Agenda
City Council Meeting

City Council Chambers
Historic City Hall, 830 Boonville

Ken McClure, Mayor

Zone Councilmembers	**General Councilmembers**
Phyllis Ferguson, Zone 1	Jan Fisk, General A
Abe McGull, Zone 2	Craig Hosmer, General B
Mike Schilling, Zone 3	Andrew Lear, General C
Matthew Simpson, Zone 4	Richard Ollis, General D

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

This meeting will be conducted both at 830 N. Boonville Ave. and electronically. The public may observe, physically attend (the number of people gathered will be limited to fewer than 10 per space with physical distancing requirements applied) or viewed at https://cityview.springfieldmo.gov/livestream/.

Speakers must sign up with the City Clerk no later than 5:00 pm the Friday before the meeting to speak to an issue on the agenda. Citizens wishing to submit comments to City Council may do so via online form.

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. March 9, 2020 City Council Meeting, And March 10, 2020, March 16, 2020, March 23, 2020, March 24, 2020, And March 31, 2020 Special City Council Meetings.**

   Documents:

   03-09-2020.PDF
   03-10-20 SPECIAL CITY COUNCIL MEETING.PDF
   3-16-20 SPECIAL CITY COUNCIL MEETING.PDF
   03-23-20 SPECIAL CITY COUNCIL MEETING.PDF

03-24-20 SPECIAL CITY COUNCIL MEETING.PDF
03-31-2020 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, PUBLIC HEALTH DIRECTOR REPORT AND RESPONSES TO QUESTIONS RAISED AT THE PREVIOUS CITY COUNCIL MEETINGS.**

6. **SECOND READING AND FINAL PASSAGE. Citizens Have Spoken. May Be Voted On.**

7. **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

8. **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

9. **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

10. **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

11. **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

12. **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

13. **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

14. **RESOLUTIONS.**

15. **EMERGENCY BILLS. Citizens May Speak. Be Voted On.**

16. **Council Bill 2020-065. (McClure)**

A general ordinance suspending enforcement of portions of sections 36-368(9) and 36-473(e) of the Zoning Ordinance; and declaring an emergency pursuant to City Charter section 2.12; for the purpose of limiting public gatherings during the Mayor's declaration of civil emergency.

Documents:

2020-065.PDF

17. **PUBLIC IMPROVEMENTS.**

18. **GRANTS. Citizens May Speak. May Be Voted On.**

19. **Council Bill 2020-062. (Lear)**

A special ordinance authorizing the City Manager, or his designee, to accept a subaward from the Missouri Department of Public Safety/Missouri State University on behalf of the Springfield Fire Department, which includes multiple pieces of equipment that will support the sustainment and operation of the Springfield Fire Department Region-D Bomb Squad and the Hazardous Materials Team, valued at up to $221,791.00, through a grant from the State Homeland Security Grant Program.

Documents:

2020-062.PDF

20. **Council Bill 2020-066. (Lear)**

A special ordinance authorizing the City Manager, or his designee, to accept a Digital/Automotive Apprenticeship Grant in the amount of $57,200.00 from the Missouri Department of Higher Education and Workforce Development; entering into necessary agreements to carry out the grant; amending the budget for the Department of Workforce Development for Fiscal Year 2019-2020 in the amount of $57,200.00; and declaring that this bill qualifies for approval in one reading.

Documents:

2020-066.PDF

21. **AMENDED BILLS.**

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

23. **Council Bill 2020-063. (McGull)**

A general ordinance amending the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning 6 acres of property generally located at the 900 and 1000 block of East Pythian Street from R-SF, Single-family Residential district, R-TH, Residential Townhouse district, and CS, Commercial Services district, to GI, Government and Institutional Use district; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission both recommend approval.) (By: Junior College District of Southwest Missouri (OTC); 900 and 1000 block of East Pythian Street; Z-3-2020.)

Documents:

2020-063.PDF

24. **Council Bill 2020-064. (Simpson)**

A general amending the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning approximately 43 acres of property generally located at 2401 East Sunshine Street from HM, Heavy Manufacturing district, to IC, Industrial Commercial district; establishing Conditional Overlay District No. 184; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission both recommend approval.) (By: Southwest Missouri Investments, Inc.; 2401 East Sunshine Street; Z-5-2020 w/Conditional Overlay District No. 184.)

Documents:

2020-064.PDF

25. **FIRST READING BILLS. Citizens May Speak. Not Anticipated To Be Voted On. Except Item No. 26. Citizens May Speak. Anticipated To Be Voted On.**

26. **Council Bill 2020-068. (Simpson) Citizens May Speak. Anticipated To Be Voted On.**

A resolution determining the official intent of the City of Springfield, Missouri, to issue its Industrial Development Revenue Bonds in a principal amount not to exceed $48,000,000 to finance the costs of a project under the provisions of Sections 100.010 to 100.200 RSMo.

Documents:

2020-068.PDF

27. **Council Bill 2020-069. (McGull)**

A special ordinance authorizing the City Manager, or designee, to execute a Preliminary Funding Agreement between the City of Springfield, Missouri, and Kraft Heinz Foods Company; and amending the budget in the amount of $50,000.00, for the purpose of funding the preparation and review of documents and other actions related to the issuance of Chapter 100 bonds.

Documents:

2020-069.PDF

28. **PETITIONS, REMONSTRANCES, AND COMMUNICATIONS.**

29. **NEW BUSINESS.**

30. **UNFINISHED BUSINESS.**

31. **MISCELLANEOUS.**

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

33. **Council Bill 2020-067. (Ollis)**

A special ordinance authorizing the City Manager, or his designee, to enter into a license agreement with Sun Belt Environmental Services, Inc., for the purpose of installing and maintaining four monitoring wells on public right-of-way at the site of the former Litton Systems property generally located at 4811 West Kearney Street to monitor groundwater conditions at no cost to the City.

Documents:

2020-067.PDF

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

35. **Council Bill 2020-072. (McClure)**

A resolution confirming the appointments of Ryan Dock, Connie Rhoades Hinds, Irene Schaefer, and Justin Skinner to the Commercial Street Community Improvement District Board of Directors. (Staff and the Commercial Street Community Improvement District Board of Directors recommend approval.)

Documents:

2020-072.PDF

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

37. **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

38. **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

39. **END OF CONSENT AGENDA.**

40. **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.

March 9, 2020
Springfield, Missouri

The City Council met in regular session March 9, 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: Jan Fisk, Craig Hosmer, Richard Ollis, Abe McGull, Matthew Simpson, Mike Schilling, and Ken McClure. Absent: Phyllis Ferguson and Andrew Lear.

Minutes

The minutes of February 24, 2020 City Council Meeting and February 25, 2020 Special City Council Meetings were approved as presented.

Consent Agenda

The Consent Agenda was approved as presented.

CEREMONIAL MATTERS

City Manager Report

Jason Gage, City Manager, noted from the City Council Meeting on February 24, 2020, the Council had asked about the Coronavirus and what actions would be taken if there were an outbreak in Springfield. Mr. Gage noted the Springfield-Greene County Health Department and the Springfield-Greene County Office of Emergency Management have formed a task force to advise the public health system, as to the evolving nature of what is known about COVID-19. He noted COVID-19 is the respiratory illness caused by the novel coronavirus. Mr. Gage added a media information session was held Friday, March 6, 2020 at the Springfield-Greene County Office of Emergency Management and there have been zero cases of COVID-19 in Greene County. He noted the task force will review and deploy existing plans for respiratory illness response as they apply to the potential for COVID-19 to emerge in our community. Mr. Gage noted these plans build upon what has been learned in the past from pandemics like H1N1 and other large-scale coordinated efforts. He also noted the Health Department has also set up a central phone line and email address to answer the public's questions about COVID-19.

Mr. Gage spoke about the Third African American Heritage Trail Marker Dedication. He noted the organizers of Springfield's African American Heritage Trail project unveiled the trail's third marker on Sunday at Gibson Chapel on East Tampa, commemorating the southern area of a "church square" including two historically African American churches – Gibson Chapel and Pitts Chapel at Benton and Tampa. Mr. Gage noted the mission of the trail is to continue to research and publish previously undocumented history and to involve the Springfield community in the identification and celebration of the contributions made by people of color to the community. He noted in pursuit of the goal, the trail's initial sites will follow along Jordan Creek Greenway and The Link with historical markers in partnership with sponsors, such as: Bass Pro Shops, City of Springfield, Community Foundation of the Ozarks, Missouri State University, Ozark Greenways and Springfield-Greene County Park Board.

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Mr. Gage noted the community engagement process for the Grant Avenue Parkway process began with stakeholder visioning meetings last week and will continue through April with additional meetings and a community survey. He noted the parkway will create an off-street pedestrian and bicycle pathway/linear park along Grant Avenue between Sunshine Street and College Street and is funded primarily through a $21million dollar BUILD Transportation Grant. Mr. Gage noted the City is required to provide a 20% match, which will be funded through a combination of funding sources, including the 1/4-cent Capital Improvement Sales Tax and the 1/8-cent Transportation Sales Tax.

