subsection (6).
240
241 (6) Vision obstruction restrictions.
242
243 (a) Front yards.
244
245 1. No obstructions in front yards. On any lot on which a front yard is required
246 by this article, no wall, fence or other structure shall be erected and no
247 hedge, tree, shrub, or other growth or object of any kind shall be maintained
248 in such location within such required front yard so as to obstruct the view,
249 except as permitted by this subsection.
250
251 2. Fences in front yards.
252

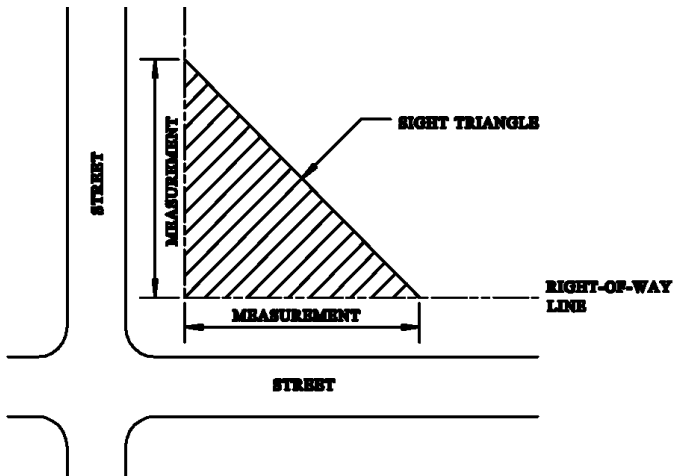
- 253 a. Open fences not exceeding 50 percent screening and four feet in
254 height above yard grade shall not be deemed to obstruct the view.
255
- 256 b. The square footage of the open voids shall be measured by taking the
257 total square footage of an area defined by the length of the fence and a
258 height of four feet above yard grade, and subtracting the total square
259 footage of screening within the fence. The percent of open voids shall
260 then be derived by dividing the total square footage of the open voids
261 by the total square footage of the area calculated above, and
262 multiplying this figure by 100. The fence's framing (the vertical posts
263 supporting the fence from the ground and no more than two horizontal
264 cross bars between the posts) shall not be included in the calculation of
265 the total square footage of screening, provided the framing posts and
266 cross bars do not exceed a four-inch width and the posts are spaced at
267 least eight feet apart. If the fencing is placed between brick or stone
268 pillars, these pillars shall be included in the calculation of the total
269 square footage of screening.
270
- 271 c. Questions regarding the yard grade shall be resolved by the director of
272 the department of building development services.
273
- 274 d. A building permit, at no charge, shall be required to construct a fence
275 in any required front yard.
276
- 277 3. Vegetation in front yards. Hedges, shrubbery, flowers, or other similar
278 vegetation planted to form a continuous line of growth shall not exceed a
279 height of four feet.
280
- 281 (b) Sight triangles.
282
- 283 1. Street intersections. Standards for street intersection sight triangles shall
284 reflect the street classification as identified in the major thoroughfare plan.
285 The conditions below indicate the minimum requirements for sight triangles
286 as measured along the required right-of-way (Figure 5-5). The city traffic
287 engineer may require additional triangle area for clear sight and safety as
288 determined by a traffic study for special conditions. The administrative
289 review committee may, upon concurrence of the city traffic engineer, modify
290 the sight triangle requirements if it can be demonstrated to the satisfaction
291 of the administrative review committee that the modified sight triangle will
292 provide clear sight and safety.
293
294

295 Sight Triangle Requirements
296

Intersecting Street	Expressway	Primary Arterial	Secondary Arterial	Major Collector	Residential Collector	Commercial/Industrial Local	Residential Local	Low-Volume Residential Local
Expressway	A	A	A	B	B	B	B	B
Primary arterial	A	A	A	B	B	B	C	C
Secondary arterial	A	A	B	B	C	C	C	C
Collector	B	B	B	C	C	C	C	C
Commercial/industrial local	B	B	C	C	C	C	C	-
Residential local	B	C	C	C	C	C	-	-
Low-volume residential local	B	C	C	C	-	-	-	-
Key: A - 100' x 100' Sight Triangle B - 30' x 30' Sight Triangle C - 10' x 10' Sight Triangle								

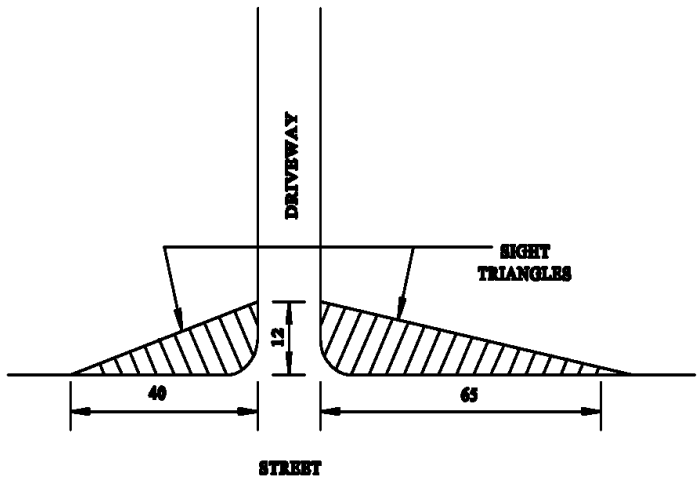
297

Figure 5-5



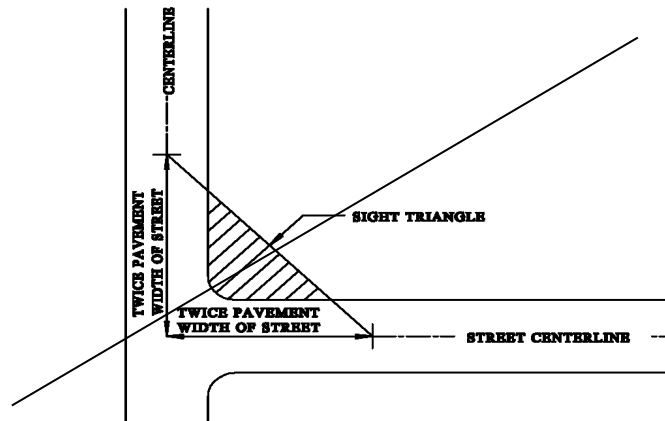
2. Street/driveway intersections. A street/driveway sight triangle is the triangle formed by the intersection of a public street and a driveway where the triangle area is that area encompassed within two intersecting lines formed by the edge of the pavement, curb, roadway, or projection thereof, and extending 40 feet down the street from the right edge of the driveway when standing in the driveway facing the street, and extending 12 feet from the edge of the street up the driveway pavement, and a third imaginary line connecting the extremities of the other two without overlaying the pavement. On the left side of the driveway, the triangle shall be calculated by measuring 65 feet down the street pavement from the edge of the driveway and measuring 12 feet down the driveway pavement from the edge of the street, and a third imaginary line connecting the extremities of the other two without overlaying the pavement (Figure 5-6). The administrative review committee may, upon concurrence of the city traffic engineer, modify the sight triangle requirements of this section if it can be demonstrated to the satisfaction of the administrative review committee that the modified sight triangle will provide clear sight and safety.

Figure 5-6



3. No obstructions permitted. No wall, fence, other structure, hedge, tree, shrub, flower, other vegetation, or landscaping materials over two feet in height shall be placed within the sight triangle formed by the intersection of two public streets, as defined in subsection (6)(b)1. or within the sight triangle formed by the intersection of a public street and a driveway, as defined in subsection (6)(b)2. However, a single tree having a single trunk shall be allowed in a sight triangle provided the tree is pruned to a height of seven eight feet above the lowest grade of such intersecting streets yard grade.
4. ~~When front yard not required. On any lot on which a front yard is not required by this article, no wall, fence, other structure, hedge, tree, shrub, flower, other vegetation, or landscaping materials over two feet or under seven feet in height above the lowest grade of two or more intersecting streets shall be placed within the street intersection sight triangle, the two sides of which are defined by measuring twice the pavement width of each intersecting street, as classified in the major thoroughfare plan, along its centerline from the center of the intersection (Figure 5-7).~~

Figure 5-7



- (7) Yard requirements for open land. If a lot is, or will be, occupied by a permitted use without buildings or structures, then the minimum front, side and rear yards that would otherwise be required for such lot shall be provided and maintained unless some other provision of this article requires or permits a different minimum front, side or rear yard. Front, side, and rear yards shall not be required on lots used for garden purposes without structures, or on lots used for open public recreation areas.

Section 2 – Chapter 106 of the Springfield, Missouri, City Code, ‘Traffic and Vehicles,’ Article 1, ‘In General,’ Section 106-32, ‘Trees, Shrubs or other Vegetation obstructing visibility at Intersections,’ is hereby amended to read as follows:

(Note: Language to be added is underlined and language being removed is ~~stricken~~.)

Sec. 106-32. - Trees, shrubs or other vegetation obstructing visibility at intersections.

No person shall permit any tree, shrub, hedge, flower or other form of vegetation to grow within any sight triangle, as defined in section 36-453 of the City Code, 30 feet of the intersection of the curblines of two intersecting streets to a height in excess of two feet above the lowest grade of the two intersecting streets, provided that a single tree ~~trees~~ now growing in such areas may grow above such height if the limbs are trimmed to a minimum height of eight feet.

Section 3 – Savings Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired, or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby, or shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4 - Severability Clause. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 5 - This Ordinance shall be in full force and effect from and after passage.

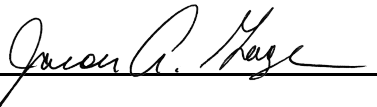
Passed at meeting: _____

Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: , Assistant City Attorney

Approved for Council action: , City Manager

EXPLANATION TO COUNCIL BILL 2020-038

FILED: 02-18-20

ORIGINATING DEPARTMENT: Public Works

PURPOSE: Amending Chapter 36 of the Springfield, Missouri, City Code, 'Land Development Code,' Article III, 'Zoning Regulations,' Division 5, 'Supplemental District Regulations,' Section 36-453 'Supplemental Open Space and Yard Regulations,' and Chapter 106 of the Springfield, Missouri, City Code, 'Traffic and Vehicles,' Article 1, 'In General,' Section 106-32, 'Trees, Shrubs or other Vegetation obstructing visibility at Intersections,' both relating to vegetative obstructions in intersection sight triangles. (Planning and Zoning Commission and Staff recommend approval.)

BACKGROUND INFORMATION: City Code Chapter 106-32 and 36-453 both deal with vegetative sight obstructions which may become dangerous to the traveling public. Staff found there are several discrepancies in technical details that ought to be adjusted. The proposed changes do not change the intent of the ordinance. The Planning and Zoning Commission approved the changes to the zoning code 8-0 on January 9, 2020.

Section 106-32 refers to the dimensions of a sight triangle as a blanket amount "30 feet of the intersection of the curb lines of two intersecting streets," versus Section 36-453 that refers to the sight triangle defined in subsection (6)(b)(1), which is based on road classification and is therefore a more suitable definition.

Section 106-32 also refers to trees being allowed in the sight triangle if the tree limbs are pruned up to 8 feet above the lowest grade of such intersecting streets. However, section 36-453 refers to a single tree with a single trunk being allowable if the tree is pruned to a height of seven feet above yard grade. The line of sight for drivers should always be measured from the road elevation, not the yard elevation. Also, multiple trees in the sight triangle may align in such a way that they block sight, hence staff recommends that a single tree with a single trunk as described in section 36-453 is also used in section 106-32, and that both sections refer to 8 feet in height, not 7 feet.

Section 36-453 (6)(b)(4) refers to sight triangles in areas when there are no front yard requirements by zoning and defines the sight triangle and clarifies it with Figure 5-7. Public Works and Planning finds that this differentiation is not appropriate, nor practical and recommends elimination. Both, parcels with or without front yard can be addressed by road classification (section 36-453 figure 5.5).

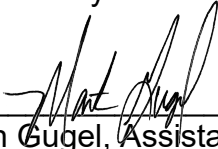
The proposed amendments to Section 106-32 and Section 36-453 are necessary to eliminate code contradictions in the manner in which a sight triangle is defined and what type and height of vegetation is allowable within the sight triangle.

Supports the following City Council Priorities:

- Quality of Place
- Public Safety

RECOMMENDATION: Public Works recommends passage of this Council bill.

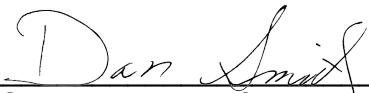
Submitted by:



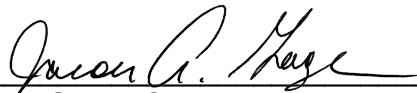
Martin Gugel, Assistant Director of Public Works

Recommended by:

Approved by:



Dan Smith, Director of Public Works



Jason Gage, City Manager

Exhibit A

RECORD OF PROCEEDINGS Planning and Zoning Commission – January 9, 2020

Vision Obstruction Restrictions Amendments
Citywide

Applicant: City of Springfield

Ms. Buettgen stated that this is a request for proposed code changes for vegetation abatements.

Definition of “Triangle”

Section 106-32: No person shall permit any tree ... to grow ...within 30 feet of the intersection of the curb lines of two intersecting streets to a height in excess of two feet above the lowest grade of the two intersecting streets, provided that trees...may grow...if the limbs are trimmed to a minimum of height of eight feet.

Section 36-453: No ...tree ... over two feet in height shall be placed...with the sight triangle formed by the intersection of two public streets, as defined in subsection (6)(b)1... However, a single tree having a single trunk shall be allowed ...provided the tree is pruned to a height of seven feet above yard grade.

Section 36-453 6(b)4: *(hen front yard not required)* ...no tree...shall be placed within...the triangle...measuring twice the pavement width...

“Baseline”

Section 106-32: No person shall permit any tree ... to grow ...within 30 feet of the intersection of the curb lines of two intersecting streets to a height in excess of two feet above the lowest grade of the two intersecting streets, provided that trees...may grow...if the limbs are trimmed to a minimum of height of eight feet.

Section 36-453: No ...tree ... over two feet in height shall be placed...with the sight triangle formed by the intersection of two public streets, as defined in subsection (6)(b)1...However, a single tree having a single trunk shall be allowed ...provided the tree is pruned to a height of seven feet above yard grade.

“Allowances in the Triangle”

Section 106-32: No person shall permit any tree ... to grow ...within 30 feet of the intersection of the curb lines of two intersecting streets to a height in excess of two feet above the lowest grade of the two intersecting streets, provided that trees...may grow...if the limbs are trimmed to a minimum of height of eight feet.

Section 36-453: No ...tree ... over two feet in height shall be placed...with the sight triangle formed by the intersection of two public streets, as defined in subsection (6)(b)1... However, a single tree having a single trunk shall be allowed ...provided the tree is pruned to a height of seven feet above yard grade.

Proposed Code Changes - Ordinance language to be added is underlined and language removed is ~~stricken~~:

Section 106-32	Section 36-453
No person shall permit any tree (...) to grow ...within 30 feet of the intersection of the curb lines of two intersecting streets... <u>any sight triangle, as defined in section 36-463 of the City Code</u>	No ...tree ... over two feet in height shall be placed...with the sight triangle formed by the intersection of two public streets, as defined in subsection (6)(b)1... (no change, refers to sight triangle table)
...two feet above the lowest grade of the two intersecting streets	(6)(3) ...two feet...above yard grade <u>the lowest grade of such intersecting streets.</u>
...provided that trees... <u>a single tree</u>	(6)(3) ...provided the tree is pruned to a height of seven <u>eight</u> feet
May grow above such height if the limbs are trimmed to a minimum height of eight feet.	(6)(3) ...provided the tree is pruned to a height of seven <u>eight</u> feet
	(6)(4) (Deleted. Planning Department found no benefit in having this section call out a different measuring stand for sight triangles): When front yard not required...the street intersection sight triangle...measuring twice the pavement

width of each intersecting street, as classified in the major
thoroughfare plan...

Ms. Cox asked about a large/tall shrub (crepe myrtle) with multiple branches how would they be treated.

Ms. Buettgen noted that if it is a life-safety issue then it would be addressed on case by case basis, however it may need to be trimmed to the height of eight feet and if it obscures the ROW, it may need to be removed.

Mr. Doennig opened the public hearing.

No speakers.

Mr. Doennig closed the public hearing.

COMMISSION ACTION:

Ms. Cox motioned to **approve** Vision Obstruction Restrictions Amendments (Citywide). Mr. Rose seconded the motion. Ayes: Doennig, Coltrin, Broekhoven, Cox, Thomas, Rose, and Jobe. Nays: None. Abstain: None. Absent: Shuler and Ogilvy.



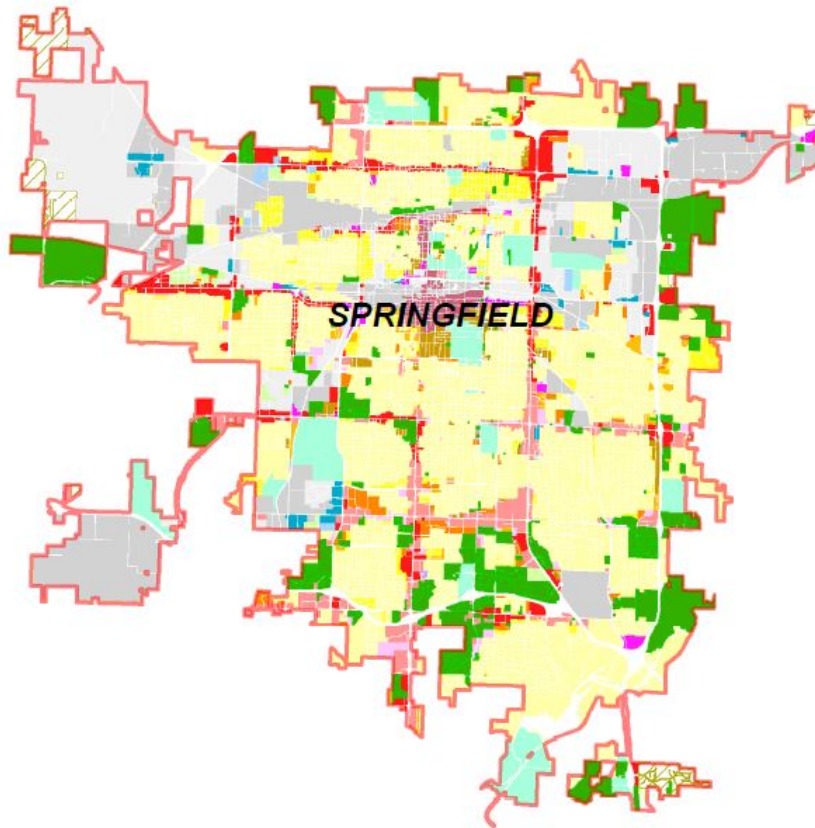
Bob Hosmer, AICP
Planning Manager

Exhibit B

PLANNING AND ZONING COMMISSION PUBLIC HEARING: JANUARY 9, 2020

CITY COUNCIL PUBLIC HEARING:

FEBRUARY 11, 2019



CASE:

Vegetation Code Amendment

STAFF:

Mandy Buettgen, Public Works Department
Traffic Division 874-1801

STAFF RECOMMENDATIONS:

Approve

PROPOSED MOTION:

Move to approve the proposed amendments to the Zoning Ordinance as submitted in the staff report

SUMMARY OF REQUEST:

1. Staff is requesting an amendment to Section 114-31 'Tress on private property creating hazard to public ways' to include abatement language, similar to Building Development Services' abatement language in Section 74-405, Section 106-32 'Trees, shrubs or other vegetation obstructing visibility at intersections' and Section 36-453, 'Supplemental open space and yard regulations' to the Zoning Ordinance to clarify geometric contradictions in code.

FINDINGS FOR STAFF RECOMMENDATION:

1. The proposed amendment will allow Public Works to abate nuisance vegetation and assess fees, as well as eliminate some geometric contradictions in code. Currently, Public Works is not able to recoup their costs for vegetation abatements due to blocked sight, passage or hazardous condition.

COMPATIBILITY WITH COMPREHENSIVE PLAN:

Public Safety

SUMMARY OF PROPOSED TEXT AMMENDMENT:

1. Planning & Zoning initiated amendments to Section 36-454(3)(b) on December 12, 2018.
2. The proposed text amendment will clarify that other types of markings and signs, such as bike share stations, may be allowed on public right of way authorized through the encroachment process.
3. Before an amendment shall be approved by ordinance, the Planning and Zoning Commission shall have first had a public hearing regarding the proposed amendment and made an official report to the City Council regarding the Planning and Zoning Commission's recommendation regarding said amendment. Once the Planning and Zoning Commission has made its official report, any further review by the Planning and Zoning Commission shall not be required unless City Council elects to refer a matter back to the Planning and Zoning Commission for further review.

STAFF COMMENTS:

Staff requests that Commission approve amendments to the Zoning Ordinance of the city code as specified.

PUBLIC COMMENTS:

The Development Issues Input Group (DIIG), Downtown Springfield Association (DSA), Commercial Club and all Registered Neighborhood Associations were notified of these amendments and public hearing dates.

REQUIREMENTS FOR APPROVAL:

Attachment 1

Note: Language to be added is underlined or ~~stricken~~.

Sec. 114-31. - Trees on private property creating hazard to public ways.

- (a) *Trees overhanging or otherwise intruding into public ways.* It shall be unlawful for the owner of any private property to allow any tree thereon to overhang or intrude upon any public street, alley, boulevard, public way or sidewalk to such an extent that the tree unreasonably interferes with the traveling public. Any such tree shall be deemed to so interfere if the branches thereof extend into the public way at a height of less than nine feet above the surface of any sidewalk or 12 feet above the surface of any street.
- (b) *Trees in unsafe condition.* It shall be unlawful for the owner of any private property to allow any tree thereon to become or remain in such an unsafe condition from age, disease, storm or insect damage or other cause so that the tree, or any part thereof, is apt to fall upon the public ways or do injury to persons traveling the public ways or thoroughfares of the city.
- (c) *Trees creating visual obstructions.* It shall be unlawful for the owner of any private property to allow any trees thereon to overhang or intrude into the public way so as to obscure the visibility of any traffic control signal, sign or device to traveling motorists or in any manner to cause a visual sight triangle obstruction in violation of the provisions of Sec. 36-453(6)(b) subsection 5-1306.B of the zoning ordinance of the city, whether or not such trees overhang or intrude into the public way.
- (d) *Trees violating this section declared as nuisances; abatement by the city authorized – abatement procedures.* Any tree which violates the provisions of this section is declared to be a public nuisance. The director of public works is hereby authorized to abate any such nuisance when the owner of any such tree shall fail or refuse to remedy the nuisance, pursuant to this section.
 - (1) Whenever the director of public works determines that a nuisance exists under this section, such director shall order such owner to abate the nuisance, in writing and if the property is not owner-occupied, to any occupant of the property. Such order shall be provided by: 1) personal delivery; or 2) United States regular first-class mail, postage prepaid to any occupant of the property where the nuisance exists and to the owner at the last known address of the owner if not the same address as the property containing the nuisance in question; and 3) posting the order in a conspicuous location on the property where the nuisance exists, unless there has been personal delivery. Such order shall specifically describe each condition on the property which violates this section and shall identify what actions will remedy the nuisance. Such order shall also extend to the owner of the property an opportunity to be heard concerning said nuisance. The property owner may request such an opportunity, in writing and provided to the director of public works, within 12 days of the date of notice of the order under subsection 144-31(d)(1). The property owner shall be afforded an opportunity to abate or commence the removal of the conditions identified in the order during this 12-day period.

(2) In the event that the owner seeks an opportunity to be heard concerning a nuisance, the director of public works shall afford the owner such opportunity as soon as practicable and shall provide the owner with notice of the date, time, and location of the hearing, in writing. If, at the hearing, the owner is able to demonstrate that an alleged nuisance never existed, or no longer exists on the property in question, the director of public works shall so find and shall terminate the abatement proceeding. If the owner does not seek such opportunity, or is unable to make such demonstration, the director of public works is authorized to abate the nuisance.

~~(e) *Abatement by city.* The director of public works is hereby authorized to abate any such nuisance when the owner of any such tree shall fail or refuse to do so, after being given notice to so remove by any of the methods set forth in subsection 74-33(b). The owner of the property at the time the nuisance was abated shall be personally liable to the city for the cost of the abatement, which shall be lien upon the tract of land upon which the nuisance was located until paid in full. The director of public works shall certify the costs of the abatement to the director of finance. Procedures for collection and appeal of charges shall be the same as set forth in section 74-406.~~

(e)(f) *Summary abatement.* In the event any tree or part thereof in violation of this section presents an imminent danger of harm to the safety of the public to constitute an emergency, the director of public works may summarily remove the tree, or part thereof causing such danger, without the giving of prior notice to the owner.

(f) *Charges for abatement by city.*

(1) Whenever the director of public works abates a nuisance under the provisions of this section, there shall be a minimum charge for the expenses incurred by the city for the abatement of the nuisance. The charge for abatement shall be as established in Sec. 2-425.

(2) Whenever a nuisance is abated under this section, the director of public works shall certify the costs of the abatement to the director of finance. The director of finance may include the costs in a special tax bill or add them to the annual real estate taxes for the tract of land.

(3) If a special tax bill is issued, the owner of the property at the time the nuisance was abated shall be personally liable to the city for the cost of the abatement, which shall be a lien upon the tract of land where the nuisance was abated until paid in full. Any special tax bill issued shall bear interest until paid at the legal rate, and may be foreclosed upon by the city through appropriate proceedings. Costs of collection, including attorney fees, shall be added thereto, in the event a lawsuit is required to enforce the tax bill.

(4) If the certified cost is added to the annual real estate tax bill for the property and not paid, the real estate taxes shall be considered delinquent, and the collection thereof shall be governed by the laws applicable to delinquent real estate taxes.

(5) The director of finance shall notify the owner of the tract of land of the issuance of a special tax bill or of the direction that the costs of abatement are to be added to the annual real estate taxes assessed against the property by: 1) personal delivery; or United States regular first class mail, postage prepaid; and 2) posting the notice in a conspicuous location on the property where the nuisance was abated, unless there

has been personal delivery. The notice shall provide that the determination of the costs of the abatement and the assessment shall become final, unless the owner of the property files a written request for a hearing within ten days after the giving of the notice, which request shall set forth the grounds upon which the owner contends that the assessment is invalid or erroneous. If a hearing is requested, the director of finance shall hold an informal meeting with a representative of the city and the owner. The parties shall be given the opportunity to present information to the director of finance concerning the assessment. After such informal hearing, the director of finance may cancel or modify any assessments or may affirm the assessment. The director of finance shall give the owner notice of their decision in writing.

(6) An administrative fine may also be added to the costs certified to the director of finance for abatement under this section based on the following schedule:

- a. For the first abatement no administrative fine may be added to the certified costs.
- b. For the second abatement an administrative fine of \$250.00 may be added to the certified costs.
- c. For each subsequent abatement beyond the second an administrative fine of \$500.00 may be added to the certified costs

(g) *Meaning of trees as used herein.* As used herein, the term "trees" shall mean and include any shrub, hedge, bush, or other vegetation apt to fall upon and cause injury or damage to those using the public ways, or which causes an obstruction or interference with the passage of the traveling public, or which obscures the visibility of traffic control signs, signals or devices, or which constitutes a visual sight triangle obstruction in violation of the provisions of Sec. 36-453(6)(b) subsection 5-1306-B of the zoning ordinance of the city.

(h) *Search and seizure warrants.* Whenever necessary for the purpose of enforcing this section, the director of public works may enter property to inspect it or to abate a nuisance, provided that if he is refused access to property, then upon application by the city attorney to the municipal court judge, and a showing that there may be a violation of this section or that there is a need to inspect a tree, the municipal court judge of the city shall issue a search and/or seizure warrant, describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be inspected and/or abated on the property described. Such warrant shall be served at reasonable hours and only by an official charged with the enforcement of this Code in the company of a uniformed police officer of the city.

(i) Penalties; remedies cumulative. Any person who shall violate any of the provisions of this section shall, upon conviction, be punished as provided in Sec. 1-7. No proceeding in municipal court for prosecution of a violation of this section shall prohibit or be any bar to any other proceeding by the city, nor shall any other proceedings by the city prohibit or be any bar to a proceeding in municipal court for prosecution of a violation of this section.

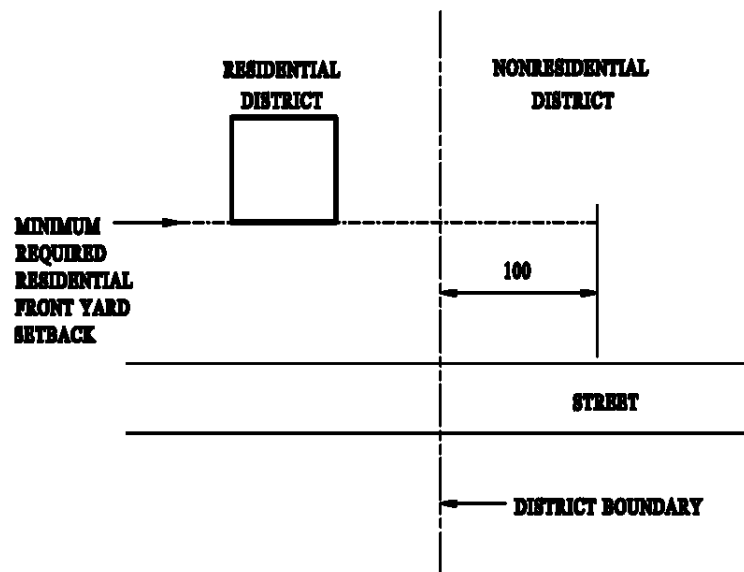
Sec. 106-32. - Trees, shrubs or other vegetation obstructing visibility at intersections.

No person shall permit any tree, shrub, hedge, flower or other form of vegetation to grow within any sight triangle, as defined in section 36-453 of the City Code, 30 feet of the intersection of the curblines of two intersecting streets to a height in excess of two feet above the lowest grade of the two intersecting streets, provided that a single tree ~~trees~~ now growing in such areas may grow above such height if the limbs are trimmed to a minimum height of eight feet.

Sec. 36-453. - Supplemental open space and yard regulations.

- (1) *Front yard regulations.* All property shall have a front yard of not less than prescribed by this article unless otherwise permitted within this section:
 - (a) On interior lots, a new building other than garages or carports may be erected, structurally altered, or enlarged within the minimum required front yard setback only if both adjacent lots fronting the same street are developed and the existing front yard setback on both lots is less than the minimum front yard setback required by the zoning district. In such case, the front yard setback line shall not be less than the setback of the two adjacent developed lots fronting the same street.
 - (b) On corner lots, a new building other than garages or carports may be erected, structurally altered, or enlarged within the minimum required front yard setback only if the adjacent lot fronting the same street is developed and the existing front yard setback on the lot is less than the minimum front yard setback required by the zoning district. In such case, the front yard setback line shall not be less than the setback of the adjacent developed lot fronting the same street; nor, shall the building be located in any area formed by a triangle measured 25 feet along the right-of-way lines from the intersection of adjacent right-of-way lines.
 - (c) Where property on one side of the street between two intersecting streets, is located in a nonresidential district and a residential district, the front yard setback required in the residential district shall apply to the nonresidential district. This requirement shall not apply beyond the first 100 feet of frontage zoned nonresidential (Figure 5-2). No parking is permitted within the required front yard setback.

Figure 5-2



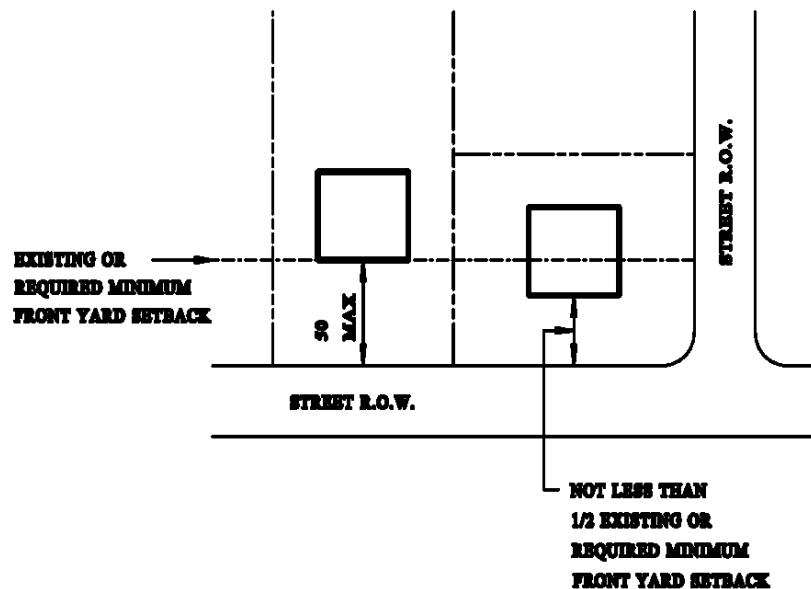
- (d) On cul-de-sacs, the front yard setback line shall be located on the lot so that it is parallel to a line drawn tangent to the cul-de-sac right-of-way line at the center of the lot frontage. The front yard setback line shall be located at a distance from the cul-de-sac right-of-way line where the length of the front yard setback line is equal to the

minimum lot width required in the zoning district and the resulting front yard setback is at least equal to the minimum required in the zoning district.

(2) *Side yards—Corner lots.*

- (a) On a corner lot, the side yard requirement shall be the same as for interior lots except when the lot to the rear of the corner lot faces the street adjacent to the side of the corner lot, in which case the corner lot shall have a side yard, adjacent to the street, equal to not less than one-half the existing or required front yard setback of the lot to the rear of the corner lot, whichever is greater. However, existing buildings with a front yard setback greater than 50 feet shall be figured at 50 feet when determining the average setback line (Figure 5-4).

Figure 5-4



- (b) Garage doors for residential uses shall be located a minimum of 20 feet from the side lot line, unless the required setback is greater, when the vehicular access to a lot is from a street adjacent to the side lot line and the garage door is generally parallel to the side lot line.
- (3) *Yards open.* Except as specified in this section, yards required by this article shall be open and unobstructed to the sky.
- (4) *Exceptions as to yard regulations.* The following exceptions shall be made as to yard and area regulations:
- (a) *Peculiar shape of yard.* Where the yard regulations cannot reasonably be complied with or their application determined on lots of peculiar shape or location on hillside lots, such regulations may be modified or determined by the board of adjustment, as provided in section 36-365, variances.
- (b) *Variations from major thoroughfare plan.* Where the city council has adopted right-of-way of greater or lesser width from those established by the major thoroughfare plan of the city, the right-of-way as established by the city council shall apply. That right-of-way width shall be used in determining yard requirements.

- (c) *Lot width regulation modified.* Where an odd-shaped lot has more than the required area for its particular district, the width of such lot may be computed in the most buildable portion having minimum area requirements; provided it complies with all bulk and open space requirements for the particular district.
 - (d) *Parking area in rear yard.* A parking area may occupy a required rear yard or any part thereof if in conformance with sections 36-480, screening and fencing, and 36-482, landscaping and bufferyards.
 - (e) *Loading space in rear yard.* A loading space may occupy a required rear yard or any part thereof provided the adjacent rear lot is designated the same or a more intense zoning classification and if in conformance with sections 36-480, screening and fencing, and 36-482, landscaping and bufferyards.
 - (f) *Building line established on approved final plat.* If a building line, on an approved final plat, establishes a setback greater than required by this article, the setback on the final plat shall be required.
- (5) *Permitted projections and structures in required yards.* The following shall not be considered to be obstructions when located in a required yard:
- (a) In all yards.
 - 1. Cornices, eaves, gutters, belt courses, sills, awnings, canopies or other similar architectural features, shall not extend or project into a required side yard more than two feet and shall not extend or project into a required front or rear yard more than three feet.
 - 2. Open, unenclosed fire escapes shall not extend or project into any front, side or rear yard more than four feet.
 - 3. Open, unenclosed stairways or balconies, not covered by a roof or canopy, shall not extend or project into a required rear yard more than three feet, and such balconies shall not extend into a required front yard more than three feet.
 - 4. Enclosing or temporary enclosing of open porches, steps, platforms, carports or landing places and outside open stairways which extend into minimum required yards is prohibited.
 - 5. Any retaining wall shall be permitted in any required yard.
 - 6. Any fence or hedge, in the front yard shall comply with the provisions of subsection 36-453(6).
 - 7. Fixed awnings, canopies, and marquees shall be located at least eight feet above the sidewalk and shall not project closer than two feet to the curb line.
 - 8. Attached or detached pump island canopies and customer service shelters in commercial and industrial districts may extend to the vertical plane of the front and side property lines subject to the following conditions:
 - a. The minimum height from the underside of the roof to the average ground level shall be 13½ feet.
 - b. No portion of the structure shall be located in or over any existing or required utility easement without prior written approval of the appropriate agency.
 - c. No portion of the structure shall be located in or over the required right-of-way of an adjacent street based on the classification of the street (subsection 36-303(17)).

- d. The area beneath the roof shall be open and unobstructed to the ground level except for pump islands, fuel pumps, tables, chairs, and trash receptacles.
 - e. Decorative boxes and plantings shall not exceed three feet above ground level.
 - f. Attendant service booths located on the service island may be permitted and shall not be located closer to the front property line than the minimum required building setback line.
 - g. Advertising signs shall be prohibited on any portion of the roof and supporting posts or columns.
 - h. Two vertical clearance signs and two customer directional signs not exceeding one and one-half square feet in area and located at least eight feet above ground level shall be permitted.
 - i. Structures shall not occupy more than 50 percent of the area between the required building setback line and the vertical plane of the front property line.
- 9. Open terraces, not including permanently roofed-over terraces or porches, shall not extend more than ten feet into a required yard provided said terrace is at least ten feet from the rear or front lot line, three feet from the side lot line on interior lots and five feet from the side lot line adjacent to the street on corner lots and not over four feet above the average level of the adjoining lot.
 - 10. One-story bay windows shall not project more than 30 inches into a yard.
 - 11. Chimneys may project 18 inches or less into the yard, provided that such projection does not reduce the width of a side yard to less than three feet.
 - 12. Statuary, arbors and trellises.
 - 13. Flag poles.
 - 14. Signs, when permitted by section 36-454, signs.
 - 15. Open porches, platforms, landing places and carports that do not extend above the first floor of the building shall not project more than ten feet into any yard provided, and said projection shall be at least ten feet from the rear or front lot line, three feet from the side lot line on interior lots and five feet from the side lot line adjacent to the street on corner lots.
 - 16. Air conditioning machinery located on an exterior pad.
 - 17. Surface parking in an office, institutional, business, commercial or industrial zoning district.
 - 18. Automatic teller machines (ATMs).
 - 19. Telephone booths.
- (b) In any yard except a front yard:
 - 1. A child's playhouse or a storage building not exceeding 100 square feet in gross floor area and ten feet in height.
 - 2. Recreational equipment and clotheslines.
 - 3. Fences not exceeding seven feet in height and which comply with the provisions of subsection (6).
- (6) *Vision obstruction restrictions.*
 - (a) *Front yards.*

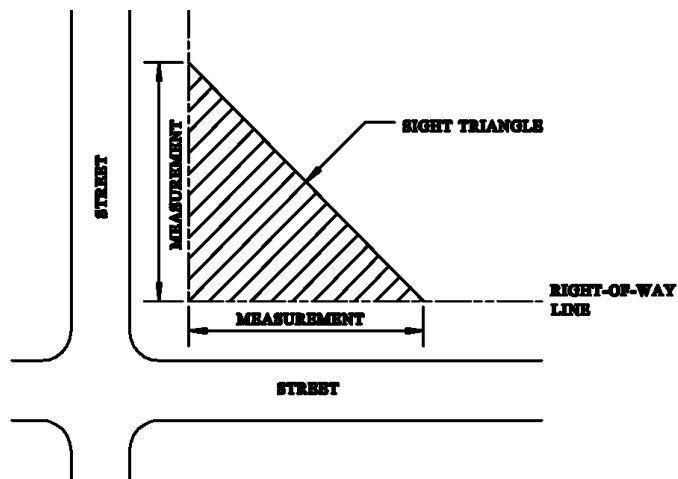
1. *No obstructions in front yards.* On any lot on which a front yard is required by this article, no wall, fence or other structure shall be erected and no hedge, tree, shrub, or other growth or object of any kind shall be maintained in such location within such required front yard so as to obstruct the view, except as permitted by this subsection.
 2. *Fences in front yards.*
 - a. Open fences not exceeding 50 percent screening and four feet in height above yard grade shall not be deemed to obstruct the view.
 - b. The square footage of the open voids shall be measured by taking the total square footage of an area defined by the length of the fence and a height of four feet above yard grade, and subtracting the total square footage of screening within the fence. The percent of open voids shall then be derived by dividing the total square footage of the open voids by the total square footage of the area calculated above, and multiplying this figure by 100. The fence's framing (the vertical posts supporting the fence from the ground and no more than two horizontal cross bars between the posts) shall not be included in the calculation of the total square footage of screening, provided the framing posts and cross bars do not exceed a four-inch width and the posts are spaced at least eight feet apart. If the fencing is placed between brick or stone pillars, these pillars shall be included in the calculation of the total square footage of screening.
 - c. Questions regarding the yard grade shall be resolved by the director of the department of building development services.
 - d. A building permit, at no charge, shall be required to construct a fence in any required front yard.
 3. *Vegetation in front yards.* Hedges, shrubbery, flowers, or other similar vegetation planted to form a continuous line of growth shall not exceed a height of four feet.
- (b) *Sight triangles.*
1. *Street intersections.* Standards for street intersection sight triangles shall reflect the street classification as identified in the major thoroughfare plan. The conditions below indicate the minimum requirements for sight triangles as measured along the required right-of-way (Figure 5-5). The city traffic engineer may require additional triangle area for clear sight and safety as determined by a traffic study for special conditions. The administrative review committee may, upon concurrence of the city traffic engineer, modify the sight triangle requirements if it can be demonstrated to the satisfaction of the administrative review committee that the modified sight triangle will provide clear sight and safety.

Sight Triangle Requirements

Intersecting Street	Expressway	Primary Arterial	Secondary Arterial	Major Collector	Residential Collector	Commercial/Industrial Local	Residential Local	Low-Volume Residential Local
Expressway	A	A	A	B	B	B	B	B

Primary arterial	A	A	A	B	B	B	C	C
Secondary arterial	A	A	B	B	C	C	C	C
Collector	B	B	B	C	C	C	C	C
Commercial/industrial local	B	B	C	C	C	C	C	-
Residential local	B	C	C	C	C	C	-	-
Low-volume residential local	B	C	C	C	-	-	-	-
Key: A - 100' x 100' Sight Triangle B - 30' x 30' Sight Triangle C - 10' x 10' Sight Triangle								

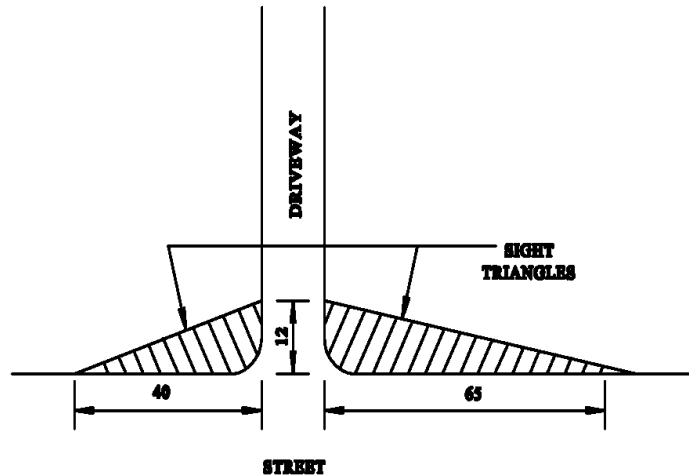
Figure 5-5



2. *Street/driveway intersections.* A street/driveway sight triangle is the triangle formed by the intersection of a public street and a driveway where the triangle area is that area encompassed within two intersecting lines formed by the edge of the pavement, curb, roadway, or projection thereof, and extending 40 feet down the street from the right edge of the driveway when standing in the driveway facing the street, and extending 12 feet from the edge of the street up the driveway pavement, and a third imaginary line connecting the extremities of the other two without overlaying the pavement. On the left side of the driveway, the triangle shall be calculated by measuring 65 feet down the street pavement from the edge of the driveway and measuring 12 feet down the driveway pavement from the edge of the street, and a third imaginary line connecting the extremities of the other two without overlaying the pavement (Figure 5-6). The

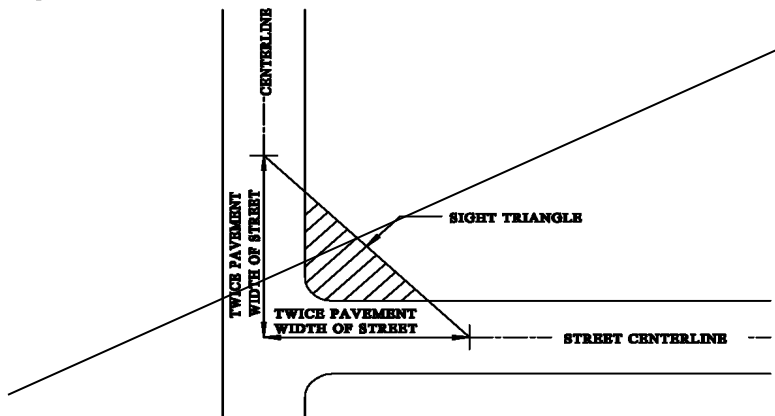
administrative review committee may, upon concurrence of the city traffic engineer, modify the sight triangle requirements of this section if it can be demonstrated to the satisfaction of the administrative review committee that the modified sight triangle will provide clear sight and safety.

Figure 5-6



3. *No obstructions permitted.* No wall, fence, other structure, hedge, tree, shrub, flower, other vegetation, or landscaping materials over two feet in height shall be placed within the sight triangle formed by the intersection of two public streets, as defined in subsection (6)(b)1. or within the sight triangle formed by the intersection of a public street and a driveway, as defined in subsection (6)(b)2. However, a single tree having a single trunk shall be allowed in a sight triangle provided the tree is pruned to a height of seven eight feet above the lowest grade of such intersecting streets yard grade.
4. *When front yard not required.* ~~On any lot on which a front yard is not required by this article, no wall, fence, other structure, hedge, tree, shrub, flower, other vegetation, or landscaping materials over two feet or under seven feet in height above the lowest grade of two or more intersecting streets shall be placed within the street intersection sight triangle, the two sides of which are defined by measuring twice the pavement width of each intersecting street, as classified in the major thoroughfare plan, along its centerline from the center of the intersection (Figure 5-7).~~

Figure 5-7



- (7) *Yard requirements for open land.* If a lot is, or will be, occupied by a permitted use without buildings or structures, then the minimum front, side and rear yards that would otherwise be required for such lot shall be provided and maintained unless some other provision of this article requires or permits a different minimum front, side or rear yard. Front, side, and rear yards shall not be required on lots used for garden purposes without structures, or on lots used for open public recreation areas.

One-rdg. _____
P. Hrngs. _____
Pgs. 7
Filed: 02-18-20

Sponsored by: Fisk

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 039

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING Chapter 114 of the Springfield, Missouri, City Code, 'Vegetation,' Article II,
2 'Trees,' Division 1, 'Generally,' Section 114-31 'Trees on private property
3 creating hazard to public ways.' (Staff recommends approval.)
4 _____

5
6 WHEREAS, the City Code Section 114-31, deals with private vegetation that is
7 either in an unsafe condition, or blocks or intrudes upon the public right-of-way and
8 sidewalks; and
9

10 WHEREAS, staff previously has relied upon summary abatement procedures in
11 Chapter 74, however changes to those sections have eliminated their applicability to
12 Chapter 114 matters; and
13

14 WHEREAS, the proposed changes to Chapter 114 will provide for a new
15 abatement procedure to be utilized by the Director of Public Works to enforce City Code
16 provisions designed to eliminate these encroachments and obstructions.
17

18 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
19 SPRINGFIELD, MISSOURI, as follows, that:
20

21 Section 1 – Chapter 114 of the Springfield, Missouri, City Code, 'Vegetation,'
22 Article II, "Trees," Division 1, 'Generally,' Section 114-31, 'Trees on private property
23 creating hazard to public ways,' is hereby amended to read as follows:
24

25 (Note: Language to be added is underlined. Language to be removed ~~stricken~~.
26

27 Sec. 114-31. - Trees on private property creating hazard to public ways.
28

29 (a) Trees overhanging or otherwise intruding into public ways. It shall be unlawful for the
30 owner of any private property to allow any tree thereon to overhang or intrude upon
31 any public street, alley, boulevard, public way or sidewalk to such an extent that the
32 tree unreasonably interferes with the traveling public. Any such tree shall be deemed
33 to so interfere if the branches thereof extend into the public way at a height of less

than nine feet above the surface of any sidewalk or 12 feet above the surface of any street.

(b) Trees in unsafe condition. It shall be unlawful for the owner of any private property to allow any tree thereon to become or remain in such an unsafe condition from age, disease, storm or insect damage or other cause so that the tree, or any part thereof, is apt to fall upon the public ways or do injury to persons traveling the public ways or thoroughfares of the city.

(c) Trees creating visual obstructions. It shall be unlawful for the owner of any private property to allow any trees thereon to overhang or intrude into the public way so as to obscure the visibility of any traffic control signal, sign or device to traveling motorists or in any manner to cause a visual sight triangle obstruction in violation of the provisions of Sec. 36-453(6)(b) subsection 5-1306.B of the zoning ordinance of the city, whether or not such trees overhang or intrude into the public way.

(d) Trees violating this section declared as nuisances; abatement by the city authorized – abatement procedures. Any tree which violates the provisions of this section is declared to be a public nuisance. The director of public works is hereby authorized to abate any such nuisance when the owner of any such tree shall fail or refuse to remedy the nuisance, pursuant to this section.

(1) Whenever the director of public works determines that a nuisance exists under this section, such director shall order in writing, such owner to abate the nuisance, in writing and if the property is not owner-occupied, to any occupant of the property. Such order shall be provided by: 1) personal delivery; or 2) United States regular first-class mail, postage prepaid to any occupant of the property where the nuisance exists and to the owner at the last known address of the owner if not the same address as the property containing the nuisance in question; and 3) posting the order in a conspicuous location on the property where the nuisance exists, unless there has been personal delivery. Such order shall specifically describe each condition on the property which violates this section and shall identify what actions will remedy the nuisance. Such order shall also extend to the owner of the property an opportunity to be heard concerning said nuisance. The property owner may request such an opportunity, in writing and provided to the director of public works, within 12 days of the date of notice of the order under subsection 114-31(d)(1). The property owner shall be afforded an opportunity to abate or commence the removal of the conditions identified in the order during this 12-day period.

(2) In the event that the owner seeks an opportunity to be heard concerning a nuisance, the director of public works shall afford the owner such opportunity as soon as practicable and shall provide the owner with notice of the date, time, and location of the hearing, in writing. If, at the hearing, the owner is able to demonstrate that an alleged nuisance never existed, or no longer exists on the property in question, the director of public works shall so find and shall terminate

80 the abatement proceeding. If the owner does not seek such opportunity, or is
81 unable to make such demonstration, the director of public works is authorized to
82 abate the nuisance.

83
84 ~~(e) Abatement by city. The director of public works is hereby authorized to abate any~~
85 ~~such nuisance when the owner of any such tree shall fail or refuse to do so, after~~
86 ~~being given notice to so remove by any of the methods set forth in subsection 74-~~
87 ~~33(b). The owner of the property at the time the nuisance was abated shall be~~
88 ~~personally liable to the city for the cost of the abatement, which shall be lien upon~~
89 ~~the tract of land upon which the nuisance was located until paid in full. The director~~
90 ~~of public works shall certify the costs of the abatement to the director of finance.~~
91 ~~Procedures for collection and appeal of charges shall be the same as set forth in~~
92 ~~section 74-406.~~

93
94 ~~(e)(f)~~ Summary abatement. In the event any tree or part thereof in violation of this
95 section presents an imminent danger of harm to the safety of the public to constitute
96 an emergency, the director of public works may summarily remove the tree, or part
97 thereof causing such danger, without the giving of prior notice to the owner.

98
99 (f) Charges for abatement by city.

100
101 (1) Whenever the director of public works abates a nuisance under the provisions of
102 this section, there shall be a minimum charge for the expenses incurred by the
103 city for the abatement of the nuisance. The charge for abatement shall be as
104 established in Sec. 2-425.

105
106 (2) Whenever a nuisance is abated under this section, the director of public works
107 shall certify the costs of the abatement to the director of finance. The director of
108 finance may include the costs in a special tax bill or add them to the annual real
109 estate taxes for the tract of land.

110
111 (3) If a special tax bill is issued, the owner of the property at the time the nuisance
112 was abated shall be personally liable to the city for the cost of the abatement,
113 which shall be a lien upon the tract of land where the nuisance was abated until
114 paid in full. Any special tax bill issued shall bear interest until paid at the legal
115 rate, and may be foreclosed upon by the city through appropriate proceedings.
116 Costs of collection, including attorney fees, shall be added thereto, in the event a
117 lawsuit is required to enforce the tax bill.

118
119 (4) If the certified cost is added to the annual real estate tax bill for the property and
120 not paid, the real estate taxes shall be considered delinquent, and the collection
121 thereof shall be governed by the laws applicable to delinquent real estate taxes.

122
123 (5) The director of finance shall notify the owner of the tract of land of the issuance
124 of a special tax bill or of the direction that the costs of abatement are to be added
125 to the annual real estate taxes assessed against the property by: 1) personal

126 delivery; or United States regular first class mail, postage prepaid; and 2) posting
127 the notice in a conspicuous location on the property where the nuisance was
128 abated, unless there has been personal delivery. The notice shall provide that
129 the determination of the costs of the abatement and the assessment shall
130 become final, unless the owner of the property files a written request for a
131 hearing within ten days after the giving of the notice, which request shall set forth
132 the grounds upon which the owner contends that the assessment is invalid or
133 erroneous. If a hearing is requested, the director of finance shall hold an informal
134 meeting with a representative of the city and the owner. The parties shall be
135 given the opportunity to present information to the director of finance concerning
136 the assessment. After such informal hearing, the director of finance may cancel
137 or modify any assessments or may affirm the assessment. The director of
138 finance shall give the owner notice of their decision in writing.

139
140 (6) An administrative fine may also be added to the costs certified to the director of
141 finance for abatement under this section based on the following schedule:

142
143 a. For the first abatement no administrative fine may be added to the certified
144 costs.

145
146 b. For the second abatement an administrative fine of \$250.00 may be added to
147 the certified costs.

148
149 c. For each subsequent abatement beyond the second an administrative fine of
150 \$500.00 may be added to the certified costs

151
152 (g) Meaning of trees as used herein. As used herein, the term "trees" shall mean and
153 include any shrub, hedge, bush, or other vegetation apt to fall upon and cause injury
154 or damage to those using the public ways, or which causes an obstruction or
155 interference with the passage of the traveling public, or which obscures the visibility
156 of traffic control signs, signals or devices, or which constitutes a visual sight triangle
157 obstruction in violation of the provisions of Sec. 36-453(6)(b) ~~subsection 5-1306.B of~~
158 ~~the zoning ordinance of the city.~~

159
160 (h) Search and seizure warrants. Whenever necessary for the purpose of enforcing this
161 section, the director of public works may enter property to inspect it or to abate a
162 nuisance, provided that if he is refused access to property, then upon application by
163 the city attorney to the municipal court judge, and a showing that there may be a
164 violation of this section or that there is a need to inspect a tree, the municipal court
165 judge of the city shall issue a search and/or seizure warrant, describing therein the
166 specific location subject to the warrant. The warrant shall specify what, if anything,
167 may be inspected and/or abated on the property described. Such warrant shall be
168 served at reasonable hours and only by an official charged with the enforcement of
169 this Code in the company of a uniformed police officer of the city.

170
171 (i) Penalties; remedies cumulative. Any person who shall violate any of the provisions

172 of this section shall, upon conviction, be punished as provided in Sec. 1-7. No
173 proceeding in municipal court for prosecution of a violation of this section shall
174 prohibit or be any bar to any other proceeding by the city, nor shall any other
175 proceedings by the city prohibit or be any bar to a proceeding in municipal court for
176 prosecution of a violation of this section.