Mr. Gage noted the Route 66 Festival partners held a press conference March 3, 2020 to kick off registration and announce the entertainment for the 10th annual festival, which will be held August 14 and 15, 2020. He noted there are already about 300 cars registered and last year's festival drew about 65,000 attendees over two days. Mr. Gage noted the headliners for the 2020 festival are Sixwire, featuring former lead singer of Kansas John Elefante and a former lead singer of Journey, Steve Augeri. He noted the parade will be held Friday evening and new to the festival this year is the Great Route 66 Talent Search.

Citizens Tax Oversight Committee Report

Bonnie Jenkins, Citizens Tax Oversight Committee Chair, noted the Committee meets quarterly to review and monitor the collection of sales taxes. She noted Dan Smith, Director of Public Works, and David Holtmann, Director of Finance, have provided detailed reports for committee meetings. Ms. Jenkins noted the collection of accounting of expenditures as reported by the City are in accordance with ballot language.

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

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 indefinitely at the applicant's request. The motion was seconded by Councilman McGull.

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

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.)

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Council Bill 2020-037. Special ordinance 27289 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Abstain: None.

Intersection Visibility

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.)

Council Bill 2020-038. Ordinance 6576 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

Intersection Visibility

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.)

Council Bill 2020-039. Ordinance 6577 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

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.

Council Bill 2020-040. Special ordinance 27290 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

Alcoholic Beverages Exception for Downtown and Commercial Street Events

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 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.

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Council Bill 2020-041. Ordinance 6578 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

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.

Council Bill 2020-46. Ordinance 6579 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

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").

Council Bill 2020-047. Ordinance 6580 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

The following bill appeared on the agenda under Resolutions.

Annexation of 4912 West State Highway 266/Chestnut Expressway

Sponsor: Ferguson. Council Bill 2020-048. 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.)

Mary Lilly Smith, Director of Planning and Development, provided a brief overview of the proposed. She noted this is four acres of private property and seven acres of MODOT and railroad right-of-way, if the proposed is passed it will initiate both the annexation and zoning, and staff recommends approval.

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

Council Bill 2020-048. Resolution 10498 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

EMERGENCY BILLS

PUBLIC IMPROVEMENTS

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GRANTS

AMENDED BILLS

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

Rezoning 2001 North Ramsey Ave

Sponsor: McGull. Council Bill 2020-049. 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.)

Mary Lilly Smith, Director of Planning and Development, provided a brief overview of the proposed. She noted the applicant intends to construct a single-family home. She noted prior to General Manufacturing zoning, this lot was a single-family home and is appropriate for low density housing. Both staff and Planning and Zoning Commission recommend approval.

An opportunity was given for citizens to express their views.

Clifford Vannatta spoke in opposition of the proposed. He expressed his concern regarding trucks, tractor trailers and forklifts operating in the area. He noted there are 17 businesses nearby and children could be hurt. Mr. Vannatta believes this area is not conducive to a residential lot.

Councilman Simpson asked if the lot had been historically residential as a single-family home. Ms. Smith answered affirmatively, noting it had been since 2007 and was then demolished by the City. Councilman Simpson asked if the two lots to the north and five lots to the east are currently zoned General Manufacturing but are used as single-family homes. Ms. Smith answered affirmatively.

Cynthia Rondini spoke in opposition to the proposed. She expressed concern about the safety of children in this area due to big trucks and forklifts. Ms. Rondini believes changing the zoning would be dangerous. Councilman Ollis asked if she would rather the lot remained General Manufacturing. Ms. Rondini answered affirmatively.

Councilman Ollis asked staff why rezone this lot as single-family when other lots in the area are manufacturing and retail. Ms. Smith noted the request is to rezone the lot to townhouse, which permits single-family. She noted the applicant is interested in building a single-family home and noted the two lots to the north are residential zoning and the proposed lot is appropriate for residential zoning.

Councilman Hosmer asked if the properties to the North are zoned General Manufacturing. Ms. Smith answered affirmatively but noted they are residential in use.

DRAFT

Councilman Hosmer asked if the houses were torn down, could they be replaced with businesses. Ms. Smith answered affirmatively. Councilman Hosmer asked if the zoning could be changed. Ms. Smith answered Council can initiate a zoning case. Councilman Hosmer expressed his belief staff should review the zoning in the area.

Councilman Simpson asked if the residential properties pre-dated the bulk of the General Manufacturing. Ms. Smith answered affirmatively. Councilman Simpson expressed his agreement with Councilman Hosmer.

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

Vacating 1500 Block of North Sherman Avenue and 900 Block of East Division

Sponsor: Ferguson. Council Bill 2020-050. 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.)

Mary Lilly Smith, Director of Planning and Development, provided a brief overview of the proposed. She noted the request comes from Springfield Public Schools related to the construction of Boyd Elementary. Ms. Smith noted Planning and Zoning Commission has final authority and requires five affirmative votes. She noted in this instance Planning and Zoning had five members in attendance and four voted to approve and one to deny; therefore, Springfield Public Schools is appealing to City Council with staff recommending approval.

Councilman McGull asked if the proposed will help facilitate the construction of the new school. Ms. Smith answered affirmatively.

An opportunity was given for citizens to express their views.

Terry Schull spoke to the proposed. He expressed his concern if Sherman street is closed due to the vacation, a traffic light will need to be put in with Clay Street being the most likely choice. Mr. Shull expressed his concern for traffic and semi-trucks currently using Clay Street. He requested if a traffic light is put in on Clay Street, that no trucks be allowed to use the street.

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

Landmarks Historical Status

Sponsor: Simpson. Council Bill 2020-051. 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.)

Mary Lilly Smith, Director of Planning and Development, provided a brief overview of the proposed. She noted property owners are required to be notified by certified mail 15 days prior to submitting an application to the City and property owners are required

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to be notified by certified mail 10 days prior to a Landmarks Board public hearing. She also noted the proposed provides authority for City Council to table Historic Site nominations and retains the provision that property owner consent is not required. Ms. Smith noted the proposed would modify the requirements for an architect position to mirror those of the National Park Service requirements. She noted the State Historic Preservation Office, Landmarks Board, Planning and Zoning, and staff recommend approval.

Mayor McClure asked for clarifications regarding the text amendments. Ms. Smith provided a brief overview.

Councilman Ollis asked what "the authority to review" means. Ms. Smith noted the Landmark Ordinance has a clause allowing the Landmark Board to review the application for buildings 50 years or older being taken over by a public agency. Councilman Ollis asked what other communities have done related to landowner consent. Ms. Smith expressed other approaches are eclectic. She noted the City has a two-tier system, while other communities do not.

Councilman McGull expressed his support for a notification requirement.

An opportunity was given for citizens to express their views.

Paden Chambers, Chair of Springfield Landmark Board, spoke in favor of the proposed. He expressed his opinion the Landmark Board is pleased with what has been put together. H expressed his belief the proposed will improve the process, address how nominations work, and provide a means for disagreements to be resolved beforehand.

Councilman Ollis expressed his concern about the balance between property owners and preserving landmarks.

Councilman McGull asked if during the 60-day period, would public documents be available to a perspective buyer noting the intent for a property to be listed as historic. Mr. Chambers noted he was unsure but expressed they may be listed in the property disclosures.

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

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

The following bills were read and discussed simultaneously.

Street Overlay Improvements

Sponsor: Fisk. Council Bill 2020-052. 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.

ADA Improvements

Sponsor: Lear. Council Bill 2020-053. 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.

Paula Brookshire, Principal Engineer, provided a brief overview of the proposed. Ms. Brookshire noted Council Bill 2020-052 provides for milling the pavement and for street overlay for portions of National, Battlefield, and Sunshine. She also noted Council Bill 2020-053 provides for ADA improvements along the same streets. She noted both proposals would be 80% federally funded with 20% coming from the Capital Improvement Sales Tax.

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

Millwood East Development Sewer Infrastructure

Sponsor: Simpson. Council Bill 2020-054. 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.

Ron Petering, Assistant Director of Environmental Services, provided a brief overview of the proposed. Mr. Petering noted a portion of the proposed is outside the city limits and would require annexation. He noted the developer has looked at two options. Mr. Petering noted the first option is a lift station with a cost of $581,000 and the second option is a gravity sewer following the terrain with a cost of $722,000. He noted staff are recommending the gravity sewer option. Mr. Petering expressed his belief as this area develops the City should take advantage of leveraging the investment and allow property owners to lock in the costs at today's pricing while not being obligated to connect until a future need. Mr. Petering noted there are time constraints and the City could utilize eminent domain for the acquisition of easements if needed.

Mayor McClure asked for clarification on eminent domain. Mr. Petering provided a brief overview and noted the City hopes to not need to use eminent domain. Mayor McClure asked if eminent domain was used would they not be required to come back to Council. Mr. Petering answered affirmatively.

Councilman Simpson asked about differences in each system. Mr. Petering noted differences in mechanical versus gravity. Councilman Simpson asked about the difference in maintenance costs in the two systems. Mr. Petering answered the costs are built into the cost numbers given and 10 years of maintenance costs are built in and paid up front by the developer. Mr. Simpson clarified current property owners would be able to connect at the current cost, but not required to connect. Mr. Petering

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answered affirmatively. Councilman Simpson asked if the 45 acres of single-family development would also have a voluntary agreement. Mr. Petering answered affirmatively.

Councilman Ollis asked if consent to annex was required prior to development. Mr. Petering answered affirmatively and noted it would allow the developer to work with City staff. Councilman Ollis asked the number of required acres to be exempt from connecting to City sewer. Mr. Petering answered three acres. Councilman Ollis asked how many existing structures could connect to the sewer. Mr. Petering answered 10 properties could connect. Councilman Ollis asked if the 10 properties were on lots of at least three acres. Mr. Petering answered he did not know if all properties were three acres or more, but noted he believed they were over the three acres. Councilman Ollis clarified the City is asking for eminent domain if needed and require Council to decide regarding annexing the property prior to development. Mr. Petering answered affirmatively.

Jason Gage, City Manager, noted the City can trigger the annexation, but is not required to do so. Councilman Ollis asked if the City chose not to annex the property would the City lose the right to do so in the future. Mr. Gage noted the City has the option to annex before or after development. Councilman Ollis asked if the City only had the right to annex if the property owner connected to sewer. Mr. Petering noted for the properties off site, yes; for the properties within the development all would be required to execute a consent to annex.

Councilman Hosmer asked if a property owner wanted to connect to the sewer, the City could require them to annex. Mr. Petering answered affirmatively. Councilman Hosmer asked how many residential properties are in the development. Mr. Petering noted he believed 100 lots. Councilman Hosmer asked if the City did not build a sewer, would septic be used. Mr. Petering answered the development would use the lift station and the rest of the properties would be served by septic. Councilman Hosmer expressed his belief it would be to the City's benefit to use sewer in as much of the area as possible.

An opportunity was given for citizens to express their views.

Donna Pearson spoke in opposition of the proposed. She requested the proposed be tabled for 60 days to allow property owners to address their concerns. She expressed her belief the notification time was too short. Ms. Pearson expressed her concern for the effects on the streams and habitat.

Dan Pearson spoke in opposition of the proposed. He expressed concern for the lack of notification time and requested the proposed be tabled for 60 days to allow for time to review and research. He noted some neighbors are "snowbirds" and therefore not available to speak to the proposed.

Paul Rollinson spoke in opposition of the proposed. He expressed concern regarding lack of timely notification of property owners and asked for at least 60 days to review the proposed. He also expressed concern for the environmental impact of the

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proposed, damage to habitat, and a stream providing run-off. Mr. Rollinson expressed his belief other agencies need to be consulted and assessments need to be done so an informed decision to be made.

Councilman Simpson asked staff about the difference in water quality and the environmental impact between the two sewer systems. Mr. Petering noted there is not a difference, as the goal of both is to contain the sewage and deliver it to the collection system. Councilman Simpson asked if the lift system required eminent domain to be constructed to serve the 45-acre development. Mr. Petering answered it would not because it follows roadways. Councilman Simpson asked if the developer preferred the lift system. Mr. Petering answered affirmatively. Councilman Simpson asked if it would require Council action to construct the lift option. Mr. Petering answered he did not believe there would be a need for Council action, but there are two options and one needs to be chosen. Mr. Petering noted the gravity system would allow the City to leverage the developer's capital. Councilman Simpson asked if the gravity system is also a better option because of the ongoing maintenance costs associate with a lift system. Mr. Petering answered affirmatively and noted there is a need to serve this region and the line is going to be built and the topography of this area dictates the gravity system.

Mr. Gage noted the differences between lift and gravity systems. He expressed when possible, a gravity system is the better option.

Councilman Ollis asked as development continues, would a gravity system need to be installed. Mr. Gage answered affirmatively and expressed his belief gravity systems are the better option from a cost and maintenance perspective. Councilman Ollis asked if septic systems would be removed and if this would have a positive environmental impact. Mr. Gage noted eliminating septic systems is considered environmentally positive. Councilman Ollis asked if the timeframe for notices sent to property owners was correct. Mr. Petering answered affirmatively and noted notifications to property owners were mailed the last week of February and most notifications were received on Saturday, March 1, 2020.

Debbie Rollinson spoke in opposition of the proposed. She noted all properties are outside of City limits. She noted there is a rock quarry in the area, often blasting, and expressed concern how the blasts may affect the lift system. Ms. Rollinson expressed concern for possible environmental impacts, and the perceived lack of timely notification. She requested Council take time to review and make an informed decision.

Dane Seeler, CJW Consultant, spoke in favor of the proposed. He noted he is assisting the developer. He noted they view this as a partnership and share concerns regarding the environment. He further noted the development is 100 lots and they would like to know if the lots will be annexed in order to determine which standards to build to. Mr. Seeler noted the largest obstacle the developer is facing is time, and they are working to move the project forward.

DRAFT

Councilman Hosmer asked why the project is rushed. Mr. Seeler answered while rules and regulations are being addressed, the developer is incurring costs. Councilman Hosmer expressed his support for development and the positive effects on the City, the environment, and property owners.

Councilman McGull asked what a 30-day delay would do to this project. Mr. Seeler answered the project is not moving forward until the sewer project has been decided.

There being no speakers the public hearing was declared closed.

Merit System Rules and Regulations

Sponsor: Ollis. Council Bill 2020-055. 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.)

Darla Morrison, Director of Human Resources, provided a brief overview of the proposed. She noted two changes addressing substance abuse and appeals. She noted the Department of Transportation implemented a new drug and alcohol clearinghouse and the City needs to update their policies to be in alignment. Ms. Morrison noted the substance abuse policy needs to be updated to reflect the changes to medicinal cannabis. She noted the changes requested to the Merit System specifically address employee's abandoned appeals.

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

Business Development Loan

Sponsor: Fisk. Council Bill 2020-056. 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.

Sarah Kerner, Economic Development Director, provided a brief overview of the proposed. She noted the Business Development Loan program is funded by HUD and the loans have a fixed interest rate with up to a 20-year term. Projects must meet HUD requirements and be used for eligible activities. She noted the loan interest rate is set once a year and is half of prime plus 1%. She noted in the past the City's loan rates have tracked with federal rates, but in the past year they City has had difficulty offering loans as the federal rates have dropped and the City has more application requirements than a bank loan. She noted the proposed would allow an opportunity for the committee to adjust the loan rates as needed to remain competitive.

Councilman Ollis clarified if the formula is half of prime plus 1%. Ms. Kerner answered affirmatively. She noted currently the rate is only adjusted once a year and they would like to be able to adjust the rates as needed. Councilman Ollis asked if making these changes would be enough to keep the City competitive and encourage businesses to apply even though there are additional requirements. Ms. Kerner answered affirmatively.

DRAFT

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

Trespass onto Real Property

Sponsor: McClure, Hosmer and Ferguson. Council Bill 2020-057. 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.'

Carl Yendes, Assistant City Attorney, provided a brief overview of the proposed. He noted the current City trespass ordinance requires the trespasser be put on notice. He noted the proposed eliminates the notice and make this type of trespass a strict or liability offense. He noted this does not replace the current two trespass ordinances the City has, and this gives law enforcement another tool to use. Mr. Yendes noted the proposed mirrors the state statutes punishments.

Councilman Schilling asked how people who are trespassing are going to have the means to pay fines. Mr. Yendes answered the maximum fine is $400 and added trespassers have the defense of proving permission to be on premises. He also noted people breaking into unoccupied homes has become an issue in Springfield and the proposed offers a means to address the issue.

Councilman Ollis asked if the proposed would allow authorities to remove trespassers from the property. Mr. Yendes answered affirmatively and noted usually trespassers are asked to leave and often cited. He noted trespassers are usually only arrested if they refuse to leave or come back. Councilman Ollis asked how the proposed is different from current ordinances. Mr. Yendes noted the proposed would be used in instances where people are on property they do not own and do not have permission to be on but authorities have difficulty proving the premises were fenced, enclosed, property was posted, or trespassers were told on a prior occasion to stay off of the property.

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

PETITIONS, REMONSTRANCES, AND COMMUNICATIONS

NEW BUSINESS

UNFINISHED BUSINESS

MISCELLANEOUS

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

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Preliminary Plat of Doling Landing

Sponsor: Ferguson. Council Bill 2020-058. 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.)

Fire and Life Safety Education Programs Donation

Sponsor: Schilling. Council Bill 2020-059. 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.