177
178 Section 2 – Savings Clause. Nothing in this Ordinance shall be construed to
179 affect any suit or proceeding now pending in any court or any rights acquired, or liability
180 incurred nor any cause or causes of action accrued or existing, under any act or
181 ordinance repealed hereby, or shall any right or remedy of any character be lost,
182 impaired, or affected by this Ordinance.

183
184 Section 3 – Severability Clause. If any section, subsection, sentence, clause, or
185 phrase of this Ordinance is for any reason held to be invalid, such decision shall not
186 affect the validity of the remaining portions of this Ordinance. City Council hereby
187 declares that it would have adopted the Ordinance and each section, subsection,
188 sentence, clause, or phrase thereof, irrespective of the fact that any one or more
189 sections, subsections, sentences, clauses, or phrases be declared invalid.

190
191 Section 4 – This Ordinance shall be in full force and effect from and after
192 passage.

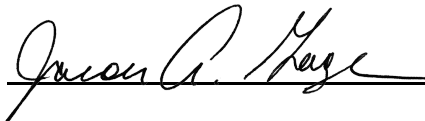
193
194 Passed at meeting: _____

195
196 _____
197 Mayor

198
199 Attest: _____, City Clerk

200
201 Filed as Ordinance: _____

202
203
204 Approved as to form: , Assistant City Attorney

205
206
207 Approved for Council action: , City Manager

EXPLANATION TO COUNCIL BILL 2020-039

FILED: 02-18-20

ORIGINATING DEPARTMENT: Public Works

PURPOSE: Amending Chapter 114 of the City Code, Article II, 'Trees,' Division I, 'Generally,' section 114-31, 'Trees on private property creating hazard to public ways;' for the purpose of outlining the process for abatement.

BACKGROUND INFORMATION: City Code Chapter 114-31 deals with private vegetation that either is in unsafe condition, blocks sight or intrudes upon the public right-of-way, such as split trees, blocked sidewalks, overgrown stop signs, etc. The proposed changes outline the administrative process for abatement. Previously, this Ordinance referred to the abatement process in Chapter 74, 'Nuisance and Housing Code', section 74-33 (b). However, the Nuisance and Housing Code has become specific to the violations noted within that chapter which are handled by Building Development Services and no longer applies to Chapter 114-31.

Proposed additions replace the outdated references. In summary, when the Director of Public Works determines a nuisance, the property owner or renter shall be notified in person or by mail and posting of impending abatement. The property owner has 12 days to comply or request a hearing. Summary abatements for trees posing imminent danger do not require a notice, but a warrant. Charges for the abatement by the city are based on section 74-406 and 74-407 for nuisances handled by Building Development Services.

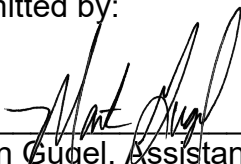
The proposed amendments to City Code Chapter 114-31 are necessary to outline the legal process of abatements within Public Works, which allows staff to deal with different degrees of hazardous vegetation on or near private property within an appropriate amount of time.

Supports the following City Council Priorities:

- Quality of Place
- Public Safety

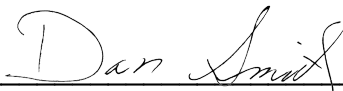
RECOMMENDATION: Public Works recommends passage of this Council bill.

Submitted by:



Martin Gugel, Assistant Director of Public Works

Recommended by:



Dan Smith, Director of Public Works

Approved by:



Jason Gage, City Manager

One-rdg. _____
P. Hrngs. _____
Pgs. 12
Filed: 02-18-20

Sponsored by: Simpson

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 040

SPECIAL ORDINANCE _____

AN ORDINANCE

1 APPROVING the plans and specifications for Stormwater Improvements at Linden
2 Avenue and Latoka Street; accepting the bid of Hartman & Company,
3 Inc., in the amount of \$506,000.00, for the project; and authorizing the
4 City Manager, or his designee, to enter into a contract with such
5 bidder.
6 _____
7

8 WHEREAS, the Linden and Latoka Stormwater Improvement project will alleviate
9 residential flooding along South St. Charles Avenue and East Latoka Street, which
10 project is depicted on "Exhibit A," and attached hereto and incorporated herein by this
11 reference, consisting of removal of existing infrastructure and construction of a concrete
12 box culvert and underground stormwater pipe, generally referred to as Plan No.
13 2018PW0040 (the "Project"); and
14

15 WHEREAS, bids for this Project were solicited by advertisement in *The Daily*
16 *Events* from January 3, 2020, through January 7, 2020, and all bids were opened on
17 February 4, 2020; and
18

19 WHEREAS, Hartman & Company, Inc., is the lowest responsive and responsible
20 bidder for the Project.
21

22 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
23 SPRINGFIELD, MISSOURI, as follows, that:
24

25 Section 1 – City Council hereby approves the plans and specifications for the
26 Project generally referred to as Plan No. 2018PW0040, and accepts the bid of Hartman
27 & Company, Inc., for said Project, at the price and sum of \$506,000.00, except as said
28 sum may be lawfully increased or decreased by the actual quantities of work units
29 involved.
30

31 Section 2 – The City Manager, or his designee, is hereby authorized to enter into
32 a contract with said bidder, said contract to be in substantially similar form to the
33 document attached hereto, and incorporated herein by this reference, as "Exhibit B,"

and in accordance with the terms of the bid, the plans, and the specifications and to do all things necessary to carry out the intent of the contract.

Section 3 – All workers performing work under the contract attached hereto as “Exhibit B,” shall be paid a wage of no less than the prevailing hourly rate of wages for work of a similar character in this locality or the public works contracting minimum wage, whichever is applicable. Contractor shall fully comply with the provisions and requirements of the Missouri State Prevailing Wage Law. Contractors and any subcontractor performing work under this contract must provide a 10-hour OSHA construction safety training program, or similar program approved by the Department of Labor, for on-site employees, unless employees demonstrate they previously completed the program.

Section 4 – This Ordinance shall be in full force and effect from and after passage.

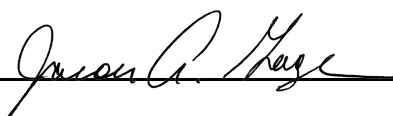
Passed at meeting: _____

Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: , Assistant City Attorney

Approved for Council action: , City Manager

EXPLANATION TO COUNCIL BILL 2020-040

FILED: 02-18-20

ORIGINATING DEPARTMENT: Public Works

PURPOSE: Approving the plans and specifications for Stormwater Improvements at Linden Avenue and Latoka Street; accepting the bid of Hartman & Company, Inc., in the amount of \$506,000.00, for the project; and authorizing the City Manager, or his designee, to enter into a contract with such bidder.

BACKGROUND INFORMATION: The project consists of stormwater improvements to alleviate residential flooding along South Saint Charles Avenue and East Latoka Street and improve a section of deteriorated open channel south of East Latoka Street, at an area near the intersection of South Linden Avenue and East Latoka Street (see location map "Exhibit A"). Stormwater improvements consist of removing the existing gabion and timber channel walls and constructing a concrete box culvert south of East Latoka Street, and construction of underground stormwater pipe infrastructure along South Saint Charles Avenue. City Utilities is including water and gas service renewals along South Saint Charles Avenue.

Bids were solicited for this project by advertising in the *Daily Events* from January 3, to January 7, 2020. Bids were opened on February 4, 2020, at 10:30 a.m., with the following bids received:

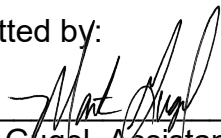
<u>Contractor</u>	<u>Bid Amount</u>
Hartman & Company, Inc.	\$506,000.00
Emery Sapp & Sons	\$661,253.00
Engineer's Estimate	\$415,240.00

Based on bid pricing, City Utilities will reimburse the City \$180,416.25 resulting in a net cost to the City of \$325,583.75. The low bid, if accepted, will be funded from the ¼-Cent Capital Improvement Sales Tax from funds already budgeted for Storm Water.

This project supports the City Council Priorities to Promote Public Safety and Economic Vitality.

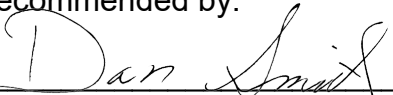
REMARKS: Public Works recommends acceptance of the bid of Hartman & Company, Inc., as the lowest responsible bid and passage of this ordinance.

Submitted by:



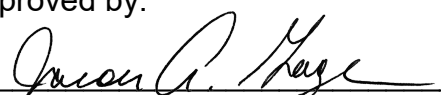
Martin Gugel, Assistant Director of Public Works

Recommended by:



Dan Smith, Director of Public Works

Approved by:



Jason Gage, City Manager



Exhibit A



Exhibit B

ROUTING ORDER	(1) ORIGINATING DEPARTMENT (4) LAW DEPARTMENT	(2) CONTRACTOR (5) CITY MANAGER'S OFFICE	(3) FINANCE DEPARTMENT (6) CITY CLERK'S OFFICE
EFFECTIVE DATE	TERMINATION DATE	CONTRACT NUMBER:	
CITY		CONTRACTOR	
CITY OF SPRINGFIELD 840 BOONVILLE, P.O. BOX 8368 SPRINGFIELD, MO 65802 PHONE: (417) 864- 1990 FAX: (417) 864-1907 ATTN: KIRKLAND PRESTON DEPT.: PUBLIC WORKS		NAME: HARTMAN & COMPANY, INC. ADDRESS: 1200 EAST WOODHURST, SUITE J200 PHONE: 417-882-2062 FAX: 417-882-7877 ATTN: DEAN HARTMAN	

AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by the parties identified above.

WITNESSETH: That whereas, the Contractor has become the lowest responsible bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

Stormwater Improvements Linden & Latoka (2018PW0040)

The City and Contractor agree to the following:

1. Manner and Time for Completion. The Contractor will furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the contract documents and any applicable City ordinances and state and federal laws within 60 calendar days from the date Contractor is ordered to proceed, which order shall be issued by the Director of Public Works within 30 days after the date of this contract.

2. Prevailing Wages. All workers performing work under this Contract shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality or the public works contracting minimum wage, whichever is applicable, as set out in the Wage Order attached to and made part of the specification for work under this Contract. If at any time the Contractor is found to not have paid prevailing wages, the Contractor shall forfeit as a penalty to the City one hundred dollars for each calendar day or portion of a calendar day for each worker paid less than the stipulated required rates for any work done under this Contract by the Contractor or by any subcontractor under the Contractor. Notwithstanding the foregoing, if the engineer's estimate of the total project cost or the bid accepted by the City is \$75,000.00 or less, then all labor utilized in the construction of the improvements shall not be required to pay the "prevailing rate of wages" or the public works minimum wage. However, if the project becomes subject to a change order that increases the total project cost to more than \$75,000.00, a "prevailing hourly rate of wages" or the public works contracting minimum wage, whichever is applicable, shall be paid for all labor utilized in the construction of the improvements but only for that portion of the project which exceeds \$75,000.00.

3. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Springfield, City Utilities of Springfield, and the Board of Utilities, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Springfield, City Utilities of Springfield, and the Board of Utilities, against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Springfield,

City Utilities of Springfield, and the Board of Utilities. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Springfield - Public Works, P.O. Box 8368, Springfield, MO 65801-8368; and

City Utilities of Springfield, P.O. Box 551, Springfield, MO 65801

Such policies shall name the City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(See, <http://insurance.mo.gov/industry/sovimunity.php>)

As of January 1, 2019, the minimum coverage for the insurance referred to herein shall be as set out below:

- a. **Workers' Compensation**....Statutory coverage per RSMo 287.010 et seq
Employer's Liability..... \$1,000,000.00

- b. **Commercial General Liability Insurance**, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Eight Hundred Sixty-Five Three Hundred Thirty and no/100 Dollars (\$2,865,330.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty-Nine Seven Hundred Ninety-Nine and no/100 Dollars (\$429,799.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least \$1,000,000 for all claims to property arising out of a single occurrence and at least \$100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory. Aggregate Limit must apply on a Per Project basis, and the endorsement must accompany the certificate of insurance. A Waiver of Subrogation endorsement must be provided by contractor in favor of the City.

- c. **Automobile Liability Insurance** covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Eight Hundred Sixty-Five Three Hundred Thirty and no/100 Dollars (\$2,865,330.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Twenty-Nine Seven Hundred Ninety-Nine and no/100 Dollars (\$429,799.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

- d. **Subcontracts**. In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Springfield, City Utilities of Springfield, Missouri, and the Board of Utilities through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

- e. **Notice**. The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policy as specified in subparagraph (d), and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Springfield.

f. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

4. Performance, Labor, and Materials Payment Bond: The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of \$ 506,000.00 (full amount of contract) conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance and payment of labor and material suppliers, the City shall deem the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds \$25,000.00 must be listed in United States Treasury Circular 570.

5. Contractor's responsibility for subcontractors. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

6. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri Revenue and Taxation laws, Missouri Workers' Compensation and Unemployment Insurance laws. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

7. Liquidated Damages. Time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to substantially complete the work within the time specified in the contract, or within such extra time as may be allowed, Contractor (or surety) shall be liable to the City in the amount of \$500.00 per day for each and every calendar day that the contract remains uncompleted after the time allowed for substantial completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City. The project is not considered complete until final acceptance by the City. After substantial completion, liquidated damages for failure to complete the remaining work shall be in the amount specified in the General Conditions, unless an amount is provided in the Job Special Provision, in which case, the Job Special Provision amount will apply.

8. Termination for Cause. The City reserves the right to terminate this contract by giving at least five (5) days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor

or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract.

9. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 8, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

10. Termination for Convenience of City. The City shall have the right at anytime by written notice to Contractor to terminate and cancel this contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Contractor.

11. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices shall be provided by Contractor during construction.

12. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this agreement.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

13. Attorney Fees. In the event of any litigation arising from breach of this Agreement the City shall be entitled to recover from the Contractor all reasonable costs incurred for such litigation, including staff time, court costs, attorney fees, and all other related expenses incurred in such litigation.

14. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

15. Payment. The City will pay the Contractor in accordance with the rate set forth in the contract documents on file in the Choose Department and by this reference made a part hereof, which shall constitute full and complete compensation for the Contractor's work provided hereunder. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Contractor under the terms of this contract exceed the sum of **Five Hundred Six Thousand Dollars and No Cents (\$506,000.00)** unless specifically and mutually agreed to in writing by both the City and the Contractor. No partial payment to the Contractor shall operate as approval of acceptance of work done or materials furnished hereunder. Such compensation will be paid in progress payments (less five (5) percent retainage), as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and agreement by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract.

16. Contract Documents. The contract documents shall consist of the following:

- a.** This Contract
- b.** All Change Orders
- c.** Bid Plans and Specifications
- d.** City of Springfield Standard General Conditions and Technical Specifications for Public Works Construction (March 2018 Revised Edition)
- e.** Special Conditions & Provisions
- f.** Proposal
- g.** Statement of Bidder's Qualifications
- h.** Acknowledgment
- i.** Performance Bond
- h.** Payment and Material Bond
- k.** Instructions to Bidders
- l.** Non-collusion Affidavit
- m.** Notice to Proceed

This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein.

17. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable.

18. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Springfield, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of RSMo Section 105.450 et seq. shall not be violated.

19. Assignment. The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the

bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement.

20. Nondiscrimination. The Contractor agrees in the performance of this Contract not to discriminate on the ground or because of race, color, religion, sex, sexual orientation, gender identity, national origin, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a), if applicable.

a. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

21. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a. If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

22. Notices. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

23. Occupational License: The Contractor shall obtain and maintain an occupational license with the City of Springfield, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained and that the Contractor is current on any City taxes is verified.

24. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees, unless such employees hold documentation of prior completion of the program, within sixty (60) days of beginning work on the construction project. The Contractor shall provide an acceptable notarized affidavit stating that Contractor has verified the completion of a 10-hour construction safety program with respect to the employees working in connection with the contracted services. Contractors and subcontractors in violation of this provision will forfeit to the public body \$2,500 plus \$100 a day for each employee who is employed without training. Public bodies and contractors may withhold assess penalties from the payment due to those contractors and subcontractors. The penalties shall not begin to accrue until the time periods in the statute have elapsed (60 days after notice to proceed and 20 days to produce documentation for employee found in violation).

25. Affidavit for Contracts Over \$5,000.00. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of \$5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly

employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

26. Compliance with Laws. Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

27. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

28. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be adjudicated, venue shall be proper only in the Circuit Court of Greene County, Missouri.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED BY:

RECOMMENDED BY:

Director of Public Works or Acting Director

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

Director of Finance or Acting Director

APPROVED AS TO FORM

City Attorney or Assistant City Attorney

CONTRACTOR:

By: _____

Printed Name: _____

Title: _____

If Contractor is a Disadvantaged Business Enterprise (DBE), please indicate classification.

Minority Owned ☐

Women Owned ☐

Veteran Owned ☐

CITY OF SPRINGFIELD, MISSOURI

By: _____

City Manager or his/her designee

One-rdg. _____
P. Hrngs. _____
Pgs. 9
Filed: 02-18-20

Sponsored by: Lear

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020 - 041

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING the Springfield City Code, Chapter 10, 'Alcoholic Beverages,' by revising
2 Section 10-62, 'Exception for general merchandise stores, restaurants,
3 and exempt organizations,' to remove text related to certain permitted
4 events and by adding a Section 10-66, 'Exception for Downtown and
5 Commercial Street Events,' to authorize in City Code certain permitted
6 events previously authorized each year by adoption of an ordinance;
7 amending Chapter 78, 'Offenses and Miscellaneous Provisions,' Section
8 78-4, 'Possession, sale or consumption of alcoholic beverages in public
9 place,' to reference the new Section 10-66; and amending Chapter 106,
10 'Traffic and Vehicles,' Section 106-50, 'Use of City right-of-way during
11 Artsfest,' to reference the new Section 10-66.
12 _____
13

14 WHEREAS, for most years since 2011, City Council has annually adopted an
15 ordinance allowing some number of permitted events to sell light alcohol and wines in
16 the Park Central Square area which is defined by City Code as the Downtown Mall; and
17

18 WHEREAS, over the years the number of permitted events authorized by the
19 ordinance has increased to twelve and the area has been expanded to authorize
20 permitted events on Commercial Street; and
21

22 WHEREAS, the permitted events have generated civic pride, enhanced
23 economic development, and attracted visitors to the City; and
24

25 WHEREAS, no issues related to the sale of light alcohol and wines at these
26 events have been noted; and
27

28 WHEREAS, authorizing the permitting of these events in City Code would
29 promote efficiency by eliminating the need to adopt a new ordinance to authorize said
30 events annually.
31

32 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
33 SPRINGFIELD, MISSOURI, as follows, that:

NOTE: Added language is underlined, deleted language is ~~stricken~~.

Section 1 – The Springfield City Code, Chapter 10, ‘Alcoholic Beverages,’
Section 10-62, ‘Exception for general merchandise stores, restaurants, and exempt
organizations,’ Subsection (c) is hereby amended as follows:

Sec. 10-62. - Exception for general merchandise stores, restaurants, and exempt
organizations.

(c) ~~Upon prior approval of the city manager, a~~An exempt organization whose
premises are located in the area bounded by Mill Street, Jefferson Avenue,
Pershing Street and Campbell Avenue may obtain a license for malt liquor
containing alcohol not in excess of five percent by weight and light wines
containing not in excess of 14 percent of alcohol by weight by the drink at retail
for consumption on the premises where sold.

(1) ~~—The exempt organization shall be limited to offering alcohol for
consumption during no more than 12 hours per day and for no more than
three days per week and at permitted events. There shall be no more than
12 permitted events per calendar year for the calendar year 2019. Events
where intoxicating liquor is consumed shall be limited to those held by the
licensed exempt organization or other exempt organization that has
leased or rented the premises from the licensee, except that events held
in the Commercial Street area shall be limited to events held by the
Commercial Street Community Improvement District or its designee.~~

(2) ~~—An exempt organization described in subsection (c) or its designee may
obtain a picnic or caterers license to provide alcohol not in excess of five
percent by weight and light wines containing not in excess of 14 percent of
alcohol by weight by the drink at retail.~~

a. ~~—For purposes of subsections (c)(1) and (c)(2), permitted events
shall be limited to one of the following areas:~~

1. ~~—The boundary of the area defined as the "Downtown Mall" in
section 82-61; ("Downtown Mall");~~

2. ~~—The boundary of the area defined as the "Downtown Mall" in
section 82-61 with the addition of the following right-of-way:
extending east from the west right-of-way line of Jefferson
and Park Central East, continuing along St. Louis Street to
the west right-of-way line of John Q. Hammons Parkway,
and extending west from the east right-of-way line of
Campbell Avenue and Park Central West, continuing along
College Street to the east right-of-way line of Grant Avenue;~~

and the right-of-way along Jefferson Street from the south right-of-way line of Water Street to the south right-of-way line of Olive Street, and the area including the right-of-way along Jefferson Street from the south right-of-way line of Olive Street to the north right-of-way line of McDaniel Street and adjacent city property to the east ("Route 66 Festival Area");

3. The area including the right-of-way along Jefferson Street from the south right-of-way line to Olive Street to the north right-of-way line of Park Central East/St. Louis Street;

4. The area including the right-of-way along Walnut Street from the west right-of-way line of National Avenue to the east right-of-way line of Kimbrough Avenue ("Artsfest Area"); and

5. The area including the right-of-way along Commercial Street from the east right-of-way line of Washington Avenue to the west right-of-way line of Grant Avenue ("Commercial Street Area").

b. For purposes of subsection (c)(2), the number of events per year shall be limited as follows:

1. Downtown Mall Area—No more than seven events per year during the calendar year 2019;

2. Route 66 Festival Area—No more than one event during the calendar year 2019;

3. Area defined in subsection 10-62(c)(2)a.3—No more than one event during the calendar year 2019;

4. Artsfest Area—No more than one event during the calendar year 2019; and

5. Commercial Street Area—No more than two events during the calendar year 2019.

c. All other portions of sections 82-61—82-65 shall remain in effect during the time the Mall is closed under subsection (c)(2).

d. During the duration of the event, the prohibition on open containers and public consumption of alcohol as set forth in section 78-4 shall not be in effect within the areas defined in subsection 10-62(c)(2)a. above, subject to rules and regulations established by the city manager. Any person found guilty of violating the rules and

~~regulations for the areas established by the city manager and on
file with the city clerk, shall be punished pursuant to section 1-7.~~

Section 2 – The Springfield City Code, Chapter 10, ‘Alcoholic Beverages,’ Article II, ‘Licenses,’ Division 2, ‘Location Restrictions,’ is hereby amended by adding a new Section 10-66, ‘Exception for Downtown and Commercial Street events,’ which reads as follows:

Sec. 10-66. – Exception for Downtown and Commercial Street events.

(a) Upon prior approval of the City Manager, designated organizations or their designee may obtain a picnic or caterers license to provide alcohol not in excess of five percent by weight and light wines containing not in excess of fourteen percent of alcohol by weight by the drink at retail for consumption at permitted events as described in this section. The following are designated organizations for the purposes of this section:

(1) The Downtown Springfield Community Improvement District for permitted events held in areas described in 10-66(c)(1), (2), (3), and (4); and

(2) The Commercial Street Community Improvement District for permitted events held in the area described in 10-66(c)(5).

(b) A designated organization shall be limited to offering alcohol for consumption at permitted events during no more than 12 hours per day and for no more than three days per week.

(c) Permitted events shall be limited to one of the following areas:

(1) The boundary of the area defined as the downtown mall in section 82-61 ("Downtown Mall Area");

(2) The boundary of the area defined as the downtown mall in section 82-61 with the addition of the following right-of-way: extending east from the west right-of-way line of Jefferson and Park Central East, continuing along St. Louis Street to the west right-of-way line of John Q. Hammons Parkway, and extending west from the east right-of-way line of Campbell Avenue and Park Central West, continuing along College Street to the east right-of-way line of Grant Avenue; and the right-of-way along Jefferson Street from the south right-of-way line of Water Street to the south right-of-way line of Olive Street, and the area including the right-of-way along Jefferson Street from the south right-of-way line of Olive Street to the north right-of-way line of McDaniel Street and adjacent City property to the east ("Route 66 Festival Area");

- 171 (3) The area including the right-of-way along Jefferson Street from the south
172 right-of-way line to Olive Street to the north right-of-way line of Park
173 Central East/St. Louis Street;
174
- 175 (4) The area including the right-of-way along Walnut Street from the west
176 right-of-way line of National Avenue to the east right-of-way line of
177 Kimbrough Avenue ("Artsfest Area"); and
178
- 179 (5) The area including the right-of-way along Commercial Street from the east
180 right-of-way line of Washington Avenue to the west right-of-way line of
181 Grant Avenue ("Commercial Street Area").
182
- 183 (d) There shall be no more than twelve permitted events per calendar year. The
184 number of events per year shall be limited as follows:
185
- 186 (1) Downtown Mall Area - no more than seven events during a calendar year;
187
- 188 (2) Route 66 Festival Area - no more than one event during a calendar year;
189
- 190 (3) Area defined in section 10-66(c)(3) – no more than one event during a
191 calendar year;
192
- 193 (4) Artsfest Area - no more than one event during a calendar year; and
194
- 195 (5) Commercial Street Area – no more than four events during a calendar
196 year.
197
- 198 (e) All provisions of sections 82-61 through 82-65 shall remain in effect during any
199 time the Downtown Mall is closed for an event described in this section.
200
- 201 (f) During the duration of a permitted event held pursuant to this section, the
202 prohibition on open containers and public consumption of alcohol as set forth in
203 section 78-4 shall not be in effect within the areas defined in this section, subject
204 to rules and regulations established by the city manager, except that any person
205 found guilty of violating the rules and regulations for the areas established by the
206 city manager and on file with the city clerk, is subject to prosecution under
207 section 78-4.
208
- 209 Section 3 – The Springfield City Code, Chapter 78, 'Offenses and Miscellaneous
210 Provisions,' Section 78-4, 'Possession, sale or consumption of alcoholic beverages in
211 public place,' Subsection (c) is hereby amended as follows:
212
- 213 Sec. 78-4. - Possession, sale or consumption of alcoholic beverages in public place.
214
- 215 (c) Exception for sidewalk cafes, ~~premises, and~~ commercial trolley bikes within the
216 Downtown Mall, and permitted event areas exempted pursuant to City Code

section 10-66. The provisions of this section shall not apply to areas that are licensed as sidewalk cafes pursuant to section 58-54 or areas that are approved for alcohol sales and consumption pursuant to subsection 10-662(e) or the passenger area of commercial trolley bikes licensed as required by section 106-612. The exception for commercial trolley bikes applies only while a passenger is in or on the trolley bike. No person shall remove an open container of any alcoholic beverage from a commercial trolley bike and transport, carry, possess or have it on a public way or city parking lot. No person shall remove an open container of any alcoholic beverage from a commercial or retail establishment and carry, possess or have it on a public way or city parking lot while on a commercial trolley bike tour.

Section 4 – The Springfield City Code, Chapter 106, ‘Traffic and Vehicles,’ Section 106-50, ‘Use of right-of-way during Artsfest,’ Subsection (a) is hereby amended as follows:

Sec. 106-50. - Use of city right-of-way during Artsfest.

- (a) Authority to issue permits. In order to protect the public health, safety and welfare, to promote the economy of the city, and to provide an orderly process for the use of limited city right-of-way, the city council hereby delegates to the Springfield Regional Arts Council the right to license all persons using city rights-of-way during the annual Artsfest within those areas described in section 106-49. This delegation of authority to Springfield Regional Arts Council shall not include a delegation of authority to license the sale of any alcoholic beverages at Artsfest. Such a liquor license may be obtained solely as described in section 10-66.

Section 5 – Severability Clause. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, sentences, clauses, or phrases be declared invalid.

Section 6 – Savings Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or cause of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 7 – This Ordinance shall be in full force and effect from and after passage.

261 Passed at meeting: _____

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Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: Rhonda Lewsader, City Attorney

Approved for Council action: Jason A. Hage, City Manager

EXPLANATION TO COUNCIL BILL 2020 - 041

FILED: 02-18-20

ORIGINATING DEPARTMENT: Public Information & Civic Engagement

PURPOSE: To amend the Springfield City Code, Chapter 10 – ‘Alcoholic Beverages,’ by revising Section 10-62, ‘Exception for general merchandise stores, restaurants, and exempt organizations,’ to remove text related to certain permitted events and by adding a Section 10-66, ‘Exception for Downtown and Commercial Street Events,’ to authorize in City Code certain permitted events previously authorized each year by adoption of an ordinance; amending Chapter 78, ‘Offenses and Miscellaneous Provisions,’ Section 78-4, ‘Possession, sale or consumption of alcoholic beverages in public place,’ to reference the new Section 10-66; and amending Chapter 106, ‘Traffic and Vehicles,’ Section 106-50, ‘Use of City right-of-way during Artsfest,’ to reference the new Section 10-66.

BACKGROUND INFORMATION:

Festivals celebrating a variety of food, fun and entertainment offerings are becoming a part of what makes Springfield a great place to live. Besides being fun, well-managed festivals and events offer a host of economic and social benefits to communities.

The benefits are similar to those for tourism: the opportunity to bring communities together and instill a sense of community pride and knowledge of their history. The economic benefits of festivals are the easiest to see and the most often cited. Festivals attract visitors, which stimulates the growth of tourism and other types of business in a town or region.

The social benefits of festivals are less visible, but just as important. Festivals foster community pride, teach people new things, and strengthen relationships. Residents with community pride are more likely to speak positively about their town to others and to volunteer with organizations and activities that support the common good.

An element common to popular music, food and entertainment festivals is the ability to create a distinct, branded boundary within which all of the fun takes place. In that safe and manageable space, event patrons may enjoy participating in the event’s activities, including eating and drinking. These types of activities are extremely popular with millennials and have been requested on numerous occasions in citizen surveys and other feedback avenues.

Each year since 2011, City Council has reviewed a list of proposed events and an ordinance similar to this one. The new proposed ordinance would specify that a total of 12 permitted events per calendar year would be allowed, and limited as follows:

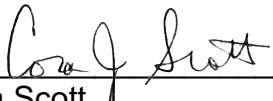
- 8 dates for Park Central Square
- Route 66 Festival Area defined for annual festival

- ArtsFest Area defined for annual festival
- 4 dates per calendar year for Commercial Street

This year's ordinance would not sunset, which promotes efficiency by eliminating the need to adopt a new ordinance each year to authorize alcohol allowance at these permitted events. The City would still keep the rigorous permitting process in place, however.

Supports the following City Council Priority of Quality of Place.

Submitted by:



Cora Scott,
Director of Public Information
and Civic Engagement

Approved by:



Jason Gage, City Manager

One-rdg. _____
P. Hmgs. _____
Pgs. 8
Filed: 02-21-20

Sponsored by: City Council

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020 - 046

GENERAL ORDINANCE _____

AN ORDINANCE

1 APPROVING the "First Amendment to Section 3.02 – Wages, Paragraph 3," of the
2 Collective Bargaining Agreement Between: The City of Springfield,
3 Missouri, and Southern Missouri Professional Fire Fighters Local 152,
4 the Bargaining Unit of the Springfield Fire Department; and authorizing
5 the City Manager, or his designee, to execute and deliver the First
6 Amendment on behalf of the City of Springfield, Missouri, to the
7 Bargaining Unit.
8 _____
9

10 WHEREAS, the City of Springfield, Missouri, (the "City") has an established
11 framework for certain City employees to engage in collective bargaining, and this
12 established framework is set forth in General Ordinance 6090; and
13

14 WHEREAS, the City recognizes the Southern Missouri Professional Fire Fighters
15 Local 152 ("IAFF") as the sole collective bargaining representative of the Springfield Fire
16 Department by Special Ordinance 26344; and
17

18 WHEREAS, the City established a team (the "City's team") for the purposes of
19 collectively bargaining as the exclusive agent for the City for collective bargaining; and
20

21 WHEREAS, the City and IAFF are parties to a certain Collective Bargaining
22 Agreement effective June 18, 2018, ("the Collective Bargaining Agreement"); and
23

24 WHEREAS, the City and IAFF reached impasse in their contract reopener
25 negotiations for the economic package for Fiscal Year 2020; and
26

27 WHEREAS, the parties submitted the matter at impasse to non-binding advisory
28 arbitration wherein the Arbitrator was asked to recommend an economic package
29 increase to the Springfield City Council for review and consideration; and
30

31 WHEREAS, City Council had the choice of accepting the Arbitrator's
32 recommendation or ordering the parties back to negotiations; and
33

34 WHEREAS, the Arbitrator's recommendation was presented to City Council on
35 February 20, 2020, and accepted by City Council on February 20, 2020; and
36

37 WHEREAS, City Council desires to amend the Collective Bargaining Agreement
38 to include the Arbitrator's recommendation as set out in the "First Amendment to
39 Section 3.02 – Wages, Paragraph 3"; and
40

41 WHEREAS, the proposed First Amendment to Section 3.02 – Wages, Paragraph
42 3, is economically consistent with the Fiscal Year 2020 budget passed by City Council.
43

44 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
45 SPRINGFIELD, MISSOURI, as follows, that:
46

47 Section 1 – The Council of the City of Springfield, Missouri, approves the
48 aforesaid First Amendment attached hereto and incorporated herein by reference as
49 "Exhibit A" and hereby ratifies the First Amendment as a final and binding First
50 Amendment of the Collective Bargaining Agreement between the City and IAFF for a
51 finite term and duration as set forth within the terms of the Collective Bargaining
52 Agreement, as now amended.
53

54 Section 2 - The Council of the City of Springfield, Missouri hereby authorizes and
55 directs the City Manager, or his designee, to execute and deliver, for and on behalf of,
56 and as the act and deed of the City, the First Amendment to Section 3.02 – Wages,
57 Paragraph 3, of the Collective Bargaining Agreement to IAFF as the final and binding
58 First Amendment to the Collective Bargaining Agreement between the City and IAFF,
59 and such other documents as may be necessary or desirable to carry out and comply
60 with the intent of this Ordinance.
61

62 Section 3 – This Ordinance shall inure to the benefit of the City and IAFF and
63 their respective successors and assigns.
64

65 Section 4 – The sections of this Ordinance shall be severable. In the event any
66 section of this Ordinance is found by a court of competent jurisdiction to be invalid, the
67 remaining sections of this Ordinance shall be deemed valid, unless the court finds the
68 valid sections of this Ordinance are so essentially and inseparably connected with, and
69 so dependent upon the void sections, that it cannot be presumed that the City Council
70 would have enacted the valid sections without those deemed invalid; or unless the court
71 finds that the valid sections, standing alone, are incomplete and are incapable of being
72 executed in accordance with the legislative intent.
73

74 Section 5 – This Ordinance shall be in full force and effect immediately after its
75 adoption by the City Council.
76

77 Passed at meeting: _____
78

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Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: Rhonda Lewsader, City Attorney

Approved for Council action: Jason A. Hage, City Manager

EXPLANATION TO COUNCIL BILL 2020- 046

FILED: 02-21-20

ORIGINATING DEPARTMENT: Human Resources

PURPOSE: Approving the "First Amendment to Section 3.02 – Wages, Paragraph 3," of the Collective Bargaining Agreement Between: The City of Springfield, Missouri and Southern Missouri Professional Fire Fighters Local 152, the Bargaining Unit of the Springfield Fire Department; and authorizing the City Manager, or his designee, to execute and deliver the First Amendment on behalf of The City of Springfield, Missouri, to the Bargaining Unit.

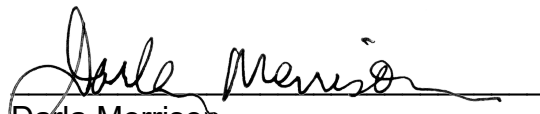
BACKGROUND: In consideration of the Missouri Supreme Court's rulings, the City, without affecting or superseding the authority of the Missouri State Board of Mediation, established a framework for certain regular employees of the City to engage in collective bargaining.

Pursuant to City Code section 2-94, the City entered into collective bargaining negotiations with the IAFF, the sole Bargaining Unit of the Springfield Fire Department. The existing Collective Bargaining Agreement was effective June 18, 2018, and is now being amended with the attached "Exhibit A," the First Amendment to Section 3.02 - Wages of The Collective Bargaining Agreement. The First Amendment is a result of the parties submitting the matter at impasse, the contract reopener negotiations for the economic package for Fiscal Year 2020, to non-binding advisory arbitration. The First Amendment is to be effective March 15, 2020, through June 30, 2020.

REMARKS: The recommendations and explanations contained herein are consistent with City Council's policies.

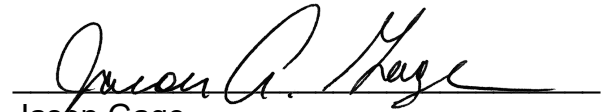
It is respectfully requested that Council give consideration and approval of the First Amendment to Section 3.02 - Wages of the Collective Bargaining Agreement and that Council approve this First Amendment to the Collective Bargaining Agreement with an effective date of March 15, 2020, through June 30, 2020.

Submitted by:



Darla Morrison,
Director of Human Resources

Approved by:



Jason Gage,
City Manager

Exhibit A

**FIRST AMENDMENT TO SECTION 3.02 – WAGES, PARAGRAPH 3
OF THE COLLECTIVE BARGAINING AGREEMENT**

THIS AMENDMENT to Section 3.02 – Wages, Paragraph 3, of THE COLLECTIVE BARGAINING AGREEMENT BETWEEN: THE CITY OF SPRINGFIELD, MISSOURI AND SOUTHERN MISSOURI PROFESSIONAL FIRE FIGHTERS LOCAL 152, THE BARGAINING UNIT OF THE SPRINGFIELD FIRE DEPARTMENT (the “Amendment”) is between The City of Springfield, Missouri (“the City”), and Southern Missouri Professional Fire Fighters Local 152 (“IAFF”).

WHEREAS, the City and IAFF are parties to a certain Collective Bargaining Agreement effective June 18, 2018 (the “Agreement”); and

WHEREAS, the City and IAFF wish to amend a certain provision of the Agreement as hereinafter provided.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations hereinafter contained, the parties do hereby agree to amend the Agreement as hereinafter provided:

1. Effective as of the date approved by City Council, Section 3.02 – Wages, the first paragraph of Paragraph 3, of the Agreement, is hereby deleted in its entirety and the following is inserted in its place:

SECTION 3.02 – WAGES

3. For fiscal year 2020:

The economic package for IAFF for Fiscal Year 2020 includes the following:

- (a) Effective March 15, 2020, with a corresponding pay date of April 2, 2020, the City will fund the Merit Steps for all Salary Grades within the bargaining unit contained in the Fire Protection Schedule (FPS) pay schedule;
- (b) Effective March 15, 2020, with a corresponding pay date of April 2, 2020, the City will implement a five percent (5%) pay increase for Fire Captains (FPS 6);
- (c) Effective March 15, 2020, with a corresponding pay date of April 2, 2020, the City will implement a three and one-half percent (3½%) pay increase for Fire Lieutenants (FPS 5T);
- (d) Effective March 15, 2020, with a corresponding pay date of April 2, 2020, the City will implement a two and one-half percent (2½%) pay increase for Fire Marshals (FPS 7); and
- (e) Effective March 15, 2020, with a corresponding pay date of April 2, 2020, the City will implement a two and one-quarter percent (2¼%) pay increase for Fire

Equipment Operators (FPS 4), Rescue & Salvage Specialists (FPS 4) and Firefighters (FPS 1).

2. Unless otherwise indicated, all remaining provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date and year first written below.

Date

THE CITY

By: _____
Jason Gage, City Manager

IAFF

By: _____
Chad Davis, President

CITY OF SPRINGFIELD, MO
Human Resources Department
FIRE PROTECTION (FPS) UNION SALARY SCHEDULE

**SALARY
CHANGE:**

Tentative: CBA of 2.25% to Salary Grades 1 and 4. CBA increase of 3.50% to Salary Grade 5T. CBA increase of 5.00% to Salary Grade 6. CBA increase of 2.5% to Salary Grade 7.

80 Hours Per Pay Period

EFFECTIVE DATE: 3/15/2020

GRADE	STEP 1		STEP 2		STEP 3		STEP 4		STEP 5		STEP 6		GRADE
FPS 1	16.96	1,356.80 35,276.80	17.98	1,438.40 37,398.40	18.84	1,507.20 39,187.20	19.72	1,577.60 41,017.60	20.68	1,654.40 43,014.40	21.60	1,728.00 44,928.00	FPS 1
FPS 2	17.35	1,388.00 36,088.00	18.34	1,467.20 38,147.20	19.26	1,540.80 40,060.80	20.13	1,610.40 41,870.40	20.64	1,651.20 42,931.20	21.57	1,725.60 44,865.60	FPS 2
FPS 3	17.63	1,410.40 36,670.40	18.71	1,496.80 38,916.80	19.63	1,570.40 40,830.40	20.53	1,642.40 42,702.40	21.57	1,725.60 44,865.60	22.49	1,799.20 46,779.20	FPS 3
FPS 4	18.67	1,493.60 38,833.60	19.79	1,583.20 41,163.20	20.72	1,657.60 43,097.60	21.69	1,735.20 45,115.20	22.76	1,820.80 47,340.80	23.77	1,901.60 49,441.60	FPS 4
FPS 5	20.24	1,619.20 42,099.20	21.51	1,720.80 44,740.80	22.53	1,802.40 46,862.40	23.60	1,888.00 49,088.00	24.75	1,980.00 51,480.00	25.83	2,066.40 53,726.40	FPS 5
FPS 5T	21.14	1,691.20 43,971.20	22.46	1,796.80 46,716.80	23.53	1,882.40 48,942.40	24.64	1,971.20 51,251.20	25.84	2,067.20 53,747.20	26.43	2,114.40 54,974.40	FPS 5T
FPS 6	23.01	1,840.80 47,860.80	24.08	1,926.40 50,086.40	25.25	2,020.00 52,520.00	26.46	2,116.80 55,036.80	27.91	2,232.80 58,052.80	29.16	2,332.80 60,652.80	FPS 6
FPS 7	23.61	1,888.80 49,108.80	25.09	2,007.20 52,187.20	26.27	2,101.60 54,641.60	27.53	2,202.40 57,262.40	28.87	2,309.60 60,049.60	30.13	2,410.40 62,670.40	FPS 7
FPS 8	22.88	1,830.40 47,590.40	24.08	1,926.40 50,086.40	25.17	2,013.60 52,353.60	26.37	2,109.60 54,849.60	27.61	2,208.80 57,428.80	28.84	2,307.20 59,987.20	FPS 8
FPS 9	25.63	2,050.40 53,310.40	27.25	2,180.00 56,680.00	28.52	2,281.60 59,321.60	29.87	2,389.60 62,129.60	31.37	2,509.60 65,249.60	32.72	2,617.60 68,057.60	FPS 9

Partial Steps

GRADE	STEP 7		STEP 8		STEP 9		STEP 10		STEP 11		GRADE
FPS 1	22.26	1,780.80 46,300.80	22.91	1,832.80 47,652.80	23.55	1,884.00 48,984.00	24.20	1,936.00 50,336.00	26.88	2,150.40 55,910.40	FPS 1
FPS 2	22.19	1,775.20 46,155.20	22.82	1,825.60 47,465.60	23.45	1,876.00 48,776.00	24.08	1,926.40 50,086.40	26.72	2,137.60 55,577.60	FPS 2
FPS 3	23.11	1,848.80 48,068.80	23.75	1,900.00 49,400.00	24.39	1,951.20 50,731.20	25.00	2,000.00 52,000.00	27.75	2,220.00 57,720.00	FPS 3
FPS 4	24.49	1,959.20 50,939.20	25.20	2,016.00 52,416.00	25.92	2,073.60 53,913.60	26.62	2,129.60 55,369.60	29.57	2,365.60 61,505.60	FPS 4
FPS 5	26.46	2,116.80 55,036.80	27.08	2,166.40 56,326.40	27.72	2,217.60 57,657.60	28.36	2,268.80 58,988.80	31.38	2,510.40 65,270.40	FPS 5
FPS 5T	27.09	2,167.20 56,347.20	27.75	2,220.00 57,720.00	28.42	2,273.60 59,113.60	29.06	2,324.80 60,444.80	32.16	2,572.80 66,892.80	FPS 5T
FPS 6	29.85	2,388.00 62,088.00	30.53	2,442.40 63,502.40	31.22	2,497.60 64,937.60	31.89	2,551.20 66,331.20	35.25	2,820.00 73,320.00	FPS 6
FPS 7	30.85	2,468.00 64,168.00	31.59	2,527.20 65,707.20	32.33	2,586.40 67,246.40	33.07	2,645.60 68,785.60	36.58	2,926.40 76,086.40	FPS 7
FPS 8	29.46	2,356.80 61,276.80	30.08	2,406.40 62,566.40	30.72	2,457.60 63,897.60	31.35	2,508.00 65,208.00	34.61	2,768.80 71,988.80	FPS 8
FPS 9	33.36	2,668.80 69,388.80	34.01	2,720.80 70,740.80	34.66	2,772.80 72,092.80	35.31	2,824.80 73,444.80	38.93	3,114.40 80,974.40	FPS 9

CITY OF SPRINGFIELD, MO
Human Resources Department
FIRE PROTECTION (FPS) UNION SALARY SCHEDULE

**SALARY
CHANGE:**

Tentative CBA of 2.25% to Salary Grades 1 and 4. CBA increase of 3.50% to Salary Grade 5T. CBA increase of 5.00% to Salary Grad 6. CBA increase of 2.5% to Salary Grade 7.

112 Hours Per Pay Period

EFFECTIVE DATE:

3/15/2020

GRADE	STEP 1		STEP 2		STEP 3		STEP 4		STEP 5		STEP 6		GRADE
FPS 1	1,356.80		1,438.40		1,507.20		1,577.60		1,654.40		1,728.00		FPS 1
	12.1143	35,276.80	12.8429	37,398.40	13.4571	39,187.20	14.0857	41,017.60	14.7714	43,014.40	15.4286	44,928.00	
FPS 4	1,493.60		1,583.20		1,657.60		1,735.20		1,820.80		1,901.60		FPS 4
	13.3357	38,833.60	14.1357	41,163.20	14.8000	43,097.60	15.4929	45,115.20	16.2571	47,340.80	16.9786	49,441.60	
FPS 5T	1,691.20		1,796.80		1,882.40		1,971.20		2,067.20		2,114.40		FPS 5T
	15.1000	43,971.20	16.0429	46,716.80	16.8071	48,942.40	17.6000	51,251.20	18.4571	53,747.20	18.8786	54,974.40	
FPS 6	1,840.80		1,926.40		2,020.00		2,116.80		2,232.80		2,332.80		FPS 6
	16.4357	47,860.80	17.2000	50,086.40	18.0357	52,520.00	18.9000	55,036.80	19.9357	58,052.80	20.8286	60,652.80	
FPS 7	1,888.80		2,007.20		2,101.60		2,202.40		2,309.60		2,410.40		FPS 7
	16.8643	49,108.80	17.9214	52,187.20	18.7643	54,641.60	19.6643	57,262.40	20.6214	60,049.60	21.5214	62,670.40	
FPS 8	1,830.40		1,926.40		2,013.60		2,109.60		2,208.80		2,307.20		FPS 8
	16.3429	47,590.40	17.2000	50,086.40	17.9786	52,353.60	18.8357	54,849.60	19.7214	57,428.80	20.6000	59,987.20	
FPS 9	2,050.40		2,180.00		2,281.60		2,389.60		2,509.60		2,617.60		FPS 9
	18.3071	53,310.40	19.4643	56,680.00	20.3714	59,321.60	21.3357	62,129.60	22.4071	65,249.60	23.3714	68,057.60	

Partial Steps

GRADE	STEP 7		STEP 8		STEP 9		STEP 10		STEP 11		GRADE
FPS 1	1,780.80		1,832.80		1,884.00		1,936.00		2,150.40		FPS 1
	15.9000	46,300.80	16.3643	47,652.80	16.8214	48,984.00	17.2857	50,336.00	19.2000	55,910.40	
FPS 2	1,775.20		1,825.60		1,876.00		1,926.40		2,137.60		FPS 2
	15.8500	46,155.20	16.3000	47,465.60	16.7500	48,776.00	17.2000	50,086.40	19.0857	55,577.60	
FPS 3	1,848.80		1,900.00		1,951.20		2,000.00		2,220.00		FPS 3
	16.5071	48,068.80	16.9643	49,400.00	17.4214	50,731.20	17.8571	52,000.00	19.8214	57,720.00	
FPS 4	1,959.20		2,016.00		2,073.60		2,129.60		2,365.60		FPS 4
	17.4929	50,939.20	18.0000	52,416.00	18.5143	53,913.60	19.0143	55,369.60	21.1214	61,505.60	
FPS 5	2,116.80		2,166.40		2,217.60		2,268.80		2,510.40		FPS 5
	18.9000	55,036.80	19.3429	56,326.40	19.8000	57,657.60	20.2571	58,988.80	22.4143	65,270.40	
FPS 5T	2,167.20		2,220.00		2,273.60		2,324.80		2,572.80		FPS 5T
	19.3500	56,347.20	19.8214	57,720.00	20.3000	59,113.60	20.7571	60,444.80	22.9714	66,892.80	
FPS 6	2,388.00		2,442.40		2,497.60		2,551.20		2,820.00		FPS 6
	21.3214	62,088.00	21.8071	63,502.40	22.3000	64,937.60	22.7786	66,331.20	25.1786	73,320.00	
FPS 7	2,468.00		2,527.20		2,586.40		2,645.60		2,926.40		FPS 7
	22.0357	64,168.00	22.5643	65,707.20	23.0929	67,246.40	23.6214	68,785.60	26.1286	76,086.40	
FPS 8	2,356.80		2,406.40		2,457.60		2,508.00		2,768.80		FPS 8
	21.0429	61,276.80	21.4857	62,566.40	21.9429	63,897.60	22.3929	65,208.00	24.7214	71,988.80	
FPS 9	2,668.80		2,720.80		2,772.80		2,824.80		3,114.40		FPS 9
	23.8286	69,388.80	24.2929	70,740.80	24.7571	72,092.80	25.2214	73,444.80	27.8071	80,974.40	

One-rdg. _____
P. Hrngs. _____
Pgs. 4
Filed: 02-21-20

Sponsored by: City Council

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020 - 047

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING Chapter 2, Article III, Division 1 of the Springfield City Code, Section 2.92,
2 known as the 'Salary Ordinance,' relating to specific salary grades within
3 the Law Enforcement Schedule ("LES").
4 _____

5
6 WHEREAS, the City of Springfield, Missouri (the "City") has an established
7 framework for certain City employees to engage in collective bargaining, and this
8 established framework is set forth in General Ordinance 6090; and
9

10 WHEREAS, the City recognizes the Springfield Police Officers' Association
11 ("SPOA"), Fraternal Order of Police Lodge 22 (hereinafter the "SPOA 22"), as the sole
12 collective bargaining representative of the Springfield Police Department by Special
13 Ordinance 26344; and
14

15 WHEREAS, the City established a team (the "City's team") for the purposes of
16 collective bargaining as the exclusive agent for the City for collective bargaining; and
17

18 WHEREAS, the City and SPOA 22 are parties to a certain Collective Bargaining
19 Agreement effective July 1, 2017, as amended June 17, 2019, ("The Collective
20 Bargaining Agreement"); and
21

22 WHEREAS, pursuant to the Second Amendment, Article 18 – 'Wages,' Section
23 18.3, of the 'Collective Bargaining Agreement,' the SPOA 22 bargaining unit is to
24 receive an across the board increase equal to forty-four hundredths of one percent
25 (.44%), effective on the first date approved by City Council; and
26

27 WHEREAS, the proposed across the board increase is economically consistent
28 with the Fiscal Year 2020 budget passed by City Council, the City's Team and the
29 SPOA 22 submit the same to City Council for consideration and approval.
30

31 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
32 SPRINGFIELD, MISSOURI, as follows, that:

33
34 Section 1 – Section 2-92 of the Springfield City Code, known as the ‘Salary
35 Ordinance,’ is hereby amended by increasing the annual base pay rates for Salary
36 Grades Two through Ten contained in the Law Enforcement Schedule (“LES”) by an
37 amount equal to forty-four hundredths of one percent (.44%). These changes shall be
38 effective for the pay period commencing March 15, 2020, with a corresponding pay date
39 of April 2, 2020.

40
41 Section 2 – This Ordinance shall be in full force and effect from and after
42 passage.

43
44 Passed at meeting: _____

45
46
47 _____
48 Mayor

49
50 Attest: _____, City Clerk

51
52 Filed as Ordinance: _____

53
54 Approved as to form: Rhonda Lewsader, City Attorney

55
56
57 Approved for Council action: Jason R. Hays, City Manager
58

EXPLANATION TO COUNCIL BILL 2020 -047

FILED: 02-21-20

ORIGINATING DEPARTMENT: Human Resources

PURPOSE: To amend Chapter 2, Article III, Division 1 of the Springfield City Code, Section 2.92, known as the 'Salary Ordinance,' relating to specific salary grades within the Law Enforcement Schedule ("LES").

BACKGROUND: This Council bill contains a recommendation that will ensure compliance with Article 18 – Wages, Section 18.3 of the Springfield Police Officers' Association Collective Bargaining Agreement. Specifically, this Council bill contains a recommended provision to provide a .44% across the board pay increase to Springfield Police Officers' Association ("SPOA") bargaining unit members on the Law Enforcement Schedule ("LES"), specifically pay grades LES 2 through LES 10, effective March 15, 2020, with a corresponding pay date of April 2, 2020.

REMARKS: The recommendations and explanations contained herein are consistent with Council's policies.

Submitted by:



Darla Morrison,
Director of Human Resources

Approved by:



Jason Gage,
City Manager

CITY OF SPRINGFIELD, MO
Human Resources Department
LAW ENFORCEMENT (LES) SALARY SCHEDULE

Exhibit A

SALARY CHANGE:

Tentative CBA .44% increase to all steps for Salary Grades 2, 5, & 10

EFFECTIVE DATE: 3/15/2020

GRADE	STEP 1		STEP 2		STEP 3		STEP 4		STEP 5		STEP 6		STEP 7		STEP 8		GRADE
		1,430.40		1,504.80		1,580.00		1,643.20		1,709.60		1,783.20		1,862.40		1,954.40	
LES 2	17.88	37,190.40	18.81	39,124.80	19.75	41,080.00	20.54	42,723.20	21.37	44,449.60	22.29	46,363.20	23.28	48,422.40	24.43	50,814.40	LES 2
		1,555.20		1,621.60		1,691.20		1,778.40		1,860.00		1,944.00		2,031.20		2,130.40	
LES 5	19.44	40,435.20	20.27	42,161.60	21.14	43,971.20	22.23	46,238.40	23.25	48,360.00	24.30	50,544.00	25.39	52,811.20	26.63	55,390.40	LES 5
		1,784.00		1,880.00		1,959.20		2,056.80		2,149.60		2,246.40		2,345.60		2,464.00	
LES 10	22.30	46,384.00	23.50	48,880.00	24.49	50,939.20	25.71	53,476.80	26.87	55,889.60	28.08	58,406.40	29.32	60,985.60	30.80	64,064.00	LES 10

GRADE	STEP 9		STEP 10		STEP 11		STEP 12		STEP 13		STEP 14		GRADE
		2,033.60		2,114.40		2,198.40		2,285.60		2,468.00		2,529.60	
LES 2	25.42	52,873.60	26.43	54,974.40	27.48	57,158.40	28.57	59,425.60	30.85	64,168.00	31.62	65,769.60	LES 2
		2,216.80		2,305.60		2,397.60		2,492.00		2,687.20		2,754.40	
LES 5	27.71	57,636.80	28.82	59,945.60	29.97	62,337.60	31.15	64,792.00	33.59	69,867.20	34.43	71,614.40	LES 5
		2,563.20		2,664.80		2,771.20		2,882.40		3,125.60		3,172.80	
LES 10	32.04	66,643.20	33.31	69,284.80	34.64	72,051.20	36.03	74,942.40	39.07	81,265.60	39.66	82,492.80	LES 10

One-rdg. X
P. Hmgs.
Pgs. 13
Filed: 03-03-20

Sponsored by: Ferguson

COUNCIL BILL 2020- 048 RESOLUTION

RESOLUTION

1 DECLARING the intent of the City of Springfield to annex and rezone approximately 4
2 acres of private property and approximately 7 acres of Missouri
3 Department of Transportation right-of-way generally located at 4912
4 West State Highway 266/Chestnut Expressway. (Staff recommends
5 approval.)
6
7

8 WHEREAS, the owners of private property generally located at 4912 West State
9 Highway 266/Chestnut Expressway have requested annexation into the City of
10 Springfield; and
11

12 WHEREAS, the property is within the Urban Service Boundary and is
13 immediately adjacent to the City of Springfield; and
14

15 WHEREAS, the owners of all fee interests of record in all tracts of real property
16 located within the area to be annexed, as described in "Exhibit A," have petitioned for
17 annexation into the City.
18

19 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
20 SPRINGFIELD, MISSOURI, as follows, that:
21

22 Section 1 – City Council hereby declares its intention to annex approximately 4
23 acres of private property and approximately 7 acres of Missouri Department of
24 Transportation right-of-way generally located at 4912 West State Highway 266/Chestnut
25 Expressway, and more completely described in "Exhibit A," which is attached hereto
26 and incorporated herein by this reference, into the City of Springfield.
27

28 Section 2 – The City Manager, or designee, is hereby authorized to do all things
29 necessary or convenient to carry out the intent of this Resolution. The City Manager is
30 further authorized to initiate a rezoning petition for the property described in "Exhibit A"
31 to change the existing County zoning to the City HC, Highway Commercial zoning
32 district.
33

34 Section 3 – This Resolution shall be in effect immediately upon adoption.
35

36 Passed at meeting: _____

37

38

39

Mayor

40

41 Attest: _____, City Clerk

42

43 Filed as Resolution: _____

44

45

46 Approved as to form: *A. Chalest, Widen*, Assistant City Attorney

47

48

49 Approved for Council action: *Jason A. Page*, City Manager

EXPLANATION TO COUNCIL BILL 2020-048

FILED: 03-03-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Declaring the intent of the City of Springfield to annex and rezone approximately 4 acres of private property and approximately 7 acres of Missouri Department of Transportation right-of-way generally located at 4912 West State Highway 266/Chestnut Expressway. (Staff recommends approval.)