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

Tax Increment Finance Advisory Commission Appointment

Sponsor: McClure. Council Bill 2020-060. A resolution acknowledging the appointment of Travis Shaw by the School District of Springfield to the Tax Increment Finance Advisory Commission.

Council Bill 2020-060. Resolution 10499 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

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

Council Bill 2020-042. Special ordinance 27291 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

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.

Council Bill 2020-043. Special ordinance 27292 was approved by the following vote: Ayes: Fisk, Hosmer, Ollis, McGull, Simpson, Schilling, and McClure. Nays: None. Absent: Ferguson and Lear. Abstain: None.

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END OF CONSENT AGENDA.

Motion to Adjourn Councilman Simpson moved to Adjourn. Councilman McGull seconded the motion, and it was approved by the following vote. Ayes: Fisk, Ollis, McGull, Simpson, Schilling, and McClure. Nays: Hosmer. Absent: Ferguson and Lear. Abstain: None. The meeting adjourned at 8:31 p.m.

Prepared by
Monica Paxton

Anita J. Cotter, CMC/MRCC
City Clerk

DRAFT

March 10, 2020
Springfield, Missouri

The City Council met in special session March 10, 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, Abe McGull, Matthew Simpson, Mike Schilling, and Ken McClure. Absent: Andrew Lear.

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 Hosmer 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 this meeting, record, and vote shall be closed and the City Council shall stand adjourned at the end of the closed session.

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

Anita J. Cotter, CMC/MRCC
City Clerk

DRAFT

March 16, 2020
Springfield, Missouri

The City Council met in special session March 16, 2020 in the Denny Whayne Conference Room. The meeting was called to order by Mayor Ken McClure. A moment of silence was observed.

Roll Call Present. Craig Hosmer, Richard Ollis, Andrew Lear, Abe McGull, Matthew Simpson, Mike Schilling, Phyllis Ferguson, and Ken McClure. Absent. Jan Fisk.

Closed Session Councilman Hosmer moved to 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 this meeting, record, and vote shall be closed and the City Council shall reconvene in open session at the end of the closed session.

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

At 12:30 pm the meeting was reconvened in Special Session. The meeting was called to order by Mayor Ken McClure.

Roll Call Present. Craig Hosmer, Richard Ollis, Andrew Lear, Abe McGull, Matthew Simpson, Mike Schilling, Phyllis Ferguson, and Ken McClure. Absent. Jan Fisk.

Mayor McClure noted this meeting is being held on less than twenty-four hours' notice because COVID-19 has been declared a pandemic, and as of this morning, three cases have been identified in Greene County. He expressed it is vital for City Council to act swiftly to address COVID-19 in our community.

CEREMONIAL MATTERS

SECOND READING BILLS

RESOLUTIONS

The following bill appeared on the agenda under Emergency Bills.

Sponsor: City Council. Council Bill 2020-061. A special ordinance prohibiting any public gathering of 50 or more persons except for educational institutions, daycare facilities, and business operations in the corporate limits of the City of Springfield during the duration of the Mayor's proclamation of civil emergency dated March 16, 2020, or any extension thereof; authorizing the Mayor to issue an order amending which public gatherings are prohibited to protect public health; establishing a penalty for violating the prohibition; and declaring an emergency pursuant to City Charter Section 2.12.

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Rhonda Lewsader, City Attorney provided a brief overview of the proposed. Ms. Lewsader noted COVID-19 is spread from person to person through direct or close proximate contact and presents an imminent threat of widespread illness. The Centers for Disease Control (CDC) has recommended the cancellation or suspension of public gatherings of 50 individuals or more except for educational institutions, daycare facilities, and business operations. She further noted the spread of COVID-19 is an evolving situation, therefor, the Ordinance authorizes the Mayor to amend which public gatherings are prohibited by issuing an order during the duration of this emergency.

Councilman Schilling asked what the penalties are for violating the proposed. Ms. Lewsader noted penalties include fines between $0-$1,000, jail-time between 0-180 days, or a combination of both.

Councilman Ollis asked if schools would be exempt from the bill. Ms. Lewsader noted the CDC has issued guidance that suggests doing so, and the City intends to follow CDC guidelines. He asked what the process is to take the proposed further than is presented. Ms. Lewsader noted a motion to amend could be entertained or another ordinance could be proposed. He expressed his concern the proposed does not go far enough.

Mayor McClure noted the proposed is consistent with CDC guidelines and what other communities are doing. He expressed his support for the proposed.

Councilman Lear asked how establishments such as movie theatres, bars, or restaurants would be affected by the proposed. Ms. Lewsader deferred to Clay Goddard, Director of Public Health and Welfare. Mr. Goddard noted some places have requested limiting seating density, while some have opted to shut down locations entirely. He noted the proposed does not require said locations to close at this time.

Councilman Ollis asked if the City is going far enough to prevent exposure. Mr. Goddard noted we do not have evidence of community spread, but also do not have enough testing bandwidth to provide accurate disease surveillance. He expressed this is a reasonable step in the right direction. Mr. Goddard noted if there is cryptic infection, not being able to identify the source, or community spread within Springfield, then we will need to look at more aggressive containment measures. Councilman Ollis asked if time is of the essence regarding limiting the spread of the virus. Mr. Goddard noted time is always of the essence and containment strategies are being implemented.

Mayor Pro Tem Ferguson asked how the City is addressing travelers at the Springfield-Branson National Airport that have traveled through international airports. Mr. Goddard answered air travel is managed by the FAA and is not under his authority. She asked if the FAA tracks through passenger manifests and then contacts the local health department. Mr. Goddard answered if through epidemiologic investigations it is determined there has been plane travel, the City contacts the State Health Department, they in turn reach out to the CDC.

DRAFT

Councilman Hosmer asked how many tests have been conducted in Greene County. Mr. Goddard answered he did not have that information with him, but noted it is under 50. He noted it is now harder to track due to commercial labs opening. He added a drive through lab was opened today.

Councilman Hosmer expressed his concern for community spread through bars and restaurants and if density should be reduced to practice social distancing. Mr. Goddard noted that at this time community spread has not been determined, but we need to assume there is disease spread.

Councilman Hosmer asked about instruction to schools and daycare facilities. Mr. Goddard answered affirmatively. He also noted escalation occurred directly prior to spring break, allowing for time and conversations with schools and healthcare workers. Mr. Goddard noted the importance being sensitive and not compromising the healthcare workforce.

Councilman Hosmer asked Mr. Goddard's opinion of a 50% reduction in capacity for bars and restaurants. Mr. Goddard answered from a public health standpoint, more stringent measures are better, but expressed his opinion that public health people tend to be more conservative, noting he understands there are community factors involved. He expressed his opinion that decisions cannot be made in a vacuum and community buy-in and leadership buy-in are critical to effectively deal with the crisis.

Councilman Lear asked how quickly the City can react to the changing situation. Ms. Lewsader answered as quickly as the Mayor can issue an order and this ordinance allows for him to issue orders in case the situation changes rapidly. She also noted the Mayor already has authority under Section 78-132 to close all or part of business establishments in the case of an emergency.

Jason Gage noted the exceptions are broad and when considering businesses, to keep in mind individual businesses do things differently. He listed examples of different types of food delivery. He noted the risks for each of these types of delivery could be different and expressed his concern of the impact on private enterprises versus addressing the current health situation. Mr. Goddard noted he is in daily contact other health directors across the state and there are conversations determining best practices. He noted the disease is not going to be severe for most individuals, the concern is spreading the disease to the fragile population.

Councilman McGull asked for information regarding drive through tests. Mr. Goddard answered individuals must have a doctor's referral in order to be tested, in order to be considered for a referral an individual must have a fever plus other symptoms that would lead a provider to believe they are possibly infected, and the response time is approximately three days. Councilman McGull asked if individuals using drive through services are given direction on self-quarantine. Mr. Goddard answered affirmatively. He noted this is still cold and flu season and this is driving fear.

Councilman McGull asked if the third case was related to the first two cases. Mr. Goddard answered it was not, it was related to domestic travel.

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Rhonda Lewsader noted this ordinance does declare an emergency under City Charter 2.12 1 and can be passed in one reading.

Councilman McGull asked about the 30-day period listed in the ordinance and how the time period can be renewed. Ms. Lewsader answered the time period can be renewed by issuing another declaration of emergency.

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

Councilman Simpson expressed his support for the proposed.

Councilman McGull asked the last time a declaration of emergency was issued. Mr. Goddard answered during the ice storm of 2007.

Councilman McGull expressed his opinion the declaration should demonstrate the seriousness of the situation and he will be supporting the proposed.

Councilman Ollis expressed he will be supporting the proposed but believes it may not be going far enough fast enough.

Councilman Lear commended the Health Department on their candor and transparency.

Councilman Hosmer expressed his belief the City should review and consider reducing the density of bars and restaurants.

Mayor Pro Tem Ferguson noted that individuals in the food industry are in communication to determine best practices and social distancing. She noted multiple practices food establishments have voluntarily put into practice to increase social distancing and disinfection methods. She also expressed her opinion people in food industry are prepared due to training related to food borne illnesses. Mayor Pro Tem Ferguson also expressed her concern many people rely on food establishments for warmth and food, urging her fellow council members to be proactive, not reactive.

Jason Gage, City Manager added something to consider is the proposed lists "50" and noted the language does not specify if that includes staff and that the City needs to be deliberate in intentions.

Council Bill 2020-061. Special Ordinance 27293 was approved by the following vote: Ayes: Hosmer, Ollis, Lear, McGull, Simpson, Schilling, Ferguson, and McClure. Nays: None. Absent: Fisk. Abstain: None.

PUBLIC IMPROVEMENTS

GRANTS

DRAFT

AMENDED BILLS

PUBLIC HEARING

FIRST READING BILLS

PETITIONS, REMONSTRANCES, AND COMMUNICATIONS

NEW BUSINESS

UNFINISHED BUSINESS

MISCELLANEOUS

CONSENT AGENDA FIRST READING BILLS

CONSENT AGENDA ONE READING BILLS

CONSENT AGENDA SECOND READING BILLS

END OF CONSENT AGENDA.

Motion to Adjourn Councilman Lear moved to Adjourn. Councilman Simpson seconded the motion, and it was approved by the following vote. Ayes. None. Nays. None. Absent. None. Abstain. None. The meeting adjourned at 1:17 p.m.

Prepared by
Monica Paxton

Anita J. Cotter, CMC/MRCC
City Clerk

DRAFT

March 23, 2020
Springfield, Missouri

The City Council met in special session March 23, 2020 via an electronic meeting with the open portion of the meeting being viewed at https://cityview.springfieldmo.gov/livestream/. 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 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

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March 24, 2020
Springfield, Missouri

The City Council met in special session March 24, 2020 via an electronic meeting with the open portion of the meeting being viewed at https://cityview.springfieldmo.gov/livestream/. The meeting was called to order by Mayor Ken McClure.

Clerks Note: At the conclusion of the closed session it was brought to our attention that due to technical difficulties the open session portion of this meeting was not live streamed.

Roll Call Present: Jan Fisk, Craig Hosmer, Richard Ollis, Andrew Lear, Abe McGull, Matthew Simpson, Mike Schilling, and Ken McClure. Absent: Phyllis Ferguson.

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 this meeting, record, and vote shall be closed and the City Council shall stand adjourned at the end of the closed session.

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

Anita J. Cotter, CMC/MRCC
City Clerk

DRAFT

March 31, 2020
Springfield, Missouri

The City Council met in regular session March 31, 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: Richard Ollis, Andrew Lear, Phyllis Ferguson, Matthew Simpson, Abe McGull, Mike Schilling, and Ken McClure. Absent: Craig Hosmer. (All members except Mayor McClure attended via Zoom.)

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

Vacating 1500 Block of North Sherman Avenue and 900 Block of East Division

Sponsor: Ferguson. Council Bill 2020-050. 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.)

Mayor McClure noted public comment was taken on March 9, 2020.

Councilman Schilling asked for background on the proposed and if it was temporary or permanent. Mary Lilly Smith, Director of Planning and Development, answered it would be permanent. The proposed is to facilitate the construction of Boyd Elementary by Springfield Public Schools (SPS) and the street would no longer exist.

Mayor Pro Tem Ferguson noted SPS owns the property on the East and West side of the street and asked if the vacation was for the safety of children. Ms. Smith answered affirmatively.

Council Bill 2020-050. Ordinance 27294 was approved by the following a roll call vote: Ayes: Ollis, Lear, Ferguson, Simpson, McGull, Schilling, Fisk, McClure. Nays: None. Absent: Hosmer. Abstain: None.

Merit System Rules and Regulations

Sponsor: Ollis. Council Bill 2020-055. 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.)

Mayor McClure noted public comment was taken on March 9, 2020.

Council Bill 2020-055. Ordinance 6581 was approved by the following a roll call vote: Ayes: Ollis, Lear, Ferguson, Simpson, McGull, Schilling, Fisk, McClure. Nays: None. Absent: Hosmer. Abstain: None.

NEW BUSINESS

Procedural Rules for Citizen Speaking

Mayor Pro Tem Ferguson made a motion to temporarily adopt a rule coinciding with the Mayor's proclamation declaring a state of civil emergency to require 1) citizens to contact the City Clerk by 5 p.m. on the Friday before a meeting to sign up to speak regarding a Council bill or 2) to request removal of an item from the consent agenda. The purpose of the motion is to allow for planning to protect public health and safety.

Councilwoman Fisk seconded the motion.

Clay Goddard, Director of Springfield-Greene County Health Department, gave an update on COVID 19 and the situation in Springfield. Mr. Goddard noted there are now 49 cases in Springfield. He noted he and his staff have been plotting a time series graph and it is currently remaining flat. Mr. Goddard noted there are 300 people in quarantine. People are quarantine for 14 days if they have encountered the disease or have symptoms of dry cough, fever of 104+, and possible GI symptoms. He noted he and his staff are in daily contact with people in quarantine. Mr. Goddard noted 745 tests have been done at the drive through option. He noted three core pillars: 1) containment (quarantine and isolation); 2) testing; and, 3) mitigation (stay at home order). Mr. Goddard referenced an article sent to him by Brian Grubbs regarding the flu in 1918 and Springfield. Mr. Goddard relayed the article cited city wide closures and banned public gatherings. He expressed his opinion the City is moving in the correct direction.

Councilman Schilling asked what the criteria is for testing. Mr. Goddard answered it is a tiered system with the bar lower at the drive through option.

Mayor Pro Tem Ferguson asked how people who have had testing, but not yet received results are advised. Mr. Goddard answered if a person is tested, they are told to isolate at home until the test results are returned. He noted the test results are returning more rapidly, now even in 48 hours compared to 7-10 days.

Councilman Lear asked for an update on the Mayor's Emergency Order. Jason Gage, City Manager, expressed things have gone relatively well. He noted a hotline had been set up and has received significant calls the first day with questions from businesses and citizens. He noted they followed up with each and have created easy guidelines. Mr. Gage noted if business fail to comply, an officer is sent out, shares the communication with the owner or manager, and asked to close. He noted if the business does not close, a citation can be issued and even a court order. Mr. Gage noted that as of today, no citations or court orders have been issued. Mary Lilly Smith added that the City is reaching out to specific industry sectors. She noted letters are being sent regarding physical distancing. Lastly, Ms. Smith noted there is very helpful information on the City's website.

Anita Cotter, City Clerk, noted a procedural issue with the presentation occurring before the motion was made. Mayor Pro Tem Ferguson withdrew her motion and Councilwoman Fisk withdrew her second.

Mayor Pro Tem Ferguson withdrew her motion. Councilwoman Fisk withdrew her second.
Mayor Pro Tem Ferguson asked for clarification on the use of face masks. Mr. Goddard noted that PPEs are reserved for first responders and health care workers. He noted the CDC hasn't recommended masks.

Councilwoman Fisk asked if any new procedures have been initiated at the airport. Mr. Goddard answered he was not aware of any; however, he works closely with the FAA and can follow-up.

Mayor Pro Tem Ferguson made a motion to temporarily adopt a rule coinciding with the Mayor's proclamation declaring a state of civil emergency to require 1) citizens to contact the City Clerk by 5 p.m. on the Friday before a meeting to sign up to speak regarding a Council bill or 2) to request removal of an item from the consent agenda. The purpose of the motion is to allow for planning to protect public health and safety.

Councilwoman Fisk seconded the motion and it was discussed.

Councilman Ollis asked for clarification on the motion. He asked if citizens would come into a room and be videotaped. Anita Cotter, City Clerk, answered citizens will sign up in advance in order for the City to prepare and follow social distancing, there will be a live feed located in a different part of the building and citizens will be able to address Council.

Councilman Ollis expressed his opinion to continue to work with technology to allow the public to participate in meetings.

Councilman Lear asked when agendas would be posted. Ms. Cotter answered the Wednesday prior to a City Council Meeting. She noted this would give citizens two days to sign up to speak. She also noted there is a form online where citizens can email their comments. Councilman Lear expressed his concern if citizens were to email their comments, how would that become part of the official record. Ms. Cotter answered she will read the names of those who emailed comments into the record, and the written comments would be provided to City Council, and their written comments will be maintained with the meeting record.

Councilman Simpson asked if people are participating live, will they be able to ask questions. Ms. Cotter answered affirmatively.

Motion to Adjourn Councilman McGull moved to Adjourn. Councilman Schilling seconded the motion, and it was approved by the following roll call vote. Ayes: Ollis, Lear, Ferguson, Simpson, McGull, Schilling, Fisk, McClure. Nays: None. Absent: Hosmer. Abstain: None The meeting adjourned at 12:45 p.m.