BACKGROUND INFORMATION:

The owner(s) of the private property generally located at 4912 West State Highway 266/Chestnut Expressway (See "Exhibit B," Location Sketch) has signed an irrevocable petition and consent to annexation agreement and the City of Springfield is executing that agreement by initiating the annexation and rezoning. The public right-of-way is currently maintained by Missouri Department of Transportation ("MODOT") and designated as State Highway 266 and Farm Road 115. However, when annexed State Route 266 will be changed to West Chestnut Expressway and Farm Road 115 will be changed to North Broadview Place. The owner(s) of the property have signed consent to annexation into the City of Springfield (See "Exhibit C," Consent Agreement). The property is within the City of Springfield's Urban Service Boundary and is adjacent to the City of Springfield with the annexation of the MODOT right-of-way. The owner is currently constructing a convenience store with gas pumps.

During the review of the proposed annexation, staff discovered that a past adjacent annexation had unintentionally omitted a description of MODOT and railroad right-of-way. Staff is including a description of that area with the proposed annexation description to replace and correct that omission.

The property is currently zoned Greene County M-1, Light Manufacturing District and the City is proposing the HC, Highway Commercial District which will make the proposed use conforming. By initiating these amendments, the City will incur the costs of processing the amendments, including staff time and notification costs. The application will follow the normal process for rezoning which includes a neighborhood meeting, notification of adjacent property owners and public hearings at Planning and Zoning Commission and City Council.

This Resolution only initiates the proposed annexation and rezoning and does not annex or rezone the property. The City is proposing to rezone the property to a HC, Highway Commercial District which will be concurrently reviewed at the annexation public hearing in April. The City Council is required to hold a public hearing before the proposed annexation can be approved (see "Exhibit D," Annexation Schedule).

If this request is approved, staff will submit a Council Bill for a public hearing to consider the annexation and rezoning of this property.

REMARKS:

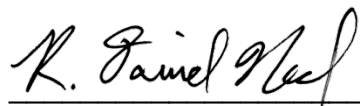
Staff recommends approval to initiate the annexation and rezoning based on the following:

1. The area to be annexed is contiguous to the City of Springfield and is within the Urban Service Area. See "Exhibit B" for the location of the private property and rights-of-way to be annexed.
2. The *Growth Management and Land Use Plan* of the *Comprehensive Plan* supports the annexation.
3. The property owner has petitioned the City for annexation.
4. All City services can be provided to the property.
5. The City will receive sales and property tax revenue once annexed.
6. The proposed rezoning is consistent with the *Growth Management and Land Use Plan* element of the *Comprehensive Plan* which identifies the subject property as appropriate for Medium Intensity Retail, Office and Housing. The HC district is listed as an appropriate zoning district for this land use category.
7. The proposed rezoning to the HC district is consistent with the other properties located along West Chestnut Expressway. The properties located to the north and east of the subject property along Chestnut Expressway are zoned HC.

RECOMMENDATIONS:

Staff recommends the initiation of the annexation and rezoning of the subject property and rights-of-way.

Submitted by:



Daniel Neal, Senior Planner

Reviewed by:



Mary Lilly Smith, Director

Approved by:



Jason Gage, City Manager

EXHIBITS:

- Exhibit A, Legal Description
- Exhibit B, Location Map
- Exhibit C, Consent Agreement
- Exhibit D, Annexation Schedule

Exhibit A

ANNEXATION A-2-2020

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 29 NORTH, RANGE 22 WEST, AND A PART OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 29 NORTH, RANGE 22 WEST, INCLUDING A PART OF STATE ROUTE 266 RIGHT-OF-WAY AND A PART OF BNSF RAILWAY RIGHT-OF-WAY, ALL IN GREENE COUNTY, MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE EAST LINE OF THE WEST ONE-HALF OF LOT 1 OF THE SOUTHWEST FRACTIONAL QUARTER OF SAID SECTION 18 (BEING ALSO THE EAST LINE OF HI-WAY PARK ESTATE, A RECORDED SUBDIVISION IN SAID GREENE COUNTY), AND THE NORTH RIGHT-OF-WAY LINE OF STATE ROUTE 266; THENCE SOUTH, ALONG SAID EAST LINE, TO THE SOUTHEAST CORNER OF SAID WEST ONE-HALF OF LOT 1; THENCE SOUTH, ALONG THE WEST LINE OF THE EAST 660 FEET OF LOT 1 OF THE NORTHWEST FRACTIONAL QUARTER OF SAID SECTION 19, TO THE NORTHEAST CORNER OF LOT 23 OF CHESTNUT PLACE FIRST ADDITION, A RECORDED SUBDIVISION IN THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI, BEING ON THE SOUTH RIGHT-OF-WAY LINE OF STATE ROUTE 266; THENCE WEST, ALONG SAID RIGHT-OF-WAY LINE, TO THE POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF THE BNSF RAILWAY; THENCE SOUTHWEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, TO THE WEST LINE OF THE EAST 330 FEET OF THE WEST ONE-HALF OF SAID LOT 1 OF THE NORTHWEST FRACTIONAL QUARTER; THENCE NORTH, ALONG SAID WEST LINE, TO THE POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SAID BNSF RAILWAY; THENCE SOUTHWEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, TO THE SOUTHWEST CORNER OF TRACT 1 OF GREENE COUNTY MINOR SUBDIVISION NUMBER 54169, AS RECORDED IN SURVEY RECORD BOOK 5490, PAGE 1901 OF THE GREENE COUNTY RECORDER'S OFFICE; THENCE NORTH, ALONG THE WEST LINE OF SAID TRACT 1, TO THE NORTHWEST CORNER OF SAID TRACT 1, BEING ON THE SOUTH RIGHT-OF-WAY LINE OF STATE ROUTE 266; THENCE DIRECTLY NORTH TO THE NORTH RIGHT-OF-WAY LINE OF SAID STATE ROUTE 266; THENCE EAST, ALONG SAID NORTH RIGHT-OF-WAY LINE, TO THE POINT OF BEGINNING. EXCEPT ANY PART THEREOF PREVIOUSLY ANNEXED INTO THE CITY OF SPRINGFIELD.

Exhibit B



LOCATION:

LOCATION:	4912 W. Chestnut Expressway/State Highway 266
CURRENT ZONE:	County M-1, Light Manufacturing District
PROPOSED ZONE:	HC, Highway Commercial District
CASE NUMBER:	A-2-2020

Exhibit C



023843-19 16 Jul 2019 02:34:27PM



Book: 2019
Page: 023843-19
5 pages

REAL ESTATE DOCUMENT
GREENE COUNTY, MISSOURI
RECORDERS CERTIFICATION

Cheryl Dawn Spaulding

RECORDER OF DEEDS

jackson

IRREVOCABLE PETITION AND CONSENT TO ANNEXATION

This Irrevocable Petition and Consent to Annexation, made and entered into this 18th day of June, 2019, by and between **Harshad Patel and Indiraben Patel, Husband and Wife**, hereinafter referred to as "**Grantor(s)**," and **The City of Springfield, Missouri**, a Municipal Corporation and duly organized Constitutional Charter City, of the County of Greene, State of Missouri, hereinafter referred to as "**Grantee**." The mailing address of the Grantor(s) is, **4445 West Chestnut Expressway, Springfield, Mo. 65802**. The mailing address of the Grantee is City of Springfield, Department of Public Works, 840 Boonville Ave., Springfield, MO 65802.

KNOW ALL PERSONS BY THESE PRESENTS THAT: The Grantor(s), for and in consideration of the provision of sanitary sewer services, being the owner of all of the fee interest in the real property commonly known as 4912 West Chestnut Expressway, Greene County, Missouri, and more fully described as follows:

Exhibit A - Legal Description and Exhibit B - Location Map

does hereby irrevocably petition and consent to the future annexation of said property in the corporate limits of the City of Springfield, Missouri, Grantee herein.

At such time as the City Council of the City of Springfield may by resolution or ordinance declare that annexation is in the interest of the City of Springfield, Grantor and Grantor's heirs, legal representatives, successors and assigns, shall cause this petition to be presented to the governing body of the City of Springfield, and do all things necessary to meet the requirements of the State Annexation Statutes to cause such property to be annexed into the City. Provided, however, that annexation of the property will not be effective until such time as sewer service is available to the property.



RETURN TO CITY HALL
RIGHT-OF-WAY SECTION

Any objection to such annexation filed by Grantor(s), by any succeeding property owner(s), or by any occupant or resident of the property, shall relieve the City of any obligation to provide sewer service to the property, and the City may thereafter, upon reasonable notice, terminate sewer service and disconnect the property from the City of Springfield's sanitary sewer system. It is expressly stated and understood by Grantor(s) that but for the execution of this irrevocable consent to annexation and the commitment of Grantor(s) to do all things necessary to complete the annexation at such future date, the City would not extend sewer service to the real estate described in Exhibit A and any objection to annexation shall constitute complete and total failure of consideration for extending sewer service to property outside the City's limits in advance of annexation.

Failure to consummate annexation at any time during the term of this Irrevocable Petition and Consent to Annexation shall not cause this Petition and Consent to lapse and the same shall continue in full force and effect until such time as annexation is fully and lawfully consummated.

In the event of any breach or default by Grantor(s), this Irrevocable Petition and Consent to Annexation shall be enforceable by specific performance and, if litigated, venue shall be proper only in the Circuit Court of Greene County, Missouri. The parties expressly waive any rights to venue inconsistent herewith, and agree attorney's fees will be reimbursed to Grantee.

This Irrevocable Petition and Consent to Annexation shall be deemed to be a covenant running with the land to succeeding owners and shall be deemed to be the Petition and Consent to Annexation of succeeding owners, their heirs, legal representatives, successors, and assigns until annexation is fully lawfully consummated as in this instrument provided.

IN WITNESS WHEREOF, the said Grantor(s) has/have hereunto set his/her/their hand(s) 18th day of June, 2019.

GRANTOR(S)


Harshad Patel


Indiraben Patel

Approved as to form for Grantee by:


(Printed Name) Don Willott
ASST CITY ATTORNEY

VERIFICATION AND ACKNOWLEDGMENT

STATE OF MISSOURI)
COUNTY OF GREENE)

On this 18th day of June, 2019, before me personally appeared **Harshad and Indiraben Patel, husband and wife**, to me known to be the person(s) described herein and who executed the Irrevocable Petition and Consent to Annexation, and being duly sworn according to law, deposes and states that they are the owner(s) in fee of the property described herein and the facts set forth in this Irrevocable Petition and Consent to Annexation are true and correct to the best of his/her/their knowledge, information and belief, and acknowledged to me that they executed same, as their free act and deed.

Subscribed and sworn to before me, a notary public, this 18th day of June, 2019.

Amy D Johnson
Notary Public - Notary Seal
STATE OF MISSOURI
Greene County
My Commission Expires May 21, 2020
Commission #12405572



Exhibit "A"

All that part of the Northwest Quarter of Section 19, Township 29 North, Range 22 West, Greene County, Missouri, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence South, with the West line of said Section 19, a distance of 1119.90 feet; thence East, a distance of 20 feet to the East right-of-way line of Farm Road 115 and the North right-of-way line of the Burlington Northern Santa Fe Railroad; thence North $62^{\circ}53'17''$ East, with said North line, a distance of 1116.15 feet for a true point of beginning; thence North $03^{\circ}15'43''$ West a distance of 394.40 feet to a point on a curve being on the South right-of-way line of the existing outer road; thence Easterly, with said South right-of-way line, along a curve to the right having a radius of 639.69 feet, a delta of $10^{\circ}34'08''$, an arc length of 118.0 feet and a chord which bears North $84^{\circ}27'38''$ East having a chord distance of 117.83 feet to a point on a line; thence South $03^{\circ}15'26''$ East a distance of 347.04 feet to a point being on the said North right-of-way line of the Burlington Northern Santa Fe Railroad for corner; thence South $62^{\circ}53'17''$ West, with said North right-of-way line, a distance of 128.70 feet to an existing $5/8''$ iron pin which is the true point of beginning.

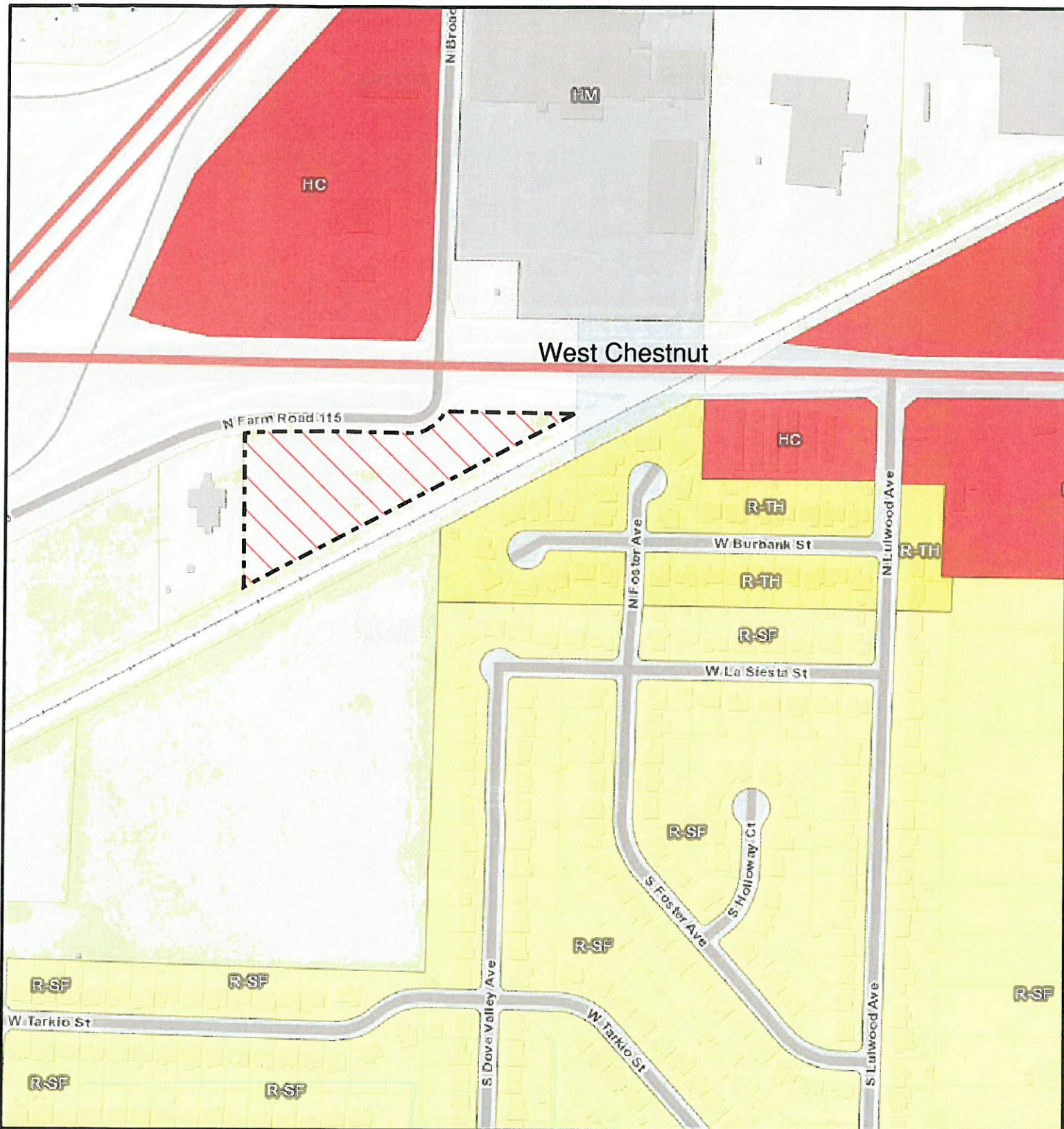
And

All that part of the Northwest Quarter of Section 19, Township 29 North, Range 22 West, Greene County, Missouri, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence South, with the West line of said Section 19, a distance of 1119.90 feet; thence East, a distance of 20 feet to the East right-of-way line of Farm Road 115 and the North right-of-way line of the Burlington Northern Santa Fe Railroad; thence North $62^{\circ}53'17''$ East, with said North line, a distance of 1244.85 feet for a true point of beginning; thence North $03^{\circ}15'26''$ West a distance of 347.04 feet to a point on a curve being on the South right-of-way line of the existing outer road for corner; thence, Easterly, with said South right-of-way line, along a curve to the right having a radius of 639.69 feet, delta of $01^{\circ}20'59''$, an arc length of 15.07 feet, and a chord which bears South $89^{\circ}34'48''$ East having a chord distance of 15.07 feet to a point on a line; thence South $88^{\circ}41'36''$ East, with said South right-of-way line, a distance of 235.00 feet to a point for corner; thence South $02^{\circ}23'47''$ West a distance of 228.19 feet to a point being on the North right-of-way line of said Burlington Northern Santa Fe Railroad for corner; thence South $62^{\circ}53'17''$ West, with said North right-of-way line, a distance of 248.00 feet to the true point of beginning.

And

All that part of the Northwest Quarter of Section 19, Township 29 North, Range 22 West, Greene County, Missouri, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence South, with the West line of said Section 19, a distance of 1119.90 feet; thence East, a distance of 20 feet to the East right-of-way line of Farm Road 115 and the North right-of-way line of the Burlington Northern Santa Fe Railroad; thence North $62^{\circ}53'17''$ East, with said North line, a distance of 1492.85 feet for a true point of beginning; thence North $02^{\circ}23'47''$ East a distance of 228.19 feet to a point being on the South right-of-way line of the existing outer road for corner; thence South $88^{\circ}41'36''$ East, with said South right-of-way line, a distance of 185.23 feet to a point for corner; thence North $61^{\circ}28'11''$ East, with said South right-of-way line, a distance of 115.48 feet to an existing right-of-way marker for corner; thence South $88^{\circ}30'59''$ East, with said South right-of-way line, a distance of 236.71 feet to a point being on the North right-of-way line of said Burlington Northern Santa Fe Railroad for corner; thence South $62^{\circ}53'17''$ West, with said North right-of-way line, a distance of 598.58 feet to the true point of beginning.

Subject to easements, restrictions, reservations, and covenants of record, if any.



Springfield, Missouri

4912 W Chestnut



Printed: Jun 19, 2019

DISCLAIMER: All information included on this map or digital file is provided 'as-is' for general information purposes only. The City of Springfield, and all other contributing data suppliers, make no warranties, expressed or implied, concerning the accuracy, completeness, reliability, or suitability of the data for any particular use. Furthermore, the City of Springfield, and all other contributing data suppliers, assume no liability whatsoever associated with the use or misuse of the data.

Exhibit D

ANNEXATION
SCHEDULE
ANNEXATION A-2-2020

ANNEXATION:

Initiate annexation	March 9, 2020
City Council public hearing	April 6, 2020
City Council second reading and vote	April 20, 2020

One-rdg. _____
P. Hrngs. X
Pgs. 28
Filed: 03-03-20

Sponsored by: McGull

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020 - 049

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING the Springfield Land Development Code, Section 36-306, 'Official zoning
2 map and rules for interpretation,' by rezoning 0.16 acres of property
3 generally located at 2001 North Ramsey Avenue, from GM, General
4 Manufacturing District to R-TH, Residential Townhouse District. (Staff and
5 Planning and Zoning Commission both recommend approval.)
6
7

8 WHEREAS, an application has been filed for a zoning change of the property
9 generally located at 2001 North Ramsey Avenue, and more fully described in "Exhibit
10 A," which is attached hereto and incorporated herein by this reference, from GM,
11 General Manufacturing District to R-TH, Residential Townhouse District; and
12

13 WHEREAS, following proper notice, a public hearing was held before the
14 Planning and Zoning Commission on February 13, 2020, a copy of the Record of
15 Proceedings from said public hearing being attached hereto and incorporated herein by
16 this reference as "Exhibit B," and said Commission made its recommendation; and
17

18 WHEREAS, the City has reviewed the applicant's request and prepared a staff
19 report concerning the application which is attached hereto and incorporated herein by
20 this reference as "Exhibit C;" and
21

22 WHEREAS, proper notice was given of a public hearing before City Council and
23 said hearing was held in accordance with law.
24

25 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
26 SPRINGFIELD, MISSOURI, as follows, that:
27

28 Section 1 – The property described in "Exhibit A," which is attached hereto and
29 incorporated herein by this reference, is hereby rezoned from GM, General
30 Manufacturing District, or such other zoning district as is designated on the official
31 zoning map, to R-TH, Residential Townhouse District. Springfield Land Development
32 Code, Section 36-306, 'Official zoning map and rules for interpretation,' is hereby
33 amended, changed, and modified consistent with this Ordinance.

34
35 Section 2 – City Council hereby directs the City Manager, or designee, to update
36 the City's digital zoning map to reflect this rezoning and City Council adopts the map
37 thereby amended as the Official Zoning Map of Springfield, Missouri, as provided for in
38 Springfield Land Development Code, section 36-306, 'Official zoning maps and rules of
39 interpretation.'

40
41 Section 3 – The Official Zoning Map herein adopted shall be maintained and
42 archived in the same digital form in which this Council has approved its adoption.

43
44 Section 4 – This Ordinance shall be in full force and effect from and after
45 passage.

46
47 Passed at meeting: _____

48
49 _____
50 Mayor

51
52 Attest: _____, City Clerk

53
54 Filed as Ordinance: _____

55
56 Approved as to form: Richard T. Widen, Assistant City Attorney

57
58 Approved for Council action: Jason A. Hays, City Manager
59
60

EXPLANATION TO COUNCIL BILL 2020 -049

FILED: 03-03-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Amending the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning approximately 0.16 acre of property generally located at 2001 North Ramsey Avenue from GM, General Manufacturing District to R-TH, Residential Townhouse District (Staff and Planning and Zoning Commission both recommend approval.)

BACKGROUND INFORMATION: ZONING CASE NUMBER Z-1-2020

The applicant is proposing to rezone approximately 0.16 acre of property generally located at 2001 North Ramsey Avenue from GM, General Manufacturing District to R-TH, Residential Townhouse District. The applicant intends to construct a new single-family residence on the property.

REMARKS:

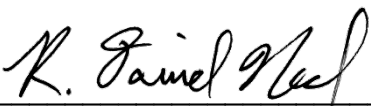
The Planning and Zoning Commission held a public hearing on February 13, 2020, and recommended to approve, by a vote of 5 to 0.

The Planning and Development staff recommends the application be approved (see the attached "Exhibit C," Development Review Staff Report).

FINDINGS FOR STAFF RECOMMENDATION:

1. This application is consistent with the *Growth Management and Land Use Plan* element of the *Comprehensive Plan* which identifies the subject property as appropriate for Low Density Housing. The R-TH district is listed as an appropriate zoning district for this land use category.
2. The R-TH district is consistent with the other properties located along North Ramsey Avenue. The properties located to the north and east of the subject property are used residentially and majority of them are zoned R-TH.
3. This request is consistent with the City's policies to promote infill development and increased density where investments have already been made in public services and infrastructure.

Submitted by:


Daniel Neal, Senior Planner

Recommended by:



Mary Lilly Smith, Director

Approved by:



Jason Gage, City Manager

EXHIBITS:

Exhibit A, Legal Description

Exhibit B, Record of Proceedings

Exhibit C, Development Review Staff Report

ATTACHMENTS:

Attachment 1: Department Comments

Attachment 2: Neighborhood Meeting Summary

Attachment 3: Neighborhood Correspondence

Exhibit A

LEGAL DESCRIPTION
ZONING CASE Z-2-2020

All of lots twenty-three (23) and twenty-four (24), in blocks five (5), of Hobart's 4th addition to the City of Springfield, Greene County, Missouri, according to the recorded plat thereof; addressed as 2001 N. Ramsey.

Exhibit B

**RECORD OF PROCEEDINGS
ZONING CASE Z-2-2020
Planning and Zoning Commission – February 13, 2020**

Z-2-2020

2001 North Ramsey Avenue

Applicant: R.A.L. Property Management, LLC

Mr. Hosmer stated that this is a request to rezone approximately 0.16 acre of property generally located at 2001 North Ramsey Avenue from GM, General Manufacturing District to R-TH, Residential Townhouse District. The Comprehensive Plan identifies this area as an appropriate for Low Density Housing. The R-TH district is listed as an appropriate zoning district for this land use category. The Transportation Plan classifies Ramsey and Atlantic as a Local roadways. A Traffic Impact Study will not be required as the change in zoning did not increase the trip generations. A fee in lieu of on-site stormwater detention will not be allowed and the property is not located in a stream buffer. The request is consistent with the other properties located along North Ramsey Avenue. These properties are used residentially and a majority of them are zoned R-TH. Staff recommends approval.

Mr. Coltrin opened the public hearing.

Ms. Michele Lopez, 1031 W. Pacific Street, here representing the owner.

Mr. Clifford VanNatta, 1221 E. Thoman Street, has strong concerns regarding the traffic of large trucks around the area and noted the difficulties that they have getting into position to unload their load (requires forklifts). He also noted that the area/location is not suited for small children and traffic will increase significantly this spring and summer.

Mr. Coltrin closed the public hearing.

COMMISSION ACTION:

Ms. Cox motioned to **approve** Z-2-2020 (2001 North Ramsey Avenue). Mr. Jobe seconded the motion. Ayes: Coltrin, Cox, Rose, Ogilvy, and Jobe. Nays: None. Abstain: None. Absent: Doennig, Broekhoven, Shuler and Thomas.



Bob Hosmer, AICP
Planning Manager

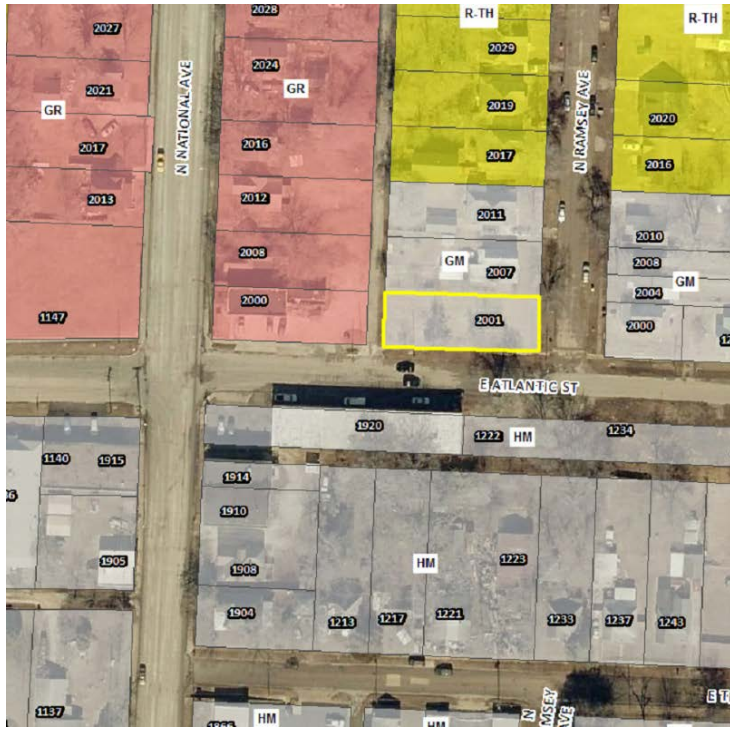
Exhibit C

PLANNING AND ZONING COMMISSION PUBLIC HEARING:

FEBRUARY 13, 2020

CITY COUNCIL PUBLIC HEARING:

MARCH 9, 2020



CASE NUMBER:
Z-2-2020

PROJECT LOCATION:
2001 North Ramsey Ave.

ACRES: 0.16 acre

EXISTING LAND USE:
Vacant/undeveloped

APPLICANT:
R.A.L. Property Management, LLC

STAFF:
Daniel Neal, Senior Planner
417-864-1036

STAFF RECOMMENDATIONS:
Approve

PROPOSED MOTION:
Move to approve Z-2-2020 as submitted.

SUMMARY OF REQUEST:

Request to rezone approximately 0.16 acre of property generally located at 2001 North Ramsey Avenue from GM, General Manufacturing District to R-TH, Residential Townhouse District.

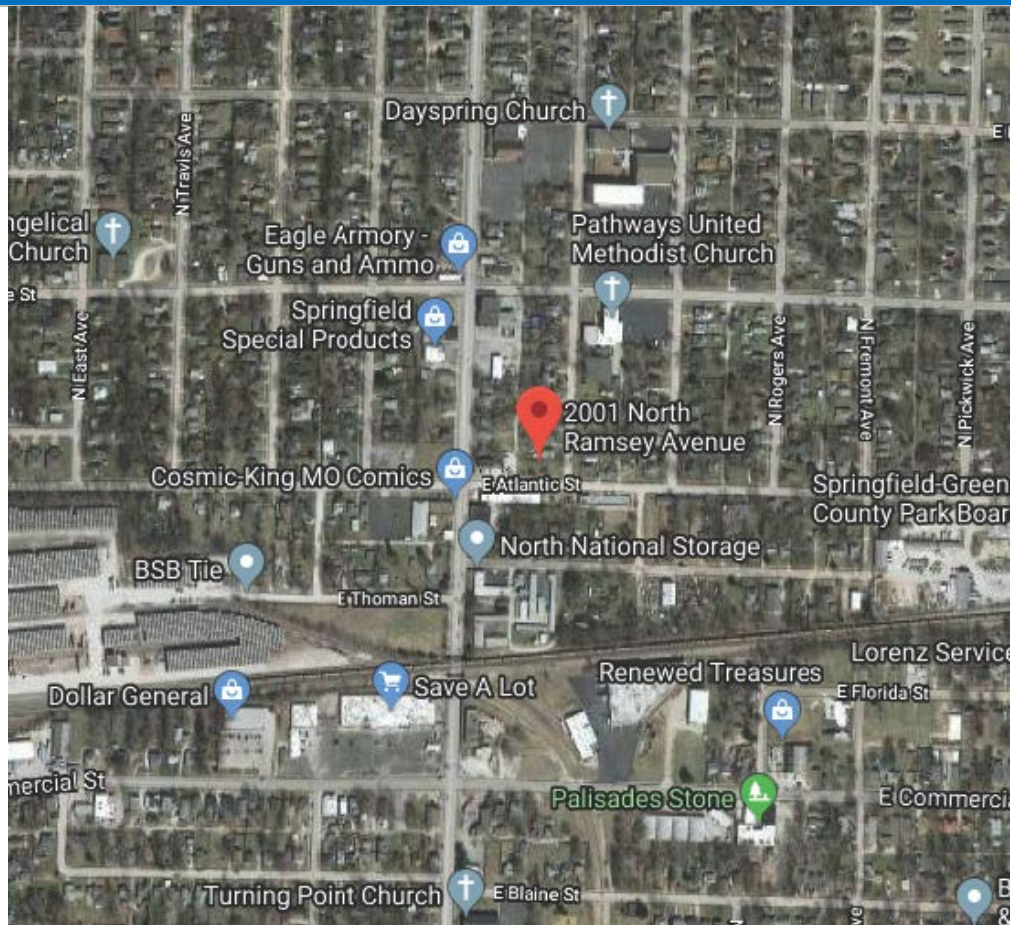
FINDINGS FOR STAFF RECOMMENDATION:

1. This application is consistent with the *Growth Management and Land Use Plan* element of the *Comprehensive Plan* which identifies the subject property as appropriate for Low Density Housing. The R-TH district is listed as an appropriate zoning district for this land use category.
2. The R-TH district is consistent with the other properties located along North Ramsey Avenue. The properties located to the north and east of the subject property are used residentially and majority of them are zoned R-TH.
3. This request is consistent with the City's policies to promote infill development and increased density where investments have already been made in public services and infrastructure.

SURROUNDING ZONING AND LAND USES:

	NORTH	SOUTH	EAST	WEST
ZONING	GM	HM	GM	GR
LAND USE	Single-family residence	Manufacturing uses	Single-family residence	Tavern/bar

SURROUNDING LAND USES (GOOGLE MAP AERIAL VIEW):



GOOGLE MAPS STREET VIEW:



GROWTH MANAGEMENT AND LAND USE PLAN:



- Low-Density Housing
- Medium or High Density Housing
- Medium Intensity Retail, Office or Housing
- High Intensity Retail, Office or Housing
- Greater Downtown
- Business Park
- Light Industrial, Office and Office-Warehouse

- General Industry, Transportation and Utilities
- Park
- School
- Golf
- Community-Public
- Urban Reserve Area
- Rural Area

- Greenway
- Parkway
- City Boundary
- Urban Service Area Boundary, Year 2020
- Urban Reserve Boundary, Year 2040

PROPERTY HISTORY:

The subject property was originally zoned GM, General Manufacturing with the city-wide remapping in 1995.

ZONING ORDINANCE REQUIREMENTS:

CODE ITEM	REQUIREMENTS FOR R-TH
Minimum Yard Requirements	1. <i>Front yard:</i> a. Twenty-five feet along a street classified as a collector or higher classification street or as required by section 36-453. b. Fifteen feet along a street classified as a local street or as required by section 36-453 (garages shall be set back a minimum of 20 feet). c. The front yard setback may be reduced below the minimum required above if a conditional use permit is approved in accordance with section 36-363, conditional use permits, or with an approved preliminary plat in accordance with the city's subdivision regulations. 2. <i>Side yards:</i> a. Townhouses: Six feet or as required by section 36-453, supplemental open space and yard regulations, provided that no side yard is required for a townhouse or attached single-family dwelling when a common wall is located on the lot line. b. All other uses: Five feet. 3. <i>Rear yard:</i> Ten percent of the lot depth but may not be less than ten feet nor will more than 20 feet be required.
Maximum Structure Height	1. When side yards are less than 15 feet in width: 35 feet or two and one-half stories above the finished grade. 2. When side yards are 15 feet in width or greater: 45 feet or three stories above the finished grade.
Minimum open space	Not less than 20 percent
Maximum impervious area	Shall not exceed 80 percent of total lot area
BULK PLANE	BUFFERYARD AND LANDSCAPING
None for the subject property	No bufferyard would be required. Landscaping shall be provided according to Sec. 36-482.
30-degree bulk plane is required adjacent to R-TH zoning.	

COMPATIBILITY WITH COMPREHENSIVE PLAN:

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the subject property as appropriate for Low Density Housing.

STAFF COMMENTS:

1. The applicant is proposing to rezone approximately 0.16 acre of property generally located at 2001 North Ramsey Avenue from GM, General Manufacturing District to R-TH, Residential Townhouse District. The applicant intends to construct a new single-family residence on the property.

-
2. The R-TH district is consistent with the other properties located along North Ramsey. The properties located to the north and east of the subject property are used residentially and a majority of them are zoned R-TH.
 3. The R-TH district is consistent with the *Growth Management and Land Use Plan* element which lists it as an appropriate zoning district for the Low Density Housing land use category.
 4. The single-family residence on this property was demolished by the City in 2007. While GM allows existing residential uses to remain and to be considered conforming uses, it is not ideal to keep residential uses zoned industrial. In this case, since the residential structure was demolished and not reconstructed within 18 months, a new residential use is not allowed to be re-established. This property has to be rezoned to R-TH to establish a new residential use for the property.
 5. The R-TH District is intended to accommodate a variety of housing types, including single-family detached, single-family semi-detached, duplex, and townhouse dwellings, at low to moderate residential densities (approximately 11 units per acre). This district is also intended to function as a transition between the less intense single-family district and more intense multifamily districts.
 6. The subject property does not meet the intent of the GM, General Manufacturing District which is designed as the basic manufacturing district for Springfield. Areas zoned GM are intended to be at least ten acres in size unless they adjoin an HM, heavy manufacturing district, or the zoning is based on an adopted plan or comprehensive zoning scheme.
 7. The proposed rezoning was reviewed by City departments and comments are contained in Attachment 1.

NEIGHBORHOOD MEETING:

The applicant held a neighborhood meeting on January 22, 2020 regarding the rezoning request. A summary of the meeting is attached (Attachment 2)

PUBLIC NOTIFICATION:

The public notice was advertised in the Daily Events at least 15 days prior to the public hearing. The property was posted by the applicant at least 10 days prior to the public hearing. Public notice letters were sent out at least 10 days prior to the public hearing to all property owners within 185 feet.

Notices sent to property owners within 185 feet:	Mailed: 23	Returned: 0
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DEPARTMENT COMMENTS:

ATTACHMENT 1 DEPARTMENT COMMENTS

BUILDING DEVELOPMENT SERVICES COMMENTS:

No objection to rezoning to R-TH.

CITY UTILITIES COMMENTS:

No issues with proposed rezoning. Electric line work may be needed to provide new service.

CLEAN WATER SERVICES COMMENTS:

No objection to rezoning. Public sewer is available in Atlantic and the alley to the west.

FIRE DEPARTMENT COMMENTS:

No issues with rezoning.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

STREET CLASSIFICATION, RIGHT-OF-WAY, & JURISDICTION

City's Transportation Plan classifies N. Ramsey Avenue as a Local roadway and E. Atlantic Street as a Local roadway. The standard right-of-way width for N. Ramsey Avenue is 25 feet from the centerline. The standard right-of-way width for E. Atlantic Street is 25 feet from the centerline. It appears additional right-of-way is not needed along N. Ramsey Avenue or E. Atlantic Street. A survey is recommended to determine the exact amount of existing right-of-way. N. Ramsey Avenue and E. Atlantic Street are both city maintained streets.

TRAFFIC COUNTS & ON-STREET PARKING

There are no recent traffic counts on N. Ramsey Avenue or E. Atlantic Street. Traffic counts on streets classified as Local are done only if requested. On-street parking is allowed along N. Ramsey Avenue. On-street parking is not allowed along E. Atlantic Street.

DRIVEWAY ACCESS

There is currently one driveway access point onto the property from E. Atlantic Street. Any new proposed driveway approaches must meet the minimum spacing requirements.

SIDEWALK

There is existing sidewalk along the property frontage of E. Atlantic Street and no sidewalk along the property frontage on N. Ramsey Avenue. The existing infrastructure meets current City Standards. Sidewalk is not required to be constructed on N. Ramsey as sidewalk exists on the east side of N. Ramsey Street. City ordinance requires sidewalk on one side of a street classified as a Local.

TRAILS, BUS STOPS, & ADDITIONAL INFORMATION

There are no Greenway Trails in the area surrounding the property pertaining to this zoning. There is a bus stop one block north on N. Ramsey Avenue and E. Dale Street. The proposed development is in an area that provides for multiple direct connections and provides for good connectivity in the area.

IMPROVEMENTS

None required. A Traffic Impact Study was not required, as the change in zoning decreased the trip generation in the AM/PM peaks as well as daily trips.

TRAFFIC - TABLE 1: REZONING DETAILS

	Street Name	Street Classification	On-Street Parking	Existing Street ROW from Centerline (ft.) (Approx.)	Required Street ROW from Centerline (ft.)
Street 1	N. Ramsey Avenue	Local	Yes	30	25
Street 2	E. Atlantic Street	Local	No	30	25
		AM Peak	PM Peak	Weekday	Weekend
Existing Trips Generated		1.6	1.6	10.08	
*Proposed Trips Generated		.8	.96	9.6	
Additional Trips Generated		-0.8	-0.64	-0.48	

*Proposed Trips Generated is based on the highest, most intense use permitted in the proposed rezoning, Planned Development, or Conditional Use Permit

STORMWATER COMMENTS:

The property is in the Jordan Creek North Branch drainage basin. The property is not located in a FEMA designated floodplain. Staff is aware of flooding problems in the area. A fee in lieu of on-site stormwater detention is not applicable as detention is not required for a residential lot. If disturbing 1 acre or greater, water quality is required. The property is not located in a stream buffer area.

Please note that development of the property will be subject to the following conditions at the time of development:

1. Post development peak run-off rates shall not exceed pre-development peak run-off rates for the 1, 10 and 100 year rain events. Any increase in impervious surfacing will require the development to meet current detention and water quality requirements.
2. If disturbing 1 acre or greater, water quality will also have to be provided.
3. Drainage easements must be provided for this conveyance.
4. Please keep in mind that more detailed stormwater calculations will have to be submitted before any permits can be approved.
5. A land disturbance permit will be required if disturbing 1 acre or greater.

Public Works Stormwater Division	Response
Drainage Basin	Jordan Creek North Branch
Is property located in Floodplain?	No
Is property located on a sinkhole?	No
Is property located in a stream buffer?	No
Is stormwater fee in lieu an option?	NA

AFFIDAVIT OF NEIGHBORHOOD NOTIFICATION AND MEETING SUMMARY

1. Request change to zoning from: GM to RTH
(existing zoning) (proposed zoning)
2. Meeting Date & Time: January 22, 2020 4-6:30 PM
3. Meeting Location: Pathways United Methodist Church
4. Number of invitations that were sent: 139
5. How the mailing list was generated: City
6. Number of neighbors in attendance (attach a sign-in sheet): 4
7. List the verbal comments and how you plan to address any issues:
(City Council does not expect all the issues to be resolved to the neighborhood's satisfaction; however, the developer must explain why the issues cannot be resolved.)

See attached
Explained the desire to re-zone property from GM to RTH to build
a single family home.

8. List or attach the written comments and how you plan to address any issues:

I, Randy Lopez (print name), attest that the neighborhood meeting was held on
01/22/2020 (month/date/year), and is at least twenty-one (21) days prior to the Planning and Zoning
Commission public hearing and in accordance with the attached "Neighborhood Notification and Meeting Process."


Signature of person completing affidavit

Randy Lopez
Printed name of person completing affidavit

NEIGHBORHOOD NOTIFICATION AND MEETING PROCESS

For all development applications involving an advertised public hearing at Planning and Zoning Commission, applicant(s) shall hold a neighborhood meeting and invite the neighborhood surrounding their project along with any registered neighborhood organizations.

1. A neighborhood meeting shall be held at least twenty-one (21) days prior to the Planning and Zoning Commission public hearing.
2. Notice of the meeting shall be sent by first-class mail, postage paid, at least ten (10) days prior to the meeting, to at least one (1) record owner of each real property within five-hundred (500) feet of the development proposal, as shown on the records of the County Assessor, and to the president or other association officer(s) of any neighborhood association(s) as on file with the Director of Planning and Development.
3. It is recommended the meeting be held early enough to provide time for the applicant to consider any neighborhood input, allow any changes to be evaluated by staff, and to resolve any issues if possible.
4. The mailing shall be performed by the Planning and Development Department; however, the notice and envelopes themselves must be prepared, and postage placed on same by the applicant. The neighborhood letters shall be submitted to the Planning and Development Department for mailing, one business day prior to the deadline as set forth in paragraph 2. A file copy of the letter shall be provided to the Planning and Development Department. The notice letter shall contain the following at a minimum or any additional information as required by the Director of Planning and Development:
 - a. Description of existing and proposed zoning.
 - b. Meeting date, time and location.
 - c. Applicant or their representative's contact information.
 - d. Development Review Notice and Comment Cards.
5. The meeting shall be held on the property involved in the application or in the immediate vicinity. The meeting shall be scheduled from **4:00 to 6:30 p.m.**
6. Following the neighborhood meeting and at least ten (10) days prior to the Planning and Zoning Commission public hearing, the applicant shall submit a summary of the meeting to the Planning and Development Department using the following format as set forth below.
 - a. Development application.
 - b. Meeting date, time and location.
 - c. Number of invitations that were sent and how the mailing list was generated.
 - d. Number of neighbors in attendance with an attached sign-in sheet.
 - e. List of issues raised, any verbal comments and how applicant plans to respond. If staff determines the developer did not make a serious attempt to address the issues, staff may recommend denial or tabling of the application.
 - f. Additional information, such as comment cards, letters from neighbors, shall be attached to the summary.

If the applicant does not submit the information listed above at least ten (10) days prior to the Planning and Zoning Commission public hearing, the application shall be considered incomplete and the Commission shall table the case and may continue the public hearing to the next meeting or a later meeting agreed to by the applicant. The applicant shall be responsible for all fees related to notifying the neighbors that the application will automatically be tabled. This notice of tabling will be sent by the Planning and Development Department.



Application for Zoning Map Amendment & Planned Developments

E-PLANS INSTRUCTIONS

PLEASE FOLLOW STEPS 1 & 2 BEFORE SUBMITTING THIS APPLICATION

1. Pre-apply and, if needed, pay your processing fees online at this [LINK](#)
3. Complete this application and upload a digital (pdf) copy through e-plans once staff creates a record.
2. Wait for a "pre-screen complete" e-mail from the City of Springfield with instructions for e-plans review process.

Case No.	
Date Filed	
Received By	
Receipt No.	

Fee Amount Paid? \$ _____

*See Fee Schedule

The signers of this application ask the City Council of the City of Springfield, Missouri to approve a change on the described tract of land from the existing zoning classification of:

GM District to a RTH District.
(existing zoning) (proposed zoning)

Property Legal Description from a deed of record or certified by a Land Surveyor or Attorney (attach a copy if needed):

Property Address (or location): 2001 N. Ramsey

We, the signers of this application, do attest to the truth and correctness of all facts and information presented with this application as required by the Zoning Ordinance of the City of Springfield.

PROPERTY OWNER'S INFORMATION:

Name of current property owner: IT.A.L. PROPERTY MANAGEMENT
 If corporation: Corporate Official: Randy Lopez
 Mailing Address: 1031 W. PACIFIC
 Zip Code: 65803 Telephone: 417-425-8991
 E-mail: LOPEZ RNR @ GMAIL.COM

PROPERTY OWNER'S SIGNATURE:

[Signature]
 (Not necessary if there is an authorized representative with a Power of Attorney)

AUTHORIZED REPRESENTATIVE:

I hereby certify that I am authorized to represent all of the property owners of the above described tract in this proceeding. A power of attorney is attached.

Name: _____

Mailing Address: _____ Zip Code: _____

Telephone: _____ E-mail: _____

AUTHORIZED REPRESENTATIVE'S SIGNATURE:



(Corporate Seal)

NOTE: The Planning and Zoning Commission holds regularly scheduled meetings each month (contact the Development Review Office for a current processing schedule). A traffic impact analysis may be required before this request will be sent to Commission. **This application must be delivered to the Development Review Office no later than the application deadline date listed on the processing schedule. This application must be complete and all the items listed on the attached checklist must accompany the application or it will be returned to the applicant and will not be placed on the agenda.**

*Fees are non-refundable

ZONING QUESTIONS:

Has the Pre-Development Review or Administrative Review Committee (ARC) reviewed your proposal? YES

If yes, please provide approved PLN# PREDEV 2019-00237

Are you proposing a Conditional Overlay District or a Live/Work Overlay District? _____

If yes, please describe the additional requirements or restrictions of the Overlay District you are proposing:

Are you the owner, lessee or authorized representative? YES

What is the current use of the property? Empty Lot

How many acres of property? 50x150

NOTES:

Requests for Tabling. Any applicant may request that the Commission table their application by submitting such request in writing to the Development Review Office at least 48 hours in advance of the scheduled meeting at which the application is to be considered. If a request is made less than 48 hours in advance of such meeting, the Commission may, upon good cause shown, table such item upon its own motion.

Neighborhood Meeting: This meeting is required as part of the application process. For more details, see the page of the rezoning checklist titled "Neighborhood Notification and Meeting Process."

RAL Property Management
 1031 W. Pacific St.
 Springfield, MO 65803
 417-771-5700
 RALproperty5@gmail.com



Neighborhood Meeting Sign-In

CLIFFORD VAN Natta Contest This meeting ON Rezone of 2001 N. Ramsey	
Petitioner Refuses to ANSWER my questions ET-ALL but may IN FACT NOT, HAVE THE ANSWERS	
Phyllis Evans	2211 N Rogers - refused to answer questions
CLIFFORD VAN Natta Cliff M. V. Natta	1221 E. THOMAS & OTHER
CYNTHIA J. RABINOW	2007 N PROSPECT AVE, SA MO,
ROBERT D BIRLEW	2005 N, PROSPECT AVE,
CONTEST THIS MEETING	
ET	



DEVELOPMENT REVIEW NOTICE/COMMENT CARD

Enclosed you have received a notice of a "Neighborhood Meeting" submitted by the applicant to discuss a change in land use or zoning in your neighborhood. For all development applications involving an advertised public hearing, City Council requires developers to hold a neighborhood meeting and invite the property owners within 500 feet of the property and to the officers of neighborhood association on file with the Department.

A "Neighborhood Meeting" is held early enough to provide adequate time for the developer to negotiate with the neighborhood in order to resolve any issues and provide any proposed changes to City staff to evaluate and include in City staff reports.

If the developer submits an application for a change in land use or zoning, the property will be posted and there will be public notifications in the newspaper and notification by mail to the property owners within 185 feet of the project.

The Land Use or Zoning Change Process:

1. Application
2. Neighborhood Meeting (500 feet notification from subject property)
3. Planning and Zoning Commission Public Hearing (185 feet notification from subject property)
4. 1st City Council Public Hearing (185 feet notification from subject property)
5. 2nd City Council Meeting to decide either to approve or to deny the change in land use or zoning

City staff is available to meet with you or your neighborhood association representative(s) to discuss the proposed change in land use or zoning and answer questions at 417-864-1611.

Staff submits a report with a recommendation one week prior to the date of the public hearing at the Planning and Zoning Commission. You can provide comments on the attached "Comment Card" by mail or by email at zoning@springfieldmo.gov. Please include your name, address and telephone number as well as the address of the project in your correspondence.

Bob Hosmer, AICP Principal Planner
City of Springfield Development Review Office
840 Boonville Ave, Springfield Missouri 65801

Comment Card: mail comments to the address above or email comments to zoning@springfieldmo.gov

DATE:	1-22-20	Telephone No.	417-824-485
YOUR NAME:	Robert P. Dineen		
YOUR ADDRESS:	2005 N. PROSPECT AVE 65803		
PROJECT ADDRESS:			
COMMENTS:	I oppose this project		

Date of Letter:

January 9, 2020

DEAR PROPERTY OWNER,

You have received a notice of a "Neighborhood Meeting" since all development applications involving an advertised public hearing require that a developer hold a neighborhood meeting and invite the property owners within 500 feet of the property and the officers of any neighborhood associations on file with the City of Springfield.

The applicant or representative below has filed an application with the City of Springfield for a change in land use, zoning or street vacation in your neighborhood.

APPLICANT CONTACT INFORMATION:

Applicant/Representative Name:

Randy Lopez

Address:

1031 W. Pacific St.

City, State and Zip:

Springfield, MO 65803

Phone Number:

417-771-5700

E-mail:

lopez.bnr@gmail.com

PROJECT LOCATION:

2001 N. Ramsey

PROPOSED CHANGES:

Provide details of the existing zoning and proposed zoning (planned development, conditional use permit, conditional overlay district or vacation of roadways).

We are re-zoning the property at 2001 N. Ramsey from general manufacturing to residential townhouse.

PUBLIC NEIGHBORHOOD MEETING:

Date of Meeting:

January 22, 2020

Location of Meeting:

Pathways United Methodist Church

Time of Meeting: Ⓞ 4:00 PM to 6:30 PM

We look forward to seeing you at this meeting! Thank You!

ATTACHMENTS: Notice Letter from City with Comment Card attached to this letter

DEVELOPMENT REVIEW NOTICE/COMMENT CARD

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City of Springfield Development Review Office
840 Boonville Ave, Springfield Missouri 65801

Comment Card: mail comments to the address above or email comments to zoning@springfieldmo.gov

DATE:	1-22-20	Telephone No.	417-771-7729
YOUR NAME:	CYNTHIA J. RONDINI		
YOUR ADDRESS:	2007 N. PROSPECT AVE, SPRINGFIELD, MO 65803		
PROJECT ADDRESS:	4052		
COMMENTS:	I oppose it. We don't need more rentals in this neighborhood. More people, more traffic, more noise, more pollution, more trash, more crime. This will not be an improvement for the residences of this neighborhood. It will add more problems add to the existing problems in this area.		

Date of Letter:

January 9, 2020

DEAR PROPERTY OWNER,

You have received a notice of a "Neighborhood Meeting" since all development applications involving an advertised public hearing require that a developer hold a neighborhood meeting and invite the property owners within 500 feet of the property and the officers of any neighborhood associations on file with the City of Springfield.

The applicant or representative below has filed an application with the City of Springfield for a change in land use, zoning or street vacation in your neighborhood.

APPLICANT CONTACT INFORMATION:

Applicant/Representative Name:

Randy Lopez

Address:

1031 W. Pacific St.

City, State and Zip:

Springfield, MO 65803

Phone Number:

(417) 771-5700

E-mail:

lopez.bnr@gmail.com

PROJECT LOCATION:

2001 N. Ramsey

PROPOSED CHANGES:

Provide details of the existing zoning and proposed zoning (planned development, conditional use permit, conditional overlay district or vacation of roadways).

We are re-zoning the property at 2001 N. Ramsey from general manufacturing to residential townhouse.

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YOUR NAME:	CYNTHIA J. RONDINI		
YOUR ADDRESS:	2007 N. PROSPECT AVE, SPRINGFIELD, MO 65803		
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Bob Hosmer, AICP Principal Planner
City of Springfield Development Review Office
840 Boonville Ave, Springfield Missouri 65801

Comment Card: mail comments to the address above or email comments to zoning@springfieldmo.gov

DATE:	1-22-20	Telephone No.	417-824-485
YOUR NAME:	Robert P. Dineen		
YOUR ADDRESS:	2005 N. PROSPECT AVE 65803		
PROJECT ADDRESS:			
COMMENTS:	I oppose this project		

ADDITIONAL QUESTIONS:

Do you (Lopez)
LIVE IN OUR NEIGHBORHOOD

DO YOU OR ASSOCIATES
OWN OTHER PROPERTY
IN OUR N-HOOD

DO YOU BELIEVE THE
LOCATION IS SAFE FOR
CHILDREN

WHAT DOES YOUR COMPANY
DO. 7.48 GAL ~

How about providing
us with A List of
Properties you
MANAGE 11487.5 CU FT

$$\begin{array}{r} \text{11487.5 CU FT} \\ \times 51 \\ \hline 17850 \end{array} \quad \begin{array}{l} \text{GAL PER 1/2 INCH RAIN} \\ = 11,127.27 \end{array}$$

By (MVA date)

1-22-2020

Do you (Lopez)
LIVE IN OUR NEIGHBORHOOD

Do you OR ASSOCIATES
OWN OTHER PROPERTY
IN OUR N-HOOD

Do you BELIEVE THE
LOCATION IS SAFE FOR
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TAN-13-2020.
By @MV

12 COPIES



- ① What is sq. FT. of Lot
- ② What is sq. FT. of Proposed RWTH STRUCTURE
- ③ How many Units will Be in This STRUCTURE At 2001 N. Ramsey
- ④ How many PARKING spots will you need for the Units
- ⑤ How many sq. FT. will the PARKING SPACE TAKE
- ⑥ For These structures BLDGS SIDEWALK PARKING WATER DETENTION How much sq. AREA
- ⑦ How much set BACK will Have to be TAKEN from the Lot PERIMETER 360°

From: [Crumrine, Regina](#)
To: [Neal, Daniel](#)
Cc: [Werland, Amy](#)
Subject: 2001 N. Ramsey
Date: Thursday, January 23, 2020 12:05:22 PM

Good morning Daniel,

I am writing in reference to the rezoning at 2001 N. Ramsey. I have been contacted by Clifford VanNatta who owns property along the 1200 Blk. E. Thoman St. His experience with the owner, Randy Lopez, at the Neighborhood meeting yesterday was unsatisfactory. He states there should have been a representative from the City at this meeting. Mr. Lopez assured Mr. VanNatta that he has the support of the City, but was unable to say who at the City. Mr. VanNatta has requested any information the City has collected regarding the owner of this property, Randy Lopez. Mr. VanNatta would like a list of the properties Mr. Lopez currently manages. Mr. VanNatta has also requested the comments for this development and any other information available regarding the development or zoning change of this property. I will forward a copy of this to the City Clerk to begin a sunshine request.

Thank you,
Regina

Regina Crumrine

Resource Coordinator
Citizen Resource Center
City of Springfield
(417)864-1011

One-rdg. _____
P. Hrngs. X
Pgs. 25
Filed: 03-03-20

Sponsored by: Ferguson

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020 - 050

SPECIAL ORDINANCE _____

AN ORDINANCE

VACATING a public street and alley generally located in the 1500 Block of North Sherman Avenue and in the 900 Block of East Division Street. (Planning and Zoning Commission recommended denial and Staff recommends approval.)

WHEREAS, a petition has been received by the City of Springfield requesting the vacation a public street and alley generally located in the 1500 Block of North Sherman Avenue and in the 900 Block of East Division Street and more fully described in "Exhibit A," which is attached hereto and incorporated herein by this reference; and

WHEREAS, following proper notice, a public hearing was held before the Planning and Zoning Commission on February 13, 2020, a copy of the Record of Proceedings from said public hearing being attached hereto and incorporated herein by this reference as "Exhibit B," and said Commission made its recommendation; and

WHEREAS, City Council finds that said vacation complies with the laws and ordinances of the City of Springfield; and

WHEREAS, City Council's approval of said vacation is expressly subject to the conditions contained in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows, that:

Section 1 – The public right-of-way generally located between the 1500 Block of North Sherman Avenue and in the 900 Block of East Division Street, which is more particularly described on "Exhibit A," which is attached hereto and incorporated herein by this reference, is hereby vacated subject to the conditions of this Ordinance.

Section 2 – The vacation of public right-of-way authorized in Section 1 hereof is expressly subject to the dedication of replacement easements to accommodate existing sewer and gas lines within the area to be vacated by this Ordinance. Said replacement

easements shall be subject to the approval of the City Manager, or designee, and such authority shall be exercised consistent with the intent of this Ordinance.

Section 3 – This Ordinance shall be in full force and effect from and after passage.

Passed at meeting: _____

Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: Richard T. Wiedner, Assistant City Attorney

Approved for Council action: Jason A. Hays, City Manager

EXPLANATION TO COUNCIL BILL 2020 - 050

FILED: 03-03-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Vacating a public street and alley generally located in the 1500 Block of North Sherman Avenue and in the 900 Block of East Division Street. (Planning and Zoning Commission recommended denial and Staff recommends approval.)

BACKGROUND INFORMATION: VACATION NO. 811

The Planning and Zoning Commission is typically the final authority on requests for the vacation of public right-of-way. Because the Planning and Zoning Commission is the final authority, five votes are required for passage. The Planning and Zoning Commission voted 4 in favor and 1 against the street vacation, therefore it was not approved. Section 98-154 of the City Code provides that an applicant may request that the City Council hear the request for vacation if the request is filed within 15 days of the Planning and Zoning Commission's decision.

The applicant has requested an appeal of the Planning and Zoning Commission decision. See letter dated February 18, 2020 in "Exhibit C - Attachment 5."

Springfield Public Schools is requesting to vacate Sherman Avenue between Locust and Division Street, as well as a portion of an alley lying immediately to the east. The School District owns all the properties adjacent to the proposed vacation and intends to combine the lots together to develop the site for a new school facility. All existing structures are planned to be demolished. Replacement easements are to be dedicated for existing sewer and gas lines within the Sherman Avenue rights-of-way. City Utilities plans to retire the existing water lines and remove existing utility poles along the alley (see "Exhibit C," Development Review Staff Report).

REMARKS:

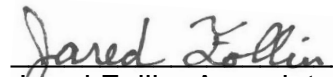
The Planning and Zoning Commission held a public hearing on February 13, 2020, and denied the vacation request by a vote of 4 in favor to 1 opposed (Planning and Zoning Commission requires 5 votes to approve). See "Exhibit B," the Record of Proceedings attached in "Exhibit B."

The Planning and Development staff recommends the application be approved (See attached "Exhibit C," for the Development Review Staff Report).

FINDINGS FOR STAFF RECOMMENDATION:

1. The requested vacation meets all requirements of the approval criteria.

Submitted by:


Jared Follin, Associate Planner

Recommended by:


Mary Lilly Smith, Director

Approved by:


Jason Gage, City Manager

EXHIBITS:

Exhibit A, Legal Description

Exhibit B, Record of Proceedings

Exhibit C, Development Review Staff Report

ATTACHMENTS:

Attachment 1, Department Comments

Attachment 2, Requirements for Approval

Attachment 3, Neighborhood Meeting Details & Comment Sheets

Attachment 4, Legal Description & Site Plan

Attachment 5, Appeal Letter

Exhibit A

LEGAL DESCRIPTION
VACATION 811

SHERMAN AVENUE VACATION

All that part of existing Sherman Avenue lying between Blocks One and Two of the Original Plat of North Springfield, City of Springfield, Greene County, Missouri, and being more particularly described as follows: BEGINNING at the Northeast corner of Lot 1 in Block Two of the Original Plat of North Springfield, as shown in Plat Book "B" at Pages 61-62 in the Greene County Recorder's Office, thence, South $89^{\circ}01'01''$ East, along and with the South line of Locust Street, a distance of 60.00 feet to the Northwest corner of Lot 1 in Block One of said plat; thence, South $00^{\circ}55'17''$ West, along and with the West line of said Block One, a distance of 396.31 feet to the Southwest corner of Lot 6 in said Block One, also being the existing North line of Division Street; thence, North $89^{\circ}14'21''$ West, along and with said North line, a distance of 60.00 feet to the Southeast corner of Lot 6 in Block 2; thence, North $00^{\circ}55'19''$ East, along and with the East line of Block 2, a distance of 396.54 feet to the POINT OF BEGINNING, containing 23,785 square feet, more or less.

ALLEY VACATION

All that part of an existing 10-foot wide alley lying East of and adjacent to Block One of the Original Plat of North Springfield, City of Springfield, Greene County, Missouri, and being more particularly described as follows: BEGINNING at the Southeast corner of Lot 6 in Block One of the Original Plat of North Springfield; thence, North $02^{\circ}01'15''$ East, along and with the East line of said Subdivision, a distance of 196.91 feet to the intersection of said East line with the extended South line of an existing East-West Alley; thence, South $88^{\circ}18'02''$ East, along and with said extended South line, a distance of 10.00 feet to the Northwest corner of a parcel of land described in Book 1493 at Page 233 of the Greene County Deed Records; thence, South $02^{\circ}01'17''$ West, along and with the West line of said parcel, a distance of 196.74 feet to the existing North line of Division Street; thence, North $89^{\circ}14'21''$ West, a distance of 10.00 feet to the POINT OF BEGINNING, containing 1,968 square feet, more or less.

Exhibit B

**RECORD OF PROCEEDINGS
VACATION 811
Planning and Zoning Commission – February 13, 2020**

Vacation 811

1500 blk North Sherman Avenue

Applicant: Springfield R-12 School District

Mr. Hosmer stated that this is a request to vacate right of way located in the 1500 block of North Sherman Avenue. The Springfield Public School District is requesting to vacate Sherman Avenue between Locust and Division Street, and an alley to the east. The School District owns all properties adjacent to the proposed vacation and intends to follow up with a lot combination in order to develop the site for a new school facility. All existing structures are planned to be demolished. Replacement easements are to be dedicated for existing sewer and gas lines within Sherman Avenue. City Utilities plans to retire or remove existing water lines and utility poles along the alley. The request for vacation meets the approval criteria. Any person objecting may petition the City Council to review the request to vacate by filing an appeal with the City Clerk's Office within 15 days from the date of the Planning and Zoning Commission passage. Staff recommends approval.

Mr. Coltrin opened the public hearing.

Mr. Derek Lee, 1200 E. Woodhurst, here representing Springfield Public Schools.

Ms. Ogilvy asked about the bus lane/route/path around the school and location where the parents will drop-off and pickup their children.

Mr. Lee noted the location of the alley and where the buses and parents will pickup and drop-off the students.

Mr. Bryan Saunders, 2774 W. Chatsworth, works for Springfield Public Schools gave information for the bus lane and route around the new school building as well as the location of the drop-off and pickup of the students.

Mr. Ogilvy asked about the traffic light at Sherman Avenue and Division Street.

Mr. Derek Estell stated that the traffic light at Sherman Avenue and Division will remain in place.

Mr. Carl Herd, 1621 N. Yates Avenue, not speaking against a new school, but against closing Sherman Avenue and gave out information regarding his travel in this area and is worried about stormwater run-off and gave out information on the stormwater detention requirements. He also noted that he believes that other plans for school construction (alternative) should be evaluated.

Mr. Coltrin closed the public hearing.

COMMISSION ACTION:

Ms. Cox motioned to **approve** Vacation 811 (1500 blk North Sherman Avenue). Mr. Job seconded the motion. Ayes: Coltrin, Cox, Rose, and Jobe. Nays: Ogilvy. Abstain: None. Absent: Doennig, Broekhoven, Shuler and Thomas. MOTION failed due to insufficient votes (5).

A handwritten signature in black ink, appearing to read 'Bob Hosmer', enclosed within a rectangular box.

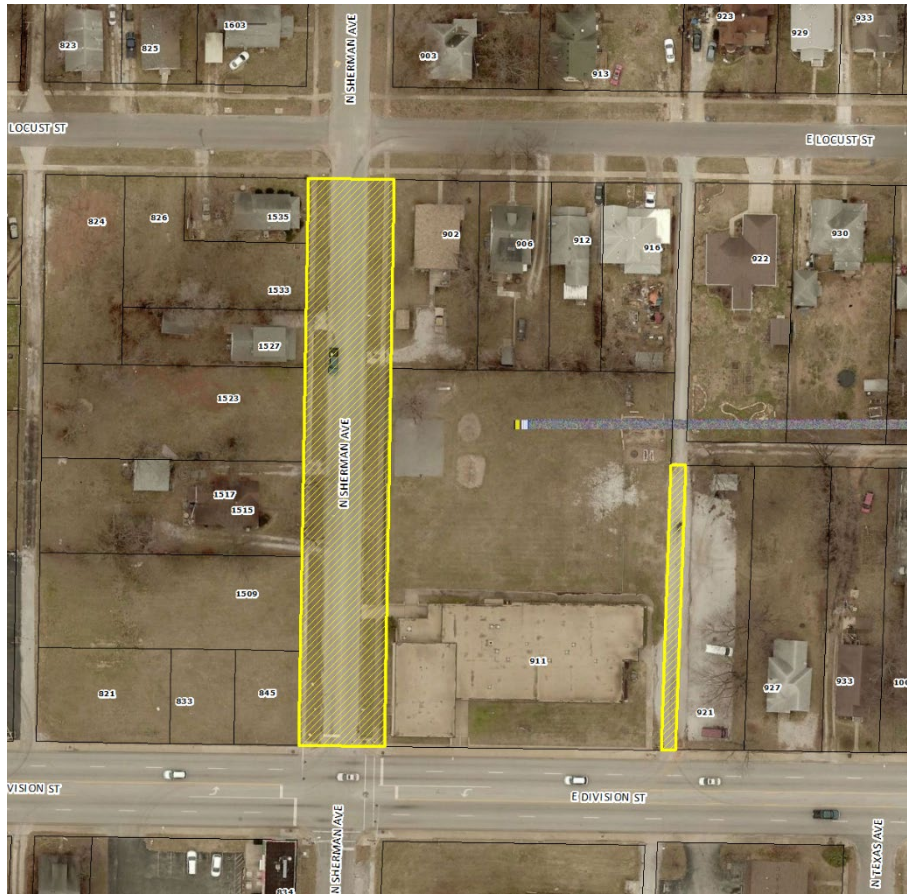
Bob Hosmer, AICP
Planning Manager

Exhibit C

Development Review Staff Report

PLANNING AND ZONING COMMISSION PUBLIC HEARING:

JANUARY 9, 2020



CASE NUMBER:

Vacation 811

PROJECT LOCATION:

1500 Block of North Sherman Avenue & 900 Block of East Division Street

ACRES:

~0.58 acres (29,750 square feet)

EXISTING LAND USE:

Public Street and alley

APPLICANT:

Springfield Public Schools

STAFF:

Jared Follin, Associate Planner
417-864-1612

STAFF RECOMMENDATIONS:

Approve

PROPOSED MOTION:

Move to approve Vacation 811 as submitted.

SUMMARY OF REQUEST:

Request to vacate a public street and alley generally located in the 1500 Block of Sherman Avenue and the 900 Block of Division Street.

FINDINGS FOR STAFF RECOMMENDATION:

1. The Springfield Public School District is requesting to vacate Sherman Avenue between Locust and Division Street, as well as a portion of an alley lying immediately to the east.
2. The school owns all properties adjacent to the proposed vacation and intends to follow up with a lot combination in order to develop the site for a new school facility. All existing structures are planned to be demolished.
3. Replacement easements are to be dedicated for existing sewer and gas lines within Sherman Avenue. However, City Utilities plans to retire the existing water line. Existing utility poles along the alley are to be removed.
4. The requested vacation meets the approval criteria listed on Attachment 2.

SURROUNDING ZONING AND LAND USES:

	NORTH	SOUTH	EAST	WEST
ZONING	R-SF	LB	R-SF/R-TH	R-SF
LAND USE	Single-Family Residential	Eating and Drinking Establishment/ Residential	Residential	Residential/Mixed Retail

SURROUNDING LAND USES (GOOGLE MAP AERIAL VIEW):



GOOGLE MAPS STREET VIEW:



MAJOR THOROUGHFARE PLAN:



PROPERTY HISTORY:

This section of Sherman Avenue was platted in 1869 as part of the Plat of North Springfield. It is unknown when the alley was dedicated.

STAFF COMMENTS:

1. This is a request to vacate a public street and alley generally located at the 1500 BLK of Sherman Avenue and the 900 BLK of Division Street.
2. Public Works was not in support of a partial vacation originally proposed. The Sherman Avenue Project Area Committee (SAPAC) owned the parcel at the southeast corner of Locust and Sherman and was also not in support of the vacation; however, Springfield Public Schools has since purchased the property from with the intention of vacating the entire block.
3. Springfield Public Schools is the only property owner adjacent to proposed vacation. The school will follow up with an Administrative Lot Combination to bring all properties into one tract in order to facilitate development of the site.
4. Replacement easements are to be dedicated to accommodate existing sewer and gas lines within Sherman Avenue. The existing water line running through Sherman Avenue is to be retired.
5. Replacement easements will not be necessary for existing utility poles along the alley as they are to be removed.
6. The proposed vacation was reviewed by City departments and comments are contained in Attachment 1.

NEIGHBORHOOD MEETING:

The applicant conducted a neighborhood meeting on June 26th, 2019 at the Berry Alternative Elementary at 911 East Division Street. A total of 192 invitations were sent out and 19 neighbors attended the meeting. Meeting details and comment sheets submitted by attendees are contained in Attachment 3.

PUBLIC NOTIFICATION:

The public notice was advertised in the News-Leader at least 30 days prior to the public hearing. The property was posted by the applicant at least 10 days prior to the public hearing. Public notice letters were sent out at least 10 days prior to the public hearing to all property owners within 300 feet.

Notices sent to property owners within 300 feet: Mailed: 51 Returned: 0

ATTACHMENT 1: DEPARTMENT COMMENTS

CITY UTILITIES COMMENTS:

Review #1:

Sherman ROW to be vacated: Assuming water main is retired between hydrant near NW corner of Division and Sherman and north end of ROW to be vacated AND streetlights are removed; A 60 ft utility easement will be required north of the new Division St ROW far enough to cover the public hydrant and gas main, from there the utility easement could be narrowed to 30 ft along east side of ROW to be vacated to cover the gas main only.

Instead of the 60 ft wide easement area, the hydrant could be relocated to new Division St ROW and only a 30 ft easement for the entire Sherman ROW to be vacated would be needed.

Alley ROW: A 10 ft utility easement centered on existing poles will be required for entire length of ROW to be vacated. Additionally, a 5 ft easement will be required for overhead service to 927 E Division St, unless that service is relocated. If streetlight near North end of Alley ROW to be vacated is outside the vacation area, it can remain as a public streetlight. If it is in the area to be vacated, it will either need to be relocated or converted to a Private Outdoor Light and billed to the School.

Review #2:

Replacement easements appear acceptable as shown, however the site plan is still evolving and may change the final easements requested. We are working with Lee/Olsson to resolve this.

ENVIRONMENTAL SERVICES - CLEAN WATER SERVICES COMMENTS:

No public sewer within alley.

PUBLIC WORKS - TRAFFIC COMMENTS:

1. Traffic will not approve a partial vacation of the street. If the street is to be vacated, the entire length of the street between Locust and Division will need to be vacated.
2. All replacement easements must be in place and ready to be recorded, prior to vacation of the street.

PUBLIC WORKS – STORMWATER COMMENTS:

No issue from stormwater with vacation as shown.

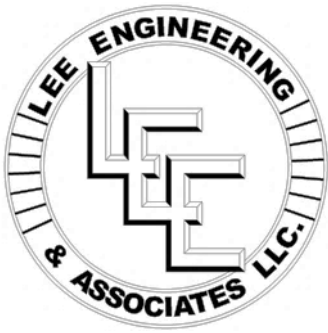
PUBLIC WORKS – RIGHT OF WAY COMMENTS

Any replacement easements will need to be reviewed and approved.

ATTACHMENT 2: REQUIREMENTS FOR APPROVAL

In order to approve the vacation of a public street or alley, the Planning and Zoning Commission must make the following findings.

Approval Criteria	Staff Response:
1. All property owners adjacent to the street, alley or public way have access to another street, alley or public way.	All adjacent properties have access to other public streets and alleys.
2. The owners of two-thirds of the property adjacent to the street, alley or public way to be vacated have given their consent to the vacation.	All adjacent property owners have consented to the vacation of the alley.
3. That the retention of the street, alley, public way or subdivision serves no useful purpose.	It has been determined that the retention of the street and alley is not necessary to the city street system.
4. That the vacation will not affect the ability to use utilities, public or private.	The applicant will be dedicating replacement easements to accommodate the existing sewer and gas lines.



LEE ENGINEERING AND ASSOCIATES, L.L.C.

CIVIL ENGINEERING & DESIGN

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TELEPHONE: (417) 886-9100 • FACSIMILE: (417) 886-9336 • dlee@leeengineering.biz

Planning and Zoning
840 N Boonville Ave
Springfield, MO 65802

August 19, 2019

RE: PLN2019-00209 – Vacate Sherman Ave.
Affidavit of Neighborhood Notification and Meeting Summary

Lee Engineering hosted a neighborhood meeting at Berry Alternative Elementary, located at 911 E. Division St., between 4:00 and 6:30 PM, on Wednesday, June 26, 2019. Lee Engineering had two people present to answer questions, Derek Lee and Tandra Lee. The Springfield School District also had two people present to answer questions, Travis Shaw and Brian Saunders.

The issue being discussed was to allow Sherman Avenue to be vacated between Division and Locust and that portion of an existing alley lying immediately east of and adjacent to Lots 4, 5 and 6 in Block 1 of the Original Plat of North Springfield.

Below are issues that were communicated by the neighborhood, verbally and written, with our responses in bold italic:

1) People were concerned about the extra traffic that would be generated by the new school. Several people were specifically concerned about Locust St., which they considered to be too narrow.

The traffic that would be generated by the school does not warrant widening the adjacent streets. Since schools let out in the early afternoon, the peak school traffic does not occur at the same time as the peak traffic on the surrounding roads. The school will be relatively small and only have four buses.

2) People were concerned about constructing the school over Sherman Avenue because there is a light at Sherman and Division.

There are multiple other streets that connect to Division that would allow full access that are not signalized. There are signalized intersections at Washington Ave., which is less than 1,000 feet to the West, and Glenstone, which is less than 2,000 feet to the East.

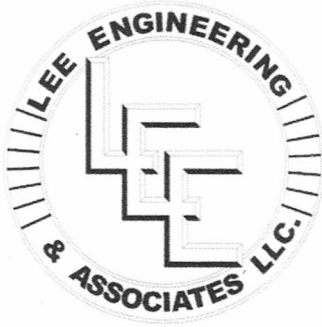
3) People were concerned about the school not providing adequate space for pick up and drop off for students. The specific concern was the school traffic would back up into the surrounding streets.

The school will provide adequate drop off and pick up areas for the students without blocking the adjoining streets. The school stated they were only projecting a maximum of four buses would be utilized for the school. Representatives for the School District will design and submit site plans, which will include drop off and pick up areas. These site plans will be reviewed by the Traffic Department of the City of Springfield to ensure adequate space for cars and buses is provided by the School District.

The attendees were offered comment sheets to express their concerns to the city council. All comments from the neighborhood are attached. If you have any questions, please feel free to contact our office.

Thank you,

Derek A. Lee, PE



LEE ENGINEERING AND ASSOCIATES, L.L.C.

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 TELEPHONE: (417) 886-9100 • FACSIMILE: (417) 886-9336 • dlee@leeengineering.biz

SIGN IN SHEET

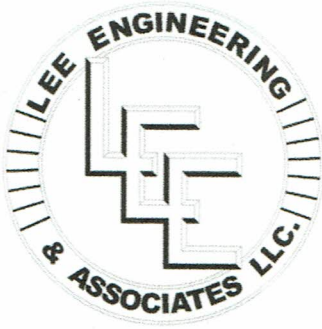
Neighborhood Meeting

Wednesday, June 26, 2019

Re: Street/Alley Vacation
 Sherman Ave.
 Springfield, Missouri

8-15
 9-9
 9-23

NAME	ADDRESS	PHONE
Austin FK9	923 E Locust	417-866-5290
Bailey Kessy	912 E Locust	417-864-5015
Ken Spellman	814 E Locust	848-9896
Scott Maasen	906 E Locust	849-7248
Jenny Warnholtz	916 Locust	840-7211
Sean Offord		
RANDY SHEPARD	930 E. Locust	417-709-4108
Jim Dean Dyer	1518 & 1523 N. Key	417-886-3683
Michelle Gray	933 E. Dixie	417-844-3012
John Bailey	912 E Locust	417-860-4015
George Selman	P.O. Box 5045	
Joyce Stefka	923 E. Locust	417-866-5290
Betty Taylor	1451 N Texas	417-839-9384
Don Hampton	922 E. Locust St.	417-705-9321
Bon Leonard	902 E. Locust / 1001 E. Walnut	860-3624
Susie Kinn	834 E. Dixon	417-809-2397
Ralph Plank	1337 N. Washington 65802	417-865-7981
Kenneth Hamman	1617 N Sherman 65803	417-459-3368
Tammy Carnahan	1617 N. Sherman 65803	417-429-6810



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COMMENT SHEET

Neighborhood Meeting

Wednesday, June 26, 2019

Re: ~~Proposed Rezone~~ *Street vacation*,
~~Berry Alternative Elementary~~
911 E. Division St.
Springfield, Missouri

NAME	ADDRESS	PHONE
Ron Conway	1001 E. Walnut	417 860 -3624

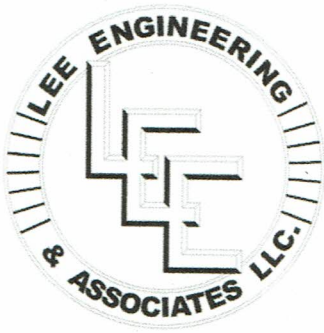
COMMENTS:

I am the Chairman of the Sherman Ave. Project Area Committee, Inc. We are a non-profit Corp. which provides low-income housing. We have 32 single family homes in the vicinity of this street closing, including one directly adjacent to the closing of Sherman Ave. (902 E. Locust). We object to the closing of this part of Sherman Ave.

Sherman Ave is a collector street between Commercial St. and Grand St. Locust is neither designed nor built ~~for~~ to direct all of this extra traffic. Additionally there is a stoplight at Sherman and Division. There is not another stoplight for blocks east or west, which will make it difficult to enter Division from the North, especially during rush hour. We own several properties to the north of this proposed vacation. We believe the detours necessary to go south will adversely effect our property values.

Also, closing of Sherman will increase Response times for police, Ambulance and Fire.

Diverting traffic to these small residential streets is a poor idea,



LEE ENGINEERING AND ASSOCIATES, L.L.C.

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COMMENT SHEET

Neighborhood Meeting

Wednesday, June 26, 2019

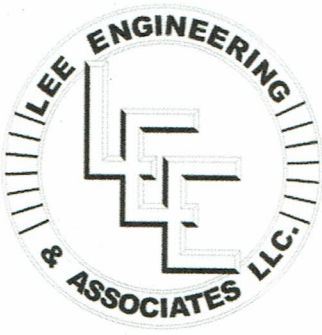
Re: Street/Alley Vacation
Sherman Ave.
Springfield, Missouri

NAME	ADDRESS	PHONE
Ralph Plank	1337 N. Washington 65802	417-865-7981

COMMENTS:

- I am for closing Sherman between Division and ~~Clay~~ Locust and east of Berry.
- The city should widen Locust from Clay to ^{FISCO} ~~east of Berry~~. This would allow
- The city should add a stoplight at Clay & Locust. ~~at Berry~~ This would help direct the car traffic to Boyd.

For the heavier traffic flow.



LEE ENGINEERING AND ASSOCIATES, L.L.C.

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COMMENT SHEET

Neighborhood Meeting

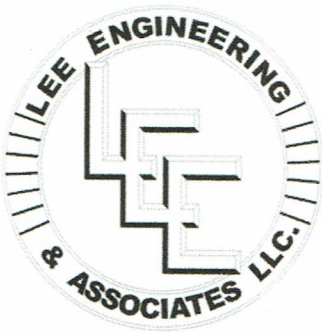
Wednesday, June 26, 2019

Re: Street/Alley Vacation
Sherman Ave.
Springfield, Missouri

NAME	ADDRESS	PHONE
Cheryl C/A	1135 N. Sherman	4

COMMENTS:

Want to know if Locust can be widened to cover extra traffic.
Need stop light at City St.
Especially if losing light at Sherman + Division



LEE ENGINEERING AND ASSOCIATES, L.L.C.

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COMMENT SHEET

Neighborhood Meeting

Wednesday, June 26, 2019

Re: Street/Alley Vacation
Sherman Ave.
Springfield, Missouri

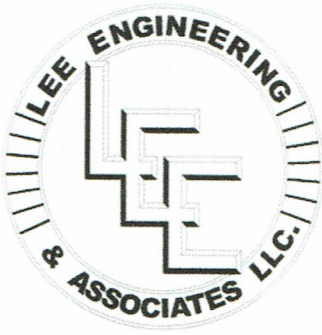
NAME	ADDRESS	PHONE
Donny Warmholtz		
Sean O'Hara	916 E Locust	417 844 6358

COMMENTS:

please make sure you have
another stop lite if you
take away the one at
Sherman + division.

put it at Clay + division

also, The East side alley
should not be a through fare.
No encouraging of cars going
through.



LEE ENGINEERING AND ASSOCIATES, L.L.C.

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COMMENT SHEET

Neighborhood Meeting

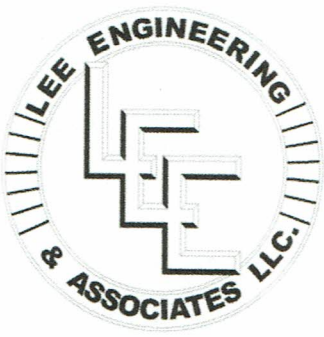
Wednesday, June 26, 2019

Re: Street/Alley Vacation
Sherman Ave.
Springfield, Missouri

NAME	ADDRESS	PHONE
Joey Stelka	923 E. Locust	866-5290

COMMENTS:

1. Allow no entrance to school or parking from vacated alley
2. Steplight on Clay to replace Sherman's light
3. Address issue of so many cars waiting to get in line to pick up & drop off children. Locust is now crowded to drive down and property owners will have problems getting on Locust from their drives.



LEE ENGINEERING AND ASSOCIATES, L.L.C.

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COMMENT SHEET

Neighborhood Meeting

Wednesday, June 26, 2019

Re: Street/Alley Vacation
Sherman Ave.
Springfield, Missouri

NAME	ADDRESS	PHONE
D. DeLamater	1016 E Pacific Ave	417 763 7954

COMMENTS:

Wondering about access to the school.
over road of area & construction issues

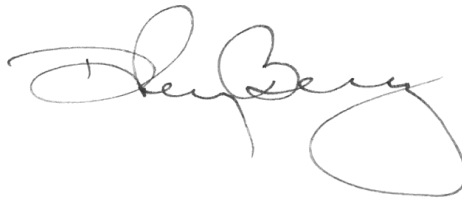
Legal Descriptions:

SHERMAN AVENUE VACATION

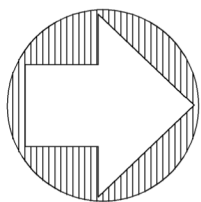
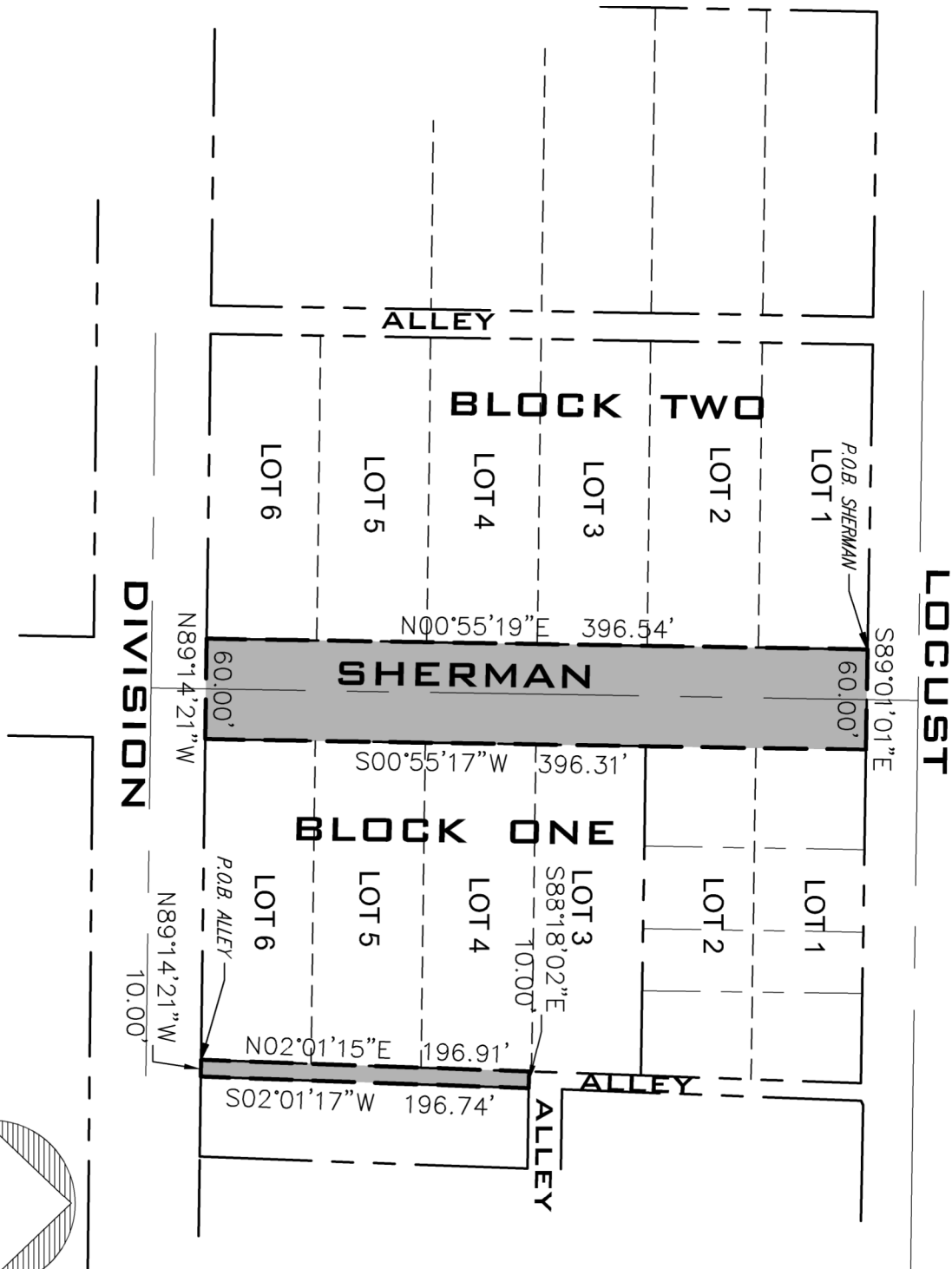
All that part of existing Sherman Avenue lying between Blocks One and Two of the Original Plat of North Springfield, City of Springfield, Greene County, Missouri, and being more particularly described as follows: BEGINNING at the Northeast corner of Lot 1 in Block Two of the Original Plat of North Springfield, as shown in Plat Book "B" at Pages 61-62 in the Greene County Recorder's Office, thence, South 89°01'01" East, along and with the South line of Locust Street, a distance of 60.00 feet to the Northwest corner of Lot 1 in Block One of said plat; thence, South 00°55'17" West, along and with the West line of said Block One, a distance of 396.31 feet to the Southwest corner of Lot 6 in said Block One, also being the existing North line of Division Street; thence, North 89°14'21" West, along and with said North line, a distance of 60.00 feet to the Southeast corner of Lot 6 in Block 2; thence, North 00°55'19" East, along and with the East line of Block 2, a distance of 396.54 feet to the POINT OF BEGINNING, containing 23,785 square feet, more or less.

ALLEY VACATION

All that part of an existing 10-foot wide alley lying East of and adjacent to Block One of the Original Plat of North Springfield, City of Springfield, Greene County, Missouri, and being more particularly described as follows: BEGINNING at the Southeast corner of Lot 6 in Block One of the Original Plat of North Springfield; thence, North 02°01'15" East, along and with the East line of said Subdivision, a distance of 196.91 feet to the intersection of said East line with the extended South line of an existing East-West Alley; thence, South 88°18'02" East, along and with said extended South line, a distance of 10.00 feet to the Northwest corner of a parcel of land described in Book 1493 at Page 233 of the Greene County Deed Records; thence, South 02°01'17" West, along and with the West line of said parcel, a distance of 196.74 feet to the existing North line of Division Street; thence, North 89°14'21" West, a distance of 10.00 feet to the POINT OF BEGINNING, containing 1,968 square feet, more or less.



12/10/2019



NOTE:
THIS DRAWING HAS BEEN PREPARED ONLY AS AN EXHIBIT TO ILLUSTRATE NEW EASEMENTS TO BE DEDICATED BY RECORDED INSTRUMENTS AND IS NOT TO BE CONSTRUED TO REPRESENT A PROPERTY BOUNDARY SURVEY.



LEE Engineering & Associates, L.L.C.
1200 E. Woodhurst Dr., Suite D200
Springfield, Missouri 65807
417-886-9100 (phone)
417-886-9336 (fax)
dlee@leeengineering.biz

"Engineering with Integrity"

Missouri State Certificate of Authority
Engineering #2005015504
Land Surveying #2009028050

**STREET & ALLEY
VACATION EXHIBIT**

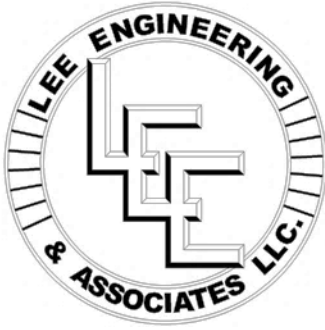
**ORIGINAL PLAT
NORTH SPRINGFIELD**

DATE:

07/12/2019

PROJECT NO.:

1845



LEE ENGINEERING AND ASSOCIATES, L.L.C.

CIVIL ENGINEERING & DESIGN

1200 E. WOODHURST DRIVE., SUITE D200, SPRINGFIELD, MO 65804
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February 18, 2020

City Council
City of Springfield
840 Boonville Ave.
Springfield, MO 65802

Re: PLN2019-00209 (Vacation 811)
Sherman Avenue Vacation

The Planning and Zoning Commission Public Hearing for the vacation of Sherman Avenue occurred on 2/13/2020. The Commission denied the case. On behalf of the Springfield Public School District, we request an appeal of the case to the City Council. Please call if you have questions or need additional information.

Sincerely,

A handwritten signature in black ink, reading 'Derek A. Lee'. The signature is written in a cursive, flowing style.

Derek A. Lee, PE

One rdg. _____
P. Hrngs. X
Pgs. 43
Filed: 03-03-20

Sponsored by: Simpson

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020-051

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING Chapter 36 of the Springfield City Code, known as the 'Land
2 Development Code,' Article III, 'Zoning Regulations,' Division 3,
3 'Administration, Enforcement and Review,' Subdivision II, 'Commissions
4 and Boards,' Section 36-353 'Landmarks Board' and Division 4, 'District
5 Regulations,' Subdivision II, 'Office, Institutional and Special Districts,'
6 Section 36-404 'Landmarks,' to address procedures regarding
7 designation of Historic Status. (Planning and Zoning Commission and
8 Staff recommend approval.)
9 _____

10
11 WHEREAS, City Council initiated amendments to the Zoning Ordinance
12 regarding the powers and duties of the Landmarks Board by passage of Resolution
13 10461 on July 1, 2019; and
14

15 WHEREAS, on January 8, 2020, the Landmarks Board reviewed the proposed
16 changes and made comments on same as contained in "Exhibit C, Attachment 2,"
17 which is attached hereto and incorporated herein by this reference; and
18

19 WHEREAS, a hearing was held before the Planning and Zoning Commission on
20 February 13, 2020, and recommended approval of the proposed amendments.
21

22 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
23 SPRINGFIELD, MISSOURI, as follows, that:
24

25 Section 1 – Springfield City Code, Chapter 36, Article III, Division 3, Subdivision
26 II, Section 36-353 and Division 4, Subdivision II, Section 36-404 is hereby amended as
27 set forth in attached "Exhibit A," which is attached hereto and incorporated herein by
28 this reference.
29

30 Section 2 – Saving Clause. Nothing in this Ordinance shall be construed to
31 affect any suit or proceeding now pending in any court, any rights acquired or liability
32 incurred, any cause or causes of action accrued or existing under any act or ordinance

33 repealed hereby, nor shall any right or remedy of any character be lost, impaired, or
34 affected by this Ordinance.

35
36 Section 3 – Severability Clause. If any section, subsection, sentence, clause, or
37 phrase of this Ordinance is, for any reason, held to be invalid, such decision shall not
38 affect the validity of the remaining portions of this Ordinance. Council hereby declares
39 that it would have adopted this Ordinance and each section, subsection, sentence,
40 clause or phrase thereof, even if any one or more sections, subsections, sentences,
41 clauses, or phrases were to be declared invalid.

42
43 Section 4 - This Ordinance shall be in full force and effect upon passage by City
44 Council.

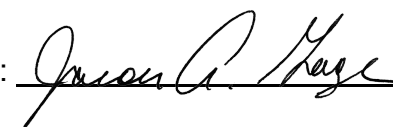
45
46 Passed at meeting: _____

47
48 _____
49 Mayor

50
51 Attest: _____, City Clerk

52
53 Filed as Ordinance: _____

54
55 Approved as to form: , Assistant City Attorney

56
57
58 Approved for Council action: , City Manager
59

EXPLANATION TO COUNCIL BILL 2020 -051

FILED: 03-03-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Amending Chapter 36 of the Springfield City Code, known as the 'Land Development Code,' Article III, 'Zoning Regulations,' Division 3, 'Administration, Enforcement and Review,' Subdivision II, 'Commissions and Boards,' Section 36-353 'Landmarks Board' and Division 4, 'District Regulations,' Subdivision II, 'Office, Institutional and Special Districts,' Section 36-404 'Landmarks,' to address procedures regarding designation of Historic Status. (Planning and Zoning Commission and Staff recommend approval.)

BACKGROUND INFORMATION:

ZONING ORDINANCE TEXT AMENDMENT – LANDMARKS BOARD AMENDMENTS

City Council initiated amendments to the Zoning Ordinance regarding Landmarks Board on July 1, 2019. City Council desires to consider code changes modifying the Landmarks Board sections Sec. 36-353 and 36-404 of the Springfield Land Development Code, Article III, 'Zoning Regulations,' to address procedures with designation of Historic Sites, Historic Landmarks, Interior Landmarks, and Historic Districts and any additional amendments.

Staff has prepared the text amendment to address the procedures of historic designation by seeking owner involvement earlier than currently required. The amendment is aimed at improving the notification, communication and involvement of the property owner in the forthcoming nomination of their property. The amendment specifies that property owner notification shall be mailed fifteen (15) days before submitting the nomination application to City staff, by certified mail and the mailing is to be performed by City staff on provided forms. The current language does not specify how or when the notifications are to be sent. The amendment also requires the notification be performed by City staff and on provided forms that will inform the property owner of the nomination details, processing schedule and applicable regulations if the property were to be approved for historic designation.

This amendment maintains the existing language that owner consent is not a requirement for placement on the Springfield Historic Register. Staff believes that the proposed amendments are adequate to notify and seek owner involvement in the nomination process. The proposed language would require the owner be notified by the applicant fifteen (15) days by certified mail in advance of submitting the nomination form to City staff. Additionally, in the event that the owner protests the nomination, the designation shall not become effective except by the favorable vote of two-thirds of all members of city council. The owner protest language was added by text amendment in September 1997 after City Council tabled nominations and Plans and Policies recommended this amendment.

Staff recommends maintaining the provision of not requiring owner consent for historic

designation. A review of other Missouri municipalities revealed that there was not a consistent standard whether property owner consent was required or not. Some municipalities require owner consent while others not do require owner consent. Among the municipalities that require owner consent, it is common that the regulations carry a higher degree of regulation than Springfield's Historic Site designation. With regard to an Historic Site designation, staff believes it is important to match the nomination requirements with the degree of provided regulation once designated. The Historic Site designation (the most common type) carries lenient regulations. The applicant must wait 60 days for the building permit after the Landmarks Board denies the applicant's Certificate of Appropriateness but can continue their work as planned after the 60 days.

The proposed amendment also changes the qualifications of the architect representative. The current language has been interpreted to require a state license to practice architecture in order to be qualified for the architect representative position on the Board. This qualification has made it difficult to recruit Board members in this position. Although currently filled, at one time this position was vacant for a thirty (30) month period. The proposed change would allow recruitment from a larger professional pool while still maintaining an acceptable qualification. The proposed change mirrors professional qualification used by the National Park Service required to perform identification, evaluation, registration, and treatment activities of historic properties.

Staff has also prepared amendments to these sections to improve clarity of processes and reflect current practices.

Before an amendment shall be approved by ordinance, the Planning and Zoning Commission shall have first had a public hearing regarding the proposed amendment and made an official report to the City Council regarding the Planning and Zoning Commission's recommendation regarding said amendment. Once the Planning and Zoning Commission has made its official report, any further review by the Planning and Zoning Commission shall not be required unless city council elects to refer a matter back to the Planning and Zoning Commission for further review.

The Growth and Development Advisory Council (GDAC), Downtown Springfield Association (DSA), Commercial Club and all Registered Neighborhood Associations were notified of these amendments.

FINDINGS FOR STAFF RECOMMENDATION:

1. The proposed amendments will improve the historic designation process by the addition of property owner notifications and seeking owner involvement.

REMARKS:

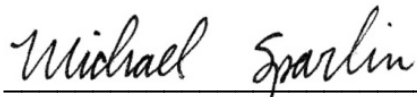
The Planning and Zoning Commission held a public hearing on February 13, 2020, and

recommended approval, by a vote of 4 to 1, of the proposed changes to the Zoning Ordinance.

The Landmarks Board held a public hearing on January 8, 2020 in order to review, evaluate, and comment. The Board's comments are contained in the record of proceeding, attached as Exhibit C, Attachment 2.

The Planning and Development Staff recommends approval of the proposed amendments.

Submitted by:



Michael Sparlin, Senior Planner

Recommended by:



Mary Lilly Smith, Director

Approved by:



Jason Gage, City Manager

EXHIBITS:

Exhibit A, Text Amendments

Exhibit B, Record of Proceedings

Exhibit C, Development Review Staff Report

ATTACHMENTS:

Attachment 1, Proposed Amendments

Attachment 2, Record of Proceeding, Landmarks Board January 8, 2020 meeting

Exhibit A

Note: Language to be added is underlined or removed is ~~stricken~~.

Sec. 36-353. - Landmarks board.

(1) Creation. There is hereby created a landmarks board of Springfield. The landmarks board is the successor to the historical site board and historic district review board.

(2) Membership. The landmarks board shall consist of nine members. Membership shall include at least one architect with a professional degree in architecture plus at least two years of full-time experience in architecture, or a State license to practice architecture, one licensed real estate agent, one historian or architectural historian, one representative from the mid-town historic district, one representative from the Walnut Street historic district, and one representative from the Commercial Street historic district, ~~and a minimum of two members of the public at large.~~ For each historic district each member shall be a resident, merchant, or property owner within said historic district. A member from one of the historic districts may also serve as the architect, real estate agent or historian/architectural historian representative. In the event more than three historic districts are established by city council, one member for each additional district, shall be added to the original nine members. All members shall have an interest, competence, or knowledge in historic preservation. Members shall be appointed by city council and shall serve without compensation.

(3) Terms of membership .Each board member shall serve a three-year term. Members may be reappointed; however, no person shall be appointed for more than two consecutive three-year terms. Members may also be appointed to fill the remainder of vacant terms.

(4) Powers, duties, and responsibilities. The landmarks board shall have the following powers, duties, and responsibilities:

- (a) To adopt its own rules of procedure; ~~procedural regulations~~;
- (b) To establish advisory committees as it deems necessary, from both within and outside its membership;
- (c) To survey and identify historically and architecturally significant properties as described in subsection 36-404(2);
- (d) To recommend plans and policies with regard to historic preservation;
- (e) To prepare written recommendations to the council regarding designation of historical or architectural resources;

- (f) To recommend to the council the adoption of ordinances designating historic landmarks and historic districts;
- (g) To keep a register of all properties and structures which have been designated as historic sites, historic landmarks or historic districts, including all information required for each designation. This register shall be known as the Springfield Historic Register;
- (h) To prepare, keep current and publish a map or maps showing the locations and exact boundaries of both proposed and designated historic sites, historic landmarks and historic districts except that the board shall have the authority to exclude from the map or maps the location of archaeological sites or other prehistoric, historic, or natural features considered to be susceptible to damage, defacement or destruction;
- (i) To conduct a periodic review of the status of designated historic sites, historic landmarks and historic districts and provide periodic reports on the findings of such review, along with any resolutions or ordinances for action, as considered appropriate, to council;
- (j) To recommend the promulgation of standards for architectural review in addition to those cited in subsection 36-404(3)(d);
- (k) To consider applications for and to approve or disapprove certificates of appropriateness pursuant to subsection 36-404(3) and to prepare written reasons pursuant to that action;
- (l) To consider applications for and issue or deny certificates of economic hardship pursuant to subsection 36-404(4) and to prepare written reasons pursuant to that action;
- (m) To increase public awareness of the value of historical and architectural resources by developing and participating in public information programs and further, by placing monuments and markers at historic sites, historic landmarks and historic districts designated under this article;
- (n) To advise and assist owners of historic sites, historic landmarks and properties or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation and reuse, and on procedures for inclusion on the National Register of Historic Places;
- (o) To review, evaluate and comment on proposed zoning amendments, applications for special use permits or applications for zoning variances that affect proposed or designated historic landmarks and historic districts. The director of planning and development shall send such applications for use permits, rezonings or zoning variances to the landmarks board for comment prior to the date of hearing by the planning and zoning commission or board of adjustment;

- (p) To evaluate, comment and make recommendations concerning actions undertaken by other non-city public agencies with respect to the effect of such actions upon historical and architectural resources, including, but not limited to, reviewing applications for demolition permits ~~(prior to issuance)~~ for structures 50 years or older, or having historic significance as determined by the landmarks board;
- (q) To evaluate, comment, and make recommendations concerning actions undertaken by other city agencies with respect to the effect of such actions upon historical and architectural resources, including, but not limited to, reviewing applications for demolition permits (prior to issuance) for structures 50 years or older, or having historic significance as determined by the landmarks board;
- (r) To make recommendations to the council concerning grants from federal and state agencies, private groups and individuals and the utilization of budget appropriations to promote the preservation of historic and architectural resources;
- (s) To make recommendations to the council concerning the acquisition by gift, purchase, grant, bequest, devise, lease or otherwise the fee, any lesser interest, development right, easement, including scenic easement, covenant or other contractual right, including conveyance on conditions or with limitations or revisions, in any property in the city;
- (t) To investigate complaints, conduct hearings and recommend the commencement of actions to enforce the provisions of this article; and
- (u) To carry out any other action or activity necessary or appropriate to the implementation of this article or which may be specified by council.

Sec. 36-404. – L – Landmarks.

- (1) Purpose. The purpose of this section is to:
 - (a) Promote the creation and use of historic sites, historic landmarks, interior landmarks, and historic districts for the educational, cultural, economic, and general welfare of the public through the preservation, protection, and regulation of buildings, sites, monuments, structures, interiors, and areas of historic interest or importance within the City of Springfield;
 - (b) Safeguard the city's historic, aesthetic, and cultural heritage as embodied and reflected in such improvements, landscape features, and districts;
 - (c) Preserve and enhance the aesthetic quality of neighborhoods;
 - (d) Stabilize, improve, and sustain property values;

- (e) Strengthen the city's economic base by the stimulation of conservation and reuse of historic structures;
 - (f) Insure the harmonious, orderly, and efficient growth and development of the municipality;
 - (g) Foster civic pride in the beauty and the noble accomplishments of the past; and
 - (h) Establish a visual archive of buildings, sites, monuments, structures, interiors, and areas of historic interest or importance within the City of Springfield which are slated to be removed from the landscape.
- (2) Designation of a historic site, historic landmark, interior landmark, or historic district.
- (a) Criteria for selection of a historic site, historic landmark, interior landmark, or historic district. The landmarks board shall recommend to the city council that a site, structure, object, or district be designated if the proposed feature(s) meets one or more of the following criteria:
 1. Has significant character, interest, or value as part of the city, region, state or nation's history; or is associated with the life of a personality significant to the past; or
 2. Is the site of a historic event with a significant effect upon the development, heritage or cultural characteristics of the city, region, state, or nation; or
 3. Exemplifies the cultural, political, economic, social, or historic heritage of the community; or
 4. Portrays the environment in the era of history characterized by a distinctive architectural style; or
 5. Embodies those distinguishing characteristics of an architectural type or engineering specimen; or
 6. Is the work of a designer or architect or contractor whose individual work has influenced the development of the city, region, state, or nation; or
 7. Contains elements of design, detail, materials, or craftsmanship which represent a style unique to the past; or
 8. Is a part of or related to a square, park or other distinctive area and thus should be developed and preserved; or
 9. Represents an established and familiar visual feature of the neighborhood, community, or skyline, owing to its unique location or singular physical characteristics; or
 10. Is part of or related to a distinctive, geographical area which should be developed or preserved according to a plan based on cultural, historic or architectural motif; or
 11. Has yielded, based upon physical evidence, or is likely to yield information important to history or prehistory;

12. In addition, the landmarks board shall consider the site, structure, object, or district in light of its integrity of:

- a. Location,
- b. Design,
- c. Setting,
- d. Materials,
- e. Workmanship,
- f. Feeling,
- g. Association, and
- h. Its suitability for preservation and reuse.

(b) Nomination procedure. Nomination of a site, structure, object, interior, or district for historic site, historic landmark, interior landmark, or historic district designation may be filed by any of the following methods:

- 1. Nomination by resolution of either the city council, the landmarks board, or the planning and zoning commission.
- 2. ~~For a historic site, a historic landmark, or an interior landmark, n~~Nomination by the owner or owners of all fee interests in the property, or their authorized agent(s).
- 3. For a historic district, nomination by a verified petition of the owners or authorized agents of at least 30 percent of the property within the proposed district as measured by the land area of such property.

Prior to submitting the nomination application to the planning and development department, applicants shall notify property owners fifteen (15) days in advance by certified mail of the nominated site, landmark or district. The notification shall be made on forms established by the planning and development department and will detail the nomination process and regulations which result from such designation. The mailing shall be performed by the planning and development department: however, the letters and envelopes themselves must be prepared, and postage placed on the same by the applicant.

Nominations shall be filed with the planning and development department at ~~the city clerk's office~~ and shall be made on forms or pursuant to standards

established by the landmarks board for this purpose. Nominations for historic landmarks, interior landmarks, or historic districts initiated by property owners shall be accompanied by fees as required by section 36-334, fees, and to cover any advertising, notification of property owners, filing and other costs.

The landmarks board shall notify property owners, ten (10) days prior to the public hearing by certified mail, of the pending nomination and invite their comments. Owner consent is not, however, a requirement prior to listing on the Springfield Historic Register. The landmarks board may call witnesses to present testimony or documentary evidence to establish a record regarding the historical, architectural, cultural, or archaeological importance of the proposed historic site, historic landmark, interior landmark, or historic district.

- (c) Landmarks board action on nominations. The landmarks board shall make a decision regarding its designation recommendation within a reasonable time, preferably at the close of the hearing, provided that if the matter is not decided at the close of the hearing and is taken under advisement, no more than 28 days shall elapse before a decision is rendered.

If the landmarks board determines that the property does not meet the criteria for designation, the nomination will not be forwarded to the city council unless the applicant so requests within ten days of denial by the landmarks board.

For properties meeting the criteria for designation or for properties not meeting the criteria but for which the decision has been appealed by the applicant to city council, the landmarks board shall prepare and forward to city council a written recommendation concerning the nomination. The recommendation will include, at a minimum, the following items:

1. A statement that the nominated property does or does not meet the criteria for designation;
2. A statement of the attributes of the area or site as such attributes relate to and comply with the designation criteria;
3. A statement of the significant exterior architectural features of the nominated historic site or historic landmark or interior landmark or types of significant exterior architectural features of structures within a nominated historic district that should be protected;
4. A statement of whether or not, in the board's review, the designation is in compliance with prior actions of the city council approving plans and programs. It shall be the duty of the director of planning and development to report to the landmarks board as to the existence of such plans and programs which might have application to the property proposed for designation and further, to offer a professional opinion as to whether or not the proposed designation is in

accordance with such plans and programs;

5. A statement of the relationship of the nominated historic site, historic landmark, interior landmark, or historic district to the ongoing effort of the landmarks board to identify and nominate all potential areas and structures that meet the criteria for designation;
 6. A map showing the location of the nominated historic site, historic landmark, interior landmark, or the boundaries of the nominated historic district;
 7. A picture or pictures of the nominated historic site, historic landmark, interior landmark, or historic district;
 8. A list of property owners of the historic site, historic landmark, interior landmark, or historic district and a statement that all owners of record have been notified of the landmarks board's consideration of the property for designation. Any correspondence -pro or con - concerning property owners' stance on designation shall also be attached; and
 9. A recommendation that the property should or should not be listed as a historic site, historic landmark, interior landmark, or historic district.
- (d) Historic sites designation and declaration of intent to designate historic landmarks or historic districts. Upon receipt of the landmarks board's recommendations, the city council shall consider the nomination at their next regularly scheduled meeting. The city council shall:
1. Deny the nomination; or
 2. By resolution, designate the property as a historic site; or
 3. By resolution, declare their intent to designate the property as a historic landmark or historic district; or

4. Table the nomination.

The landmarks board's recommendation required in subsection 36-404(2)(c) will be attached and made a part of the historic site designation or declaration of intent to designate resolutions.