Prepared by
Monica Paxton

Anita J. Cotter, CMC/MRCC
City Clerk

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

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.)

WHEREAS, an application has been filed for a zoning change of the property generally located at 2001 North Ramsey Avenue, and more fully described in "Exhibit A," which is attached hereto and incorporated herein by this reference, from GM, General Manufacturing District to R-TH, Residential Townhouse District; 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, the City has reviewed the applicant's request and prepared a staff report concerning the application which is attached hereto and incorporated herein by this reference as "Exhibit C;" and

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

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

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

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

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

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 -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:

R. Daniel Neal

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.

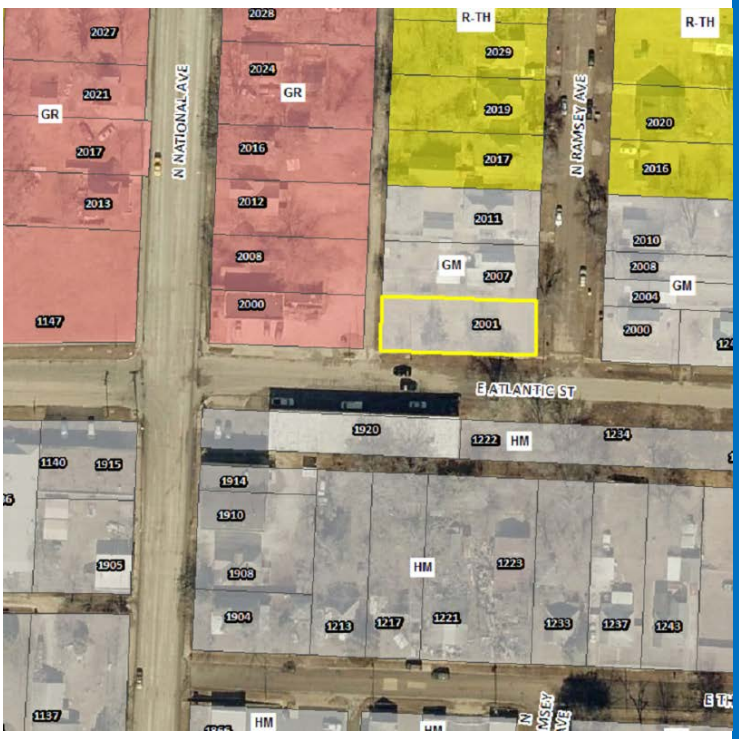
Mr. Coltrin closed the public hearing.

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.

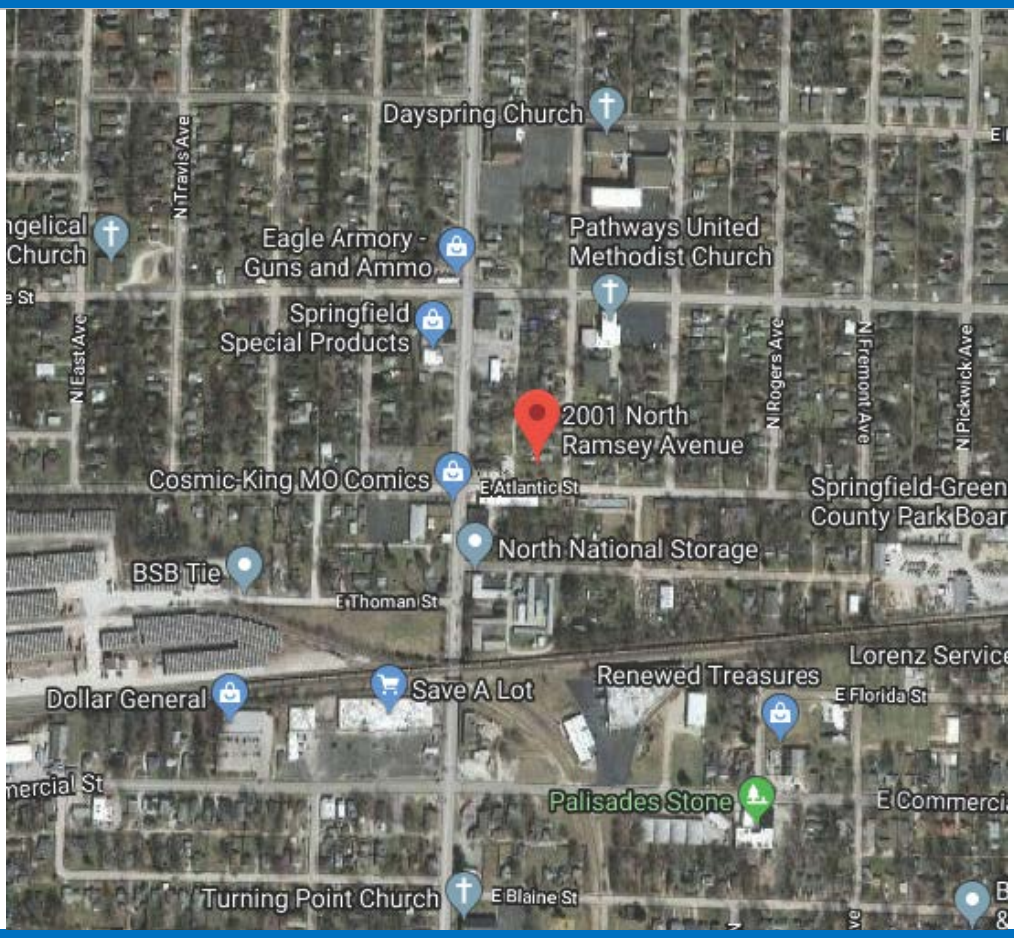
2. The R-TH district is consistent with the other properties located along North Ramsey Avenue. The properties located to the north and east of the subject property are used residentially and majority of them are zoned R-TH.

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:

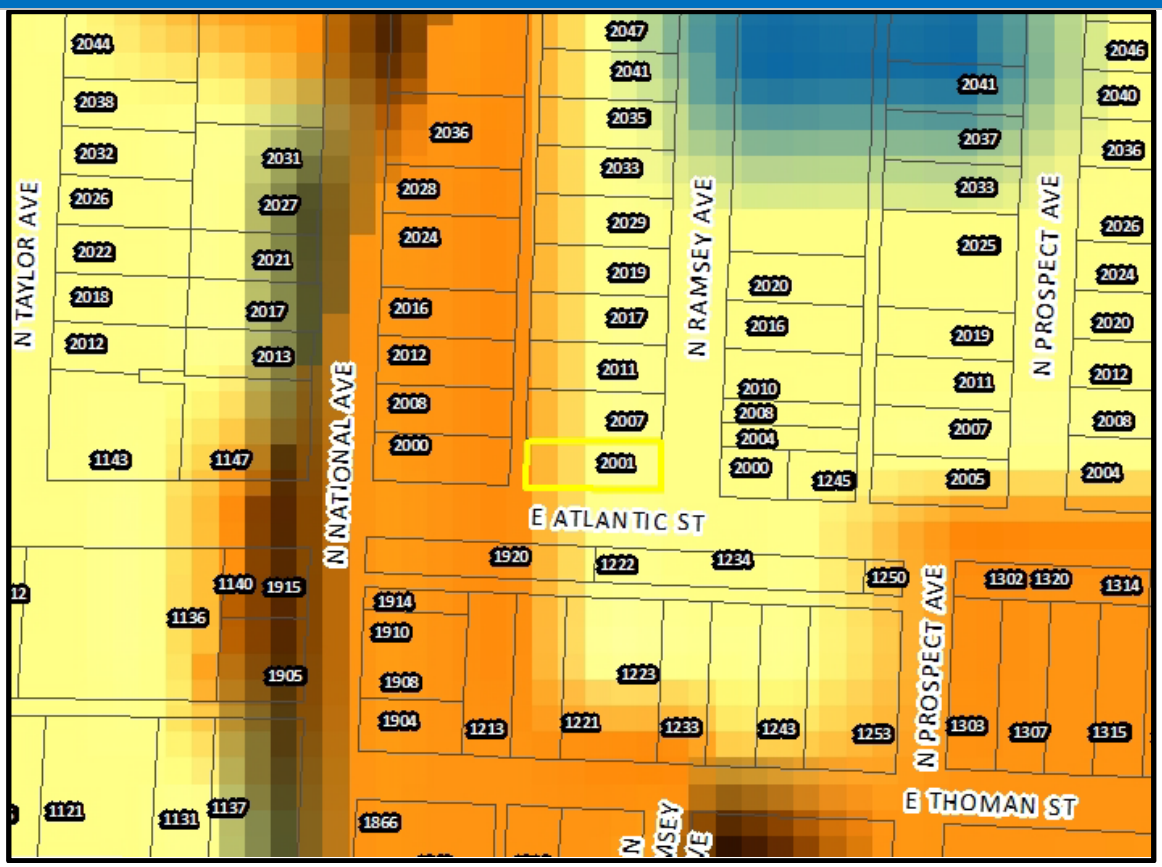
	NORTH	SOUTH	EAST	WEST
ZONING	GM	HM	GM	GR
LAND USE	Single-family residence	Manufacturing uses	Single-family residence	Tavern/bar

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. *Front yard:* 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. *Side yards:* 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. *Rear yard:* 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 30-degree bulk plane is required adjacent to R-TH zoning.	No bufferyard would be required. Landscaping shall be provided according to Sec. 36-482.