In case of a protest against such nomination, ~~duly signed and acknowledged~~ notarized by the owners of the proposed historic site, or 30 percent or more, either of the area of the land (exclusive of streets and alleys) included in such proposed site, historic landmark or historic district or within ~~an area determined by line drawn parallel to and~~ 185 feet distance from the boundaries of from the

nominated site, landmark, or district, such resolution shall not become effective except by the favorable vote of two-thirds of all members of city council.

- (e) Effect of historic site designation. Properties designated as historic sites under the provisions of this section shall not be altered or demolished in whole or in part unless an application for a building or demolition permit is filed with the director of building development services and a certificate of appropriateness and/or certificate of economic hardship as provided for in subsections 36-404(3) and 36-404(4) is granted by the landmarks board. Upon approval of a certificate of appropriateness and/or certificate of economic hardship, or upon the expiration of 60 days from the date of the application for a Certificate of Appropriateness ~~the building or demolition permit~~, the department of building development services shall grant the building or demolition permit, subject to the requirements of any applicable provisions of the code or regulations. This provision shall not apply to interior alterations.

The provisions of this section shall not apply to the alteration, construction or demolition of any structure or feature on a historic site where a permit for the performance of such work was issued prior to the day that the city council passed a resolution designating the historic site and where such permit has not expired or been cancelled or revoked, provided that construction or demolition is started and diligently prosecuted to completion in accordance with the building code.

- (f) Effect of declaration of intent to designate a historic landmark or historic district. No building or demolition permit shall be issued by the department of building development services for alteration, construction, demolition, or removal of a nominated historic landmark or of any property or structure within a nominated historic district from the date a resolution declaring intent to designate is passed by city council until the final disposition of the nomination by the city council unless such construction, alteration, removal, or demolition is determined necessary for public health, safety and welfare and is approved by the procedures prescribed in subsections 36-404(4) and 36-404(5). In no event shall this interim control be in place for more than 180 days. This provision shall not apply to interior alterations.

The provisions of this section shall not apply to the alteration, construction or demolition of any structure or other feature on a historic landmark site or within a historic district where a permit for the performance of such work was issued prior to the day the city council passed a resolution declaring their intent to designate the historic landmark or historic district and where such permit has not expired or been cancelled or revoked, provided that construction or demolition is started and diligently prosecuted to completion in accordance with the building code.

- (g) Action required after declaration of intent to designate a historic landmark or historic district. Upon declaration of their intent to designate a historic landmark or historic district, the city council's resolution concerning the property shall be

forwarded to the planning and zoning commission for their consideration. Designation of sites, structures, objects, or districts for historic landmark or historic district status shall then be made in the same manner prescribed for the designation of other zoning districts by this code and subject to compliance with this article.

Notice of consideration of a historic landmark or historic district designation shall be the same as is required for consideration of the adoption or amendment of zoning district boundaries by the planning and zoning commission as prescribed in section 36-367, amendments. As part of such notice, the director of planning and development shall notify the owner or owners of record of affected properties by mail of the proposed designation, including a copy of the proposed designation ordinance, a letter outlining the basis for the designation, and the obligations and restrictions which result from such designation.

The planning and zoning commission shall consider the nomination at their next regularly scheduled meeting and shall forward the nomination with its recommendations to the city council. The resolution declaring the city council's intent to designate and all exhibits pertaining thereto will be attached and made a part of the designating ordinance.

- (h) Effect of designation as a historic landmark or historic district. Designation of a site or tract as a historic landmark or historic district is intended to be an overlay zoning district and the regulations imposed by such district shall be in addition to the regulations of the underlying zoning district applicable to the subject parcel. All provisions of this section shall be applicable to this district.

Tracts, structures, or sites designated by the city council as being a historic landmark or historic district shall be so noted on the official zoning map of the city.

- (i) Notification of designation of historic landmark or historic district. Upon designation by the city council, the city clerk shall inform the owner or owners of all fee interests in the property or properties designated of the designation by registered letter and shall also provide proper notice to the landmarks board and the directors of the departments of planning and development, public works and building development services of the City of Springfield. The city clerk shall also file a notarized certificate of notification or affidavit verifying the designation with the Greene County Recorder of Deeds to provide proper chain of title notice of such designation.
- (j) Authority to amend or rescind decision. The landmarks board shall have the authority to effect the amendment or repeal of any designation of a site, structure, object, or district in the same manner and according to the same procedure as provided herein for the original designation.

(3) Certificate of appropriateness.

- (a) When required. A certificate of appropriateness shall be required in the following instances before the commencement of exterior work upon any new or existing structure or outside work on any site or parcel designated as a historic landmark or as being within a historic district except for ordinary maintenance and repair:
1. Any construction, alteration, or removal affecting the exterior of a site or structure that requires a building or demolition permit from the City of Springfield including, but not limited to, the construction of new structures;
 2. A material change to the exterior appearance of existing structures including but not limited to additions, reconstruction or alterations, which affects a significant exterior feature of a structure as specified in the materials attached to the ordinance designating the historic landmark or historic district;
 3. Any action resulting in the application of paint to a previously unpainted brick or masonry exterior surface or the application of stucco or siding;
 4. The construction or enlargement of a driveway or parking area or erection of fencing;
 5. Work by the City of Springfield or any of its agencies or departments which would require a certificate of appropriateness if undertaken by a private citizen and any public improvement project, which, in the opinion of the director of planning and development would affect a historic landmark or historic district;
 6. The placement or construction of any building 100 square feet or less in size upon the premises of a historic landmark or within any historic landmarks district, with the exception of animal enclosures, gazebos, children's playhouses, and green houses, and structures associated with the temporary use of street festivals so long as said structures are removed at the expiration of the applicable use permit issued by the director of building development services as established by section 36-452, temporary uses; and
 7. A material change to the interior appearance of existing structures, including, but not limited to, additions, reconstruction, or alterations, if a significant interior feature of a structure was listed in the nomination for the historic landmark or historic district.
- (b) Administrative review. A person who is required to obtain a certificate of appropriateness shall submit an application to the director of planning and development, hereinafter referred to as director. Persons desiring to perform work on structures or parcels designated as historic landmarks or located within a historic district are required to contact the director in order to determine if a certificate is required. If the application is for work that will have no effect on

exterior architectural details or is one of any number of items that the landmarks board has designated for action, then the director shall review the application and issue or deny a certificate of appropriateness. Such certificate shall be in addition to all other permits required by the city. If the request is within the director's jurisdiction and is denied by the director, the applicant may appeal such decision to the landmarks board. Permits required by the city involving items requiring a certificate of appropriateness shall not be issued by the city until the director has issued said certificate, has issued a certificate of economic hardship, or in the event of demolition being refused, the requisite time period has expired. If the director determines that the application is for action not designated for administrative review, then the director shall submit the application to the landmarks board. The director may require as a condition of processing the application that the applicant submit information as determined by the director. The director shall also have the authority to refer any building or demolition permit application for structures on a lot contiguous to any historic landmark or historic district to the landmarks board for the sole purpose of review and comment when, in his opinion, the proposed improvements would have a significant adverse impact on the historic landmark or historic district.

- (c) Landmarks board review and action on certificates of appropriateness. Applications for certificates of appropriateness must be complete and be received in the director's office no later than 15 days prior to a scheduled landmarks board meeting. Signs indicating the proposed action and the time, date, and place of the hearing shall be posted by the applicant on the property being considered not less than ten days prior to the hearing. The applicant must comply with standards and procedures provided and approved by the director of the planning and development department and on file in the city clerk's office, regarding compliance with this section. The landmarks board shall review the application and approve, approve subject to specific conditions, or disapprove the certificate based on the guidelines set forth in this section.

If the certificate is denied, no permit for the work shall be issued and the applicant shall not proceed with the work. The landmarks board shall state the reasons for denial in writing to the applicant and shall also make suggestions in regard to appropriate changes.

- (d) Review criteria. The landmarks board in considering whether or not to issue a certificate of appropriateness shall be guided by the general purpose of this section and the following:

- 1. The secretary of interior's standards for rehabilitation as listed below.

- a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

- b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 - h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
2. Any design guidelines or standards that the landmarks board may establish and adopt.

3. For new construction, the landmarks board shall also consider the extent to which the building or structure would be harmonious with or incongruous to the old and historic aspects of the surroundings. It is not the intent of this section to discourage contemporary architectural expression or to encourage the emulation of existing buildings or structures of historic or architectural interest in specific detail. Harmony or incompatibility shall be evaluated in terms of the appropriateness of materials, scale, size, height, and placement of a new building or structure in relationship to existing buildings and structures and to the setting thereof.
4. For demolitions, the landmarks board shall also consider the following:
 - a. The degree to which the proposed removal would serve to destroy the integrity and continuity of the historic landmark or historic district of which it is part.
 - b. The nature of the resource as a representative type or style of architecture, socio-economic development, historical association or other element of the original designation criteria applicable to such structure or site.
 - c. The condition of the resource from the standpoint of structural integrity and the extent of work necessary to stabilize the structure.
 - d. The ability of the subject structure or site to produce a reasonable economic return on investment to its owner, provided, however, that it is specifically intended that this factor shall not have exclusive control and effect, but shall be considered along with all other criteria contained in this section.
 - e. The post-demolition plans for the site and the relation of those plans to the surrounding area.

In the event the landmarks board concludes that the request, if granted, will have a detrimental effect upon the historic landmark or historic district or any adverse impact on an historical or architectural resource, then the landmarks board shall deny the request for a certificate.

- (e) Certificate of appropriateness applications affecting archeological resources. With regard to the development of a property containing a designated archaeological resource, a certificate of appropriateness shall be required prior to the issuance of the permit for which the applicant has applied; and further, the following requirements shall be satisfied:
 1. The applicant shall consult with the state historic preservation officer concerning the effect of the proposed action on the site and what action(s)

should be undertaken to record and/or preserve the site.

2. All development affecting the designated archeological resource shall provide for the permanent preservation of the resources or provide for recordation of the site as advised by the state historic preservation officer.
 3. Prior to the hearing by the landmarks board for issuance of the certificate of appropriateness, the applicant shall cause to have presented the comments and recommendations of the state historic preservation officer with respect to the resource under consideration and the application which would affect it.
- (f) Work required to conform with certificate of appropriateness. Work performed pursuant to the issuance of a certificate shall conform to the requirements of such certificate, if any. The director of building development services shall inspect from time to time any work performed pursuant to a certificate to assure such compliance. In the event that such work is not in compliance, the director of building development services shall issue a stop work order. A certificate shall become void unless construction is commenced within 180 days of date of issue. All city licenses shall be issued on condition that the person owning or occupying the premises will comply with conditions, if any, in the certificate.
- (g) Applicant's action if application is denied. In the event that a certificate is denied, the applicant may:
1. Not resubmit a denied application without substantial change, but may change the original proposal and resubmit the application within 15 days of denial by the landmarks board; or
 2. Apply for a certificate of economic hardship; or
 3. File an appeal to the board of adjustment within 15 days of the denial by the landmarks board; or
 4. If the request is for a demolition permit to a historic landmark or within a historic district, the applicant may also wait 180 days, at which time said demolition permit shall be issued unless the city council has extended the time for demolition. The landmarks board may request that the demolition be delayed for an additional 120 days by action of the city council. The city council may, after receipt of such request, hold a public hearing and delay the demolition for an additional 120 days.
 5. If the request is for a demolition permit to a historic site, the applicant may wait sixty (60) days from the date of the application of the Certificate of Appropriateness before the demolition permit is issued.

- (h) Board's action during demolition delay. In the event the demolition is delayed as provided in subsection 36-404(g)(5), the board shall take such steps as it deems necessary to preserve the structure concerned in accordance with the purposes of this section. Such steps shall include, but shall not be limited to, consultation with civic groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies or agencies and exploration of the possibility of moving one or more structures or other features to an appropriate location with respect to the integrity of the structure or features.
- (4) Certificate of economic hardship.
- (a) Application procedure. Application for a certificate of economic hardship shall be submitted to the director of planning and development. Applications for certificates of economic hardship must be complete and received in the director's office no later than 15 days prior to a scheduled landmarks board meeting. Signs indicating the proposed action and the time, date and place of the hearing shall be posted by the applicant on the property being considered not less than ten days prior to the hearing. The applicant must comply with standards and procedures provided and approved by the director of the planning and development department and on file in the city clerk's office, regarding compliance with this section.
 - (b) Review criteria. The landmarks board will review the application at a public hearing and may solicit expert testimony or require that the applicant for a certificate of economic hardship make submissions concerning any or all of the following information before it makes a determination on the application:
 - 1. Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the landmarks board for changes necessary for the issuance of a certificate of appropriateness.
 - 2. A report from a licensed engineer or architect with experience in recognized historic property rehabilitation, as to the structural soundness of any structures on the property and their suitability for rehabilitation.
 - 3. A report from a state-certified real estate appraiser as to the estimated market value of the property in its current condition, after completion of the proposed construction, alteration, demolition or removal, after any changes recommended by the landmarks board and, in the case of a proposed demolition, after renovation of the existing property for continued use.
 - 4. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser or other real estate professional, experienced in recognized historic property rehabilitation, as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

5. If the property is income-producing, the annual gross income from the property for the previous two years, itemized operation and maintenance expenses for the previous two years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.
 6. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
 7. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years.
 8. Assessed value of the property according to the two most recent assessments.
 9. Real estate taxes for the previous two years.
 10. Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other.
 11. Amount paid for the property, date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.
 12. Annual debt service, if any, for the previous two years.
 13. Any consideration by the owner as to profitable adaptive uses for the property.
 14. Replacement construction plans for the property in question. Post-demolition plans shall include, but are not limited to, drawings or sketches with sufficient detail to show the exterior appearance and architectural design of the proposed building or use, but does not require construction documents to be completed.
 15. Financial proof of the ability to complete the replacement project, which may include, but not be limited to, a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution.
 16. Any other information considered necessary by the landmarks board to a determination as to whether the property does yield or may yield a reasonable return to the owners.
- (c) Landmarks board review and action. The landmarks board shall review all information and shall either approve, approve subject to conditions, or deny the application for a certificate of economic hardship. A certificate of economic hardship shall be issued when the structure or part thereof has degenerated

beyond feasible limits for rehabilitation or rehabilitation is impracticable and there is an economic hardship.

If approved, the director of the department of building development services will be instructed to issue a building or demolition permit, as requested, for the proposed work unless an appeal of the decision to the board of adjustment is filed within 15 days of the decision. If denied, the applicant shall have the right to appeal the decision to the board of adjustment. The board of adjustment shall conduct a full and impartial hearing on the matter before rendering a decision. The same standards shall be applied by the board of adjustment as established herein. The board of adjustment may affirm, reverse, or modify the decision of the landmarks board in whole or in part.

- (5) Public safety. Nothing in this section shall be construed to prevent the construction, alteration, or demolition of any site, building, structure, object, or district, or part thereof, deemed necessary or ordered by the city council or the director of building development services to ensure public safety. The director of building development services shall notify the landmarks board prior to issuing any such order affecting a designated historic site or historic landmark or property within a historic district to ensure that all alternatives have been considered. When it reasonably appears that an immediate danger to the health, safety, and welfare of any person exists, the director of building development services may take emergency measures to vacate, repair, or demolish such a building or structure.
- (6) Enforcement and penalties. Enforcement and penalties shall be as required by section 36-335, zoning enforcement, of this article.
- (7) Responsibility. Any person who shall own a designated site or landmark or site or structure within a historic district shall be jointly and severally responsible for compliance with the provisions of this section and is expected to inform any purchaser of the designation.
- (8) Interpretation. Questions of interpretation of this section may be referred to the administrative review committee.

EXHIBIT A
RECORD OF PROCEEDINGS
LANDMARKS BOARD AMENDMENTS
Planning and Zoning Commission – February 13, 2020

Landmarks Board Text Amendment
Citywide

Applicant: City of Springfield

Mr. Sparlin stated that this is a request from City Council initiated amendments to the Zoning Ordinance Sec. 36-353 and 36-404 on July 1, 2019 to address procedures with designation of Historic Sites, Historic Landmarks, and Historic Districts and any additional amendments. City staff has prepared amendments on the designation process, “housekeeping” items – aimed to improve clarity of processes and reflect current practices and aimed at improving the process by additional property owner notifications and seeking owner involvement earlier.

He noted the types of Historic Designation.

1. Historic Sites include:

- Individual properties, Most common designation - 150+ Historic Sites; and
- Process – Landmarks Board, then City Council for final action; and
- Regulation - Least protection:
 - Certificate of Appropriateness for exterior alterations that require a building permit; and
 - If a Certificate of Appropriateness is denied, applicant must wait 60 days then they are able to continue their alteration/demolition as planned.

2. Historic Landmarks include:

- Individual properties; and
- Currently 5 properties are listed as Landmarks
 - Process
 - ✓ Landmarks Board, City Council declares their intent to designate, starts the rezoning process.
 - ✓ Planning & Commission hearing then City Council hearing, action.
 - Regulation
 - ✓ Certificate of Appropriateness for exterior alterations that require a building permit
 - ✓ If the Board denies the Certificate of Appropriateness, the decision may be:
 - appealed to the Board of Adjustment
 - apply for a Certificate of Economic Hardship
 - Demo permit – may wait 180 days then obtain permit. Council can extend the demolition delay an additional 120 days.

3. Historic Districts include:

- Commercial Street, East Walnut Street, and West Walnut Street
 - Process
 - ✓ 30% of owners within the proposed district must sign the petition
 - ✓ Landmarks Board, City Council declares their intent to designate, starts the rezoning process. Planning & Commission hearing then City Council hearing, action.
 - Regulation
 - ✓ Certificate of Appropriateness for exterior alterations that require a building permit
 - ✓ If the Board denies the Certificate of Appropriateness, the decision may be:
 - appealed to the Board of Adjustment
 - apply for a Certificate of Economic Hardship
 - Demo permit – may wait 180 days then obtain permit. Council can extend the demolition delay an additional 120 days.

This text amendment is aimed at the designation process and to improve the process by additional property owner notifications and seeking owner involvement earlier.

Mr. Coltrin asked if the owner can stop the process of nomination and commented on the problems the owner may have if placed on the registry.

Mr. Sparlin noted that they cannot stop the process, but they can sign a protest process and there is a two-third (2/3) appeal process.

Ms. Cox asked why the Landmarks Board is revising their text amendment and if other communities are using the same procedure proposed by Springfield.

Mr. Sparlin noted the problems in the past when submitting a nomination (i.e., 3535 South Lone Pine Avenue, etc., lack of earlier owner notification process) and other communities are using the proposed procedure.

Mr. Coltrin opened the public hearing.

Mr. Paden Chambers, 1693 E. Lombard Street (Landmarks Board Chair) noted that this is an improvement in the right direction believes this helps clear-up problems/questions that a nominee may have.

Mr. Coltrin closed the public hearing.

Mr. Jobe would like to see more owner notification on historic landmark nominations but will be supporting the change for the improvements in the nomination process.

Mr. Rose noted that he will not support the change due to the applicant of a nomination not being the owner of the property and this just being a recommendation and hopes that more notification is a better step forward.

Mr. Coltrin stated that he torn between the City of taking anything from the owner rights but does feel it is a tiny step in the right direction.

COMMISSION ACTION:

Ms. Cox motioned to **approve** Landmarks Board Text Amendment (Citywide). Mr. Jobe seconded the motion. Ayes: Coltrin, Cox, Ogilvy, and Jobe. Nays: Rose. Abstain: None. Absent: Doennig, Broekhoven, Shuler and Thomas.

A handwritten signature in black ink, appearing to read "Bob Hosmer", is enclosed within a thin black rectangular border.

Bob Hosmer, AICP
Planning Manager

Exhibit C

LANDMARKS BOARD HEARING:

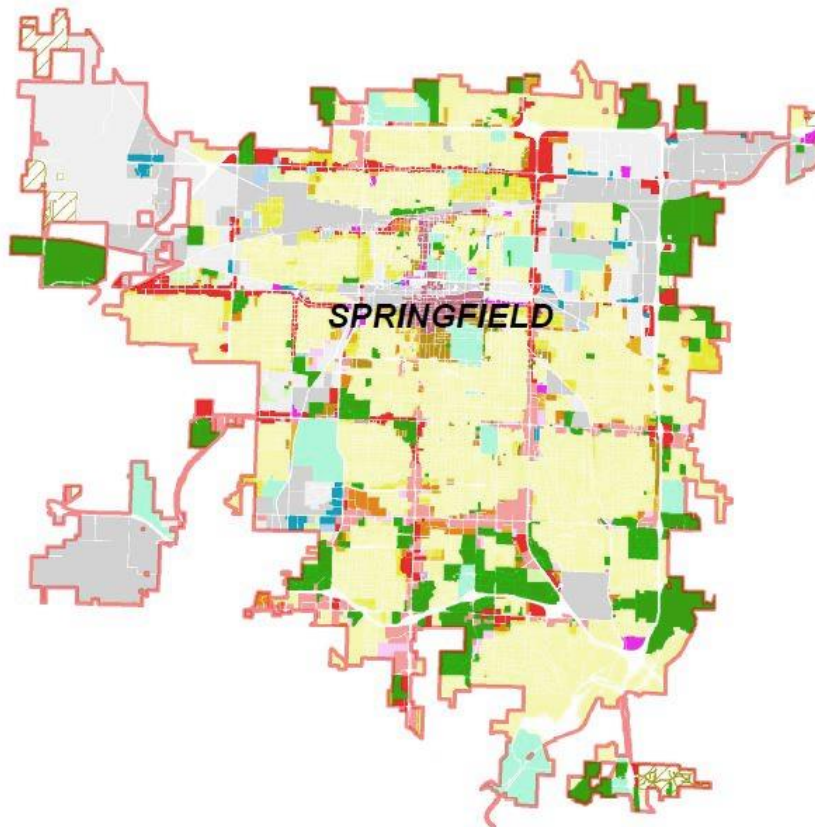
JANUARY 8, 2020

PLANNING AND ZONING COMMISSION PUBLIC HEARING:

FEBRUARY 13, 2020

CITY COUNCIL PUBLIC HEARING:

MARCH 9, 2020



CASE: Landmarks Board Text Amendments

STAFF:
Michael Sparlin, Senior Planner
864-1091

STAFF RECOMMENDATIONS:
Approve

PROPOSED MOTION:
Move to approve the proposed amendments to the Zoning Ordinance as submitted in the staff report

SUMMARY OF REQUEST:

1. Staff is requesting amendments to the Landmarks Board sections of the Springfield Land Development Code, Article III, 'Zoning 11 Regulations,' to address procedures with designation of Historic Sites, Historic Landmarks, Interior Landmarks, and Historic Districts and to improve clarity of processes and reflect current practices.

FINDINGS FOR STAFF RECOMMENDATION:

1. The proposed amendments will improve the historic designation process by the addition of property owner notifications and seeking owner involvement.

COMPATIBILITY WITH COMPREHENSIVE PLAN:

The *Growth Management and Land Use Element* of the *Comprehensive Plan* encourages innovative development and redevelopment through the use of incentives and appropriate regulations, to achieve desired residential and nonresidential development patterns.

SUMMARY OF PROPOSED TEXT AMENDMENT:

1. City Council initiated amendments to the Zoning Ordinance regarding Landmarks Board on July 1, 2019. City Council desires to consider code changes modifying the Landmarks Board sections Sec. 36-353 and 36-404 of the Springfield Land Development Code, Article III, 'Zoning Regulations,' to address procedures with designation of Historic Sites, Historic Landmarks, Interior Landmarks, and Historic Districts and any additional amendments.
2. Staff has prepared amendments to the Landmarks Board Section 36-353 and L, Landmarks Sections 36-404 of the Zoning Ordinance to address the nomination and designation process of Historic Sites, Landmarks, Interior Landmarks and Historic Districts. Staff has also prepared amendments to these sections to improve clarity of processes and reflect current practices.
3. The following changes are proposed to Landmarks Board Section 36-353:
 - a. In Subsection 36-353 (2), language has been added regarding the qualifications of the architect representative. The current language has been interpreted to require a state license to practice architecture in order to be qualified for the architect representative position on the Board. This qualification has made it difficult to recruit Board members in this position. Although currently filled, at one time this position was vacant for a thirty (30) month period. The proposed change would allow recruitment from a larger professional pool while still maintaining an acceptable qualification. The proposed change mirrors professional qualifications used by the National Park Service required to perform identification, evaluation, registration, and treatment activities of historic properties.
 - b. In Subsection 36-353 (2), language has been removed that states a minimum of two members of the public at large be on the Board. Staff determined this language is not needed because the other representatives on the Board require specific qualifications, therefore the remaining members would be from the public at-large.
 - c. In Subsection 36-353 (4), language has been modified to reflect the commonly used term in order to improve clarity.
 - d. In Subsection 36-353 (4)(p), language has been omitted to eliminate the requirement that the Board review the proposed action prior to permit issuance of properties owned by non-City public agencies. This amendment recognizes the fact that the Board does not have authority to compel a review of actions by non-city public agencies prior to issuance of a building or demolition permit when the subject property has NOT been designated a historic site, historic landmark or part of a historic district. The Board can still evaluate, comment and make recommendations on other non-city public agencies action's; however, it cannot prohibit permit issuance.
4. The following changes are proposed to L-Landmarks Section 36-404:
 - a. In Subsection 36-404 (2)(b), language was removed that was redundant.
 - b. In Subsection 36-404 (2)(b), language was added to require the applicant of the nomination to notify the property owner of the pending nomination before submitting the nomination application to City staff. This language is aimed at improving the notification, communication and involvement of the property owner in the forthcoming nomination of their property. This language specifies that this notification shall be at

-
- least fifteen (15) days before submitting the nomination application to City staff, by certified mail and the mailing is to be performed by City staff on provided forms.
- c. In Subsection 36-404 (2)(b), language was added to specify how and when the Landmarks Board is to notify the property owner before public hearings. This change will require notification of the public hearings at least ten (10) days in advance by certified mail.
 - d. In Subsection 36-404 (2)(d), language was added to allow City Council to table a nomination.
 - e. In Subsection 36-404 (2)(d), language was modified to clarify the process in the event of a protest petition and when a two-thirds vote is required by City Council to approve a nomination. There has been difficulty interrupting the current language.
 - f. In Subsection 36-404 (2)(e), language was modified to start the sixty (60) day expiration at the date of application for a Certificate of Appropriateness rather than the application of a building/demolition permit. This language is intended to close a loophole where an applicant could circumvent the Certification of Appropriateness review by Landmarks Board by merely applying for the building/demo permit and waiting the sixty (60) days for permit issuance.
 - g. In Subsection 36-404 (3)(f), language was added to clarify that for a Historic Site designation, the applicant of the Certificate of Appropriateness must wait sixty (60) days. This is consistent with the requirement as stated in Subsection 36-404 (2)(e).

STAFF COMMENTS:

1. The proposed text amendment addresses the procedures of historic designation by seeking owner involvement earlier than currently required. The amendment is aimed at improving the notification, communication and involvement of the property owner in the forthcoming nomination of their property. The amendment specifies that property owner notification shall be mailed fifteen (15) days before submitting the nomination application to City staff, by certified mail and the mailing is to be performed by City staff on provided forms. The current language does not specify how or when the notifications are to be sent. The amendment also requires the notification be performed by City staff and on provided forms that will inform the property owner of the nomination details, processing schedule and applicable regulations if the property were to be approved for historic designation.
2. This amendment maintains the existing language that owner consent is not a requirement for placement on the Springfield Historic Register. Staff believes that the proposed amendments are adequate to notify and seek owner involvement in the nomination process. The proposed language would require the owner be notified by the applicant fifteen (15) days by certified mail in advance of submitting the nomination form to City staff. Additionally, in the event that the owner submits a valid protest petition of the nomination, the designation shall not become effective except by the favorable vote of two-thirds of all members of city council.
3. Staff recommends maintaining the provision of not requiring owner consent for historic designation. With regard to an Historic Site designation, staff believes it is important to match the nomination requirements with the degree of provided regulation once designated. The Historic Site designation (the most common type) carries lenient regulations. The applicant must wait 60 days for the building permit after the Landmarks Board denies the applicant's Certificate of Appropriateness but can continue their work as planned after the 60 days.
4. The State Historic Preservation Office (SHPO) has reviewed the proposed text amendment and has no issues
5. Before an amendment shall be approved by ordinance, the Planning and Zoning Commission shall have first had a public hearing regarding the proposed amendment and made an official report to the City Council regarding the Planning and Zoning Commission's recommendation regarding said amendment. Once the Planning and Zoning Commission has made its official report, any further review by the Planning and Zoning Commission shall not be required unless City Council elects to refer a matter back to the Planning and Zoning Commission for further review.

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6. Staff requests that Commission approve amendments to the Zoning Ordinance of the city code as specified.

PUBLIC COMMENTS:

The Growth and Development Advisory Council (GDAC), Downtown Springfield Association (DSA), Commercial Club and all Registered Neighborhood Associations were notified of these amendments and public hearing dates.

PROPOSED TEXT AMENDMENT:

Attachment 1

Note: Language to be added is underlined or removed is ~~stricken~~.

Sec. 36-353. - Landmarks board.

- (1) *Creation.* There is hereby created a landmarks board of Springfield. The landmarks board is the successor to the historical site board and historic district review board.
- (2) *Membership.* The landmarks board shall consist of nine members. Membership shall include at least one architect with a professional degree in architecture plus at least two years of full-time experience in architecture, or a State license to practice architecture, one licensed real estate agent, one historian or architectural historian, one representative from the mid-town historic district, one representative from the Walnut Street historic district, and one representative from the Commercial Street historic district, ~~and a minimum of two members of the public at large~~. For each historic district each member shall be a resident, merchant, or property owner within said historic district. A member from one of the historic districts may also serve as the architect, real estate agent or historian/architectural historian representative. In the event more than three historic districts are established by city council, one member for each additional district, shall be added to the original nine members. All members shall have an interest, competence, or knowledge in historic preservation. Members shall be appointed by city council and shall serve without compensation.
- (3) *Terms of membership.* Each board member shall serve a three-year term. Members may be reappointed; however, no person shall be appointed for more than two consecutive three-year terms. Members may also be appointed to fill the remainder of vacant terms.
- (4) *Powers, duties, and responsibilities.* The landmarks board shall have the following powers, duties, and responsibilities:
 - (a) To adopt its own rules of procedure; ~~procedural regulations~~;
 - (b) To establish advisory committees as it deems necessary, from both within and outside its membership;
 - (c) To survey and identify historically and architecturally significant properties as described in subsection 36-404(2);
 - (d) To recommend plans and policies with regard to historic preservation;
 - (e) To prepare written recommendations to the council regarding designation of historical or architectural resources;
 - (f) To recommend to the council the adoption of ordinances designating historic landmarks and historic districts;
 - (g) To keep a register of all properties and structures which have been designated as historic sites, historic landmarks or historic districts, including all information required for each designation. This register shall be known as the Springfield Historic Register;
 - (h) To prepare, keep current and publish a map or maps showing the locations and exact boundaries of both proposed and designated historic sites, historic landmarks and historic districts except that the board shall have the authority to exclude from the map or maps the location of archaeological sites or other prehistoric, historic, or natural features considered to be susceptible to damage, defacement or destruction;

- (i) To conduct a periodic review of the status of designated historic sites, historic landmarks and historic districts and provide periodic reports on the findings of such review, along with any resolutions or ordinances for action, as considered appropriate, to council;
- (j) To recommend the promulgation of standards for architectural review in addition to those cited in subsection 36-404(3)(d);
- (k) To consider applications for and to approve or disapprove certificates of appropriateness pursuant to subsection 36-404(3) and to prepare written reasons pursuant to that action;
- (l) To consider applications for and issue or deny certificates of economic hardship pursuant to subsection 36-404(4) and to prepare written reasons pursuant to that action;
- (m) To increase public awareness of the value of historical and architectural resources by developing and participating in public information programs and further, by placing monuments and markers at historic sites, historic landmarks and historic districts designated under this article;
- (n) To advise and assist owners of historic sites, historic landmarks and properties or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation and reuse, and on procedures for inclusion on the National Register of Historic Places;
- (o) To review, evaluate and comment on proposed zoning amendments, applications for special use permits or applications for zoning variances that affect proposed or designated historic landmarks and historic districts. The director of planning and development shall send such applications for use permits, rezonings or zoning variances to the landmarks board for comment prior to the date of hearing by the planning and zoning commission or board of adjustment;
- (p) To evaluate, comment and make recommendations concerning actions undertaken by other non-city public agencies with respect to the effect of such actions upon historical and architectural resources, including, but not limited to, reviewing applications for demolition permits ~~(prior to issuance)~~ for structures 50 years or older, or having historic significance as determined by the landmarks board;
- (q) To evaluate, comment, and make recommendations concerning actions undertaken by other city agencies with respect to the effect of such actions upon historical and architectural resources, including, but not limited to, reviewing applications for demolition permits (prior to issuance) for structures 50 years or older, or having historic significance as determined by the landmarks board;
- (r) To make recommendations to the council concerning grants from federal and state agencies, private groups and individuals and the utilization of budget appropriations to promote the preservation of historic and architectural resources;
- (s) To make recommendations to the council concerning the acquisition by gift, purchase, grant, bequest, devise, lease or otherwise the fee, any lesser interest, development right, easement, including scenic easement, covenant or other contractual right, including conveyance on conditions or with limitations or revisions, in any property in the city;
- (t) To investigate complaints, conduct hearings and recommend the commencement of actions to enforce the provisions of this article; and
- (u) To carry out any other action or activity necessary or appropriate to the implementation of this article or which may be specified by council.

(Zoning Ord., § 3-2300; G.O. 4666, 11-12-96; G.O. 5886, 8-9-10; G.O. 6273, § 1, 4-4-16

Sec. 36-404. - L - Landmarks.

(1) *Purpose.* The purpose of this section is to:

- (a) Promote the creation and use of historic sites, historic landmarks, interior landmarks, and historic districts for the educational, cultural, economic, and general welfare of the public through the preservation, protection, and regulation of buildings, sites, monuments, structures, interiors, and areas of historic interest or importance within the City of Springfield;
- (b) Safeguard the city's historic, aesthetic, and cultural heritage as embodied and reflected in such improvements, landscape features, and districts;
- (c) Preserve and enhance the aesthetic quality of neighborhoods;
- (d) Stabilize, improve, and sustain property values;
- (e) Strengthen the city's economic base by the stimulation of conservation and reuse of historic structures;
- (f) Insure the harmonious, orderly, and efficient growth and development of the municipality;
- (g) Foster civic pride in the beauty and the noble accomplishments of the past; and
- (h) Establish a visual archive of buildings, sites, monuments, structures, interiors, and areas of historic interest or importance within the City of Springfield which are slated to be removed from the landscape.

(2) *Designation of a historic site, historic landmark, interior landmark, or historic district.*

(a) *Criteria for selection of a historic site, historic landmark, interior landmark, or historic district.* The landmarks board shall recommend to the city council that a site, structure, object, or district be designated if the proposed feature(s) meets one or more of the following criteria:

- 1. Has significant character, interest, or value as part of the city, region, state or nation's history; or is associated with the life of a personality significant to the past; or
- 2. Is the site of a historic event with a significant effect upon the development, heritage or cultural characteristics of the city, region, state, or nation; or
- 3. Exemplifies the cultural, political, economic, social, or historic heritage of the community; or
- 4. Portrays the environment in the era of history characterized by a distinctive architectural style; or
- 5. Embodies those distinguishing characteristics of an architectural type or engineering specimen; or
- 6. Is the work of a designer or architect or contractor whose individual work has influenced the development of the city, region, state, or nation; or
- 7. Contains elements of design, detail, materials, or craftsmanship which represent a style unique to the past; or
- 8. Is a part of or related to a square, park or other distinctive area and thus should be developed and preserved; or
- 9. Represents an established and familiar visual feature of the neighborhood, community, or skyline, owing to its unique location or singular physical characteristics; or
- 10. Is part of or related to a distinctive, geographical area which should be developed or preserved according to a plan based on cultural, historic or architectural motif; or
- 11. Has yielded, based upon physical evidence, or is likely to yield information important to history or prehistory;

12. In addition, the landmarks board shall consider the site, structure, object, or district in light of its integrity of:
- a. Location,
 - b. Design,
 - c. Setting,
 - d. Materials,
 - e. Workmanship,
 - f. Feeling,
 - g. Association, and
 - h. Its suitability for preservation and reuse.
- (b) *Nomination procedure.* Nomination of a site, structure, object, interior, or district for historic site, historic landmark, interior landmark, or historic district designation may be filed by any of the following methods:
1. Nomination by resolution of either the city council, the landmarks board, or the planning and zoning commission.
 2. ~~For a historic site, a historic landmark, or an interior landmark, n~~Nomination by the owner or owners of all fee interests in the property, or their authorized agent(s).
 3. For a historic district, nomination by a verified petition of the owners or authorized agents of at least 30 percent of the property within the proposed district as measured by the land area of such property.

Prior to submitting the nomination application to the planning and development department, applicants shall notify property owners fifteen (15) days in advance by certified mail of the nominated site, landmark or district. The notification shall be made on forms established by the planning and development department and will detail the nomination process and regulations which result from such designation. The mailing shall be performed by the planning and development department; however, the letters and envelopes themselves must be prepared, and postage placed on the same by the applicant.

Nominations shall be filed ~~with the planning and development department at the city clerk's office~~ and shall be made on forms or pursuant to standards established by the landmarks board for this purpose. Nominations for historic landmarks, interior landmarks, or historic districts initiated by property owners shall be accompanied by fees as required by section 36-334, fees, and to cover any advertising, notification of property owners, filing and other costs.

The landmarks board shall notify property owners, ten (10) days prior to the public hearing by certified mail, of the pending nomination and invite their comments. Owner consent is not, however, a requirement prior to listing on the Springfield Historic Register. The landmarks board may call witnesses to present testimony or documentary evidence to establish a record regarding the historical, architectural, cultural, or archaeological importance of the proposed historic site, historic landmark, interior landmark, or historic district.

- (c) *Landmarks board action on nominations.* The landmarks board shall make a decision regarding its designation recommendation within a reasonable time, preferably at the close of the hearing, provided that if the matter is not decided at the close of the hearing and is taken under advisement, no more than 28 days shall elapse before a decision is rendered.

If the landmarks board determines that the property does not meet the criteria for designation, the nomination will not be forwarded to the city council unless the applicant so requests within ten days of denial by the landmarks board.

For properties meeting the criteria for designation or for properties not meeting the criteria but for which the decision has been appealed by the applicant to city council, the landmarks board shall prepare and forward to city council a written recommendation concerning the nomination. The recommendation will include, at a minimum, the following items:

1. A statement that the nominated property does or does not meet the criteria for designation;
 2. A statement of the attributes of the area or site as such attributes relate to and comply with the designation criteria;
 3. A statement of the significant exterior architectural features of the nominated historic site or historic landmark or interior landmark or types of significant exterior architectural features of structures within a nominated historic district that should be protected;
 4. A statement of whether or not, in the board's review, the designation is in compliance with prior actions of the city council approving plans and programs. It shall be the duty of the director of planning and development to report to the landmarks board as to the existence of such plans and programs which might have application to the property proposed for designation and further, to offer a professional opinion as to whether or not the proposed designation is in accordance with such plans and programs;
 5. A statement of the relationship of the nominated historic site, historic landmark, interior landmark, or historic district to the ongoing effort of the landmarks board to identify and nominate all potential areas and structures that meet the criteria for designation;
 6. A map showing the location of the nominated historic site, historic landmark, interior landmark, or the boundaries of the nominated historic district;
 7. A picture or pictures of the nominated historic site, historic landmark, interior landmark, or historic district;
 8. A list of property owners of the historic site, historic landmark, interior landmark, or historic district and a statement that all owners of record have been notified of the landmarks board's consideration of the property for designation. Any correspondence - pro or con - concerning property owners' stance on designation shall also be attached; and
 9. A recommendation that the property should or should not be listed as a historic site, historic landmark, interior landmark, or historic district.
- (d) *Historic sites designation and declaration of intent to designate historic landmarks or historic districts.* Upon receipt of the landmarks board's recommendations, the city council shall consider the nomination at their next regularly scheduled meeting. The city council shall:
1. Deny the nomination; or
 2. By resolution, designate the property as a historic site; or
 3. By resolution, declare their intent to designate the property as a historic landmark or historic district; or

4. Table the nomination.

The landmarks board's recommendation required in subsection 36-404(2)(c) will be attached and made a part of the historic site designation or declaration of intent to designate resolutions.

In case of a protest against such nomination, ~~duly signed and acknowledged notarized~~ by the owners of ~~the proposed historic site, or~~ 30 percent or more, either of the area of the land (exclusive of streets and alleys) included in such proposed ~~site, historic~~ landmark or ~~historic~~ district or within ~~an area determined by line drawn parallel to and~~ 185 feet distance ~~from the boundaries of from~~ the nominated ~~site,~~ landmark, or district, such resolution shall not become effective except by the favorable vote of two-thirds of all members of city council.

- (e) *Effect of historic site designation.* Properties designated as historic sites under the provisions of this section shall not be altered or demolished in whole or in part unless an

application for a building or demolition permit is filed with the director of building development services and a certificate of appropriateness and/or certificate of economic hardship as provided for in subsections 36-404(3) and 36-404(4) is granted by the landmarks board. Upon approval of a certificate of appropriateness and/or certificate of economic hardship, or upon the expiration of 60 days from the date of the application for a Certificate of Appropriateness the building or demolition permit, the department of building development services shall grant the building or demolition permit, subject to the requirements of any applicable provisions of the code or regulations. This provision shall not apply to interior alterations.

The provisions of this section shall not apply to the alteration, construction or demolition of any structure or feature on a historic site where a permit for the performance of such work was issued prior to the day that the city council passed a resolution designating the historic site and where such permit has not expired or been cancelled or revoked, provided that construction or demolition is started and diligently prosecuted to completion in accordance with the building code.

- (f) *Effect of declaration of intent to designate a historic landmark or historic district.* No building or demolition permit shall be issued by the department of building development services for alteration, construction, demolition, or removal of a nominated historic landmark or of any property or structure within a nominated historic district from the date a resolution declaring intent to designate is passed by city council until the final disposition of the nomination by the city council unless such construction, alteration, removal, or demolition is determined necessary for public health, safety and welfare and is approved by the procedures prescribed in subsections 36-404(4) and 36-404(5). In no event shall this interim control be in place for more than 180 days. This provision shall not apply to interior alterations.

The provisions of this section shall not apply to the alteration, construction or demolition of any structure or other feature on a historic landmark site or within a historic district where a permit for the performance of such work was issued prior to the day the city council passed a resolution declaring their intent to designate the historic landmark or historic district and where such permit has not expired or been cancelled or revoked, provided that construction or demolition is started and diligently prosecuted to completion in accordance with the building code.

- (g) *Action required after declaration of intent to designate a historic landmark or historic district.* Upon declaration of their intent to designate a historic landmark or historic district, the city council's resolution concerning the property shall be forwarded to the planning and zoning commission for their consideration. Designation of sites, structures, objects, or districts for historic landmark or historic district status shall then be made in the same manner prescribed for the designation of other zoning districts by this code and subject to compliance with this article.

Notice of consideration of a historic landmark or historic district designation shall be the same as is required for consideration of the adoption or amendment of zoning district boundaries by the planning and zoning commission as prescribed in section 36-367, amendments. As part of such notice, the director of planning and development shall notify the owner or owners of record of affected properties by mail of the proposed designation, including a copy of the proposed designation ordinance, a letter outlining the basis for the designation, and the obligations and restrictions which result from such designation.

The planning and zoning commission shall consider the nomination at their next regularly scheduled meeting and shall forward the nomination with its recommendations to the city council. The resolution declaring the city council's intent to designate and all exhibits pertaining thereto will be attached and made a part of the designating ordinance.

- (h) *Effect of designation as a historic landmark or historic district.* Designation of a site or tract as a historic landmark or historic district is intended to be an overlay zoning district and the regulations imposed by such district shall be in addition to the regulations of the underlying

zoning district applicable to the subject parcel. All provisions of this section shall be applicable to this district.

Tracts, structures, or sites designated by the city council as being a historic landmark or historic district shall be so noted on the official zoning map of the city.

- (i) *Notification of designation of historic landmark or historic district.* Upon designation by the city council, the city clerk shall inform the owner or owners of all fee interests in the property or properties designated of the designation by registered letter and shall also provide proper notice to the landmarks board and the directors of the departments of planning and development, public works and building development services of the City of Springfield. The city clerk shall also file a notarized certificate of notification or affidavit verifying the designation with the Greene County Recorder of Deeds to provide proper chain of title notice of such designation.
 - (j) *Authority to amend or rescind decision.* The landmarks board shall have the authority to effect the amendment or repeal of any designation of a site, structure, object, or district in the same manner and according to the same procedure as provided herein for the original designation.
- (3) *Certificate of appropriateness.*
 - (a) *When required.* A certificate of appropriateness shall be required in the following instances before the commencement of exterior work upon any new or existing structure or outside work on any site or parcel designated as a historic landmark or as being within a historic district except for ordinary maintenance and repair:
 - 1. Any construction, alteration, or removal affecting the exterior of a site or structure that requires a building or demolition permit from the City of Springfield including, but not limited to, the construction of new structures;
 - 2. A material change to the exterior appearance of existing structures including but not limited to additions, reconstruction or alterations, which affects a significant exterior feature of a structure as specified in the materials attached to the ordinance designating the historic landmark or historic district;
 - 3. Any action resulting in the application of paint to a previously unpainted brick or masonry exterior surface or the application of stucco or siding;
 - 4. The construction or enlargement of a driveway or parking area or erection of fencing;
 - 5. Work by the City of Springfield or any of its agencies or departments which would require a certificate of appropriateness if undertaken by a private citizen and any public improvement project, which, in the opinion of the director of planning and development would affect a historic landmark or historic district;
 - 6. The placement or construction of any building 100 square feet or less in size upon the premises of a historic landmark or within any historic landmarks district, with the exception of animal enclosures, gazebos, children's playhouses, and green houses, and structures associated with the temporary use of street festivals so long as said structures are removed at the expiration of the applicable use permit issued by the director of building development services as established by section 36-452, temporary uses; and
 - 7. A material change to the interior appearance of existing structures, including, but not limited to, additions, reconstruction, or alterations, if a significant interior feature of a structure was listed in the nomination for the historic landmark or historic district.
 - (b) *Administrative review.* A person who is required to obtain a certificate of appropriateness shall submit an application to the director of planning and development, hereinafter referred to as director. Persons desiring to perform work on structures or parcels designated as historic landmarks or located within a historic district are required to contact the director in order to determine if a certificate is required. If the application is for work that will have no effect on

exterior architectural details or is one of any number of items that the landmarks board has designated for action, then the director shall review the application and issue or deny a certificate of appropriateness. Such certificate shall be in addition to all other permits required by the city. If the request is within the director's jurisdiction and is denied by the director, the applicant may appeal such decision to the landmarks board. Permits required by the city involving items requiring a certificate of appropriateness shall not be issued by the city until the director has issued said certificate, has issued a certificate of economic hardship, or in the event of demolition being refused, the requisite time period has expired. If the director determines that the application is for action not designated for administrative review, then the director shall submit the application to the landmarks board. The director may require as a condition of processing the application that the applicant submit information as determined by the director. The director shall also have the authority to refer any building or demolition permit application for structures on a lot contiguous to any historic landmark or historic district to the landmarks board for the sole purpose of review and comment when, in his opinion, the proposed improvements would have a significant adverse impact on the historic landmark or historic district.

- (c) *Landmarks board review and action on certificates of appropriateness.* Applications for certificates of appropriateness must be complete and be received in the director's office no later than 15 days prior to a scheduled landmarks board meeting. Signs indicating the proposed action and the time, date, and place of the hearing shall be posted by the applicant on the property being considered not less than ten days prior to the hearing. The applicant must comply with standards and procedures provided and approved by the director of the planning and development department and on file in the city clerk's office, regarding compliance with this section. The landmarks board shall review the application and approve, approve subject to specific conditions, or disapprove the certificate based on the guidelines set forth in this section.

If the certificate is denied, no permit for the work shall be issued and the applicant shall not proceed with the work. The landmarks board shall state the reasons for denial in writing to the applicant and shall also make suggestions in regard to appropriate changes.

- (d) *Review criteria.* The landmarks board in considering whether or not to issue a certificate of appropriateness shall be guided by the general purpose of this section and the following:
1. The secretary of interior's standards for rehabilitation as listed below.
 - a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

- h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
2. Any design guidelines or standards that the landmarks board may establish and adopt.
 3. For new construction, the landmarks board shall also consider the extent to which the building or structure would be harmonious with or incongruous to the old and historic aspects of the surroundings. It is not the intent of this section to discourage contemporary architectural expression or to encourage the emulation of existing buildings or structures of historic or architectural interest in specific detail. Harmony or incompatibility shall be evaluated in terms of the appropriateness of materials, scale, size, height, and placement of a new building or structure in relationship to existing buildings and structures and to the setting thereof.
 4. For demolitions, the landmarks board shall also consider the following:
 - a. The degree to which the proposed removal would serve to destroy the integrity and continuity of the historic landmark or historic district of which it is part.
 - b. The nature of the resource as a representative type or style of architecture, socio-economic development, historical association or other element of the original designation criteria applicable to such structure or site.
 - c. The condition of the resource from the standpoint of structural integrity and the extent of work necessary to stabilize the structure.
 - d. The ability of the subject structure or site to produce a reasonable economic return on investment to its owner, provided, however, that it is specifically intended that this factor shall not have exclusive control and effect, but shall be considered along with all other criteria contained in this section.
 - e. The post-demolition plans for the site and the relation of those plans to the surrounding area.

In the event the landmarks board concludes that the request, if granted, will have a detrimental effect upon the historic landmark or historic district or any adverse impact on an historical or architectural resource, then the landmarks board shall deny the request for a certificate.
- (e) *Certificate of appropriateness applications affecting archeological resources.* With regard to the development of a property containing a designated archaeological resource, a certificate of appropriateness shall be required prior to the issuance of the permit for which the applicant has applied; and further, the following requirements shall be satisfied:
1. The applicant shall consult with the state historic preservation officer concerning the effect of the proposed action on the site and what action(s) should be undertaken to record and/or preserve the site.
 2. All development affecting the designated archeological resource shall provide for the permanent preservation of the resources or provide for recordation of the site as advised by the state historic preservation officer.
 3. Prior to the hearing by the landmarks board for issuance of the certificate of appropriateness, the applicant shall cause to have presented the comments and recommendations of the state historic preservation officer with respect to the resource under consideration and the application which would affect it.

- (f) *Work required to conform with certificate of appropriateness.* Work performed pursuant to the issuance of a certificate shall conform to the requirements of such certificate, if any. The director of building development services shall inspect from time to time any work performed pursuant to a certificate to assure such compliance. In the event that such work is not in compliance, the director of building development services shall issue a stop work order. A certificate shall become void unless construction is commenced within 180 days of date of issue. All city licenses shall be issued on condition that the person owning or occupying the premises will comply with conditions, if any, in the certificate.
 - (g) *Applicant's action if application is denied.* In the event that a certificate is denied, the applicant may:
 - 1. Not resubmit a denied application without substantial change, but may change the original proposal and resubmit the application within 15 days of denial by the landmarks board; or
 - 2. Apply for a certificate of economic hardship; or
 - 3. File an appeal to the board of adjustment within 15 days of the denial by the landmarks board; or
 - 4. If the request is for a demolition permit to a historic landmark or within a historic district, the applicant may also wait 180 days, at which time said demolition permit shall be issued unless the city council has extended the time for demolition. The landmarks board may request that the demolition be delayed for an additional 120 days by action of the city council. The city council may, after receipt of such request, hold a public hearing and delay the demolition for an additional 120 days.
 - 5. If the request is for a demolition permit to a historic site, the applicant may wait sixty (60) days from the date of the application of the Certificate of Appropriateness before the demolition permit is issued.
 - (h) *Board's action during demolition delay.* In the event the demolition is delayed as provided in subsection 36-404(g)(5), the board shall take such steps as it deems necessary to preserve the structure concerned in accordance with the purposes of this section. Such steps shall include, but shall not be limited to, consultation with civic groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies or agencies and exploration of the possibility of moving one or more structures or other features to an appropriate location with respect to the integrity of the structure or features.
- (4) *Certificate of economic hardship.*
- (a) *Application procedure.* Application for a certificate of economic hardship shall be submitted to the director of planning and development. Applications for certificates of economic hardship must be complete and received in the director's office no later than 15 days prior to a scheduled landmarks board meeting. Signs indicating the proposed action and the time, date and place of the hearing shall be posted by the applicant on the property being considered not less than ten days prior to the hearing. The applicant must comply with standards and procedures provided and approved by the director of the planning and development department and on file in the city clerk's office, regarding compliance with this section.
 - (b) *Review criteria.* The landmarks board will review the application at a public hearing and may solicit expert testimony or require that the applicant for a certificate of economic hardship make submissions concerning any or all of the following information before it makes a determination on the application:
 - 1. Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the landmarks board for changes necessary for the issuance of a certificate of appropriateness.

2. A report from a licensed engineer or architect with experience in recognized historic property rehabilitation, as to the structural soundness of any structures on the property and their suitability for rehabilitation.
 3. A report from a state-certified real estate appraiser as to the estimated market value of the property in its current condition, after completion of the proposed construction, alteration, demolition or removal, after any changes recommended by the landmarks board and, in the case of a proposed demolition, after renovation of the existing property for continued use.
 4. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser or other real estate professional, experienced in recognized historic property rehabilitation, as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
 5. If the property is income-producing, the annual gross income from the property for the previous two years, itemized operation and maintenance expenses for the previous two years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.
 6. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
 7. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years.
 8. Assessed value of the property according to the two most recent assessments.
 9. Real estate taxes for the previous two years.
 10. Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other.
 11. Amount paid for the property, date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.
 12. Annual debt service, if any, for the previous two years.
 13. Any consideration by the owner as to profitable adaptive uses for the property.
 14. Replacement construction plans for the property in question. Post-demolition plans shall include, but are not limited to, drawings or sketches with sufficient detail to show the exterior appearance and architectural design of the proposed building or use, but does not require construction documents to be completed.
 15. Financial proof of the ability to complete the replacement project, which may include, but not be limited to, a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution.
 16. Any other information considered necessary by the landmarks board to a determination as to whether the property does yield or may yield a reasonable return to the owners.
- (c) *Landmarks board review and action.* The landmarks board shall review all information and shall either approve, approve subject to conditions, or deny the application for a certificate of economic hardship. A certificate of economic hardship shall be issued when the structure or part thereof has degenerated beyond feasible limits for rehabilitation or rehabilitation is impracticable and there is an economic hardship.

If approved, the director of the department of building development services will be instructed to issue a building or demolition permit, as requested, for the proposed work unless an appeal of the decision to the board of adjustment is filed within 15 days of the decision. If denied, the

applicant shall have the right to appeal the decision to the board of adjustment. The board of adjustment shall conduct a full and impartial hearing on the matter before rendering a decision. The same standards shall be applied by the board of adjustment as established herein. The board of adjustment may affirm, reverse, or modify the decision of the landmarks board in whole or in part.

- (5) *Public safety.* Nothing in this section shall be construed to prevent the construction, alteration, or demolition of any site, building, structure, object, or district, or part thereof, deemed necessary or ordered by the city council or the director of building development services to ensure public safety. The director of building development services shall notify the landmarks board prior to issuing any such order affecting a designated historic site or historic landmark or property within a historic district to ensure that all alternatives have been considered. When it reasonably appears that an immediate danger to the health, safety, and welfare of any person exists, the director of building development services may take emergency measures to vacate, repair, or demolish such a building or structure.
- (6) *Enforcement and penalties.* Enforcement and penalties shall be as required by section 36-335, zoning enforcement, of this article.
- (7) *Responsibility.* Any person who shall own a designated site or landmark or site or structure within a historic district shall be jointly and severally responsible for compliance with the provisions of this section and is expected to inform any purchaser of the designation.
- (8) *Interpretation.* Questions of interpretation of this section may be referred to the administrative review committee.

(Zoning Ord., § 4-2400; G.O. 4519, 6-12-95; G.O. 4570, 11-27-95; G.O. 4592, 4-1-96; G.O. 4736, 9-2-97; G.O. 5125, 10-15-01; G.O. 5886, 8-9-10; G.O. 5954, 11-14-11)

RECORD OF PROCEEDING – LANDMARKS BOARD

Attachment 2

The regular meeting and public hearing of the Landmarks Board was held on January 8, 2020 at 5:30 p.m. in City Council Chambers, third floor of Historic City Hall.

Landmarks Board members: Paden Chambers (Chair), Richard Crabtree (Vice Chair), Kent Brown, Paul Lewis, and Layne Hunton. Absent: Kaitlyn McConnel

Staff members: Michael Sparlin, Planning Manager and Tom Rykowski, Assistant Attorney.

Landmarks Board text amendment: Michael Sparlin presented to the Board the changes to Sec. 36.353 Landmarks board. City Council initiated amendments to the Zoning Ordinance Sec. 36-353 and 36-404. To address procedures with designation of Historic Sites, Historic Landmarks, and Historic Districts and any additional amendments.

Paden Chambers asked about other non-city agencies, i.e., school district.

Michael Sparlin noted that libraries, electric cooperatives, etc., can be consider other non-city agencies.

Paden Chambers asked about the effect of removing this responsibility and gave example of the school on Division Street, Barry Alternative that had a plaque placed and the LMB had the responsibility to review because it was a non-city agency and wondered how the LMB would make comment.

Michael Sparlin noted that the Landmarks Board would still receive a list of demolition permits and the Board still can make recommendations. Regarding that particular school, the school district went to the voters and made this a bond issue and that added additional time for review.

Richard Crabtree asked about a building/school that is not on the historic register and with the new rules, LMB would need to notify the owner and is asking who the owner is actually if the building has been abandoned or sold.

Michael Sparlin stated that has been addressed in changes proposed in the text amendment and gave out some of the detailed changes (via power point) and noted that the LMB can make recommendations at any time.

Paden Cambers noted that he had no issues in general but said that “no property owner consent” is important and the current ordinance works as it supposed to and hopes that there are no issues moving forward with the changes and the Board is willing to meet half-way where there is no governmental review and gave examples and stated that they cannot control the speed.

Richard Crabtree also noted that most of the changes are acceptable regarding notification, however, gave the Delaware and Boyd school demolishing as an example and commenting that there was not adequate notification.

Tom Rykowski, Assistant Attorney gave out examples of how zoning changes are completed with notification of owners/current residents.

Board members asked about the dates for the LMB Text Amendments.

Michael Sparlin stated that City Council agendas are published on the City’s web page, however he will let the Board know the dates for the Planning and Zoning Commission and City Council meetings.

Paul Lewis commented on the procedures for notification (certified mail) on the Galloway site nomination and asked if the nomination would be different with this text amendment.

Michael Sparlin stated that the new requirement would be the applicant would notify the property owner before the nomination is submitted to city staff.

Layne Hunton asked about what would happen if there is no owner signature after sent out through certified mail.

Michael Sparlin said that it would be noted in the report that staff did not receive a signature or response from the property owner.

Richard Crabtree asked if an attorney can be notified and if they can interfere/hinder the nomination.

Tom Rykowski noted that anyone could have an attorney as their representative.

Paden Chambers commented that the board needs to start looking at Boyd Elementary school and that they need to be looking into the progress of the school district.

Paden Chambers asked that a letter be composed and have all the Landmarks Board members sign to show support and with their comments/concerns for the changes in the Board text amendments and will have the letter completed by the next Planning and Zoning Commission.

Michael Sparlin stated that the Board's role in this review is to review and comment. The Board's comments will be reflected in the meeting minutes. The Board does not need to take a vote on the amendment.

One-rdg. _____
P. Hrngs. _____
Pgs. 28
Filed: 03-03-20

Sponsored by: Fisk

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 052

SPECIAL ORDINANCE _____

AN ORDINANCE

1 AUTHORIZING the City Manager, or his designee, to enter into a Surface
2 Transportation Program-Urban Program Agreement with the Missouri
3 Highways and Transportation Commission; and amending the budget
4 of the Department of Public Works for Fiscal Year 2019-2020, in the
5 amount of \$2,392,00.00, for the purpose of appropriating federal
6 funds to be used in street overlay improvements.
7 _____
8

9 WHEREAS, the Surface Transportation Program ("STP")-Urban Program
10 Agreement, attached hereto as "Exhibit 1" provides for an 80 percent cost
11 reimbursement for street overlay projects as shown in "Exhibit 2"; and
12

13 WHEREAS, the City will provide 20 percent of the funding of the project cost, in
14 the estimated amount of \$598,000.00, from the 1/4-Cent Capital Improvement Sales
15 Tax; and
16

17 WHEREAS, a budget adjustment is required to appropriate the funds associated
18 with the Agreement.
19

20 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
21 SPRINGFIELD, MISSOURI, as follows, that:
22

23 Section 1 – The City Manager, or his designee, is hereby authorized to enter into
24 an Agreement with the Missouri Highways and Transportation Commission, said
25 Agreement to be in substantially the same form as that document attached hereto and
26 incorporated herein by this reference as "Exhibit 1."
27

28 Section 2 – The budget of the Department of Public Works for Fiscal Year 2019-
29 2020, is hereby amended in the accounts and in the amounts as shown on Budget
30 Adjustment No. 038, a copy of which is attached hereto and incorporated herein by this
31 reference as "Exhibit 3."
32

33 Section 3 – The City Manager is directed to cause the appropriate accounting

34 entries to be made in the books and records of the City.

35
36 Section 4 – This Ordinance shall be in full force and effect from and after
37 passage.

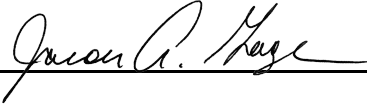
38
39 Passed at meeting: _____

40
41
42 _____
43 Mayor

44
45 Attest: _____, City Clerk

46
47 Filed as Ordinance: _____

48
49 Approved as to form: , Assistant City Attorney

50
51
52 Approved for Council action: , City Manager
53

EXPLANATION TO COUNCIL BILL 2020- 052

FILED: 03-03-20

ORIGINATING DEPARTMENT: Public Works

PURPOSE: Authorizing the City Manager, or his designee, to enter into a Surface Transportation Program-Urban Program Agreement with the Missouri Highways and Transportation Commission; and amending the budget of the Department of Public Works for Fiscal Year 2019-2020, in the amount of \$2,392,00.00, for the purpose of appropriating federal funds to be used in street overlay improvements.

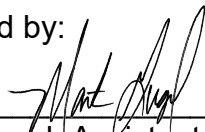
BACKGROUND INFORMATION: This Surface Transportation Program ("STP")-Urban Program Agreement allows for reimbursement of up to 80% of the estimated \$2,990,000, cost for project construction and inspection associated with the Major Street Resurfacing Improvements. The cost to be reimbursed by the Missouri Highways and Transportation Commission ("MHTC") on Project STBG-5916 (807) is estimated at \$2,392,000. The City's 20% share, estimated at \$598,000, will be funded by the 1/4-Cent Capital Improvement Sales Tax-Major Street Resurfacing/Rehabilitation Program, which is already budgeted.

Supports the following City Council Priorities:

- Public Safety
- Fiscal Sustainability
- Economic Vitality

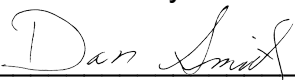
REMARKS: Public Works recommends approval of this Council bill and budget adjustment.

Submitted by:



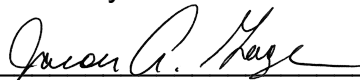
Martin Gugel, Assistant Director of Public Works

Recommended by:



Dan Smith, Director of Public Works

Approved by:



Jason Gage, City Manager

Exhibit 1

CCO Form: FS11
Approved: 07/96 (KMH)
Revised: 03/17 (MWH)
Modified:

CFDA Number: CFDA #20.205
CFDA Title: Highway Planning and Construction
Award name/number: STBG-5916(807) TIP# SP2012-20AM3
Award Year: 2020
Federal Agency: Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION STP-URBAN PROGRAM AGREEMENT

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

WITNESSETH:

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

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

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

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

(1) PURPOSE: The purpose of this Agreement is to grant the use of STP funds to the City. The improvement contemplated by this Agreement and designated as Project STBG-5916(807) involves overlay improvements at various locations on Sunshine Street, National Avenue, and Battlefield Road. The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project STBG-5916(807) by the Commission is within the city limits of Springfield, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows: Overlay improvements at various locations on Sunshine Street, National Avenue, and Battlefield Road.

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

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

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

(6) INVENTORY AND INSPECTION: The City shall:

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

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

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

(8) INDEMNIFICATION:

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

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

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

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

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

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

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or

words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.

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

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be 80 percent (**80%**) not to exceed **\$2,392,000.00**. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

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

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

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

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project STBG-5916(807) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) To the City:
Jonathan Peitz, PE
City of Springfield

840 Boonville, Springfield, MO 65802
Phone # 417-864-1994
jpeitz@springfieldmo.gov

- (B) To the Commission:
Chad Zickefoose, LPA Program Manager
MoDOT Southwest District
3025 East Kearney Street, Springfield, MO 65803
Phone # 417-895-7638
chad.zickefoose@modot.mo.gov

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

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

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

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

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

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this

Agreement relative to nondiscrimination on grounds of the race, color, religion, sex, disability or national origin, age or ancestry of any individual.

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

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

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (29) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

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

Executed by the City this _____ day of _____, 2020.

Executed by the Commission this _____ day of _____, 2020.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF SPRINGFIELD

Title _____

By _____
Title _____

ATTEST:

ATTEST:

Secretary to the Commission

By _____
Title _____

Approved as to Form:

Approved as to Form:

Commission Counsel

By _____
Title _____

Ordinance No: _____

Exhibit A - Location of Project



Exhibit B – Project Schedule

Project Description: STBG-5916(807) 2020 overlays

Task	Date
Date funding is made available or allocated to recipient	10/2019
Solicitation for Professional Engineering Services (advertised)	
Engineering Services Contract Approved	
Conceptual Study (if applicable)	
Preliminary and Right-of-Way Plans Submittal (if Applicable)	
Plans, Specifications & Estimate (PS&E) Submittal	7/2020
Plans, Specifications & Estimate (PS&E) Approval	8/2020
Advertisement for Letting	9/2020
Bid Opening	10/2020
Construction Contract Award or Planning Study completed (REQUIRED)	11/2020

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

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

Exhibit C

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

Exhibit C

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

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

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

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

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

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

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

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

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

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

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

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

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

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

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

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

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

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

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

Exhibit C

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

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

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

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

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

Exhibit C

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

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will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

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

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(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

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

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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d. Apprentices and Trainees (programs of the U.S. DOT).

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

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

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VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

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

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"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

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

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

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

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

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

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

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

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

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

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

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

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

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

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

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

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

this transaction originated may pursue available remedies, including suspension and/or debarment.

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

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

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

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department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

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

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

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

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

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

Exhibit C

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

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

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

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

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

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

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

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

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

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

Exhibit 2

KEARNEY ST.

NATIONAL AVE.

PROJECT LOCATION

CAMPBELL AVE.

GLENSTONE AVE.

KANSAS EXPWY.

PROJECT LOCATION

SUNSHINE ST.

PROJECT LOCATION

BATTLEFIELD RD.

CITY OF SPRINGFIELD, MO
BUDGET ADJUSTMENT

Exhibit 3

Budget Adjustment
038

Revenues:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
46040	20	73020	416010	000000	00000	\$ 2,392,000	Federal STBG Grant Revenues - National Avenue, Battlefield Road, & Sunshine Street - Overlay
Net Revenue Adjustment						\$ 2,392,000	

Expenditures:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
46040	20	73020	509110	000000	00000	\$ 2,392,000	Street Overlay Improvements - National Ave, Battlefield Road, & Sunshine Street
Net Expenditure Adjustment						\$ 2,392,000	

Fund Balance Appropriation:

Fund	Title	Amount

Explanation: To appropriate federal STBG grant funds of \$2,392,000 for 80% of the estimated costs of Street Overlay on portions of National Ave., Battlefield Road, and Sunshine Street based on the Surface Transportation Program (STP) Urban Agreements. The remaining 20% of estimated costs (\$598,000) will be funded by the 1/4 Cent Capital Improvement Sales Tax Major Street Resurfacing/Rehabilitation Program that is already budgeted.

Requested By:

Dan Smith 3/4/20
Department Head Date

Approved By:

DL Hill 3/4/20
Director of Finance Date

Authorization:

Council Bill No. 2020-052
Ordinance No. _____
1st Reading _____
2nd Reading _____
Journal Imp No. _____

City Manager Date

One-rdg. _____
P. Hrngs. _____
Pgs. 28
Filed: 03-03-20

Sponsored by: Lear

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 053

SPECIAL ORDINANCE _____

AN ORDINANCE

1 AUTHORIZING the City Manager, or his designee, to enter into a Surface
2 Transportation Program-Urban Program Agreement with the Missouri
3 Highways and Transportation Commission; and amending the budget
4 of the Department of Public Works for Fiscal Year 2019-2020, in the
5 amount of \$1,288,000.00, for the purpose of appropriating federal
6 funds to be used in ADA Improvements.
7 _____
8

9 WHEREAS, the Surface Transportation Program ("STP)-Urban Program
10 Agreement, attached hereto as "Exhibit 1" provides for an 80 percent cost
11 reimbursement for ADA Improvements in the areas shown in "Exhibit 2"; and
12

13 WHEREAS, the City will provide 20% of the funding of the project cost, in the
14 estimated amount of \$322,000.00, from the 1/4-Cent Capital Improvement Sales Tax;
15 and
16

17 WHEREAS, a budget adjustment is required to appropriate the funds associated
18 with the Agreement.
19

20 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
21 SPRINGFIELD, MISSOURI, as follows, that:
22

23 Section 1 – The City Manager, or his designee, is hereby authorized to enter into
24 an Agreement with the Missouri Highways and Transportation Commission, said
25 Agreement to be in substantially the same form as that document attached hereto and
26 incorporated herein by this reference as "Exhibit 1."
27

28 Section 2 – The budget of the Department of Public Works for Fiscal Year 2019-
29 2020, is hereby amended in the accounts and in the amounts as shown on Budget
30 Adjustment No. 040, a copy of which is attached hereto and incorporated herein by this
31 reference as "Exhibit 3."
32

33 Section 3 – The City Manager is directed to cause the appropriate accounting

34 entries to be made in the books and records of the City.

35
36 Section 4 – This Ordinance shall be in full force and effect from and after
37 passage.

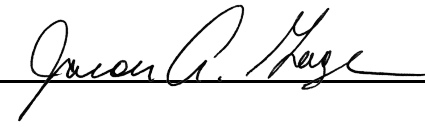
38
39 Passed at meeting: _____

40
41
42 _____
43 Mayor

44
45 Attest: _____, City Clerk

46
47 Filed as Ordinance: _____

48
49 Approved as to form: , Assistant City Attorney

50
51
52 Approved for Council action: , City Manager
53

EXPLANATION TO COUNCIL BILL 2020-053

FILED: 03-03-20

ORIGINATING DEPARTMENT: Public Works

PURPOSE: Authorizing the City Manager, or his designee, to enter into a Surface Transportation Program-Urban Program Agreement with the Missouri Highways and Transportation Commission; and amending the budget of the Department of Public Works for Fiscal Year 2019-2020, in the amount of \$1,288,000.00, for the purpose of appropriating federal funds to be used in ADA Improvements.

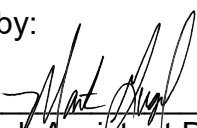
BACKGROUND INFORMATION: This Surface Transportation Program ("STP")-Urban Program Agreement allows for reimbursement of up to 80% of the estimated \$1,610,000, cost for project construction and inspection associated with the ADA Improvements. The cost to be reimbursed by the Missouri Highways and Transportation Commission ("MHTC") on Project STBG-5916 (808) is estimated at \$1,288,000. The City's 20% share, estimated at \$322,000, will be funded by the 1/4-Cent Capital Improvement Sales Tax-Major Street Resurfacing/Rehabilitation Program, which is already budgeted.

Supports the following City Council Priorities:

- Public Safety
- Fiscal Sustainability
- Economic Vitality

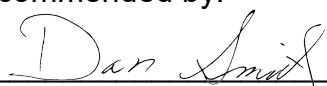
REMARKS: Public Works recommends approval of this Council bill and budget adjustment.

Submitted by:



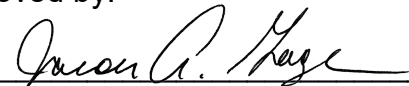
Martin Gugel, Assistant Director of Public Works

Recommended by:



Dan Smith, Director of Public Works

Approved by:



Jason Gage, City Manager

Exhibit 1

CCO Form: FS11
Approved: 07/96 (KMH)
Revised: 03/17 (MWH)
Modified:

CFDA Number: CFDA #20.205
CFDA Title: Highway Planning and Construction
Award name/number: STBG-5916(808) TIP# SP2014-20AM3
Award Year: 2020
Federal Agency: Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION STP-URBAN PROGRAM AGREEMENT

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

WITNESSETH:

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

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

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

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

(1) PURPOSE: The purpose of this Agreement is to grant the use of STP funds to the City. The improvement contemplated by this Agreement and designated as Project STBG-5916(808) involves ADA improvements at various locations on Sunshine Street, National Avenue, and Battlefield Road. The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project STBG-5916(808) by the Commission is within the city limits of Springfield, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows: ADA improvements at various locations on Sunshine Street, National Avenue, and Battlefield Road.

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

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

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

(6) INVENTORY AND INSPECTION: The City shall:

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

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

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

(8) INDEMNIFICATION:

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

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

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

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

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

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

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words

of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.

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

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be 80 percent (**80%**) not to exceed **\$1,288,000.00**. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

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

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

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

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project STBG-5916(808) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) To the City:
Jonathan Peitz, PE
City of Springfield

840 Boonville, Springfield, MO 65802
Phone # 417-864-1994
jpeitz@springfieldmo.gov

- (B) To the Commission:
Chad Zickefoose, LPA Program Manager
MoDOT Southwest District
3025 East Kearney Street, Springfield, MO 65803
Phone # 417-895-7638
chad.zickefoose@modot.mo.gov

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

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

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

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

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

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this

Agreement relative to nondiscrimination on grounds of the race, color, religion, sex, disability or national origin, age or ancestry of any individual.

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

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

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (29) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

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

Executed by the City this _____ day of _____, 2020.

Executed by the Commission this _____ day of _____, 2020.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF SPRINGFIELD

Title _____

By _____
Title _____

ATTEST:

ATTEST:

Secretary to the Commission

By _____
Title _____

Approved as to Form:

Approved as to Form:

Commission Counsel

By _____
Title _____

Ordinance No: _____

Exhibit A - Location of Project

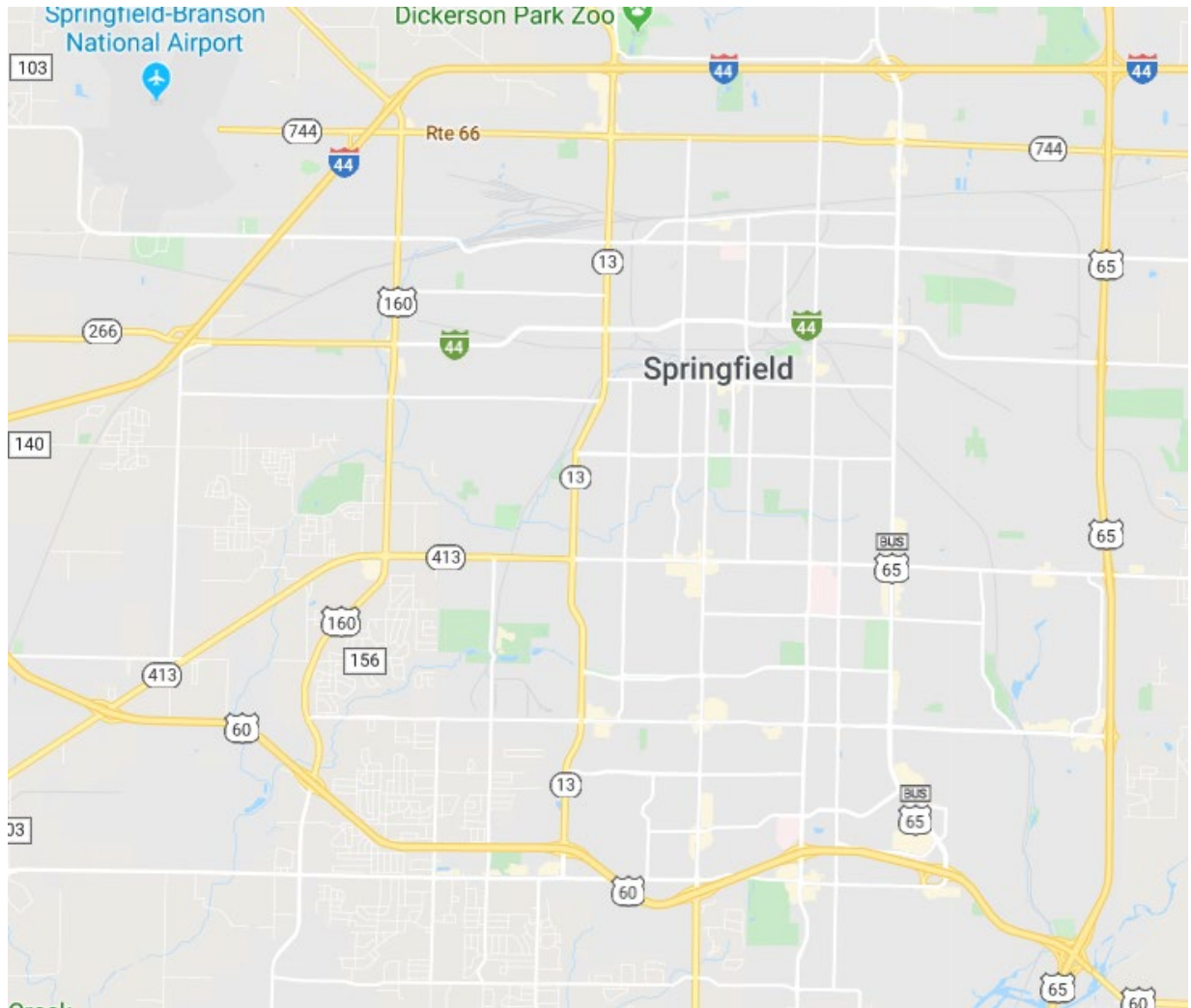


Exhibit B – Project Schedule

Project Description: STBG-5916(808) 2020 ADA improvements

Task	Date
Date funding is made available or allocated to recipient	10/2019
Solicitation for Professional Engineering Services (advertised)	
Engineering Services Contract Approved	
Conceptual Study (if applicable)	
Preliminary and Right-of-Way Plans Submittal (if Applicable)	
Plans, Specifications & Estimate (PS&E) Submittal	7/2020
Plans, Specifications & Estimate (PS&E) Approval	8/2020
Advertisement for Letting	9/2020
Bid Opening	10/2020
Construction Contract Award or Planning Study completed (REQUIRED)	11/2020

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

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

Exhibit C

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

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this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

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

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

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

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

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

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

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

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

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

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

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

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

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

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

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

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

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

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

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applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

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

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

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

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

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will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

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will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

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

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(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

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

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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d. Apprentices and Trainees (programs of the U.S. DOT).

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

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

Exhibit C

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

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

Exhibit C

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

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

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

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

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

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

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

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

Exhibit C

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

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

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

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

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

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

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

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

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

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

this transaction originated may pursue available remedies, including suspension and/or debarment.

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

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

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

Exhibit C

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

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

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

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

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

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

Exhibit C

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

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

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

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

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

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

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

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

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

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

Exhibit 2

KEARNEY ST.

NATIONAL AVE.

PROJECT LOCATION

CAMPBELL AVE.

GLENSTONE AVE.

KANSAS EXPWY.

PROJECT LOCATION

SUNSHINE ST.

PROJECT LOCATION

BATTLEFIELD RD.

CITY OF SPRINGFIELD, MO
BUDGET ADJUSTMENT

Exhibit 3

Budget Adjustment
040

Revenues:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
46040	20	73020	416010	000000	00000	\$ 1,288,000	Federal STBG Grant Revenues - National Avenue, Battlefield Road, & Sunshine Street ADA Improvements
Net Revenue Adjustment						\$ 1,288,000	

Expenditures:

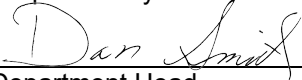
Fund	Dept	Org	Account	P&G	Location	Amount	Description
46040	20	73020	509110	000000	00000	\$ 1,288,000	ADA Improvements - National Ave, Battlefield Road, & Sunshine Street
Net Expenditure Adjustment						\$ 1,288,000	

Fund Balance Appropriation:

Fund	Title	Amount

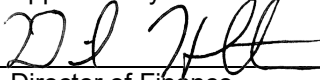
Explanation: To appropriate federal STBG grant funds of \$1,288,000 for 80% of the estimated costs of ADA Improvements on portions of National Ave., Battlefield Road, and Sunshine Street based on the Surface Transportation (STP) Urban Agreement. The remaining 20% of estimated costs (\$322,000) will be funded by the 1/4 Cent Capital Improvement Sales Tax Major Street Resurfacing/Rehabilitation Program that is already budgeted.

Requested By:


Department Head

3/4/20
Date

Approved By:


Director of Finance

3/4/20
Date

Authorization:

Council Bill No. 2020-053
Ordinance No. _____
1st Reading _____
2nd Reading _____
Journal Imp No. _____

City Manager Date

One-rdg. _____
P. Hrngs. _____
Pgs. 19
Filed: 03-03-20

Sponsored by: Simpson

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020-054

SPECIAL ORDINANCE _____

AN ORDINANCE

AUTHORIZING the City Manager, or his designee, to enter into a sewer improvement developer and construction cost reimbursement agreement with Ridge Investment Group, LLC, for the purpose of constructing sewer infrastructure serving the Millwood East Development and paying the cost difference between the more expensive gravity sewer and the lift station, force main, including associated fees; and utilizing no more than \$393,541.37 from the Fiscal Year 2019-2020 Clean Water Services Fund.

WHEREAS, pursuant to City Code, the City has the opportunity to require private developers to install gravity sewer when gravity sewer is more expensive than the lift station, force main, and associated fees, by paying the cost difference between gravity sewer and the lift station, force main, and associated fees; and

WHEREAS, Ridge Investment Group, LLC, ("Developer"), is developing 45 acres on the northwest corner of East Millwood Drive and South Farm Road 189, which includes off site public sewer infrastructure to serve the new development; and

WHEREAS, the development could be served by a lift station and force main with associated fees for an estimated cost of \$581,080.83 or by 8-inch gravity sewer for an estimated cost of \$722,022.50, a cost difference of \$140,941.67; and

WHEREAS, the City desires to avoid the ongoing operation and maintenance expense of another lift station by requiring Ridge Investment Group, LLC, to install gravity sewer, with the City agreeing to pay the \$140,941.67 estimated cost difference; and

WHEREAS, the City desires to further support public sewer in the area for future development by proposing to pay for increased pipe and manhole sizes at an estimated cost of \$187,140.00; and

33 WHEREAS, the City and Ridge Investment Group, LLC, desire to establish the
34 proportional share of sewer infrastructure costs at 36 percent (\$328,081.67) and 64
35 percent, respectively, with the City establishing a firm financial ceiling for reimbursement
36 of estimated project costs, plus a 20 percent (\$65,459.70) budgetary contingency
37 allowance based on estimated costs, for a maximum City contribution of \$393,541.37;
38 and
39

40 WHEREAS, the developer agreement will further establish a pro-rata
41 construction cost reimbursement to be paid to City and Developer from each new
42 connection fee in the proposed area.
43

44 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
45 SPRINGFIELD, MISSOURI, as follows, that:
46

47 Section 1 – The City Manager, or his designee, is hereby authorized to enter into
48 a sewer improvement developer and construction costs reimbursement agreement with
49 Ridge Investment Group, LLC, said agreement to be in substantially the same form as
50 the document attached hereto and incorporated herein by reference as "Exhibit 1," and
51 to do all things necessary to carry out the intent of the agreement.
52

53 Section 2 – The budget of the Department of Environmental Services Clean
54 Water Fund for Fiscal Year 2019-2020 is hereby amended in the accounts and in the
55 amounts as shown on Budget Adjustment No. 039, a copy of which is attached hereto
56 and incorporated herein by reference as "Exhibit 2."
57

58 Section 3 – City Council hereby finds that the budget adjustment made above
59 has been recommended by the City Manager
60

61 Section 4 – The City Manager is directed to cause the appropriate accounting
62 entries to be made in the books and records of the City.
63

64 Section 5 – This Ordinance shall be in full force and effect from and after
65 passage.
66

67 Passed at meeting: _____
68
69

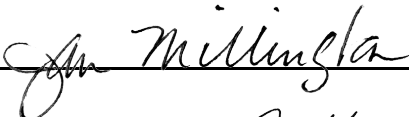
70 _____
71 Mayor
72

73 Attest: _____, City Clerk
74

75 Filed as Ordinance: _____

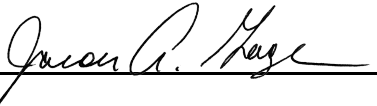
76

77

78 Approved as to form: , Deputy City Attorney

79

80

81 Approved for Council action: , City Manager

EXPLANATION TO COUNCIL BILL 2020- 054

FILED: 03-03-20

ORIGINATING DEPARTMENT: Environmental Services

PURPOSE: To Authorize the City Manager, or his designee, to enter into a sewer improvement developer and construction cost reimbursement agreement with Ridge Investment Group, LLC, for the purpose of constructing sewer infrastructure serving the Millwood East Development and paying the cost difference between the more expensive gravity sewer and the lift station, force main, including associated fees; and utilizing no more than \$393,541.37 from the Fiscal Year 2019-2020 Clean Water Services Fund.

BACKGROUND:

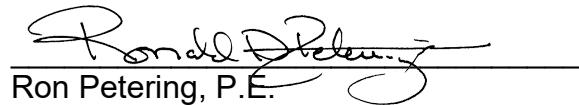
1. City Code Section 98-285 allows the city to require private developers to install gravity sewer when gravity sewer is more expensive than the lift station, force main, and associated fees, by paying the cost difference between gravity sewer and the lift station, force main, and associated fees.
2. Ridge Investment Group, LLC, is developing 45 acres on the northwest corner of East Millwood Drive and South Farm Road 189, which includes off site public sewer infrastructure to serve the new development.
3. Ridge Investment Group, LLC, proposed to serve the development with a public lift station and force main, which from an upfront capital expense perspective is the most economically attractive solution even when considering associated City lift station fees. A sewer feasibility study conducted for the 45-acre site determined the development could be served by a lift station and force main with associated fees for an estimated cost of \$581,080.83 or by 8-inch gravity sewer for an estimated cost of \$722,022.50, a cost difference of \$140,941.67.
4. The City desires to avoid the ongoing operation, maintenance, and eventual gravity sewer lift station relief expense of another lift station in the sanitary sewer collection system. Thus, the City desires to enter a cost share agreement with the developer that provides the City will pay the \$140,941.67 difference in estimated cost.
5. Additionally, the proposed gravity sewer alignment that serves the development will also serve as a trunk main for a larger 556-acre basin. Consequently, the City desires to increase pipe and manhole sizes to further support public sewer in the area for future development and proposes to pay for the increased pipe and manhole sizes at an estimated cost of \$187,140.00.
6. The total estimated cost of the project is \$909,162.50. The City's estimated financial contribution of \$328,081.67 (\$140,941.67 + \$187,140.00) is 36 percent

of the total estimated cost of the project. The developer's estimated financial contribution of \$581,080.83 is 64 percent of the total estimated cost of the project.

7. The developer, Ridge Investment Group, LLC, will seek reimbursement for 36 percent of the actual costs of the gravity sewer project. City reimbursement to the developer will be evidenced by costs of the sanitary sewer project certified to and accepted by the director of Environmental Services.
8. The City desires to establish an upper threshold of financial contribution prior to entering the agreement. This threshold is established as a 20 percent contingency (\$181,832.50) of the \$909,162.50 estimate of probable gravity sewer project costs. The City would reimburse up to \$65,459.70 (36 percent) of the total \$181,832.50 contingency. This would establish the City's maximum contribution at \$393,541.37 (\$328,081.67 + 65,459.70).
9. Should actual project costs exceed 120 percent of the estimate of probable gravity sewer project costs, exhausting the City's \$393,541.37 maximum contribution, the City will cease reimbursement to the developer.
10. Environmental Services included \$500,000 annual funding for Shared Cost Sanitary Sewer Construction – Developer Agreements in the 2019 and 2020 Capital Improvement Program.
11. The City agrees to assist in easement acquisition if necessary as described in Section 2. B. of "Exhibit 1." The agreement commits the City's assistance to include the utilization of eminent domain if it becomes reasonably necessary.
12. The cost-share agreement is attached hereto in its substantial form and content as "Exhibit 1."

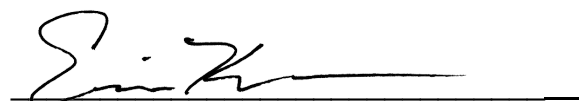
REMARKS: Environmental Services recommends passage of this Council Bill and budget adjustment.

Submitted by:



Ron Petering, P.E.
Assistant Director of Environmental Services

Recommended by:



Errin Kemper, P.E.
Director of Environmental Services

Approved by:



Jason Gage
City Manager

Exhibit 1

SEWER IMPROVEMENT DEVELOPER AGREEMENT
(Construction Cost Reimbursement)

AGREEMENT No. _____

THIS AGREEMENT, made and entered into this ____ day of _____, 2020 by and between the City of Springfield, Missouri, a municipal corporation, hereinafter referred to as the “City,” and Ridge Investment Group, LLC, a Missouri limited liability company, hereinafter referred to as the “Developer”.

WHEREAS, the Developer, is the prospective owner of a 45-acre property, which is proposed to be developed as single-family residential community and is in need of securing sanitary sewer service; and

WHEREAS, the City owns and operates the sanitary sewer utility in the city limits which could serve the Springfield Urban Service Area, within which the subject property is located, and is agreeable to accepting and treating the sewerage from the residential development; and

WHEREAS, a new trunk sewer line (hereinafter “Trunk Line” or “Project”) will need to be constructed to connect the residential development to the City’s existing sewer collection system and this new trunk sewer line, if upsized, will serve a common public need, benefitting multiple properties, for sewer service within the drainage basin; and

WHEREAS, the City and the Developer desire to work cooperatively to plan, construct, and fund in the most efficient manner the new trunk sewer line, which will be designated as Millwood East Trunk Line; and

WHEREAS, upon completion, inspection and approval of the Trunk Line by the City, pursuant to City Code §98-289, Developer will convey the Trunk Line to the City whereupon the City agrees to assume ownership and maintenance of the Trunk Line; and

WHEREAS, the City will establish, at its expense, a Joint Sanitary Sewer District boundary which will encompass the Trunk Line and the properties draining by gravity to the Trunk Line (the “Joint Sanitary Sewer District”); and

WHEREAS, under City Code 120-256 the City shall thereafter collect a Trunk Line Joint Sanitary Sewer Connection Fee (the “Connection Fee”) from each new connection within the Joint Sanitary Sewer District for the privilege of connecting to the publicly owned sewer system, said Connection Fee to be used to provide partial reimbursement to the Developer and the City according to their respective approved costs in constructing the sewer (hereinafter “Costs of Project”).

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants, terms and conditions set forth herein, the Developer and the City agree as follows:

1. Developer agrees to:

- A. *Consent to Annexation.* As the subject property is adjacent to the City Limit, the Developer shall provide consent(s) to annexation. The Developer will pursue development in conformance with City Codes if City elects, at its sole discretion, to require annexation prior to development.
- B. *Construct the Project.* The Developer will coordinate and administer all design and construction efforts necessary to build the Trunk Line including:
 - i. Retain professional engineering and land survey firm(s), licensed with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects to develop sealed construction documents consisting of, but not limited to, construction plans, technical specifications, and any necessary easement documents for the Trunk Line which comply with the standards and construction details established by the City.
 - ii. Retain a qualified entity to assist with outreach to property owners along the final Trunk Line routing to share information about the Project and to negotiate any temporary and permanent easements necessary for construction of the Trunk Line. All easement acquisitions and negotiations shall be in accordance with RSMo Chapter 523. All easement documents are to be generated using a format approved by the City, in which the easement is granted to the benefit of the City.
 - iii. Retain a qualified contractor to construct the Trunk Line. Developer agrees the Trunk Line will be constructed, and the Contractor will be required, to pay prevailing wages in accordance with the Missouri Department of Labor & Industrial Relations prevailing wage determination for Greene County, as published and applicable at the time when the construction contract is executed.
 - iv. Upon completion of the construction of the Trunk Line, the Developer or Developer's contractor shall promptly restore all easements or licenses required for construction, to similar condition as existed immediately prior to the commencement of the work.
 - v. During design, easement acquisition, and construction, the Developer will provide a monthly summary to the City of work progress and provide an itemized accounting of Costs of the Project (as defined below) incurred since the prior monthly report and incurred project-to-date.
- C. *Contribute financially.* The Developer agrees to pay 64% (the "Developer's Share") of all approved Costs of the Project, including but not limited to, costs for the acquisition of Project easements or right(s)-of-way (not to exceed the actual cost of right-of-way

acquisition and which are determined to be reasonable by the director of Environmental Services) licenses, reasonable cost of blue prints, advertising, mailings, reasonable engineering and inspection expenses, surveying, title insurance, planning fees and expenses, contractor services and costs for materials (collectively the “Costs of the Project”).

- D. *Turn Completed Trunk Line over to City.* After completion of the Trunk Line, and upon inspection and approval of the constructed Trunk Line by the City, Developer will assign, deed and convey all right, title, interest and possession of the Trunk Line to the City, free and clear of any liens or encumbrances, for its use, operation and maintenance.
- E. *Provide Warranty and indemnification.* The Developer agrees to provide the following warranties, protections, and indemnifications to the City:
- i. During construction, Developer will require their Contractor and all Subcontractors to provide insurance coverage as more fully described in section 3.F, said insurance to list the City as an additional insured on all applicable insurance policies; and
 - ii. Provide the City with a one (1) year contractor’s warranty covering all materials and workmanship involved in construction of the Trunk Line. Contractor’s warranty shall be on a “full replacement value” basis, meaning that no deductible or other financial contribution is required of the City for correction of any warranty claims; and
 - iii. Unless acquired by the City, Developer will warrant and defend any sanitary sewer temporary or permanent easement(s) of the Trunk Line and will defend and indemnify the City, its successors and assigns, from and against the claims and demands of all persons whatsoever in connection with any claims arising from the acquisition of the easements required for construction of the Trunk Line; and
 - iv. Defend, indemnify, and hold the City harmless from any and all claims, losses, and liabilities, including but not limited to personal injuries, death, property damage, or property claims, which are caused by the Developer’s Contractor and which may arise out of or in connection with performance of this Agreement or construction of the Trunk Line.

2. City agrees to:

- A. *Grant of access.* To the extent that construction of the Trunk Line will occur on easements or rights-of-way owned by the City, the City hereby grants to the Developer, its employees, contractors and subcontractors working on the Trunk Line, a temporary license to enter upon and use the easements or rights-of-way specifically identified in

PW Plan No. _____, for the limited purpose of constructing the Trunk Line.

- B. *Assist, if necessary, in easement acquisition.* Should the Developer be unable, through its own efforts and at costs reasonably aligned with typical fair market values, to secure certain easements necessary for timely construction of the Trunk Line, the Developer may request the City's assistance in obtaining said easements. If the City agrees the Developer has made all reasonable efforts to obtain the needed easements, the City will take over the administration of the easement acquisition and will, if necessary, utilize its eminent domain authority to procure said easements at a fair market value. Should the City take over the easement acquisition process, the City will assign appropriate members of its staff to administer the acquisition process. The Developer and the City will be responsible for payment of its respective share of all reasonable costs related to acquisition of the easements including, but not limited to, court costs and expenses of litigation, title insurance commitments and policies, appraiser's fees for appraisal and expert testimony, if required, compensation paid or awarded to the property owner and other miscellaneous costs. The reasonable costs of easement acquisition will be considered Costs of the Project and are eligible for inclusion in the Connection Fee tabulation. In the event (i) of a judicial ruling that the City is not entitled to take an easement, or (ii) Developer and the City are unable, despite each party's fulfillment of its obligations under this Agreement to acquire all necessary easements and licenses to permit construction of the Trunk Line to begin by a date which parties mutually agree reasonably allows for construction of the gravity sewer to be completed concurrent with the need to provide sewer service to housing being constructed within the development, then the City will upon proper finding, authorize the Developer to proceed with construction of a lift station and force main to connect to the City's sewer system, and (b) the Developer and the City will be accountable for their respective share of the Costs of the Project incurred prior to the date of mutual agreement.
- C. *Recording of easements.* The City will accept the executed easement documents and will be responsible for recording the same with the Greene County Recorder's office. The City will be responsible for payment of all recording fees.
- D. *Contribute financially.* The City agrees to pay 36% (the "City's Share") of the approved Costs of the Project, up to a maximum amount not to exceed of \$393,541.37, which maximum dollar amount can only be revised by consent of both parties, in writing. Any additional amounts agreed to and added in writing will be subject to and conditioned upon available appropriated and unencumbered funds. The City's financial contribution is conditioned on the following:
- i. Before proceeding with the project, the Developer will cause an estimate of the probable Costs of the Project to be prepared by a professional engineer and

submitted to the City for review and approval. The City will review the estimate and, if approved, the estimate of probable costs will set a budget for the Cost of the Project, and the City will provide authorization to proceed.

- ii. The City is able to review bids and cost proposals, prior to Developer providing a notice to proceed, from prospective professional service providers and construction contractors to ensure the bids and cost proposals are in general alignment with the project budget. The City reserves the right to request bids or cost proposals from alternate and/or multiple vendors if, in its sole judgement, the additional bids or cost proposals are likely to result in a lower Cost of the Project.
- iii. If, at any time, the actual Costs of the Project are determined or projected to exceed the approved estimate, or if there is a proposed change order in excess of one thousand dollars (\$1,000.00) may be audited by the director to determine if the additional costs caused by the change order are reasonable and necessary. The director may inform the Developer that he has determined that the costs, or a portion thereof, are not reasonable and necessary; and upon such information, such costs shall not be included in determining the cost of construction for purposes of determining the construction cost reimbursement fee, as set forth herein, the City reserves the right to request timely documentation which substantiates and justifies the increase in cost. The City reserves the right to reject any item of cost, to the extent that, in its reasonable judgement, it is unreasonable or unnecessary, from inclusion as an actual Cost of the Project when calculating the City's cost participation and the Connection Fee.
- iv. During construction of the Trunk Line, each party will pay its share of any progress payments for incurred Costs of the Project. At the end of construction, and concurrent with final inspection and acceptance of the completed Trunk Line by the City, the Developer will also be required to provide evidence of final lien waivers from all contractors, subcontractors, and material vendors and a final accounting of all actual Costs of the Project. Prior to submittal of the final accounting to the City, the Developer shall have its professional engineer provide an itemized breakout of actual Costs of the Project and certify to the director that all such costs were necessary and were incurred in connection with the construction of the Trunk Line, for accuracy and conformance with "as constructed" quantities, and the engineer shall acknowledge their review by affixing his/her professional seal to a copy of the actual Cost of the Project . Upon receipt of the above information, the City will conduct a final review and, if approved by the Director of Environmental Services or designee, then within 45 days after the City's approval of such final accounting the parties will true up their respective financial contributions to the Project.

- E. *Assume maintenance responsibilities.* After the completed Trunk Sewer successfully passes final inspections, the City agrees to accept the Trunk Line into the collection system of its publicly owned treatment works (“POTW”) and provide all subsequent maintenance and operation of the Trunk Line.
- F. *Cost recovery from additional connections.* Since the Trunk Line, as an extension of the POTW, will benefit multiple properties within the drainage basin by making sanitary sewer service more widely available, the City agrees to require a Connection Fee from property owners within the Joint Sanitary Sewer District boundary, outlined in Exhibit A, when they make future connection to the POTW. This Connection Fee is intended to recover a pro-rata share of the Costs of the Project that were originally contributed by the Developer and the City. See Section 3.E of this Agreement for additional detail regarding the determination and collection of the Connection Fee. The City agrees, pursuant to City Code §98-287, to:
 - i. Reimburse to Developer its pro-rata share of each applicable Connection Fee collected by the City from land within the Joint Sanitary Sewer District pursuant to §98-287 (less costs of collection as calculated by the Director of Finance of the City).
 - ii. The City’s obligation to reimburse Developer for its pro-rata share of Costs of the Project out of Connection Fees collected for connections within the Joint Sanitary Sewer District, shall be in full force and effect for a period of 20 years from the date of this Agreement. The Developer shall be responsible during such time to furnish the Director of Environmental Services with Developer’s correct mailing address and telephone number for the purpose of remitting collections. In the event the Developer is no longer in existence or has failed to provide current information of its legal address for a two-year period from the time each Connection Fee is collected by the City, then the fee shall revert to the City’s Sewer Use Fund for the benefit of all rate payers.
 - iii. The City offers no guarantee to the Developer as to the number and cumulative dollar amounts, if any, of Connection Fees that will be collected within the 20-year period. Nothing in this Agreement shall create any liability on behalf of the City for its failure to collect such Connection Fees pursuant to City Code §98-287(c).

3. Miscellaneous Provisions:

- A. *Right to Terminate.* If the Developer fails to complete construction of the gravity sewer public improvement Project in compliance with the City’s inspection acceptance requirements (General Conditions & Technical Specifications Section 4.8) within 36-months of acquiring all requisite easements, the City shall thereupon have the right to terminate this Agreement.

- B. *Ownership of Documents.* The Developer, in their contract with the Engineer, shall require the Engineer, upon completion of construction documents and payment being provided for design phase services, to convey ownership of and furnish copies of all instruments of service, including, but not limited to, an electronic Adobe or Bluebeam file of all plans, Autocad or Microstation files, copies of estimates, specifications, written reports, and written design criteria, to the City for its use in connection with completion or operation and maintenance of the Project.
- C. *Default and Cure Rights.* With regard to construction of the Trunk Sewer, if either party (“Defaulting Party”) shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Defaulting Party shall violate any of the covenants, terms, or stipulations of this Agreement, the other party (the “Non-Defaulting Party”) shall promptly notify the Defaulting Party of such failure or violation. The Defaulting Party shall have thirty (30) days to cure any such failure or violation, provided, however, that if such failure or violation cannot reasonably be cured within such thirty (30) day period, the Defaulting Party shall not be deemed to be in default hereunder so long as the Defaulting Party promptly commences efforts to cure the failure or violation within such thirty (30) day period and diligently pursues the completion of the cure thereafter. In the event the Defaulting Party fails to cure its failure or violation pursuant to the preceding sentence, the Non-Defaulting Party shall thereupon have the right to terminate this Agreement and any licenses given herein by giving written notice to the Defaulting Party of such termination, specifying the effective date thereof. Provisions with respect to indemnity shall survive, notwithstanding termination of the Agreement.
- D. *Acceptance of Work.* All work done hereunder by the Developer (or its contractor) shall be subject to the inspection and approval of the Director of Environmental Services and/or Public Works (hereinafter ‘director’), or his/her authorized representative. The director reserves the right to place certain restrictions on the time and manner of work, in order that the performance of the work will have the least adverse impact on traffic flow and is consistent with the public health and safety. If the Developer (or its contractor) fails or refuses to construct and deliver the Trunk Line in accordance with the approved plans, the City may, subject to the requirements of Section 3.C, decline to accept dedication of the constructed sewers. If the Developer (or its contractor) constructs and delivers the Trunk Line in accordance with the approved plans and inspections, the City will promptly accept dedication.
- E. *Calculation and Application of Connection Fee.* In addition to all other applicable fees and charges the City shall require for the privilege of connecting to the publicly-owned sewer system, a Connection Fee shall be required of all persons who own land in the Joint Sanitary Sewer District area and desire to connect to City sanitary sewer, as shown and described on Exhibit ‘A’ that identifies the Joint Sanitary Sewer District, for the purpose of requiring each property owner to pay their share of infrastructure Costs of

the Project paid for by Developer and City. The Connection Fee shall be computed in accordance with City Code Sections 98-287 and 120-256.

- i. Notwithstanding any other provisions herein contained, Developer may request the City's consent to waive the Connection Fee (and thereby reimbursement) with respect to specific tracts of land which agree to donate easements for the construction of the Trunk Line. In the event the City agrees to a fee waiver, the City will execute documentation granting said waiver concurrent with the property owner executing the sewer easement.
 - ii. Connection to the Trunk Line is a one-time fee for reimbursement of the Costs of Construction. Subject to a waiver or prior payment, at the time a Connection Fee is paid, the Director of Finance shall determine what land is owned in the Joint Sanitary Sewer District by the person for which the fee is being paid; and upon payment of the required fee, no further Connection Fee shall be required by this contract for connecting such land, it being intended that the person paying the fee shall have paid the fee for their successors in title, regardless if the property has or has not connected to the sewer line.
 - iii. If at the time a Connection Fee is paid, the owner of the land has a single-family residential dwelling located on a tract which is larger than five (5) acres, the Connection Fee shall be computed only for a five (5) acre tract at such time, but if such tract is later subdivided or additional connections to the sewer made thereon, an additional Connection Fee shall be required based upon the entire area of the tract, less the five (5) acres for which the Connection Fee has already been paid.
 - iv. Nothing in this Agreement shall eliminate or change the requirement to pay any other applicable fees for utilizing or connecting to City sewer.
 - v. Any Connection Fees that are collected within the 20-year period will be proportionally shared between the Developer and the City, pursuant to Section 2.F.i.
 - vi. The applicable Costs of the Project are limited only to those necessary to bring public sewer adjacent to the development site. All costs to construct public sewer within the limits of the development tract are the sole responsibility of the Developer and are not to be included in the Costs of the Project calculation of Connection Fee.
- F. *Insurance.* The Developer or Developer's contractor shall secure and maintain, throughout the duration of construction and until the work is accepted by the City, insurance of such types and in such amounts as may be necessary to protect themselves and the interests of the City against all hazards or risks of loss as hereunder specified or which may arise out of the Trunk Line construction. The form and limits of such

insurance, together with the underwriter thereof in each case, are subject to approval by the City. Regardless of such approval, it shall be the responsibility of the Developer to ensure that adequate insurance coverage is maintained at all times until the Trunk Line is completed and accepted by the City. Failure to maintain coverage shall not relieve the Developer or its contractor of responsibility or obligation or liability in general or under this Agreement. The Developer shall ensure the following insurance requirements are included and made a part of all contracts with their general construction contractor and/or subcontractors engaged in construction of the Trunk Line:

- i. Certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City prior to accessing the City easements for clearing or other construction related activities. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:
- ii. City of Springfield - Environmental Services, P.O. Box 8368, Springfield, MO 65801-8368, Attn: Mr. Jacob Berger, P.E.
- iii. Such policies shall name the City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(See, <http://insurance.mo.gov/industry/sovimunity.php>)

As of January 1, 2020, the minimum coverage for the insurance referred to herein shall be as set out below:

- a. **Workers' Compensation:** Statutory coverage per RSMo 287.010 et seq.
- b. **Employer's Liability:** \$1,000,000.00
- c. **Commercial General Liability Insurance:** including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Three Million and no/100 Dollars (\$3,000,000.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Thousand and no/100 Dollars (\$500,000.00) with respect to injuries and/or death of any one person in a single occurrence. and an amount not less than at least \$1,000,000 for all claims to property arising

out of a single occurrence and at least \$100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Contractor, its employees, officers or agents Developer agrees to cause its insurer, and to require its Contractor to cause its insurer, to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory. Aggregate Limit must apply on a Per Project basis, and the endorsement must accompany the certificate of insurance. A Waiver of Subrogation endorsement must be provided by contractor in favor of the City.

- d. **Automobile Liability Insurance:** covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Three Million and no/100 Dollars (\$3,000,000.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Thousand no/100 Dollars (\$500,000.00) with respect to injuries and/or death of any one person in a single accident or occurrence.
- e. **Subcontracts:** In case any or all of the work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b), (c) and (d) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Springfield through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.
- f. **Notice.** The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policies as specified in subparagraphs (a), (b) and (c) and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Springfield.
- g. **Legislative or Judicial Changes:** In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not

exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

- h. **Blasting.** In the event blasting operations are performed, the contractor shall be required to obtain and furnish copies to the City prior to the blasting a certificate of blasting coverage properly executed extending property damage coverage to blasting claims with limits of \$2,000,000.
- G. *Bonding.* The Developer shall furnish City with its Contractor's Performance Bond and a Labor and Materials Payment Bond with a surety approved by the City and on forms approved by the City. Each bond shall be in an amount equal to the contractor's cost proposal for construction of the Trunk Line conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds \$25,000.00 must be listed in United States Treasury Circular 570.
- H. *Procedures.* The Connection Fee required to be paid to the City shall be paid to the Director of Finance in accordance with procedures established by the Director.
- I. *Collection of Connection Fees.* The City shall use its best efforts to collect all Connection Fees from all persons who own land in the Joint Sanitary Sewer District boundary area and who have connected to the City's sanitary sewer system.
- J. *Exclusion of City from Liabilities for Non-Collection:* Nothing contained herein shall be construed to create any liability on behalf of the City or County, nor shall this contract with the Developer create any liability of the City or its departments, agents or employees for any failure by, or legal inability of, the City to collect a Connection Fee, irrespective of any negligence on the part of the City or agent or employee in failing to collect said Connection Fee.
- K. *Conflict of Interest.* No salaried officer or employee of the City, and no member of the City Council, shall have a financial interest, direct or indirect, in this Agreement. A violation of this provision renders the contract void. Developer warrants that no federal regulations relating to conflict of interest or applicable provisions in Section 105.450 et seq., RSMo. are violated by this agreement.
- L. *Non-Discrimination.* The Developer agrees, in the performance of this contract, not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of

Developer or applicant for employment, and shall include a similar provision in all subcontracts let or awarded hereunder.

- M. *Independent Contractor.* The Developer is an independent contractor, and nothing contained herein shall constitute or designate the Developer, or any of the Developer's agents, contractors or employees, as agents or employees of the City of Springfield, Missouri, or the County.
- N. *Liability and Indemnification.* The parties mutually agree to the following:
- i. In no event shall the City be liable for special, indirect, or consequential damages arising out of, or in any way connected with, the construction of the Trunk Line or a breach of this Agreement, except those caused by the City's gross negligence or willful or wanton misconduct. The parties agree the maximum liability of the City with respect to suits, claims, damages, costs (including reasonable attorney's fees), losses, outlays, and expenses in any manner caused by, arising out of or connected with the construction of the Trunk Line shall be limited to the amount of money received by the City or County under this contract. For the avoidance of doubt, the limitation of liability set forth in the preceding sentence shall not apply to a breach by City of its financial or payment obligations under this Agreement.
 - ii. The Developer shall defend, indemnify, and hold the City harmless from all claims, losses, and liabilities, including but not limited to personal injuries, death and/or property damage, which are caused by the Developer or its agents, contractors, representatives or assigns, arising out of or in connection with the construction of the Trunk Line or performance of this Agreement.
 - iii. The Developer assumes full responsibility for relations with its contractors and subcontractors, and shall defend, indemnify and save harmless the City and County from and against, any and all liability from contractor and subcontractor suits, claims, damages, costs (including attorney's fees), losses, outlays, and expenses in any manner caused by, arising out of or connected with the construction of the Trunk Line or performance of this contract
- O. *Entire Agreement.* This Agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this Agreement shall be effective unless in writing specifically referring hereto, and signed by all parties affected by such modification, amendment or waiver.
- P. *Assignment.* This agreement may not be assigned by Developer without the express written agreement of the City, which agreement shall not be unreasonably withheld.
- Q. *Applicable Laws.* The Developer shall comply with all applicable federal, state, and local laws in the performance of this Agreement and shall include a similar provision in all subcontracts awarded hereunder. Developer will be responsible for all

construction permits required from local or state agencies. This Agreement and every question arising hereunder shall be construed or determined per the laws of the State of Missouri.