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

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 (existing zoning) to RTH (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."

RG

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: R.A.L. PROPERTY MANAGEMENT
If corporation: Corporate Official: Randy Lopez
Mailing Address: 1021 W. Pacific
Zip Code: 65803 Telephone: 417-425-8991
E-mail: LOPEZRNR@GMAIL.COM

PROPERTY OWNER'S SIGNATURE:

(Not necessary if there is an authorized representative with a Power of Attorney)

(Corporate Seal)

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:

_____

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

I 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 - rep refused to answer questions
CLIFFORD VAN NATTA	1201 E. THOMPSON + OTHER
CYNTHIA J BRADWI	2007 N. PROSPECT AVE, SP MO,
ROBERT D BIRKEW	2005 N. PROSPECT AVE,

CONTEST THIS MEETING

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.**	417-824-4853
YOUR NAME:	Robert P. Dinle		
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: lopezbnr@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

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)
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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.**	417-771-7729
YOUR NAME:	LYNNA A 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 & will add more problems ~~and~~ to the existing problems in this area

Date of Letter: January 9, 2020

DEAR PROPERTY OWNER,

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Applicant/Representative Name: Randy Lopez

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City, State and Zip: Springfield, MO 65803

Phone Number: (417) 771-5700 E-mail: lopezbnr@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).

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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:	LYNNA A J. RONDINI		
YOUR ADDRESS:	2027 N. PROSPECT AVE, SPRINGFIELD, MO. 65803 4050		
PROJECT ADDRESS:			

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 + will add more problems ~~and~~ to the existing problems in this area

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DATE:	1-22-20	**Telephone No.**	417-824-4853
YOUR NAME:	Robert D. Dinle		
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.

HOW ABOUT PROVIDING US WITH A LIST OF PROPERTIES YOU MANAGE

7.48 GAL

1487.5 CU FT

TINA WINDY STOD 350 X 51 = 17850

GAL PER 1" RAIN = 11,127.27

By C M Van Dette

1-22-2020

DO you (LOPEZ)
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DO YOU OR ~~ASSOCIATES~~
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DO YOU BELIEVE the
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1487.5 CU FT

TINA
INDY STOD 350
X 51
17850 = 11,127.27

GAL PER 1/2 RAIN

JAN-13-2020
By @ MV

12 COPIES

(1) What is sq. FT. of Lot

[redacted]

(2) What is sq FT of Proposed RUTH 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°

RELAY FOR LIFE
American Cancer Society
Cancer Information 1.800.ACS.2345 www.cancer.org
It's about being a community that takes up the fight. High Plains Division

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. ____43_____
Filed: _____03-03-20____

Sponsored by: _____Simpson_____

First Reading:_____ Second Reading: _____

COUNCIL BILL ____2020-051_____ GENERAL ORDINANCE _____

AN 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.)

_____

WHEREAS, City Council initiated amendments to the Zoning Ordinance regarding the powers and duties of the Landmarks Board by passage of Resolution 10461 on July 1, 2019; and

WHEREAS, on January 8, 2020, the Landmarks Board reviewed the proposed changes and made comments on same as contained in "Exhibit C, Attachment 2," which is attached hereto and incorporated herein by this reference; and

WHEREAS, a hearing was held before the Planning and Zoning Commission on February 13, 2020, and recommended approval of the proposed amendments.

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

Section 1 – Springfield City Code, Chapter 36, Article III, Division 3, Subdivision II, Section 36-353 and Division 4, Subdivision II, Section 36-404 is hereby amended as set forth in attached "Exhibit A," which is attached hereto and incorporated herein by this reference.

Section 2 – Saving Clause. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court, any rights acquired or liability incurred, any cause or causes of action accrued 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 3 – 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. Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause or phrase thereof, even if any one or more sections, subsections, sentences, clauses, or phrases were to be declared invalid.

Section 4 - This Ordinance shall be in full force and effect upon passage by City Council.

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 -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

Michael Sparlin, Senior Planner

Recommended by:

Mary Lilly Smith

Mary Lilly Smith, Director

Approved by:

Jason A. Gage

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 <u>to a historic landmark or within a historic district</u>, 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.

<u>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.</u>

(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.

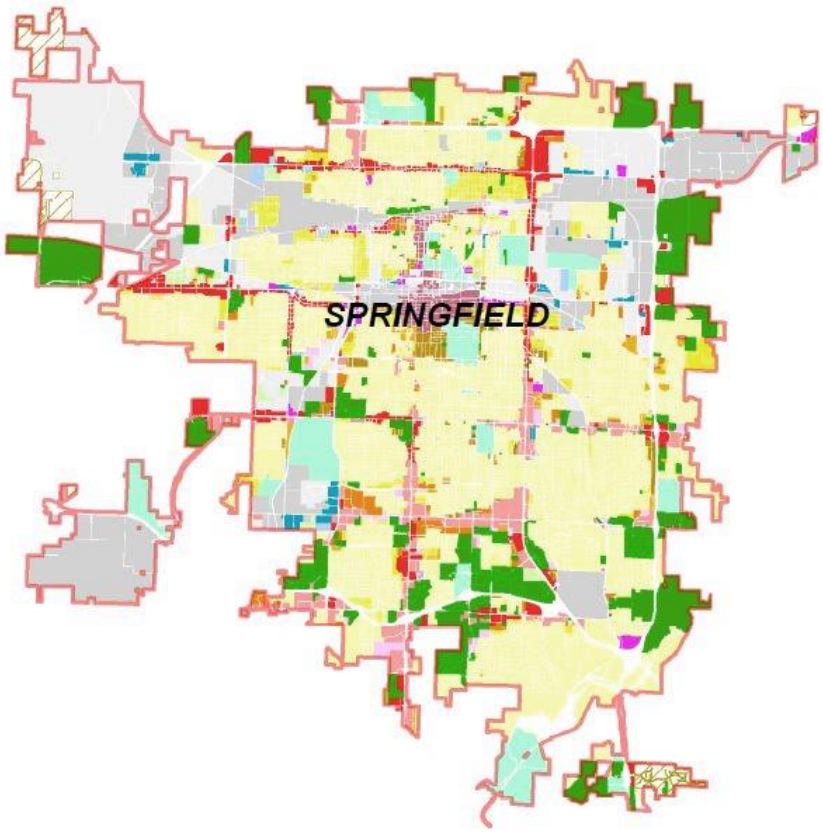
Mr. Coltrin stated that he torn between the City of taking anything from the owner rights but does feel it is a tiny step in the right direction.

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.

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.

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

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.

_____

WHEREAS, the Surface Transportation Program ("STP")-Urban Program Agreement, attached hereto as "Exhibit 1" provides for an 80 percent cost reimbursement for street overlay projects as shown in "Exhibit 2"; and

WHEREAS, the City will provide 20 percent of the funding of the project cost, in the estimated amount of $598,000.00, from the 1/4-Cent Capital Improvement Sales Tax; and

WHEREAS, a budget adjustment is required to appropriate the funds associated with the Agreement.

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

Section 1 – The City Manager, or his designee, is hereby authorized to enter into an Agreement with the Missouri Highways and Transportation Commission, said Agreement to be in substantially the same form as that document attached hereto and incorporated herein by this reference as "Exhibit 1."

Section 2 – The budget of the Department of Public Works for Fiscal Year 2019-2020, is hereby amended in the accounts and in the amounts as shown on Budget Adjustment No. 038, a copy of which is attached hereto and incorporated herein by this reference as "Exhibit 3."

Section 3 – The City Manager is directed to cause the appropriate accounting

entries to be made in the books and records of the City.

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- 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 $2,392,000.00, 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 $2,990,000.00, 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 $2,392,000.00. The City's 20% share, estimated at $598,000.00, 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 adminstrative 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

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

CITY OF SPRINGFIELD

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

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.