R. *Jurisdiction and Venue.* Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Greene County, Missouri.

Approved by:

CITY OF SPRINGFIELD, MISSOURI

Director of Environmental Services

By: _____
City Manager

Approved as to form:

Assistant City Attorney

DEVELOPER

BY: _____
Authorized signatory for Developer

Printed Name: _____

Title: _____

CITY OF SPRINGFIELD, MO
BUDGET ADJUSTMENT

Exhibit 2

Budget Adjustment
039

Revenues:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
Net Revenue Adjustment						\$ -	

Expenditures:

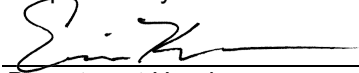
Fund	Dept	Org	Account	P&G	Location	Amount	Description
53020	08	33520	509110	000000	00000	\$393,541.37	Millwood East Development - Upsizing Sewer Infrastructure and Installation of Gravity Sewer
Net Expenditure Adjustment						\$ 393,541.37	

Fund Balance Appropriation:

Fund	Title	Amount
53020	Clean Water Improvement Fund	\$ (393,541.37)

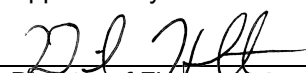
Explanation: To appropriate Environmental Services Clean Water Enterprise Fund reserves to provide partial funding for the Millwood East Development for upsizing sewer infrastructure and installing gravity sewers as outlined by the proposed cost share agreement.

Requested By:


Department Head

3/4/20
Date

Approved By:


Director of Finance

3/4/20
Date

City Manager

Date

Authorization:

Council Bill No. 2020-054

Ordinance No. _____

1st Reading _____

2nd Reading _____

Journal Imp No. _____

One-rdg. _____
P. Hrngs. _____
Pgs. 28
Filed: 03-03-20

Sponsored by: Ollis

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020 - 055

GENERAL ORDINANCE _____

AN ORDINANCE

AMENDING Chapter 2, Article III, Division 1 of the City Code, Section 2-91, known as the 'Merit System Rules and Regulations,' by amending Merit Rule 26, 'Substance Abuse Policy;' and Merit Rule 13, 'Appeals,' Subsection 13.6, 'Personnel Board Hearing;' and establishing an effective date for said Merit Rule changes. (The Personnel Board recommends these changes.)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows, that:

(NOTE: Throughout this document, underlined language has been added, and ~~stricken~~ language has been deleted.)

Section 1 – The Springfield City Code, Chapter 2, 'Administration,' Article III, 'Officers and Employees,' Division 1, 'Generally,' Section 2-91, 'Merit System Rules and Regulations' ("Merit Rules"), Merit Rule 26, 'Substance Abuse Policy,' is hereby amended as set forth in "Exhibit A," which is attached hereto and incorporated herein by reference.

Section 2 – The Springfield City Code Chapter 2, 'Administration,' Article III, 'Officers and Employees,' Division 1, 'Generally,' Section 2-91, 'Merit System Rules and Regulations,' Merit Rule 13, 'Appeals,' Subsection 13.6, 'Personnel Board Hearing,' is hereby amended as set forth in "Exhibit B," which is attached hereto and incorporated herein by reference.

Section 3 – This Ordinance shall be in full force and effect from and after passage.

Passed at meeting: _____

Mayor

33
34 Attest: _____, City Clerk

35
36 Filed as Ordinance: _____

37
38 Approved as to form: Rhonda Lewsader, City Attorney

39
40
41 Approved for Council action: Jason A. Hage, City Manager
42

EXPLANATION TO COUNCIL BILL 2020-055

FILED: 03-03-20

ORIGINATING DEPARTMENT: Human Resources

PURPOSE: To amend Chapter 2, Article III, Division 1 of the City Code, Section 2-91, known as the 'Merit System Rules and Regulations,' by amending Merit Rule 26, 'Substance Abuse Policy;' and Merit Rule 13, 'Appeals,' Subsection 13.6, 'Personnel Board Hearing;' and establishing an effective date for said Merit Rule changes. (The Personnel Board recommends these changes.)

BACKGROUND: Proposed changes to these two Merit Rules are recommended to provide clarification, align language mirroring current protocols, improving existing processes to gain efficiencies, and comply with federal regulations.

Merit Rule 26 - Substance Abuse Policy - proposed changes to this Merit Rule are recommended to comply with the Department of Transportation ("DOT") implementation of the Drug and Alcohol Clearinghouse effective January 6, 2020. While the City implemented the new protocols and regulations in accordance with the effective date, the City's Merit Rules & Regulations Manual must be updated to reflect the same. Also, language related to safety-sensitive positions, definitions, and processes are being updated.

To improve safety on the nation's roads and in the workplace, the DOT implemented the Clearinghouse, which allows agencies to identify, in real-time, drivers who have violated federal drug and alcohol testing program requirements. The Clearinghouse mitigates a CDL driver's ability to move from one employer to another before completing the requirements set forth by the DOT after a drug or alcohol offense has occurred. The City is mandated to follow all federal changes regarding the Clearinghouse process and, thus, has incorporated the requirement into the existing hiring process.

Additionally, the proposed language clarifies the term "safety-sensitive" in light of the state legalization of cannabis for medicinal purposes. These changes support the City's philosophy that employee and citizen safety is paramount.

Merit Rule 13 – Appeals, Merit Rule 13.6 Personnel Board Hearing - an appeal hearing before the Springfield Personnel Board can be a lengthy, complex and costly process. While we want to ensure employees maintain this right, there is a need to create a process that helps create accountability and in turn, prevent resources from being needlessly wasted on abandoned appeals.

The proposed changes require the complainant to state intention and commitment to the hearing process during the early stages of the appeal process. The recommended changes include provisions to allow the Personnel Board to set a prehearing

conference, reschedule hearings, and provides the Personnel Board with authority to determine if the complainant has abandoned an appeal, absent timely communication.

Several of the other minor edits in both Merit Rules are designed to provide clarity. By updating language and providing clarification of current practices, we believe efficiencies and consistency in the application of Merit Rules will increase.

The proposed changes to Merit Rules 26 and 13.6 were presented to the Personnel Board for review and consideration at its February 6, 2020, administrative meeting. The Board voted unanimously to approve the recommended changes and to forward to City Council for consideration. These changes have been discussed with the City's Leadership Team, as well as the union groups, all indicating support for the proposed changes.

REMARKS: The City's Human Resources staff recommends the amendments to the Merit Rule 26 - Substance Abuse Policy and Merit Rule 13 – Appeals, Merit Rule 13.6 Personnel Board Hearing as contained in this Council Bill.

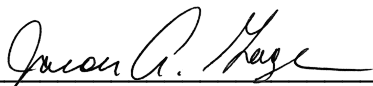
It is respectfully requested that Council give consideration and approval to these changes.

Submitted by:



Darla Morrison,
Director of Human Resources

Approved by:



Jason Gage,
City Manager

Exhibit A

RULE 26 - SUBSTANCE ABUSE POLICY

26.1 *Alcohol & Controlled Substance Testing Policy*

It is the policy of the City of Springfield to provide safe, dependable, and quality services to its citizens, to provide safe working conditions for its employees, and to comply with the requirements of federal law and regulations related to the Drug Free Work Place Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991. It is also the policy of the City of Springfield to provide healthy and satisfying working environments for its employees.

It is the policy of the City of Springfield to ensure that its employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; to create a work environment free from the adverse effect of alcohol and controlled substances abuse or misuse; to prohibit the unlawful manufacture, distribution, dispensing, possession or use of alcohol and controlled substances and to encourage employees to seek professional assistance should they have or develop alcohol or controlled substance dependency.

26.2 *Purpose*

The purpose of this policy is to assure worker fitness for duty and to protect employees and the public from the risks posed by the misuse of alcohol and controlled substances. It is also the purpose of this policy to comply with applicable federal and state regulations governing work place alcohol and controlled substance abuse programs mandated under above-noted acts. These acts mandate urine drug testing and breathalyzer alcohol tests for DOT/~~Safety-sensitive~~ positions and prevent performance of DOT/~~S~~safety-sensitive functions when there is a positive test result. Federal law has also established standards for the collection and testing of urine and breath specimens, the reporting of certain drug-related offenses, protective measures for certain employees tested, for the preservation of confidentiality, and for certain reporting requirements. These standards will apply to all tested employees.

~~In an effort to~~ To ensure a drug free work place, employees are required by the City of Springfield to comply with the applicable sections of this policy including: pre-employment testing for controlled substances and reasonable suspicion testing for both alcohol and controlled substances.

Additionally, all employees in DOT/~~Safety-sensitive~~ positions will, as a condition of accepting employment, transfer, promotion, or demotion, be required by the City of

Springfield to comply with all sections of this policy including: pre-employment, random, post-accident, reasonable suspicion, return to work, and follow-up testing for both alcohol and controlled substances.

26.3 *Applicability*

This policy applies to all employees and/or applicants who apply for employment with the City of Springfield. Certain testing provisions covered under this policy apply specifically to employees and volunteers in DOT/Safety-sensitive positions who perform DOT/Safety-sensitive functions as these persons and activities are defined in the Omnibus Transportation Employee Testing Act of 1991, and its implementing regulations, including, but not limited to, persons who are required to possess a Commercial Drivers License (CDL) license for the operation of a commercial vehicle. All testing provisions covered under this policy apply to employees of the City of Springfield who desire to work in an out-of-title capacity in a position which requires a CDL license for the operation of a commercial vehicle.

Additionally, all contractors of the City of Springfield shall be required to state in writing that they comply with the provisions of the Drug Free Work Place Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991, and its implementing regulations, as a condition of the award and/or while engaged in services for the City of Springfield.

26.4 *Definitions*

- (a) Clearinghouse – A secure online database that gives employers real-time information about drug and alcohol program violations for a CDL or Commercial Learner’s Permit (CLP) holders.
- (b) Commercial Driver’s License (CDL) – A driver’s license required to operate a commercial vehicle.
- (c) Commercial Learner’s Permit (CLP) - A permit that is received after passing the general knowledge exam. The CLP allows a person, by law, to drive a commercial vehicle while supervised by someone that has a valid CDL. A CLP is required for training purposes until a valid CDL is obtained.
- ~~(a)~~ (d) Commercial vehicle - a motor vehicle designed or used to transport passengers or property: (a) If the vehicle has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand one pounds or more; (b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds or such lesser rating as determined by federal

regulations; (c) If the vehicle is designed to transport more than fifteen passengers, including driver; or (d) If the vehicle is transporting hazardous materials and is required to be placarded under the Hazardous Materials Transportation Act.

~~(ed)~~ DOT/~~Safety-sensitive~~ positions - those positions (paid or unpaid) whose requirements and activities are defined in the Omnibus Transportation Employee Testing Act of 1991, and its implementing regulations, including but not limited to persons who are required to possess a CDL license for the operation of a commercial vehicle. The City of Springfield requires compliance with CDL licensure and alcohol and controlled substance testing regardless of the location where the equipment is being operated.

(f) Safety-sensitive positions – those positions that perform safety-sensitive functions, as set forth in Administrative policy, which can affect the safety of the employee and others.

~~(ge)~~ Out-of-Title – an employee who is not regularly assigned to a position but is temporarily working in a capacity other than his regularly assigned position. For purposes of this policy, employees who are working “out-of-title” in a ~~DOT/S~~safety-sensitive function must comply with all requirements of the Omnibus Transportation Employee Testing Act of 1991 including, but not limited to, random drug testing, post-accident testing, etc.

~~(hg)~~ Rehabilitation – employees are allowed a one-time rehabilitation option during their employment with the City of Springfield. Employees must invoke their one-time option prior to submitting a specimen for random testing. The rehabilitation option does not apply to reasonable suspicion or post-accident testing for alcohol or controlled substances. Employees who utilize their rehabilitation option must do so prior to submitting a specimen for the randomly ordered test. By electing this option, the employee is refusing to submit to the ordered test and will be treated as a positive test result in compliance with federal and state law. Employees who elect to utilize this option will be required to submit to return to work and follow-up testing as outlined in this policy.

~~(ih)~~ Direct Observation – employees may be required to provide a urine sample while observed by an employee of the collection site. Any direct observation will comply with 49CFR Subtitle A 40.67.

~~(jf)~~ Dilute Specimen – a specimen with Creatinine and specific gravity values lower than expected for human urine. A specimen ~~that is below 20 for the substance Creatinine~~

~~will undergo a specific gravity test. If the test produces a result outside the range of 1.003 and 1.019, it is considered a dilute specimen. Employees whose tests are determined to be a dilute specimen, will be required to retest, supervised or unsupervised, until a non-dilute valid positive or negative controlled substance test can be reported that has a creatine value less than 20 mg/dL but greater than or equal to 2.0 and a specific gravity of 1.0011 to 1.0029. If the test produces a negative dilute specimen, employees and applicants will be retested immediately. This collection will be unsupervised unless directed by the MRO to be supervised. The result of the second test becomes the test of record. A dilute positive is considered a positive result.~~

~~(g)~~ ~~(kj)~~ Delay - any failure to immediately report to the test site to participate in the required testing under this policy.

~~(h)~~ ~~(lk)~~ Adulterated Sample – a urine specimen that contains substance that is not expected to be present in human urine, or if the temperature of the specimen is outside the range of 90 degrees F to 100 degrees F (32 degrees C to 38 degrees C), or contains a substance expected to be present but is at a concentration level so high that it is not consistent with human urine. Any specimen determined to be an adulterated sample will be treated as a positive controlled substance test.

~~(i)~~ ~~(ml)~~ Positive Alcohol or Controlled Substance Test – refers to an employee or applicant testing above the screening and confirmation test levels for alcohol, marijuana, cocaine, phencyclidine, amphetamines, or opioids.

~~(nmj)~~ MRO - Medical Review Officer (See Contractual Support Professionals).

~~(onk)~~ SAP - Substance Abuse Professional (See Contractual Support Professional).

~~(l) Public Safety positions shall include all positions within the following categories: 1.) law enforcement officers, 2.) firefighting personnel and 3.) emergency communications personnel.~~

~~(m) Public Health positions shall include all health services positions in which the job duties require an employee to: Deliver or assist in the delivery of hands on diagnosis or treatment of patients; operate, repair, maintain or sterilize equipment used in the delivery of health care services; prepare, dispense, stock or otherwise handle prescription drugs.~~

26.5 *Policy Administrator*

(a) The City Manager of the City of Springfield has designated the Human Resources Director as the alcohol and controlled substance policy administrator for the City of Springfield. Any inquiries concerning this policy, its application, its administration, or its interpretation shall be made to the policy administrator or designee in writing, when possible. The Human Resources Director is the primary person responsible for implementation and administration of this policy, under the supervision of the City Manager.

(b) The policy administrator shall develop and maintain a current list of the positions that have been determined to be ~~DOT/S~~safety-sensitive positions, which are governed by all sections of this policy. The position listing shall be available for inspection in the Human Resources office of the City of Springfield. Individuals applying for positions with the City of Springfield and affected employees shall be notified if the position that they apply for is defined as a ~~DOT/S~~safety-sensitive position; and therefore, eligible for all testing provisions covered by this policy.

(c) The policy administrator shall develop all forms necessary to carry out the provisions of this policy, unless the forms are provided under the federal regulations. The forms shall be provided to appropriate persons who are responsible for the implementation and management of this policy.

26.6 *Alcohol & Controlled Substances Prohibitions*

(a) An employee is prohibited from the operation of a commercial motor vehicle and/or from engaging in any work related functions for the following alcohol related conduct: (1) while consuming alcohol; (2) while having a blood alcohol concentration of 0.02 or greater; (3) within four (4) hours of consuming alcohol; (4) after refusing to submit to an alcohol test; and (5) from consuming alcohol within eight (8) hours after an accident as specified in this policy.

(b) An employee is prohibited from the unauthorized possession of alcohol while on duty. An employee is prohibited from the unauthorized possession or use of unauthorized controlled substances at any time, whether on or off duty.

(c) Any employee convicted of illegal conduct related to alcohol or controlled substances or who fails to report such a conviction to the policy administrator shall be subject to disciplinary action, up to and including termination of employment.

(d) Any employee whose job performance requires the possession of a valid CDL license and who loses the CDL license for a violation of, or as a consequence of, the law shall be subject to disciplinary action, up to and including termination from employment. The employee shall notify the policy administrator and the employee's immediate supervisor of the loss of the CDL license immediately after revocation or temporary suspension of their license. Failure to notify the policy administrator of the loss of the CDL shall result in disciplinary action, up to and including termination of employment.

(e) Any employee who is using a prescribed or authorized ~~controlled substance~~, or any other substance, which may inhibit or impair the employee's performance shall provide written notice and have authorization from ~~to his/her~~ their supervisor and/or the policy administrator before of such use upon returning to work and prior to engaging in any work-related activity. Regardless of any authorization, no employee shall work or attempt to work while under the influence of any prescribed or authorized substances. Any employee doing so may be subject to immediate discipline, including termination of employment.

26.7 *Alcohol & Controlled Substance Testing Provisions*

Employees assigned to a DOT/~~Safety-sensitive~~ position shall be subject to alcohol and controlled substances testing including the following types of tests: pre-employment testing, random testing, reasonable suspicion testing, post-accident testing, return to work testing, and follow-up testing.

Employees who are not assigned to a DOT/~~Safety-sensitive~~ position are subject to alcohol and controlled substances testing including the following types of tests: pre-employment testing and reasonable suspicion testing.

(a) *Pre-Employment Testing*

(1) Pre-employment urine drug testing shall be required of all applicants for all positions as a condition of employment, regardless of the status of the position. Receipt of satisfactory test results is required prior to commencement of employment ~~and/or~~ engaging in DOT/~~S~~safety-sensitive functions. A positive alcohol or controlled substance test result disqualifies an applicant from appointment to employment for a period of at least two (2) years. Applicants must submit to a pre-employment urine drug test within twenty-four (24) hours of being ordered to test. Failure to submit to testing or failure to submit in a timely manner will result in the withdrawal of the City's conditional offer of employment. The applicant will be disqualified from further consideration for a period of two (2) years. Applicants who fail to test or who fail to

submit in a timely manner for a second time will be permanently disqualified for consideration for employment with the City of Springfield. Any deviation from this practice must be documented and approved in writing by the policy administrator or designee.

(2) Employees of the City of Springfield who move via promotion, demotion or transfer from a non-DOT/Ssafety-sensitive position to a DOT/Ssafety-sensitive position, ~~public health position, or public safety position~~ must submit to a pre-employment, controlled substance test before commencing employment in the DOT/Ssafety-sensitive position, ~~public health position, or public safety position~~.

(3) Employees of the City of Springfield who move from a DOT/Ssafety-sensitive position to another DOT/Ssafety-sensitive position are not required to submit to a pre-employment, controlled substance test before commencing employment in the new position; unless the movement is inter-departmental. Additionally, in all cases, employees newly moving into a DOT position shall be required to submit to a pre-employment controlled substance test before beginning work in the DOT position.

~~(4) Any employee moving into a public safety or public health position regardless of their current position will be required to submit to a pre-employment, controlled substance test, unless movement is the result of an inter-departmental movement.~~

(b) Reasonable Suspicion Testing

(1) Reasonable suspicion testing applies to all City of Springfield employees regardless of their status or position. Reasonable suspicion testing shall be used to determine fitness for duty evaluations, including appropriate urine and/or breath testing when there are objective observable reasons to believe that alcohol or a controlled substance use is adversely affecting an employee's job performance or that the employee has violated this policy. Reasonable suspicion referrals for testing shall be made on the basis of documented objective facts and circumstances consistent with the effects of substance use. Reasonable suspicion observations and reports can only be made by supervisory or management personnel who are trained to detect the signs and symptoms of alcohol and controlled substance use and who may reasonably conclude that an employee may be adversely affected or impaired in the employee's work performance due to the use of alcohol or controlled substances. The observing supervisor or manager, regardless of the direct reporting relationship with the affected employee, is required to complete the appropriate required documentation concurrently with the observation and consideration to impose reasonable suspicion testing.

(2) All employees may be subject to testing following any type of accident if reasonable suspicion is determined, regardless of whether the accident meets the guidelines as noted under the post-accident provisions of this policy. A supervisor or manager who fails to report an observation and, subsequently, fails to order a confirmed reasonable suspicion will be subject to disciplinary action up to and including termination.

(3) Reasonable suspicion testing shall be required and completed whenever possible within two (2) hours of the observation, but in any case, no later than eight (8) hours after the observation for breath alcohol testing and thirty-two (32) hours for controlled substance testing. An employee who is ordered to submit to a reasonable suspicion drug test will be transported to the testing site by City personnel.

(4) A positive reasonable suspicion test result for alcohol or controlled substances will result in termination of employment.

(c) Random Testing

(1) Random testing is applicable only to employees who work in DOT/~~Safety-sensitive~~ positions or who have requested to work in an out-of-title position that is classified as a DOT/~~Safety-sensitive~~ position. Random testing shall be unannounced and conducted with unpredictable frequency throughout the year using an established scientifically-based selection method. Testing shall be ordered by appropriate supervisory personnel, with no less frequency than required by federal law and regulations, and in such numbers as is minimally determined under the regulations. An employee who is notified to submit to a random drug test must report immediately to the collection site. No delay in reporting is acceptable. An employee who is ordered to submit and does not report to the collection site, without delay, must document circumstances causing the delay to be tested. Appropriate action by the supervisor, including the possibility of discipline, shall be required.

(2) The number and percentage of employees tested from the random pool will meet the minimum guidelines established by federal acts and state regulations unless modified by the City Manager. The City will utilize an outside company to conduct the selection method and perform the draws for random testing purposes.

(3) A positive random test result for alcohol or controlled substances will result in termination of employment unless the positive result is due to the employee refusing to test and invoking their one-time option for rehabilitation.

- (4) If the outcome of a random test is inconclusive, neither positive or negative, the employee must promptly re-test when instructed to do so. The additional test(s) is not considered as an additional selection for a random test, as it only serves to provide a conclusive outcome. Any additional test needed due to this circumstance does not provide the employee with the right to exercise the one-time option for rehabilitation and will be supervised.

(d) Post-Accident Testing

(1) Post-accident testing is applicable only to employees who work in a DOT/~~Safety-sensitive~~ position or who have requested to work in an out-of-title position that is determined to be a DOT/~~Safety-sensitive~~ position. Post-accident testing shall be required for employees assigned to DOT/~~Safety-sensitive~~ positions after a vehicular accident, regardless of the type of vehicle being operated and in accordance with federal guidelines, if the accident involves the loss of human life; or when a traffic citation is issued to the City's driver, if the accident also involves one of the following: (1) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident or (2) one or more motor vehicles incur disabling damage as a result of the accident, requiring a motor vehicle to be transported from the accident scene by a tow truck or other motor vehicle. Testing shall include both breath alcohol and urine drug testing of the employee(s).

(2) Post-accident testing shall be required and completed whenever possible within two (2) hours of the accident occurrence, but in any case, no later than eight (8) hours after the accident for breath alcohol testing and thirty-two (32) hours for controlled substance testing. Employees submitting to post-accident testing should be transported to the testing facility by City personnel. An employee involved in an accident shall refrain from alcohol consumption for eight (8) hours following the accident. A positive post-accident test result for alcohol or controlled substances will result in termination of employment.

(e) Return to Work Testing

Return to work urine drug and alcohol testing for all DOT/~~Safety-sensitive~~ positions covered by this policy shall be required for all employees who previously refused to submit to an alcohol or a random controlled substance test, which results in the reporting of a positive drug test result in compliance with federal and state laws. To return to work, the employee must test negative and be evaluated and released to return to work by a SAP before being permitted to return to work. Employees who test negative for alcohol or a controlled substance return to work test will be required to

submit to follow-up testing. A positive return to work test result for alcohol or controlled substances will result in termination of employment.

(f) Follow-up Testing

(1) Follow-up testing is required for all employees who have received a positive test result via a failure to test for alcohol or a controlled substance. These employees shall submit to frequent unannounced random urine and breath alcohol tests for a minimum of six (6) tests in the following twelve (12) months after return to work. Random testing may be continued for a period of up to sixty (60) months from the employee's return to work date. The duration of the follow-up testing and frequency of such testing shall be at the discretion of the policy administrator after review of the SAP's evaluation. A positive follow-up test result for alcohol or a controlled substance will result in termination of employment.

(2) Any employee who is involved in a work-related safety incident and/or accident who is also complying with a current follow-up testing plan will be subject to controlled substance and alcohol testing as part of the follow-up testing requirement. A positive follow-up test result for alcohol or controlled substances will result in termination of employment.

(g) Failure to Test

(1) Any employee who fails to submit to the required testing under this policy is considered to have tested positive and shall be subject to all of the consequences related to a positive test.

(2) Any employee ordered to submit to an alcohol or controlled substance test shall report immediately to the test site upon being ordered to submit to testing. Employees in a DOT/Safety-sensitive employees position may exercise their one-time option for rehabilitation if elected prior to submitting a specimen for a random alcohol or controlled substance test. Employees are not afforded a one-time option for rehabilitation if the employee is ordered to submit to any other test outlined in this policy. Delay in reporting for testing by the employee shall be treated as a refusal to test and shall subject the employee to the consequences related to a positive test. Failure to provide a sufficient sample or to provide an unadulterated sample shall be considered as a refusal to test and shall subject the employee to the consequences related to a positive test.

(3) An employee ordered to submit to an alcohol or controlled substance test must be transported by another City ~~personnel employee or supervisor~~ under the Post-Accident or Reasonable Suspicion provisions of this policy.

(h) Lethal Force Investigations

Any sworn law enforcement officer involved in using lethal force on-duty shall be required to submit to an alcohol and controlled substance test. The employee will be transported to the testing site by appropriate personnel as established by department protocols. A positive post-lethal force test result for alcohol or controlled substances will result in termination of employment.

(i) Clearinghouse

The City will conduct queries on current employees in DOT positions and applicants for DOT positions to verify that they are not prohibited from performing safety-sensitive functions due to an unresolved drug and alcohol program violations. If the query produces information that would prohibit the current employee or applicant from being able to perform safety-sensitive functions, the current employee will be removed from the current position and the applicant will not be considered for any safety-sensitive position.

Additionally, the City will report to the clearinghouse if a current employee in a DOT position or an applicant for a DOT position has a verified positive, adulterated, or substituted drug result; an alcohol confirmation test with a concentration of 0.04 or higher; a refusal to submit to a drug or alcohol test; on-duty alcohol use; pre-duty alcohol use; alcohol use following an accident; other drug use as defined by federal regulations; a SAP's report of the successful completion of the return to work process; a negative return to work test; the City's report of completion related to any follow-up testing; as well as knowledge of any violation.

26.8 Testing Controls

(a) Alcohol: Federal regulations require breath testing to be conducted on Evidential Breath Testing devices approved by the National Highway Safety Administration. An initial screening test is conducted first. Any test result that is less than 0.02 blood alcohol concentration is considered to be a negative test result. If the blood alcohol concentration is 0.02 or greater, a second confirmation test must be conducted. An employee who tests with a blood alcohol concentration of 0.02 or greater shall be removed from any work-related activity for at least twenty-four (24) hours if performing DOT/safety-sensitive work-related activity. An employee whose alcohol confirmation test result indicates a blood alcohol concentration of 0.04 or greater is considered a positive test result and will be subject to discipline.

Any employee who is found to have engaged in prohibited alcohol conduct under this policy shall be immediately removed from ~~DOT/S~~safety-sensitive work-related activity; and shall not be permitted to resume work until the employee is (1) evaluated by a SAP, and (2) has tested negative in a follow-up test.

(b) Controlled Substances: Controlled substance testing is conducted by analyzing an employee's urine specimen provided at a laboratory certified and monitored by the U.S. Department of Health & Human Services for the following controlled substances:

INITIAL TEST ANALYTE	INITIAL TEST CUTOFF ¹	CONFIRMATORY TEST ANALYTE	CONFIRMATION TEST CUTOFF CONCENTRATION
Marijuana Metabolites (THCA) ²	50 ng/mL ³	THCA	15 ng/mL
Cocaine Metabolite (Benzoylecgonine)	150 ng/mL ³	Benzoylecgonine	100 ng/mL
Codeine/Morphine	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/mL	Hydrocodone	100 ng/mL
		Hydromorphone	100 ng/mL
Oxycodone/Oxymorphone	100 ng/mL	Oxycodone	100 ng/mL
		Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/Methamphetamine	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine	250 ng/mL
MDMA ⁴ /MDA ⁵	500 ng/mL	MDMA	250 ng/mL
		MDA	250 ng/mL
¹ For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff): <i>Immunoassay:</i> The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group. <i>Alternate technology:</i> Either one analyte or all analytes from the group must be used for calibration, depending on technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.			
² An immunoassay must be calibrated with the target analyte, 9-tetrahydrocannabinol-9-carboxylic acid (THCA).			
³ <i>Alternate technology (THCA and Benzoylecgonine):</i> When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100 ng/mL for Benzoylecgonine).			
⁴ Methylenedioxymethamphetamine (MDMA)			
⁵ Methylenedioxymethamphetamine (MDA)			

The above information is subject to change per federal guidelines or as the City may deem necessary to protect the safety and productivity of the workplace.

The testing for controlled substances is a two-stage process. First a screening test is conducted which screens for the five (5) broad classes of controlled substances (Marijuana, Cocaine, Phencyclidine, Amphetamines, Opioids). If the test result is positive for one or more of the controlled substances, a confirmation test is conducted to identify the specific

metabolite and concentration level present within the broad class of controlled substances (see chart above). The confirmation test is a gas chromatography/mass spectrometry (GC/MS) analysis. The levels established for a positive test result for controlled substances are determined by the federal ~~government's~~ Department of Transportation. The testing levels vary with each controlled substance and differ from the confirmation test levels. The instrument (GC/MS) and the complexity of the controlled substance being tested during the confirmation test are more precise as compared to the initial screening test. Any employee or applicant who tests positive on the confirmation test shall be contacted by the ~~Medical Review Officer (MRO)~~. The employee shall be immediately removed from any ~~DOT/S~~safety-sensitive work-related activity once the City has been notified of a positive test result. The applicant will be contacted by the City and the conditional offer of employment will be withdrawn once notified by the MRO.

Any employee in a ~~DOT/Safety-sensitive~~ position who invokes their one-time option for rehabilitation prior to submitting a specimen for a random drug test will be removed from performing ~~DOT/S~~safety-sensitive functions immediately. The employee shall not be permitted to resume work until the employee is (1) evaluated by a SAP, and (2) has tested negative in a follow-up test. Employees so removed may be allowed to use any form of their accrued leave balances while removed from work.

Any employee or applicant who questions the results of a required urine drug test under this policy may request that an additional test be conducted. The test must be conducted on a split sample that was collected at the same time as the original sample. The test analysis shall be conducted at a different qualified laboratory than where the original test was conducted. All costs for testing that is requested by the employee shall be paid by the employee. An employee's request for a re-test must be made in writing to the ~~Medical Review Officer (MRO)~~ within seventy-two (72) hours of the notice to the employee of the initial test result. Requests made by the employee after the seventy-two (72) hour limit will only be accepted if the delay was due to documented circumstances that were beyond the control of the employee. The method of collecting, storing, and testing the split sample required under this policy shall be consistent with the procedures established in 49 CFR Part 40.

26.9 *Rehabilitation Effort*

- (a) The City of Springfield offers an Employee Assistance Program (EAP) to help employees who voluntarily seek assistance for problems including, but not limited to, chemical dependency, alcohol dependency, etc. For purposes of this policy, the City's rehabilitation option is offered to any employee who determines him/herself to be in need of assistance

for a controlled substance or alcohol related problem. An employee may be permitted to enter a rehabilitation facility as approved by the City of Springfield, without fear of disciplinary action being imposed. An employee who does not voluntarily seek assistance through the ~~Employee Assistance Program~~EAP and violates the provision of this policy has placed his/her employment in jeopardy.

- (b) Rehabilitation assistance, due to the refusing to submit to a random alcohol or controlled substance test, may only be granted to an employee one time while employed by the City of Springfield. Failure to complete the rehabilitation evaluation and any subsequent treatment plan as recommended by the SAP, and/or comply with the provisions of this policy will result in termination of employment.
- (c) Employees are encouraged to seek help with alcohol or chemical dependency problems voluntarily through a provider of their choice. Employees may confidentially request rehabilitation services through the City's EAP provider or the City's Health Care Plan, if applicable. Employees may access services at a reduced cost by requesting the service through the City's EAP provider. The City's EAP program includes at least the first three (3) visits at no cost to the employee. Subsequent treatment(s), or treatment(s) outside the EAP provider will be eligible to be covered as outlined in the City's Health Care Plan, if applicable. Employees will not be disciplined for seeking assistance, if assistance is sought voluntarily and not in connection with pre-employment or reasonable suspicion testing. The following items must be completed for a rehabilitation process to be successful and complete:
 - 1. The employee shall agree to be evaluated by the SAP or by a rehabilitation professional acceptable to the City of Springfield and successfully complete the rehabilitation treatment plan established for the employee by the SAP or by a rehabilitation professional accepted by the City of Springfield; and
 - 2. the employee shall agree to refrain from any violation of this policy and the use of alcohol and/or controlled substances as is consistent with the treatment plan for rehabilitation and this policy; and
 - 3. the employee shall provide a release of all medical records for use and review by the City of Springfield, specifically relating to the rehabilitation treatment plan for assistance and compliance; and
 - 4. the employee shall agree to submit to return to work testing demonstrating that the employee has tested negative for alcohol and/or controlled substance test standards; and

5. the employee shall agree to unannounced follow-up testing for a period of time as determined by the policy administrator or designee subsequent to the employee's return to work and consistent with this policy; and
6. the employee, if assigned to a DOT/~~Safety-sensitive~~ position, will continue to be a participant of the random drug testing pool and ordered to submit to a random drug test as outlined in this policy; and
7. the employee shall agree that any future alcohol or controlled substance violations will result in the termination of employment.

26.10 Contractual Support Professionals

(a) The City of Springfield shall secure a contract with an appropriately certified testing laboratory to engage its services to conduct the controlled substance testing analysis and reporting as required under this policy and standards established under federal regulations.

(b) The City of Springfield shall engage the services of an independent contractor to serve the City of Springfield as the MRO (~~Medical Review Officer~~) being properly credentialed and trained in compliance with federal regulations, and who shall not be an employee of the City of Springfield. The MRO shall, as a part of the contract, maintain all relevant records and provide the required reports necessary for the City of Springfield to comply with the federal reporting requirements.

(c) The City of Springfield shall engage the services of a SAP (~~Substance Abuse Professional~~) for providing services under this policy and in compliance with the federal regulations.

26.11 Education & Training

(a) The City of Springfield shall provide all employees with a copy of the policy and materials related to the effects of the use and/or abuse of alcohol and controlled substances. The City of Springfield shall also provide information to employees regarding treatment and rehabilitation services available to them. Employees shall be required to confirm receipt of this policy and any revisions in writing noting the date of receipt.

(b) The City of Springfield shall develop and provide training for all supervisors and managers who are responsible for the administration and enforcement of this policy. All supervisors of employees in DOT/~~Safety-sensitive~~ positions supervisors will receive training as mandated by federal regulations. All supervisors will receive training including an overview of this policy and application to employees.

26.12 Confidentiality

(a) All records developed ~~and/or~~ pursuant to this policy shall be maintained under strict confidentiality by the City of Springfield, the testing laboratory, the MRO, and the SAP, when and as applicable. The records shall be maintained separately from other personnel records maintained by the City of Springfield and shall be maintained in a secured location. Materials shall not be released without the employee's authorized written consent, except under provisions as provided in ~~the~~ federal regulations such as under the rehabilitation contract, litigation, or a quasi-judicial ~~and/or~~ administrative proceeding related to positive test results ~~and/or~~ matters initiated by an employee.

(b) Any person breaching the confidentiality provisions of this policy shall be subject to termination from employment ~~and/or~~ from any contractual relationship with the City of Springfield.

26.13 Disciplinary Issues

(a) Unless otherwise specified in the policy, the City of Springfield's policies related to disciplinary action shall be followed when imposing discipline for violation of this policy. Employees are required to seek help for alcohol ~~and/or~~ controlled substance problems. Employees who voluntarily seek help prior to submitting to random testing for alcohol or controlled substances will not face disciplinary action for admitting he/she has a problem, nor for seeking treatment for such a problem. However, request for assistance after a positive alcohol or controlled substance test result is received or refusal to submit to any other testing outlined in the policy, will not be honored and the City of Springfield will take action to terminate employment. Any supervisor or manager who knowingly permits an employee to violate this policy or engage in work activity while consuming alcohol or a controlled substance or fails to enforce this policy, shall be subject to immediate termination from employment.

(b) This policy does not displace any other penalties that may be imposed or be incurred as a result of violation of the City of Springfield policy or state and federal laws, or as provided in the workers' compensation laws.

26.14 Coordination with other Laws & Policies

(a) This policy shall be administered in compliance with other federal, state, and local laws related to employee health and welfare policies, leave policies, benefit programs, and other related policies of the City of Springfield. In the case of apparent conflicts between this policy, other policies, and applicable laws, the policy administrator shall make the appropriate ruling to resolve the potential conflicts, whenever possible.

(b) In the event that any part of this policy is judicially determined to be in conflict with any law or to be in violation of any law or is rendered ineffective because of a state or federal legislative enactment, that part(s) shall be void, but the remainder of the policy shall remain in effect. Parts that are void or voided shall be replaced as soon as possible so as to maintain the full effect of this policy and/or to bring it into compliance with relevant laws.

26.15 Amendments

This policy is subject to amendment by the City of Springfield from time to time. Amendments that are made shall be provided to employees upon adoption and shall become effective as determined by the policy administrator.

26.16 Statement of Intent to Comply with the Requirement of the Drug Free Work Place act of 1988, Pub.L. 100.690, Title V, Subtitle D

In addition to the provisions above in the Alcohol and Controlled Substance Testing Policy of the City of Springfield, and in accordance with the requirements placed on the City of Springfield by the provisions of the Drug Free Work Place Act or 1988, Pub. L 100.690, Title V, Subtitle D, all employees, in every position, in every department of the City of Springfield are hereby notified of the following:

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited on, about or within any property which is owned, leased, operated, used, or occupied by the City of Springfield, as a vehicle or site for the performance of work done in connection with a specific federal grant. Employees who violate this prohibition will be subject to disciplinary action up to and including termination of employment; or a combination of these actions, in accordance with the provisions of the Alcohol and Controlled Substance Testing Policy of the City of Springfield.

- a. In furtherance of the City's obligation to provide a drug-free work place, the ~~Employee Assistance Program~~ EAP or ~~SAP~~ Substance Abuse Professional shall establish a drug-free awareness program to inform employees about:
1. the dangers of drug abuse in the work place;
 2. the City's policy on maintaining a drug-free work place;
 3. available sources for drug counseling, rehabilitation and employee assistance for substance abuse problems; and
 4. the penalties which may be imposed on employees who commit drug abuse violations in the work place.

- b. Every employee who is engaged in the performance of any work connected with a federal grant shall be provided with a copy of this statement and or the Alcohol and Controlled Substance Testing Policy of the City of Springfield.
- c. Every employee who is engaged in the performance of any work connected with a federal grant shall, as a condition of employment under the grant;
 - 1. Abide by the terms of this statement and of the City's Alcohol and Controlled Substance Testing Policy.
 - 2. Notify the City of Springfield of any criminal drug statute conviction for a violation occurring in the work place no later than five (5) days after such conviction.
- d. The City of Springfield will notify the federal agency, through which a grant is administered, within ten (10) days after receiving notice under subparagraph (c),(2) from an employee or otherwise receiving actual notice of such conviction.
- e. The City of Springfield will take one or more of the following actions within thirty (30) days of receiving notice under subparagraph (e),(2), against any employee who is so convicted;
 - 1. Impose appropriate personnel action against such employee, up to and including termination of employment;
 - 2. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local law enforcement, or other appropriate agency.
- f. The City of Springfield will make a good faith effort to continue to maintain a drug-free work place through implementation of the provisions of the statement and of the Alcohol and Controlled Substance Testing Policy of the City.

The City of Springfield is committed to providing its employees a safe, healthy and drug-free work place. The cooperation of all employees is necessary in order to achieve our goal.

Exhibit B

13.6 *Personnel Board Hearing*

(a) Responsibility of the Personnel Board

When an employee shall make a complaint before the Personnel Board in a case involving his dismissal, demotion, reduction in pay or suspension, it shall be the duty of the Personnel Board to ascertain to the best of its ability the facts of the case and after weighing all available evidence to report its findings to the City Manager for such disposition as he may deem appropriate.

(b) Complaint - Setting Date For Hearing

When a request for a hearing is contained in such complaint, the Board's Chair will review the complaint. After review of said complaint, the Chair of the Board will determine if the Board has jurisdiction to hear the complaint. If it is found that the Board has jurisdiction to hear the complaint, then a public hearing shall be scheduled for a pre-selected date and time as determined by the Board, and at such time and place as designated by the Chair of the Board. In the event there is more than one complaint pending before the Board at the same time, then the Chair of the Board shall have the authority to schedule the hearings in the order that the Chair determines is the most practical method of dispensing of the claims.

Hearings will be scheduled for a pre-selected date and time during the month following receipt of the complaint, provided there is sufficient time to comply with the disclosure phase of the hearing process. Should there not be sufficient time to comply with the disclosure phase of the process, then the pre-selected date set for the next month would be selected. Should the complainant or their legal counsel have a conflict with the original pre-selected date and time, the hearing will be scheduled for the next available pre-selected date and time during the following month. The Board will not reschedule a hearing more than two times to accommodate counsel scheduling conflicts. If scheduling conflicts arise that do not allow the complainant or their counsel to attend one of the three dates provided by the Board, the complainant shall be deemed to have voluntarily waived his or her right to a hearing before the Personnel Board.

The Board reserves the right to reschedule a hearing date if it is apparent a quorum will not be available, or for other good cause shown as deemed appropriate in the sole discretion of the Board.

(c) Notice of Hearing

Upon notification of the Board Chair's determination as to the Board's jurisdiction to hear a complaint per Merit Rule 13.6(b), Notice of the time and place set for the public hearing shall be given promptly by the Secretary of the Board to the complainant ~~and at least five (5) days prior to the hearing~~ by Certified Mail, Return Receipt Requested, addressed to the complainant at his last known post office address.

(d) Board Shall Have Access to Pertinent Data

In order to properly discharge its function in regard to the review of such disciplinary actions, the Board shall have access to any files, correspondence, memoranda, etc., which they feel might be pertinent to the case and shall have the right of questioning any officers or employees of the City whom they feel may be able to shed light on the circumstances involving the disciplinary action in question. No officer or employee shall himself be subject to disciplinary action as a result of testimony given in such a hearing.

(e) Scope of Personnel Board's Review

In its review of a disciplinary action the Personnel Board shall limit itself, in the absence of overriding cause for considering extraneous matters, to a consideration of: (1) The question of whether the employee is guilty of the transgression with which he is charged, (2) the question of the appropriateness of the discipline to the transgression, with regard to the case under consideration, ~~and (2) the question of whether the employee is guilty of the transgression with which he is charged.~~

(f) ~~Hearing to be Informal~~ Conduct of Hearings

~~Hearings shall be conducted in an informal manner with every effort made by the Personnel Board to avoid the appearance of conducting a trial as in a court of law.~~ Hearings involving review of disciplinary actions shall be conducted in accordance with Missouri law relating to the conduct of administrative hearings of this nature to the extent it is not in conflict with the applicable provisions of the Springfield City Charter, the Merit Rules & Regulations, and the Springfield Personnel Board's Administrative Rules, with the intention to allow the parties a fair opportunity to be heard and to present evidence upon the matters at issue within the Board's scope of review described in Merit Rule 13.6(e). The Personnel Board shall have the authority to adopt rules and regulations pertaining to the conduct of hearings and the conduct of its business provided such rules are not inconsistent with the City, state, or federal law.

Hearings before the Personnel Board shall be public and shall be conducted in an orderly manner with a view of the presentation of material facts so that a fair and

impartial decision may be made. The Chair of the Board shall have full authority at all times to maintain orderly procedure and to reject irrelevant matters and limit the hearing to relevant facts.

(g) Adjournments

Public hearings on complaints may be adjourned only upon good cause shown, and in the event that the complainant shall fail to appear in person or by counsel at the time and place set for hearing, or fails to comply with any prehearing procedures and required filings as set by the Board or prehearing orders issued by the Board through its Chair in connection with the appeal, including attendance at required prehearing conferences or appeal hearings, he shall be presumed to have waived his right to further hearing and the Board may proceed forthwith to investigate and determine the case. This investigation and determination by the Board may also include a finding that the complainant has abandoned his appeal, and in such event, the Board shall take no further action upon the appeal. In this regard should complainant at any time during the appeal process fail to meet required filing deadlines, such as failing to timely file prospective witness and exhibit lists, the Board may, in its sole discretion, send complainant a written notice specifying such failure and putting complainant on notice that the Board may determine the complainant has abandoned his or her appeal unless complainant cures any such default within 3 business days of receipt of such notice.

(h) Representation

Complainant may, at their election, be represented by counsel, provided that notice of such representation shall be filed with the Secretary of the Board ~~at least forty-eight (48) hours prior to the time set for hearing~~ within ten (10) calendar days following the filing of the appeal by the employee or former employee in cases of dismissal. The Personnel Board will be represented by counsel provided by the City Attorney.

(i) Conduct of Hearing

~~Hearings before the Personnel Board shall be public and shall be conducted in an orderly manner with a view of the presentation of all material facts so that a fair and impartial decision may be made. The Chair of the Board shall have full authority at all time to maintain orderly procedure and to reject irrelevant matters and limit the hearing to relevant facts. The Personnel Board shall have the authority to adopt rules~~

~~and regulations pertaining to the conduct of hearings and the conduct of its business provided such rules are not inconsistent with the laws of the City.~~

~~(j)~~ *Decisions*

The decision of the Personnel Board shall be promptly reduced to writing, setting forth its finding and recommendations, and be filed with the City Manager ~~with a copy to the Mayor~~. The Board may make recommendations to the City Manager as follows:

(1) The Board may recommend concurrence in the action of demotion, dismissal, suspension or reduction in compensation.

(2) If the Board finds that the action complained of was taken by the appointing authority for political, religious or ethnic reasons, the Board shall recommend that the employee be restored to his former position or a like status without loss of pay and without penalization.

(3) In all cases, the findings and recommendations of the Board shall be submitted to the City Manager for his consideration, who may, not later than thirty (30) days after receipt of such findings and recommendations, restore the employee to his former status with or without loss of pay for the period involved; modify his original decision of dismissal, demotion, suspension or reduction in compensation; or continue with his original decision. The decision of the City Manager shall be final.

(4) When an employee is dismissed and not reinstated after much appeal, the Board in its discretion may recommend that his name be placed on an appropriate re-employment list for employment in any similar position other than the one from which he has been removed, and the City Manager may act thereon at his discretion.

~~(j)~~ *Subpoena Power*

The Chair of the Board shall have the power to issue subpoenas to compel witnesses to attend public or private hearings of the Board and to produce at such hearings relevant books or records with regard to a matter under appeal. Failure to comply with such subpoenas shall be punishable in Municipal Court in accordance with provisions of Section 1-7 of the Springfield City Code; provided, no such subpoena shall require any appearance sooner than three (3) days from the date such subpoena shall be served and the party subpoenaed shall have two (2) days from the date of service to move the

Municipal Court to quash the subpoena. If a motion is made, the Court may continue the time for compliance with such subpoena as necessary to rule on the motion but not longer than ten (10) days from the original date set for the appearance. A copy of such motion is to be served upon the City Attorney as counsel for the Board.

One-rdg. _____
P. Hrngs. _____
Pgs. 3
Filed: 03-03-20

Sponsor: Fisk

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 056

SPECIAL ORDINANCE _____

AN ORDINANCE

1 AUTHORIZING the Loan Committee, by vote, to lower the interest rate of the
2 Business Development Loan, within the Commercial Loan Program, if
3 the prime rate decreases throughout the year.
4 _____

5
6 WHEREAS, by Special Ordinance 26604, City Council renamed the "Small
7 Business Development Loan Program" the "Commercial Loan Program" ("CLP"); and
8

9 WHEREAS, since 1984, the city has operated the CLP, a program capitalized by
10 the federal Community Development Block Grant Program; and
11

12 WHEREAS, under the CLP, business-development loans are available for
13 property acquisition and rehabilitation; and
14

15 WHEREAS, the City must use all CLP loans to further the United States
16 Department of Housing and Urban Development's priorities of either removing slum and
17 blight or creating jobs benefiting low-to-moderate income persons; and
18

19 WHEREAS, since 1984, the Loan Committee has made 234 CLP loans totaling
20 more than \$32,000,000, primarily to help further center city revitalization efforts; and
21

22 WHEREAS, the CLP is currently funded through revolving-loan income and now
23 has \$1,000,000 available to loan; and
24

25 WHEREAS, in 2015, City Council approved changes to CLP rules and
26 regulations that included allowing the Loan Committee to establish the interest rate for
27 Business Development Loans annually, effective the first of July, based on the prime
28 rate as published that year in the first June publication of the Wall Street Journal; and
29

30 WHEREAS, continuously low interest rates are available through bank financing;
31 and
32

33 WHEREAS, federal regulations still add costs to CLP loans; and

34
35 WHEREAS, the Loan Committee's interest rates may not be competitive in
36 today's market; and
37

38 WHEREAS, the Loan Committee requests authorization from City Council to
39 allow the Loan Committee, by vote, the option of lowering the interest rate on Business
40 Development Loans throughout the program year if the prime rate decreases.
41

42 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
43 SPRINGFIELD, MISSOURI, as follows, that:
44

45 Section 1 – City Council hereby authorizes the Loan Committee, by vote, to
46 exercise the option of lowering the interest rate of the Business Loan Program during
47 the program year, if the prime rate decreases.
48

49 Section 2 – This Ordinance shall be in full force and effect from and after
50 passage.
51

52 Passed at Meeting: _____
53

54 _____
55 Mayor
56

57 Attest: _____, City Clerk
58

59 Filed as Ordinance: _____
60

61 _____
62 Approved as to Form: Duke M. Donald, Assistant City Attorney
63

64 _____
65 Approved for Council Action: Jason R. Hays, City Manager

EXPLANATION TO COUNCIL BILL 2020- 056

FILED: 03-03-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To allow the loan committee, by vote, to lower the interest rate of the Business Development Loan, within the Commercial Loan Program, if the prime rate decreases throughout the year.

BACKGROUND INFORMATION: The City has operated the Commercial Loan Program ("CLP") since 1984, capitalized by federal Community Development Block Grant Program ("CDBG") funds. The program was formerly known by the name "Small Business Development Loan Program," prior to a name change by Special Ordinance 26604.

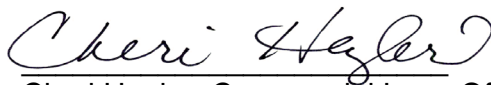
Under the CLP, Business Development Loans are available for property acquisition and rehabilitation. All loans must be used to further the United States Department of Housing and Urban Development's priorities of either removing slum and blight or creating jobs benefiting low-to-moderate income persons. Since the inception of the program in 1984, 234 loans have been made totaling over \$32 million, primarily to help further center city revitalization efforts. The program is currently funded through revolving loan income, and there is \$1 million available to loan.

The Loan Committee establishes the interest rate for the Business Development Loans annually, effective the first of July based on the prime rate as published that year in the first June publication of the Wall Street Journal.

Due to continuously low interest rates available through bank financing and the additional regulations on these loans due to the federal funding source, staff seeks City Council approval to allow the Loan Committee, by vote, the option of lowering the interest rate during the program year if the prime rate decreases as published by the Wall Street Journal. The Loan Committee will continue to reset the interest rate on July 1 each year.

REMARKS: Staff recommends approval.

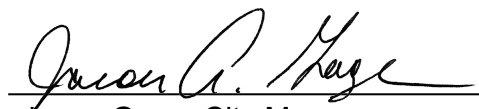
Submitted by:


Cheri Hagler, Commercial Loan Officer

Recommended by:


Mary Lilly Smith, Director

Approved by:


Jason Gage, City Manager

One-rdg. _____
P. Hrngs. _____
Pgs. 3
Filed: 03-03-20

Sponsored by: McClure, Hosmer, Ferguson

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020-057

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING the Springfield City Code, Chapter 78, 'Offenses and Miscellaneous
2 Provisions,' Article VII, 'Offenses Against Property,' by the addition of a
3 new Section 78-285.5, 'Trespass onto real property.'
4 _____
5

6 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD,
7 MISSOURI, as follows, that:
8

9 Section 1 – The Springfield City Code, Chapter 78, 'Offenses and Miscellaneous
10 Provisions,' Article VII, 'Offenses Against Property,' is hereby amended by the addition
11 of a new Section 78-285.5, 'Trespass onto real property,' which reads as follows:
12

13 Section 78-285.5 - Trespass onto real property.
14

- 15 1. A person commits trespass onto real property if he or she enters unlawfully
16 upon real property of another. This is an offense of absolute liability.
17
- 18 2. Trespass onto real property shall be punishable upon conviction as provided
19 in Section 1-7 of the Springfield City Code, except that a conviction for this
20 offense shall not be punishable by any sentence of incarceration, and the
21 maximum fine that may be imposed upon a conviction for this offense shall
22 be Four Hundred Dollars (\$400.00).
23

24 Section 2 – Severability Clause. If any section, subsection, sentence, clause or
25 phrase of this Ordinance is for any reason held to be invalid or unenforceable, to the
26 extent the remainder of this Ordinance can be validly and reasonably interpreted and
27 enforced, such decision shall not affect the validity of the remaining portions of this
28 Ordinance.
29

30 Section 3 – This Ordinance shall be in full force and effect from and after
31 passage.
32

33 Passed at meeting: _____

34

35

36

37

38

39 Attest: _____, City Clerk

40

41 Filed as Ordinance: _____

42

43

44 Approved as to form: Carl S. Yender, Assistant City Attorney

45

46

47 Approved for Council action: Jason A. Hage, City Manager

EXPLANATION TO COUNCIL BILL 2020-057

FILED: 03-03-20

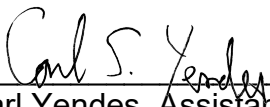
ORIGINATING DEPARTMENT: Law

PURPOSE: To amend the Springfield City Code, Chapter 78, 'Offenses and Miscellaneous Provisions,' Article VII, 'Offenses Against Property,' by the addition of a new Section 78-285.5, 'Trespass onto real property.'

BACKGROUND INFORMATION: The current non-motor vehicle related trespass ordinances included in the City Code, Sections 78-285, and 78-282, both of which are punishable by a fine from \$0 to \$1,000 and/or a jail sentence of 0 to 180 days, require that the City prove a person committing such an offense has actual or constructive knowledge that they are committing a trespass, such as by the person entering an enclosed or fenced area, posting of the premises, or by actual notice given to the offender that they are trespassing. The proposed ordinance is not intended to replace existing trespass ordinances, but is intended to cover certain situations in which an offender is found on property belonging to another person without permission or right, but proof of the offender's knowledge or notice to them of the trespass may not be present. Under the proposed ordinance, the trespasser would be strictly liable for their trespass, notwithstanding their knowledge or notice or lack thereof.

REMARKS: This proposed ordinance is functionally identical to Section 569.150, RSMo, Trespass in the Second Degree. Like the state statute, the proposed ordinance is an absolute liability offense. Also, like the state statute, it is not punishable by any term of incarceration, but by a fine ranging from \$0 to \$400, which is the same as the range for violation of the state statute.

Submitted by:



Carl Yendes, Assistant City Attorney

Approved by:



Jason Gage, City Manager

One-rdg. _____
P. Hmgs. _____
Pgs. 15
Filed: 03-03-20

Sponsored by: Ferguson

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 058

SPECIAL ORDINANCE _____

AN ORDINANCE

1 AUTHORIZING the Director of Planning and Development to accept the dedication
2 of public streets and easements to the City of Springfield,
3 Missouri, as shown on the Preliminary Plat of Doling
4 Landing, generally located at 2520 North Bolivar Road, upon the
5 applicant filing and recording a final plat that substantially conforms
6 to the preliminary plat; and authorizing the City Clerk to sign the
7 final plat upon compliance with all the terms of this Ordinance.
8 (Staff recommends that City Council accept the public streets and
9 easements.)
10 _____
11

12 WHEREAS, an original Preliminary Plat of Doling Landing dated January 20,
13 2020, is on file in the Department of Planning and Development; and
14

15 WHEREAS, on February 13, 2020, the Planning and Zoning Commission met
16 and approved the Preliminary Plat of Doling Landing which is generally located at 2520
17 North Bolivar Road a copy of the Record of Proceedings from said meeting are attached
18 hereto as "Exhibit A" and incorporated herein by this reference.
19

20 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
21 SPRINGFIELD, MISSOURI, as follows, that:
22

23 Section 1 – City Council hereby authorizes the Director of Planning and
24 Development, on behalf of the City of Springfield, to accept the dedication of public
25 streets and easements as shown on the Preliminary Plat of Doling Landing, which is
26 generally located at 2520 North Bolivar Road, as approved by the Planning and Zoning
27 Commission. The original plat of Doling Landing is on file in the Department of Planning
28 and Development ("Approved Preliminary Plat"), a reduced version of which is attached
29 hereto for general reference as "Exhibit B – Attachment 3" and all of "Exhibit B,"
30 including any and all attachments, is incorporated herein by this reference.
31

32 Section 2 – The Director of Planning and Development shall be authorized to
33 accept the land, easements, and improvements dedicated to the City, as shown on the

34 Approved Preliminary plat, upon the filing and recording of a final plat in accordance
35 with this Ordinance and the Subdivision Regulations of the City, which final plat shall
36 substantially conform to the Approved Preliminary Plat, including those conditions
37 described in "Exhibit B – Attachment 2" and upon the Director of Public Works certifying
38 to the Director of Planning and Development and the City Clerk that the public
39 improvements have been made in accordance with City standards and specifications.
40 Said public improvements shall not be accepted until the occurrence of the above
41 written conditions.
42

43 Section 3 – The final plat shall not be recorded until: (1) the public improvements
44 relating to the Approved Preliminary Plat have been constructed according to the
45 specifications of the City of Springfield, Missouri, and are approved by the Director of
46 Public Works, and all engineering fees, permit fees, licenses, and other fees occasioned
47 by or in connection with the construction of said improvements have been paid to the
48 City; or (2) in lieu of the construction of the improvements, that the Applicant has filed
49 with the City Manager, according to the terms of the Subdivision Regulations of the City,
50 the prescribed financial assurances in a form acceptable to the City to ensure the
51 construction of the improvements and the payment to the City of all engineering fees,
52 permit fees, licenses, and other fees occasioned by, or which will be occasioned by, the
53 construction of the improvements.
54

55 Section 4 – Upon compliance with all the requirements of this Ordinance,
56 including the conditions described in "Exhibit B – Attachment 2" the City Clerk is hereby
57 authorized to endorse City Council's approval upon the final plat pursuant to Section
58 445.030, RSMo., and such endorsement shall constitute the acceptance of the Public
59 Improvements contained therein.
60

61 Section 5 – This Ordinance shall be in full force and effect from and after its
62 passage and is subject to Section 36-226 of the Land Development Code.
63

64 Passed at meeting: _____
65

66 _____
67 Mayor
68

69 Attest: _____, City Clerk
70

71
72 Filed as Ordinance: _____
73

74
75 Approved as to form: Achale T. Wudu, Assistant City Attorney
76

77
78 Approved for Council action: Jason A. Hays, City Manager

EXPLANATION TO COUNCIL BILL 2020 - 058

FILED: 03-03-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Authorizing the Director of Planning and Development to accept the dedication of public streets and easements to the City of Springfield, Missouri, as shown on the Preliminary Plat of Doling Landing, generally located at 2520 North Bolivar Road, upon the applicant filing and recording a final plat that substantially conforms to the preliminary plat; and authorizing the City Clerk to sign the final plat upon compliance with all the terms of this Ordinance. (Staff recommends that City Council accept the public streets and easements.)

BACKGROUND INFORMATION:

- A. An original Preliminary Plat of Doling Landing dated January 20, 2020, is on file in the Department of Planning and Development. A reduced version of which is included for general reference in "Exhibit B - Attachment 3.
- B. The Planning and Zoning Commission held a public hearing on February 13, 2020, and approved the preliminary plat by a vote of 5 to 0, subject to the following conditions:
 - 1. All improvements shall be constructed in accordance with the "Design Standards for Public Improvements" of the Public Works Department and the maintenance and operation of such improvements shall be the responsibility of the developers unless approved by the Director of Public Works. All required sanitary sewer, street, sidewalk and drainage plans shall be prepared in accordance with City standards and specifications and approved by the Director of Public Works.
 - 2. All required street rights-of-way, drainage and utility easements and limitations of access shall be dedicated on the final plat.
 - 3. The developer shall meet all city and state erosion control regulations prior to disturbing the soil.
 - 4. It is determined that the public interest requires assurance concerning adequate maintenance of common space areas and improvements. The restrictive covenants, rules and bylaws creating the common ownership must therefore provide that if the owners of the Property Owners Association shall fail to maintain the common areas or improvements in reasonable order and condition in accordance with the approved plans, the City may, after notice and hearing, maintain the same and assess the costs against the units or lots, per

the Common Open Space and Common Improvement Regulations section of the Zoning Ordinance.

5. The developer shall be responsible for the relocation costs of any existing utility services and shall be responsible for clearing all utility easements of trees, brush and overhanging tree limbs.
6. All other requirements which are necessary for this subdivision to be in compliance with the Subdivision Regulations.

All required improvements shall be the sole responsibility of the sub-divider. As prescribed by Section 36-233 of the Subdivision Regulations, the improvements shall be made or guaranteed by means of bond, escrow agreement, letter of credit or other appropriate security agreement. Release of the final plat for recording shall be withheld until the sub-divider has complied with this section.

Section 36-226 of the Subdivision Regulations requires that a final plat be submitted within two years of City Council's acceptance of the public streets and easements.

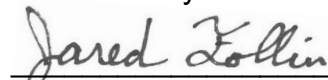
Attached for Council information is a sketch showing the location of the plat area, an exhibit showing the proposed plat, and a copy of the Planning and Development Department staff report (see "Exhibit B"), to the Planning and Zoning Commission.

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies this as an appropriate area for Medium or High-Density Housing. Townhouses and various forms of apartment buildings are included in this category, but currently the property is zoned Single-Family Residential, which does not permit these types of housing. Therefore, the applicant is proposing lots in order to accommodate single-family detached dwellings to comply with the zoning ordinance. The Major Thoroughfare Plan classifies Bolivar Road as a Local Street which supports the proposed land use.

REMARKS:

Staff recommends approval.

Submitted by:

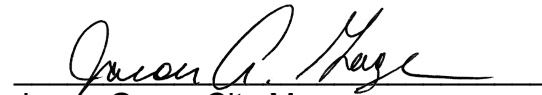


Jared Follin, Associate Planner

Recommended by:


Mary Lilly Smith, Director

Approved by:


Jason Gage, City Manager

EXHIBITS:

Exhibit A, Record of Proceedings

Exhibit B, Zoning and Subdivision Staff Report

ATTACHMENTS:

Attachment 1, Department Comments

Attachment 2, Conditions of Plat Approval

Attachment 3, Preliminary Plat

Exhibit A

**RECORD OF PROCEEDINGS
PRELIMINARY PLAT – DOLING LANDING
Planning and Zoning Commission – February 13, 2020**

Preliminary Plat of Doling Landing
2520 North Bolivar Road

Applicant: Barbara Hall Trust

Mr. Hosmer stated that this is a request to approve a 4.78 acre 24-lot residential subdivision located at 2520 North Bolivar Road. The Comprehensive Plan identifies this area as appropriate for Medium Intensity Retail, Office or Housing. The Transportation Plan classifies Bolivar Road as a Local Street which supports the proposed development. The proposed plat will establish common area that will become the responsibility of a neighborhood association to maintain. Public improvement plans are required for the street and sidewalks improvements. The final plat cannot be approved until public improvement plans have been submitted, approved, and the improvements constructed or escrowed. The property is within a stream buffer area (NE corner). All improvements shall be constructed in accordance with the "Design Standards for Public Improvements" of the Public Works Department. If Planning and Zoning Commission approves the preliminary plat, the plat will be forwarded to City Council for acceptance of public streets and easements. An approved preliminary plat is active for two (2) years. Staff recommends approval.

Mr. Coltrin opened the public hearing.

Mr. Mike Williams, 1855 S. Ingram Mills, here to answer any and questions and complimented the Planning staff on working together.

Mr. Coltrin closed the public hearing.

COMMISSION ACTION:

Ms. Cox motioned to **approve** Preliminary Plat of Doling Landing (2520 North Bolivar Road). Mr. Rose seconded the motion. Ayes: Coltrin, Cox, Rose, Ogilvy, and Jobe. Nays: None. Abstain: None. Absent: Doennig, Broekhoven, Shuler and Thomas.



Bob Hosmer, AICP
Planning Manager

Exhibit B

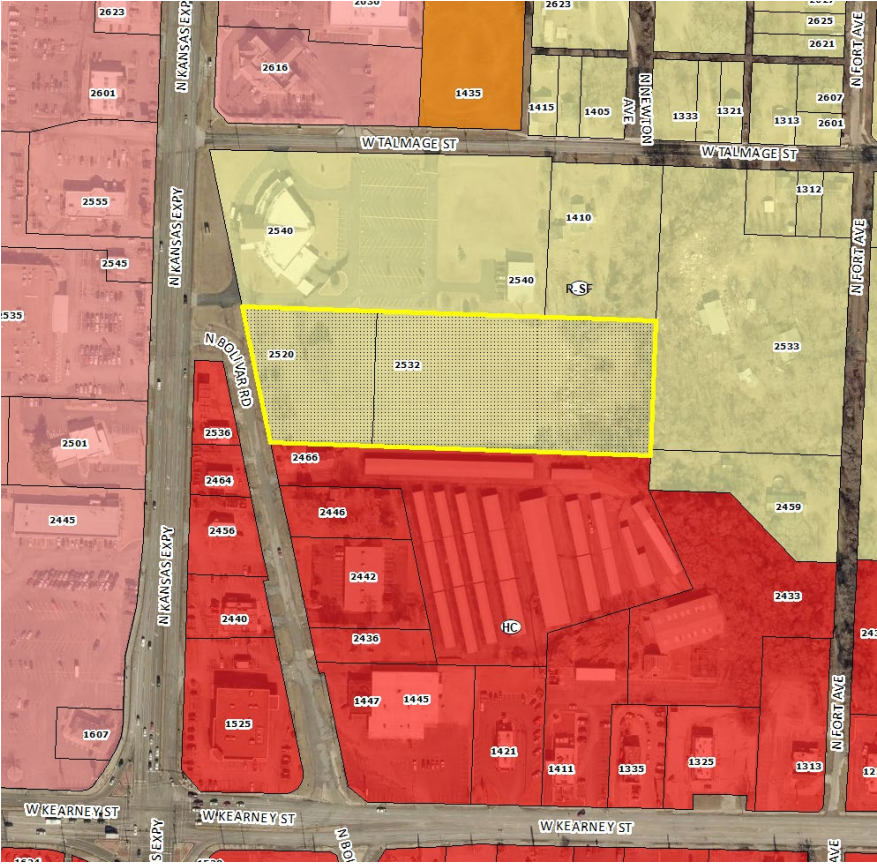
Development Review Staff Report

PLANNING AND ZONING COMMISSION PUBLIC HEARING:

FEBRUARY 13, 2020

CITY COUNCIL PUBLIC HEARING:

MARCH 9, 2020



CASE NUMBER:

Preliminary Plat of Doling Landing

LOCATION:

2520 North Bolivar Road

ACRES:

4.78 acres

EXISTING LAND USE:

Vacant property

APPLICANT:

Barbara Hall Trust

STAFF:

Jared Follin, 864-1612

STAFF RECOMMENDATIONS:

Approve w/Conditions

PROPOSED MOTION:

Move to approve preliminary plat with conditions.

SUMMARY OF REQUEST:

The applicant is proposing a preliminary plat for a 24-lot residential subdivision named "Doling Landing".

FINDINGS FOR STAFF RECOMMENDATION:

The applicant's proposal, with the conditions listed below, is consistent with the City's *Subdivision Regulations*.

SURROUNDING ZONING AND LAND USES:

	NORTH	SOUTH	EAST	WEST
ZONING	Single-Family Residential	Highway Commercial	Single-Family Residential	Highway Commercial/General Retail
LAND USE	Church/Residential	Mixed Commercial/Self-Service Storage	Single-Family dwellings	Mixed Commercial/ Public Library

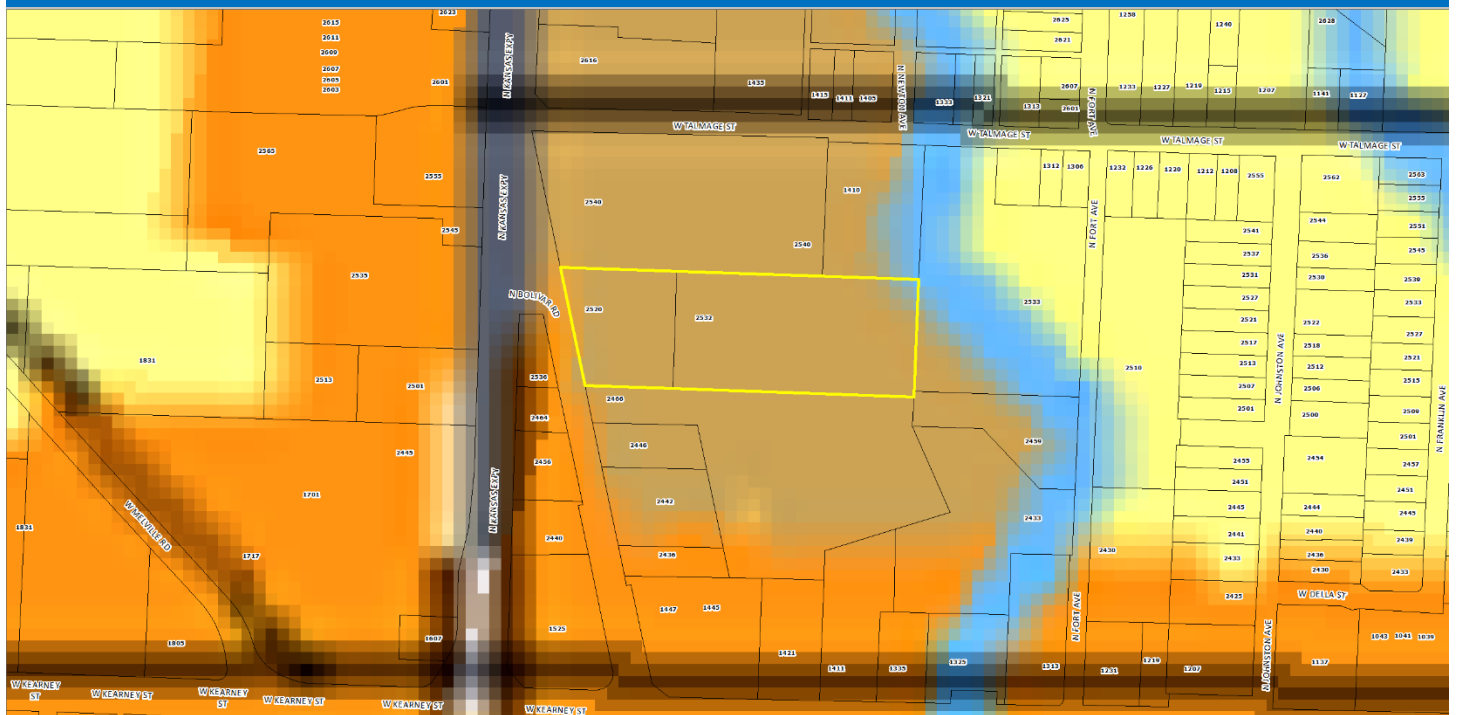
SURROUNDING LAND USES (GOOGLE MAP AERIAL VIEW):



GOOGLE MAPS STREET VIEW:



GROWTH MANAGEMENT AND LAND USE PLAN:



- Low-Density Housing
- Medium or High Density Housing
- Medium Intensity Retail, Office or Housing
- High Intensity Retail, Office or Housing
- Greater Downtown
- Business Park
- Light Industrial, Office and Office-Warehouse

- General Industry, Transportation and Utilities
- Park
- School
- Golf
- Community-Public
- Urban Reserve Area
- Rural Area

- Greenway
- Parkway
- City Boundary
- Urban Service Area Boundary, Year 2020
- Urban Reserve Boundary, Year 2040

PROPERTY HISTORY:

The subject property was annexed into the City in 1926 and was originally subdivided into four residential lots in 1961. According to historical aerial photos, a couple single-family homes have occupied the property, but they have since been demolished. The property sits vacant today.

COMPATIBILITY WITH THE ZONING ORDINANCE:

CODE ITEM	REQUIREMENTS FOR R-SF
Use Limitations	N/A
Maximum Structure Height	Side yards less than 15 feet in width: 35 feet or two and one-half stories above the finished grade. Side yards are 15 feet in width or greater: 45 feet or three stories above the finished grade.
Front Yard Setback	25 feet along a street classified as a collector or higher 15 feet along a street classified as a local street
Side and Rear Setbacks	Side: Five feet Rear: 10 percent of lot depth, but no less than 10 feet and no more than 20 feet.
Open Space Requirement	Not less than 30 percent of the gross floor site
Design Requirements	Standard per code
BULK PLANE	LANDSCAPING
<i>See Maximum Structure Height</i>	<i>No bufferyards required</i>

COMPATIBILITY WITH COMPREHENSIVE PLAN:

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies this as an appropriate area for Medium or High-Density Housing. Townhouses and various forms of apartment buildings are included in this category, but currently, the property is zoned Single-Family Residential, which does not permit these types of housing. Therefore, the applicant is proposing lots in order to accommodate single-family detached dwellings to comply with the zoning ordinance. The Major Thoroughfare Plan classifies Bolivar Road as a Local Street which supports the proposed land use.

STAFF COMMENTS:

1. The applicant is proposing to subdivide approximately 4.78 acres into a 24-lot subdivision named "Doling Landing."
2. The proposed plat will establish common area that will become the responsibility of a neighborhood association to maintain. Declaration of Restrictions and Covenants will be required to be reviewed and approved by city staff before the Final Plat is recorded.
3. The subdivision is proposing a new street named "Doling Lane" with a hammerhead turnaround. The entire length of the street is proposed to be approximately 787 feet from its sole connection to Bolivar Road.
4. If Planning and Zoning Commission approves the preliminary plat, then the plat will be forwarded to City Council for acceptance of public streets and easements. An approved preliminary plat is active for two (2) years but may be extended one-time for another two years by applying for a Preliminary Plat Renewal.
5. The proposed preliminary plat was reviewed by City departments and comments are contained in Attachment 1. Conditions of Approval are provided in Attachment 2.

PUBLIC NOTIFICATION:

The property was posted 10 days prior to the Planning and Zoning Commission meeting.

ATTACHMENT 1: DEPARTMENT COMMENTS:

BUILDING DEVELOPMENT SERVICES:

No apparent impact to building issues.

CITY UTILITIES:

No issues with prelim plat as shown. Grading and Public Improvements will be reviewed by CU Engineering. Final Routing of Electric/Gas/Water Utility Extensions to be determined by CU Engineering. Contact Josh @ 417-831-8816 as needed.

CLEAN WATER SERVICES COMMENTS:

1. Preliminary plat shows the proposed sewer going beneath a retaining wall. This will require that the sewer be placed in a steel casing and a build-over/encroachment agreement. These items must be finalized prior to public improvement plan review.
2. The sewer is following an existing 10-foot offsite sanitary sewer easement. The minimum width sewer easement is 15 feet. An additional 5-foot sanitary sewer easement will need to be obtained before the public improvement plans can be approved.
3. The proposed sewer is shown beneath a stilling/retention pond. Minimum cover of 4 feet must be maintained over top of sewer main. Additional review comments will be provided when public improvement plans are submitted.
4. It would be preferred that the requested 15-foot sewer easement to the south be located west of lot 22 so that it could go around the storage building to the south.

FIRE DEPARTMENT COMMENTS:

Move hydrant locations to lot 23 and lot 17.

ES SEDIMENT AND EROSION CONTROL COMMENTS:

No objections to the Plat.

A City Land Disturbance Permit will be required due to the estimated area of disturbance being greater than 1 acre. Please submit a Land Disturbance Permit application and complete Stormwater Pollution Prevention Plan (SWPPP), including narrative, site plan, and attachments under the "Reports and Specifications" folder. Forms and other tools and information can be found on the City's Stormwater Quality Division's website.

PW TRAFFIC COMMENTS:

Public improvement plans are required for the street and sidewalks. The final plat cannot be approved until public improvement plans have been submitted, approved, and the improvements constructed or escrowed.

STREET CLASSIFICATION, RIGHT-OF-WAY, & JURISDICTION

City's Transportation Plan classifies N. Bolivar Road as a Local roadway. The standard right-of-way width for N. Bolivar Road is 30 feet from the centerline. It appears additional right-of-way is not needed along N. Bolivar Road. A survey is recommended to determine the exact amount of existing right-of-way. N. Bolivar Road is a city-maintained street.

DRIVEWAY ACCESS

There is currently one driveway access point onto the property from N. Bolivar Road. This driveway access will be closed and the plat shows a new street to be constructed as the access point for all lots.

SIDEWALK

There is not existing sidewalk along the property frontage of N. Bolivar Road. The existing infrastructure meets current City Standards. Sidewalk is required to be constructed along the property frontage on N. Bolivar Road, connecting to the existing sidewalk on N. Kansas Expressway, to current City Standards as a part of this development/plat.

IMPROVEMENTS

A new street will be constructed to serve the lots on the plat. Public Improvement Plans are required. Public Improvement Plans must be submitted, approved and improvements constructed or funds escrowed prior to approval of the final plat. A Traffic Impact Study was not required, as the change in zoning did not increase the trip generation in the AM/PM peaks by more than 100 additional trips nor did it exceed the threshold of 1,000 additional trip-ends daily.

TRAFFIC - TABLE 1: PLATTING DETAILS

	Street Name	Street Classification	On-Street Parking	Existing Street ROW From Centerline (ft)	Required Street ROW From Centerline (ft)
Street 1	N. Bolivar Road	Local	No	30	30

PW STORMWATER COMMENTS:

1. Need to show a drainage easement (it can be in the same location as the already shown utility easement) between each proposed lot to the water quality basin at the east side of the site in common area C.
2. A small corner of the site is in a stream buffer easement. This needs to be indicated on the preliminary plat. It's 50 ft from the top of bank on either side.
3. I would look into a grass channel to meet some of your water quality requirement - it is shown in chapter 10 section 3.1.4. here is a link to the manual - <https://www.springfieldmo.gov/DocumentCenter/View/36063/Flood-Control-and-Water-Quality-Protection-Manual-?bidId=>

The property is in the Pea Ridge Creek drainage basin. The property is not located in a FEMA designated floodplain. Staff is aware of flooding problems in the area. If the project increases the amount of impervious surfacing, detention is required according to Chapter 96. A fee in lieu of on-site stormwater detention will be allowed. If disturbing 1 acre or greater, water quality is required. The property is within a stream buffer area of 50 ft on each side from the top of bank.

Please note that development of the property will be subject to the following conditions at the time of development:

1. Post development peak run-off rates shall not exceed pre-development peak run-off rates for the 1, 10 and 100 year rain events. Any increase in impervious surfacing will require the development to meet current detention and water quality requirements.
2. If disturbing 1 acre or greater, water quality will also have to be provided.
3. Drainage easements must be provided for this conveyance.
4. Please keep in mind that more detailed stormwater calculations will have to be submitted before any permits can be approved.
5. A land disturbance permit will be required if disturbing 1 acre or greater.

Public Works Stormwater Division	Response
Drainage Basin	Pea Ridge Creek
Is property located in Floodplain?	Yes
Is property located on a sinkhole?	No
Is property located in a stream buffer?	Yes
Is stormwater fee in lieu an option?	Yes

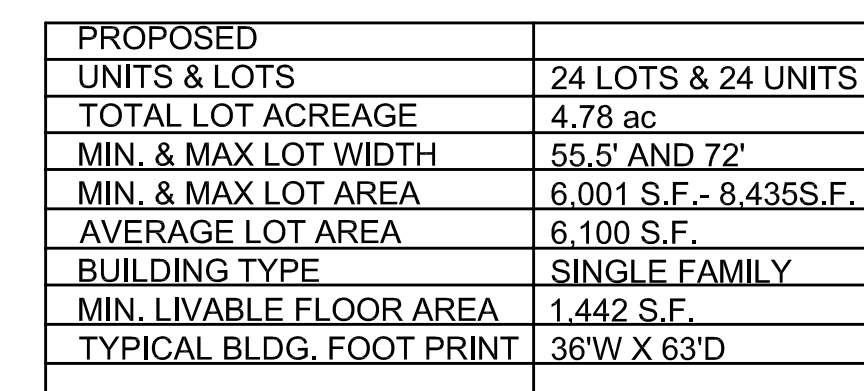
ATTACHMENT 2: CONDITIONS OF PLAT APPROVAL

Staff recommends the Planning and Zoning Commission approve the Preliminary Plat, with the conditions listed below:

1. All improvements shall be constructed in accordance with the "Design Standards for Public Improvements" of the Public Works Department and the maintenance and operation of such improvements shall be the responsibility of the developers unless approved by the Director of Public Works. All required sanitary sewer, street, sidewalk and drainage plans shall be prepared in accordance with City standards and specifications and approved by the Director of Public Works.
2. All required street rights-of-way, drainage and utility easements and limitations of access shall be dedicated on the final plat.
3. The developer shall meet all city and state erosion control regulations prior to disturbing the soil.
4. It is determined that the public interest requires assurance concerning adequate maintenance of common space areas and improvements. The restrictive covenants, rules and bylaws creating the common ownership must therefore provide that if the owners of the Property Owners Association shall fail to maintain the common areas or improvements in reasonable order and condition in accordance with the approved plans, the City may, after notice and hearing, maintain the same and assess the costs against the units or lots, per the Common Open Space and Common Improvement Regulations section of the Zoning Ordinance.
5. The developer shall be responsible for the relocation costs of any existing utility services and shall be responsible for clearing all utility easements of trees, brush and overhanging tree limbs.
6. All other requirements which are necessary for this subdivision to be in compliance with the Subdivision Regulations.

If the request is recommended for denial by the Commission and the applicant requests City Council consideration, all the above conditions, plus any amendments made by the Planning and Zoning Commission, shall be included in the Council Bill.

ATTACHMENT 3



JOB NO.
E20-300

PRELIMINARY PLAT

One-rdg. _____
P. Hrngs. _____
Pgs. 4
Filed: 03-03-20

Sponsored by: Schilling

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020 - 059

SPECIAL ORDINANCE _____

AN ORDINANCE

1 AUTHORIZING the City Manager, or his designee, to accept a donation in the amount
2 of \$10,000 from Mrs. Merrily Parker to support the Fire and Life Safety
3 education programs.
4 _____
5

6 WHEREAS, Mrs. Merrily Parker recently approached the Fire Department about
7 providing a donation in support of the Fire Department's Fire and Life Safety education
8 programs; and
9

10 WHEREAS, Mrs. Parker has graciously offered to donate \$10,000.00, in support
11 of said programs.
12

13 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
14 SPRINGFIELD, MISSOURI, as follows, that:
15

16 Section 1 – The City Manager, or his designee, is hereby authorized to accept
17 the donation of \$10,000.00 from Mrs. Merrily Parker to support the Fire Department's
18 Fire and Life Safety education program.
19

20 Section 2 – The budget of the Springfield Fire Department for Fiscal Year 2019-
21 2020 is hereby amended in the accounts and in the amounts as shown on Budget
22 Adjustment No.041, a copy of which is attached hereto and incorporated herein by
23 reference as "Exhibit A."
24

25 Section 3 – City Council hereby finds that the budget adjustment made in Section
26 2 has been recommended by the City Manager.
27

28 Section 4 – The City Manager is directed to cause the appropriate accounting
29 entries to be made in the books and records of the City.
30

31 Section 5 – City Council greatly appreciates the donation and wishes to express
32 its sincerest thanks to Mrs. Parker for said donation.
33

34 Section 6 – This Ordinance shall be in full force and effect from and after
35 passage.

36
37 Passed at meeting: _____

38
39 _____
40 Mayor

41
42 Attest: _____, City Clerk

43
44
45 Filed as Ordinance: _____

46
47
48 Approved as to form: Ca H _____, Assistant City Attorney

49
50
51 Approved for Council action: Jason A. Hays _____, City Manager

EXPLANATION TO COUNCIL BILL 2020-059

FILED 03-03-20

ORIGINATING DEPARTMENT: Fire

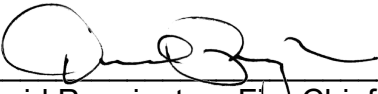
PURPOSE: Authorizing the City Manager, or his designee, to accept a donation in the amount of \$10,000 from Mrs. Merrily Parker to support the Fire and Life Safety education programs.

BACKGROUND INFORMATION: The Fire Department was approached by Mrs. Parker seeking opportunity to provide a donation to support the Fire Department's Fire and Life Safety education programs.

On December 19, 2019, the Fire Department received a check in the amount of \$10,000, from Mrs. Parker.

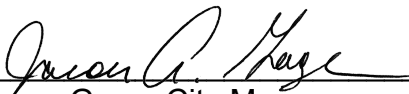
REMARKS: The Fire Department is very thankful for Mrs. Parker's kindness and generosity. If approved, this donation will be allocated to support the department's Fire and Life Safety education programs for area youth.

Submitted by:



David Pennington, Fire Chief

Approved by:



Jason Gage, City Manager

CITY OF SPRINGFIELD, MO
BUDGET ADJUSTMENT

Exhibit A

Budget Adjustment
041

Revenues:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
22620	10	15080	414070			\$ 10,000	Donation from the Merrily Parker Family
Net Revenue Adjustment						\$ 10,000	

Expenditures:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
22620	10	15080	501260			\$ 10,000	Fire Life and Safety Education activities
Net Expenditure Adjustment						\$ 10,000	

Fund Balance Appropriation:

Fund	Title	Amount

Explanation: To amend the FY2019-20 budget and appropriate a donation from the Merrily Parker family to support the Fire Life and Safety Education program.

Requested By:


Department Head 3/4/20
Date

Approved By:


Director of Finance 3/4/20
Date

Authorization:

Council Bill No. 2020-059
Ordinance No. _____
1st Reading _____
2nd Reading _____
Journal Imp No. _____

City Manager Date

One-rdg. X
P. Hrngs.
Pgs. 3
Filed 03-03-20

Sponsored by McClure

COUNCIL BILL 2020 -060 RESOLUTION

A RESOLUTION

ACKNOWLEDGING the appointment of Travis Shaw by the School District of
Springfield to the Tax Increment Finance Advisory Commission.

WHEREAS, the City of Springfield has created a Tax Increment Financing
Advisory Commission ("Commission") pursuant to section 2-241 of the Springfield City
Code; and

WHEREAS, Tim Rosenbury was previously appointed by the School District of
Springfield to serve on the Commission, however with his recent employment with the
City of Springfield, the School District has appointed a new representative; and

WHEREAS, City Council desires to acknowledge the appointment of Travis
Shaw, as the School District of Springfield's representative on the Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
SPRINGFIELD, MISSOURI, as follows, that:

Section 1 – City Council hereby acknowledges the appointment of Travis Shaw
as the School District of Springfield's representative on the Tax Increment Finance
Advisory Commission. Travis Shaw's term on the Commission shall coincide with the
length of time that the proposed IDEA Commons Tax Increment Financing
redevelopment project is considered for approval by the Commission.

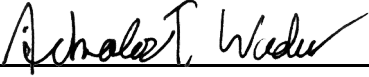
Section 2 – This Resolution shall be effective immediately upon adoption.

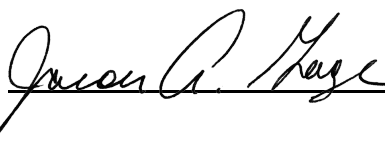
Passed at meeting:

Mayor

Attest: , City Clerk

Filed as Resolution

32
33 Approved as to form: , Assistant City Attorney

34
35
36 Approved for Council action: , City Manager

EXPLANATION TO COUNCIL BILL 2020- 060

FILED 03-03-20

ORIGINATING DEPARTMENT: Planning and Development Department

PURPOSE: Acknowledging the appointment of Travis Shaw by the School District of Springfield to the Tax Increment Finance Advisory Commission. (Staff recommends approval.)

BACKGROUND INFORMATION: Section 2-241 of the Springfield City Code establishes the creation of the Tax Increment Finance Advisory Commission ("TIF Commission"). The Code also establishes the membership of the TIF Commission in accordance with State law. The Mayor appoints six of the eleven members with the consent of City Council. Of the six, one of the members appointed by the Mayor is to be a member of City Council, one is to be from the Springfield-Greene County Library Board, and the remaining four members from the public at large. The other five members of the Commission are appointed by Greene County (2), the affected school board (2), and all other taxing jurisdictions (1).

Tim Rosenbury was previously appointed to serve as one of the representatives from The School District of Springfield, R-12. However, with the announcement that he has taken a position of employment with the City of Springfield beginning in March 2020, the School District has selected a new representative to fill Mr. Rosenbury's term.

The School District of Springfield, R12 representative (for redevelopment projects and areas located within the R12 District.)

- a) Travis Shaw, School District of Springfield, R-12 representative, term to coincide with the length of time that the proposed IDEA Commons TIF redevelopment project is considered for approval by the TIF Commission.

REMARKS: Passage of this Resolution acknowledges the appointment made by the School District of Springfield, R-12. Staff recommends approval.

Submitted by:



Sarah Kerner, Economic Development Director

Recommended by:



Mary Lilly Smith, Director

Approved by:



Jason Gage, City Manager

One-rdg. _____
P. Hrngs. _____
Pgs. 6
Filed 02-18-20

Sponsored by McGull

First Reading _____

Second Reading _____

COUNCIL BILL 2020- 042

SPECIAL ORDINANCE _____

AN ORDINANCE

1 APPROVING the sale of real property at 2017 North National Avenue to Blackard
2 Rentals, LLC, for \$2,500.00; and authorizing the issuance of a deed
3 for same.
4 _____
5

6 WHEREAS, the City acquired the real estate generally located at 2017 North
7 National Avenue (the "Property") through the dangerous-building program; and
8

9 WHEREAS, total acquisition costs, including legal costs, demolition costs, etc.,
10 were \$9,919.64; and
11

12 WHEREAS, after declaring the Property to be surplus, the Land Inventory
13 Committee put the Property out for public bid; and
14

15 WHEREAS, Blackard Rentals, LLC, offered to buy the property for \$2,500.00, an
16 offer the City Manager considers acceptable because there were no bids for the
17 property after seven previous attempts to sell; and
18

19 WHEREAS, disposition of real property calls for City Council approval; and
20

21 WHEREAS, net proceeds from the sale of surplus property are returned to the
22 fund from which the property was purchased, up to the amount of the purchase price.
23

24 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
25 SPRINGFIELD, MISSOURI, as follows, that:
26

27 Section 1 – City Council hereby approves the sale of the property generally
28 located at 2017 North National Avenue and depicted on "Exhibit A," which is attached
29 hereto and incorporated herein by this reference, to Blackard Development, LLC, for
30 \$2,500.00.
31

32 Section 2 – City Council hereby authorizes the Mayor to execute such
33 documents as are necessary to convey title to the real estate to the purchaser herein

34 consistent with the offer and acceptance.

35
36 Section 3 – City Council hereby authorizes the Mayor to execute a “Special
37 Warranty Deed,” said document to be substantially similar to “Exhibit B,” which is
38 attached hereto and incorporated herein by this reference, so as to convey title to the
39 real estate to the purchaser herein consistent with the offer and acceptance.

40
41 Section 4 – This Ordinance shall be in full force and effect from and after
42 passage.

43
44 Passed at meeting: _____

45
46 _____
47 Mayor

48
49 Attest: _____, City Clerk

50
51 Filed as Ordinance: _____

52
53
54 Approved as to form: Duke M. Donald, Assistant City Attorney

55
56
57 Approved for Council action: Jason C. Hays, City Manager

EXPLANATION TO COUNCIL BILL 2020 - 042

FILED: 02-18-20

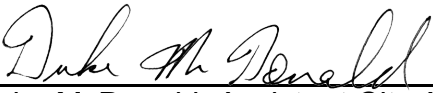
ORIGINATING DEPARTMENT: City Manager's Office

PURPOSE: Approving the sale of real property at 2017 North National Avenue to Blackard Rentals, LLC, for \$2,500.00; authorizing the issuance of a deed for same.

BACKGROUND INFORMATION: The City acquired the property generally located at 2017 North National Avenue through the dangerous-building program. Total acquisition costs, including legal costs, demolition costs, etc., were \$9,919.64. The City received the offer to purchase noted above. The bid is acceptable because there were no bids for the property after seven previous attempts to sell. No City department needs the property, and it does not have a public purpose. A real-estate conveyance requires City Council's approval. Net proceeds from the sale of the property will be returned to the fund from which the property was purchased, up to the amount of the purchase price. City Council has stated its intent to put any additional unrestricted proceeds from the sale of surplus property into the Police-Fire Pension Fund.

REMARKS: The above Council Bill originated with the Land Inventory Committee. Pursuant to "Administrative Memorandum #5D," the committee has declared the above property to be surplus.

Submitted by:



Duke McDonald, Assistant City Attorney

Recommended by:

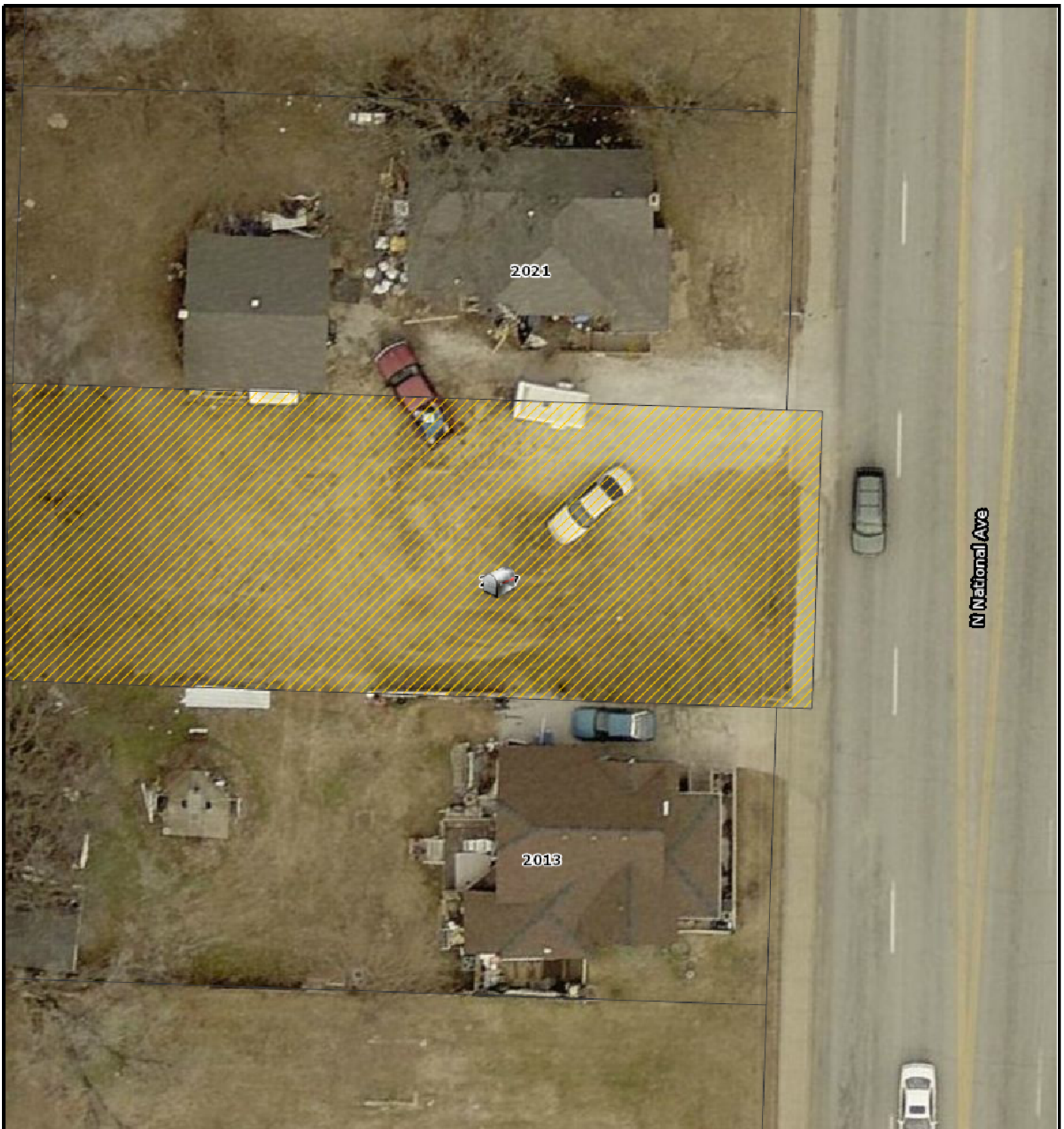


Collin Quigley, Assistant City Manager

Approved by:



Jason Gage, City Manager



City of Springfield, Missouri

Exhibit A

2017 North National Avenue



DISCLAIMER: All information included on this map or digital file is provided 'as-is' for general information purposes only. The City of Springfield, and all other contributing data suppliers, make no warranties, expressed or implied, concerning the accuracy, completeness, reliability, or suitability of the data for any particular use. Furthermore, the City of Springfield, and all other contributing data suppliers, assume no liability whatsoever associated with the use or misuse of the data.

Printed: Jan 31, 2020

Exhibit B

SPECIAL WARRANTY DEED

THIS DEED is made on the ____ day of _____, 20__, by and between the City of Springfield, Missouri, Grantor, and Blackard Rentals, LLC, Grantee, at 1020 E. Camorene, Springfield, Missouri 65803.

The Grantor, for valuable consideration, to it paid by the Grantee (the receipt of which is hereby acknowledged) does by these presents, **SELL** and **CONVEY** unto Grantee, and Grantee's successors and assigns, the following described lots, tracts or parcels of land, lying, being and situate in the County of Greene and State of Missouri, to wit:

All of Lot Nine (9), in Block Four (4), in HOBART'S ADDITION TO NORTH SPRINGFIELD, now a part of the City of Springfield, Greene County, Missouri, according to the recorded plat thereof; addressed as 2017 National.

Parcel No: 88-13-12-132-006

SUBJECT TO: (a) easements, restrictions, reservations, and other agreements and matters of record, if any, (b) taxes and assessments, general and special, not now due and payable; and, (c) rights of the public in and to the parts thereof in streets, roads or alleys.

TO HAVE AND TO HOLD the premises aforesaid, with all and singular the rights, privileges, appurtenances, and immunities thereto belonging or in any way appertaining unto the Grantee and unto Grantee's successors and assigns forever; the Grantor, hereby covenanting that the said premises are free and clear from any encumbrance done or suffered by it, except as herein provided; and, that it will warrant and defend the title to said premises unto the Grantee and unto its successors and assigns forever, against the lawful claims and demands of all persons claiming under it, except as herein provided.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed the day and year above written.

SEAL

THE CITY OF SPRINGFIELD, MISSOURI

By: _____

Ken McClure, Mayor

Attest:

Anita J. Cotter, City Clerk

STATE OF MISSOURI)

)

COUNTY OF GREENE)

ACKNOWLEDGMENT

On this ____ day of _____, 20__, before me personally appeared _____, to me personally known, in his capacity as Mayor of The City of Springfield, Missouri, a municipal corporation, and acknowledged said instrument with authority and on behalf of said municipality.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Springfield, Missouri, this ____ day of _____, 20__.

Notary Public

My term of office expires: _____

One-rdg. _____
P. Hrngs. _____
Pgs. 8
Filed: 02-18-20

Sponsored by: Hosmer

First Reading: _____

Second Reading: _____

COUNCIL BILL 2020- 043

SPECIAL ORDINANCE _____

AN ORDINANCE

1 AUTHORIZING the City Manager, or his designee, to enter into a Memorandum of
2 Understanding with the United States Department of Homeland
3 Security, Homeland Security Investigations and the Springfield Police
4 Department for reimbursement of overtime expenses for Springfield
5 Police Department officers participating in joint operations with the
6 United States Department of Homeland Security, Homeland Security
7 Investigations; and amending the budget of the Springfield Police
8 Department in the amount of \$4,000.00.
9 _____

10
11 WHEREAS, Springfield Police Department ("SPD") and the United States
12 Department of Homeland Security, Homeland Security Investigations ("HSI") enjoy a
13 strong working relationship with a number of collaborative efforts; and
14

15 WHEREAS, the collaborate efforts of SPD and HSI allow each agency to most
16 effectively deploy their resources to improve community safety and bring offenders to
17 justice; and
18

19 WHEREAS, by working with HSI, SPD officers are able to refer cases for federal
20 prosecution where appropriate; and
21

22 WHEREAS, subject to the availability of funds, HSI agrees to reimburse SPD for
23 any overtime expenses incurred by an SPD officer cross designated as an HSI officer
24 when working on a joint investigation; and
25

26 WHEREAS, HSI currently has \$4,000.00 available for reimbursement of overtime
27 expenses under this Memorandum of Understanding ("MOU").
28

29 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
30 SPRINGFIELD, MISSOURI, as follows, that:
31

32 Section 1 – The City Manager, or his designee, is hereby authorized to enter into
33 a Memorandum of Understanding with HSI; said agreement to be substantially in form

and content as that document attached hereto and incorporated herein by reference as
"Exhibit A."

Section 2 – The budget of the Springfield Police Department for Fiscal Year
2019-2020 is hereby amended in the accounts and in the amounts as shown on Budget
Adjustment No. 037, a copy of which is attached hereto and incorporated herein by
reference as "Exhibit B."

Section 3 – The City Council hereby finds that the budget adjustment made
above has been recommended by the City Manager

Section 4 – The City Manager is directed to cause the appropriate accounting
entries to be made in the books and records of the City.

Section 5 – This Ordinance shall be in full force and effect from and after
passage.

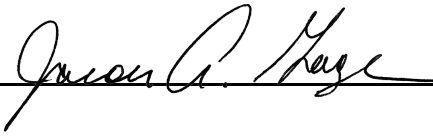
Passed at meeting: _____

Mayor

Attest: _____, City Clerk

Filed as Ordinance: _____

Approved as to form: , City Attorney

Approved for Council action: , City Manager

EXPLANATION TO COUNCIL BILL 2020-043

FILED: 02-18-20

ORIGINATING DEPARTMENT: Police

PURPOSE: Authorizing the City Manager, or his designee, to enter into a Memorandum of Understanding with the United States Department of Homeland Security, Homeland Security Investigations and the Springfield Police Department for reimbursement of overtime expenses for Springfield Police Department officers participating in joint operations with the United States Department of Homeland Security, Homeland Security Investigations; and amending the budget of the Springfield Police Department in the amount of \$4,000.00.

BACKGROUND: The Springfield Police Department ("SPD") currently engages in a number of collaborative enforcement efforts with a variety of other law enforcement agencies, including the United States Department of Homeland Security, Homeland Security Investigations ("HSI"). Such collaborative efforts allow the involved agencies to most effectively deploy their resources in order to improve community safety and bring offenders to justice.

The proposed Memorandum of Understanding ("MOU") would allow SPD to designate additional sworn law enforcement officers as joint officers with HSI. This designation would allow the selected officers to refer cases for federal prosecution where appropriate. Under the MOU, SPD could be reimbursed by HSI for overtime expenses related to joint investigations.

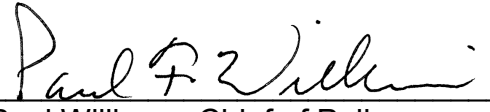
HSI has broad legal authority to enforce a diverse array of federal statutes. It uses this authority to investigate all types of cross-border criminal activity, including:

- Financial crimes, money laundering and bulk cash smuggling;
- Commercial fraud and intellectual property theft;
- Cybercrimes;
- Human rights violations;
- Human smuggling and trafficking;
- Immigration, document and benefit fraud;
- Narcotics and weapons smuggling/trafficking;
- Transnational gang activity;

- Export enforcement; and,
- International art and antiquity theft.

HSI currently has \$4,000.00 available for reimbursement of overtime expenses under this MOU.

Submitted by:



Paul Williams, Chief of Police

Approved by:



Jason Gage, City Manager

Exhibit A

MEMORANDUM OF UNDERSTANDING

between

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT HOMELAND SECURITY INVESTIGATIONS

and

The City of Springfield, Missouri

regarding

THE DESIGNATION OF Springfield Police Department EMPLOYEES AS CUSTOMS OFFICERS (EXCEPTED)

1. **PARTIES.** The Parties to this Memorandum of Understanding (MOU) are U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and The City of Springfield, Missouri.
2. **AUTHORITY.** Title 19, United States Code (U.S.C.), Section 1401(i); 19 U.S.C. § 1589a. This MOU is also authorized under the provisions of The Missouri Constitution, Art. 6, Sec. 16; RSMo 70.220.
3. **PURPOSE.** The Parties agree that effective enforcement of the laws relating to HSI jurisdiction requires close cooperation and coordination between the two Parties. The Parties have therefore entered into this MOU to govern the use of HSI designations by certain employees of the Springfield Police Department.

Pursuant to section 401(i), Tariff Act of 1930, as amended (19 U.S.C. § 1401(i)), the Secretary of Homeland Security is authorized to designate persons as Customs Officers (Excepted) to perform the duties of a Customs Officer. Within ICE, this authority has been delegated to the HSI Special Agents in Charge. Pursuant to 19 U.S.C. § 1589a, customs officers are authorized to enforce the full range of federal offenses. However, in designating Customs Officers (Excepted), *HSI is not conveying the authority to enforce administrative violations of immigration law.*

There may be instances when HSI determines that it is desirable for certain sworn law enforcement employees of the Springfield Police Department to perform certain HSI duties. This MOU sets forth the agreement and relationship between the Parties with respect to this determination.

4. RESPONSIBILITIES.

The Parties agree as follows:

HSI agrees to:

- a. Designate certain employees of the Springfield Police Department as Customs Officers (Excepted), without additional compensation, to perform the duties as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). This form is attached and is hereby made part of this MOU;
- b. Issue a "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) to each qualified and designated employee;
- c. Provide appropriate training in laws, policies, and procedures to each designated employee;

- d. Advise the designated Customs Officers (Excepted) about court proceedings concerning seizures or arrests made by them in accordance with the authorities granted by HSI contemplated under this MOU; and
- e. Process, under appropriate regulations, any injury claim submitted as a result of injuries occurring to the designated Customs Officers (Excepted) while such individuals are acting pursuant to this MOU, for compensation under the Federal Employee Workers Compensation Act (5 U.S.C. § 8101, *et seq.*).

The City of Springfield agrees:

- a. That only sworn law enforcement officers of the Springfield Police Department who successfully complete the appropriate HSI Task Force Officer cross-designation Training Course and receive an approved "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) will be designated as Customs Officers (Excepted);
- b. That each law enforcement officer will be bound by the Authorities Granted and the Endorsements and Restrictions as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001);
- c. To advise HSI of each court proceeding in which the validity of a Customs Officer (Excepted)'s enforcement authority becomes an issue, and allow HSI to provide legal memoranda or other assistance as deemed necessary by HSI;
- d. That agency employees designated as Customs Officers (Excepted) will follow HSI directives and instructions when utilizing enforcement authority conveyed by HSI;
- e. To provide to HSI, before designation of each officer and on an ongoing basis, any derogatory information, or information that may call into question the officer's truthfulness or ability to testify in court; and
- f. To return all HSI-issued equipment and identification when a cross-designated officer terminates employment or when his or her cross-designation expires.

Both Parties agree:

- a. That any abuse of HSI cross-designation authority may lead to the revocation of such cross-designations by HSI; and
- b. To schedule periodic meetings to review this MOU, as required.

5. REPORTING AND DOCUMENTATION. HSI SAC offices will maintain the original signed "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). Copies of this form will be held by the Contraband Smuggling Unit at HSI Headquarters, the designated Customs Officer (Excepted), and the Springfield Police Department.

If applicable, the HSI office will maintain documentation of designated Customs Officers (Excepted) approved to use HSI vehicles and certification that the designated Customs Officers (Excepted) have completed the ICE Fleet Card Training in Virtual University and any other fleet related training.

6. POINTS OF CONTACT.

HSI Office: Springfield, Missouri

Name: Brian McNulty

Title: Resident Agent in Charge

Address: 2401 W Old Route 66

Strafford, MO 65757

Telephone Number: +1 (417) 865-7359

Fax Number: +1 (417) 864-5302

E-mail Address: Brian.C.McNulty@ice.dhs.gov

City of Springfield :

Name: Paul F. Williams

Title: Chief of Police

Address: 321 E Chestnut Expressway

Springfield, MO 65802

Telephone Number: +1 (417) 864-1780

Fax Number:

E-mail Address: pfwilliams@springfieldmo.gov

- 7. OTHER PROVISIONS.** This MOU is an internal agreement between the Parties and does not confer any rights, privileges, or benefits to any other party or the public.

Nothing in this MOU is intended to conflict with current laws, regulations, or policies of either Party. If a term of this MOU is inconsistent with such authority, that term shall be invalid but the remaining terms and conditions of this MOU shall remain in full force and effect.

Nothing in this MOU is intended or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1519.

The forms and authorities referenced herein may be renamed or replaced by HSI without prejudice to this MOU.

- 8. EFFECTIVE DATE.** The terms of this MOU will become effective on the date the last Party signs the MOU. The Designation Form of each Customs Officer (Excepted) is effective per the date on that document.

- 9. MODIFICATION.** This MOU may be amended by the written concurrence of both Parties.

- 10. TERMINATION.** This MOU may be terminated by either Party upon a 30-day written notification to the other Party.

APPROVED BY:

Katherine Greer

Name of HSI Official

Special Agent in Charge

Title of HSI Official

Homeland Security Investigations

U.S. Immigration and Customs Enforcement

Date: _____

Paul Williams

Name of SPD's Official

Chief of Police/Springfield P.D.

Title of SPD's Official

Name of SPD's Agency

Date: _____

CITY OF SPRINGFIELD, MO
BUDGET ADJUSTMENT

Exhibit B

Budget Adjustment
037

Revenues:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
25060	18	92760	414110			\$ 4,000	Department of Homeland Security reimbrusment
Net Revenue Adjustment						\$ 4,000	

Expenditures:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
25060	18	92760	500120			\$ 4,000	Overtime
Net Expenditure Adjustment						\$ 4,000	

Fund Balance Appropriation:

Fund	Title	Amount

Explanation: To amend the FY2019-20 budget and appropriate reimbursment from the Department of Homeland Security for overtime related to joint investigations.

Requested By:

Paul F. Williams 2/18/20
Department Head Date

Approved By:

D.J. Hill 2/18/20
Director of Finance Date

Authorization:

Council Bill No. 2020-043
Ordinance No. _____
1st Reading _____
2nd Reading _____
Journal Imp No. _____

City Manager Date