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

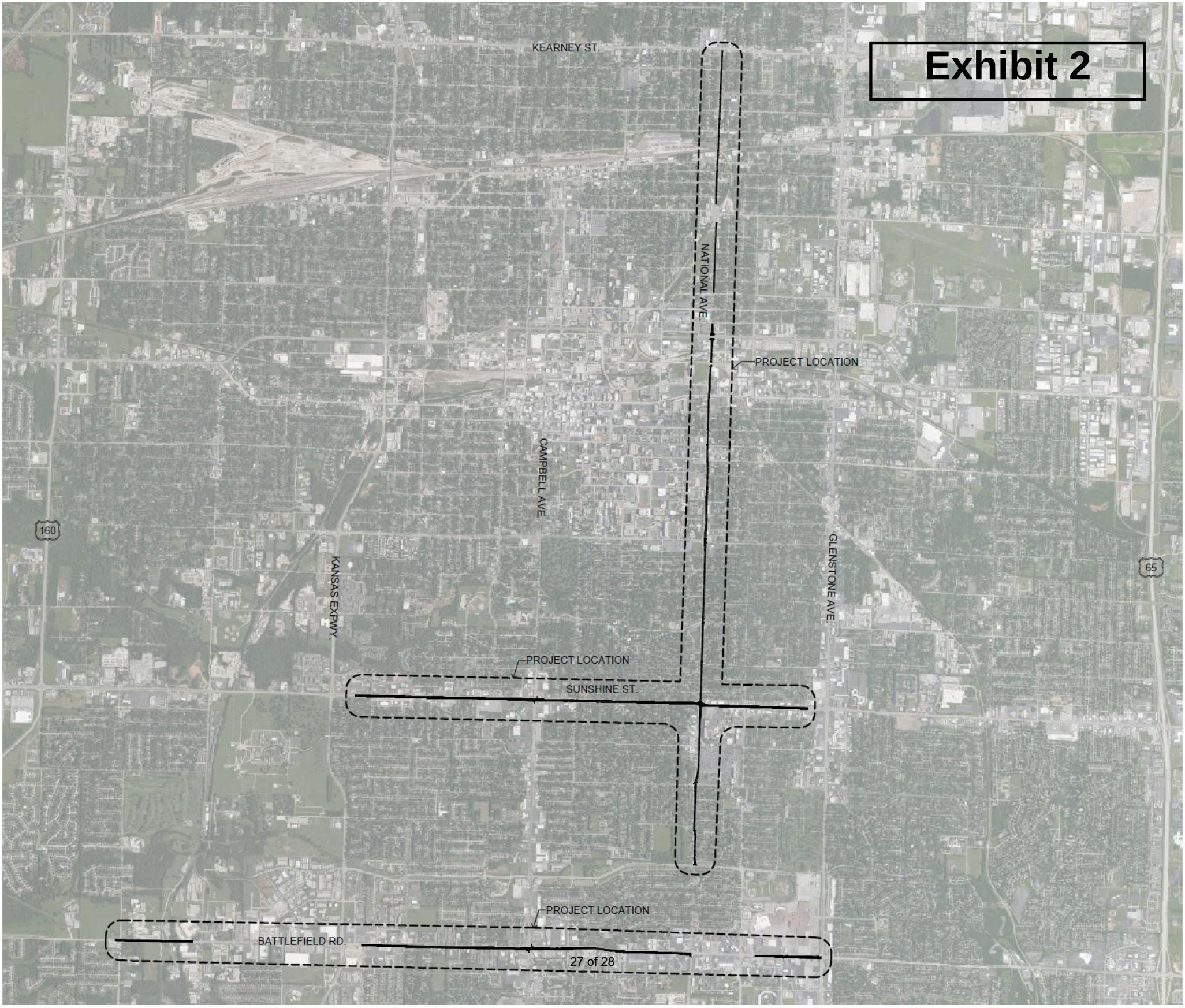


Exhibit 2
KEARNEY ST.
NATIONAL AVE
PROJECT LOCATION
CAMPBELL AVE
160
KANSAS EXPWY.
GLENSTONE AVE.
65
PROJECT LOCATION
SUNSHINE ST.
PROJECT LOCATION
BATTLEFIELD RD.

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:

3/4/20

Director of Finance Date

City Manager Date

Authorization:

Council Bill No. 2020-052

Ordinance No.

1st Reading

2nd Reading

Journal Imp No.

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

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.

_____

WHEREAS, the Surface Transportation Program ("STP)-Urban Program Agreement, attached hereto as "Exhibit 1" provides for an 80 percent cost reimbursement for ADA Improvements in the areas shown in "Exhibit 2"; and

WHEREAS, the City will provide 20% of the funding of the project cost, in the estimated amount of $322,000.00, from the 1/4-Cent Capital Improvement Sales Tax; and

WHEREAS, a budget adjustment is required to appropriate the funds associated with the Agreement.

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

Section 1 – The City Manager, or his designee, is hereby authorized to enter into an Agreement with the Missouri Highways and Transportation Commission, said Agreement to be in substantially the same form as that document attached hereto and incorporated herein by this reference as "Exhibit 1."

Section 2 – The budget of the Department of Public Works for Fiscal Year 2019-2020, is hereby amended in the accounts and in the amounts as shown on Budget Adjustment No. 040, a copy of which is attached hereto and incorporated herein by this reference as "Exhibit 3."

Section 3 – The City Manager is directed to cause the appropriate accounting

entries to be made in the books and records of the City.

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 2020-053

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

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

CITY OF SPRINGFIELD

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

By _____

Title _____

Ordinance No:_____

Exhibit A - Location of Project

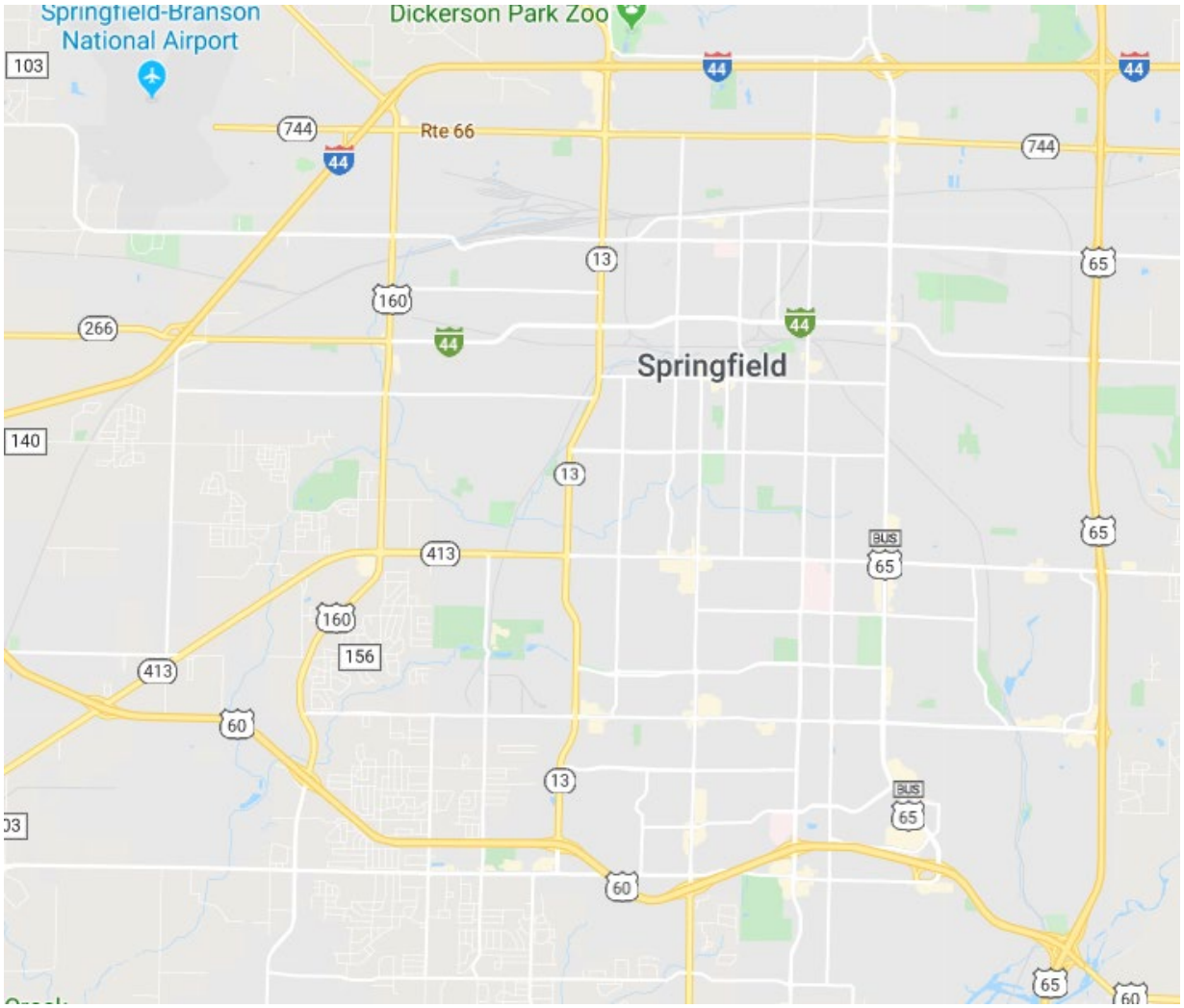


Exhibit B – Project Schedule

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.

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

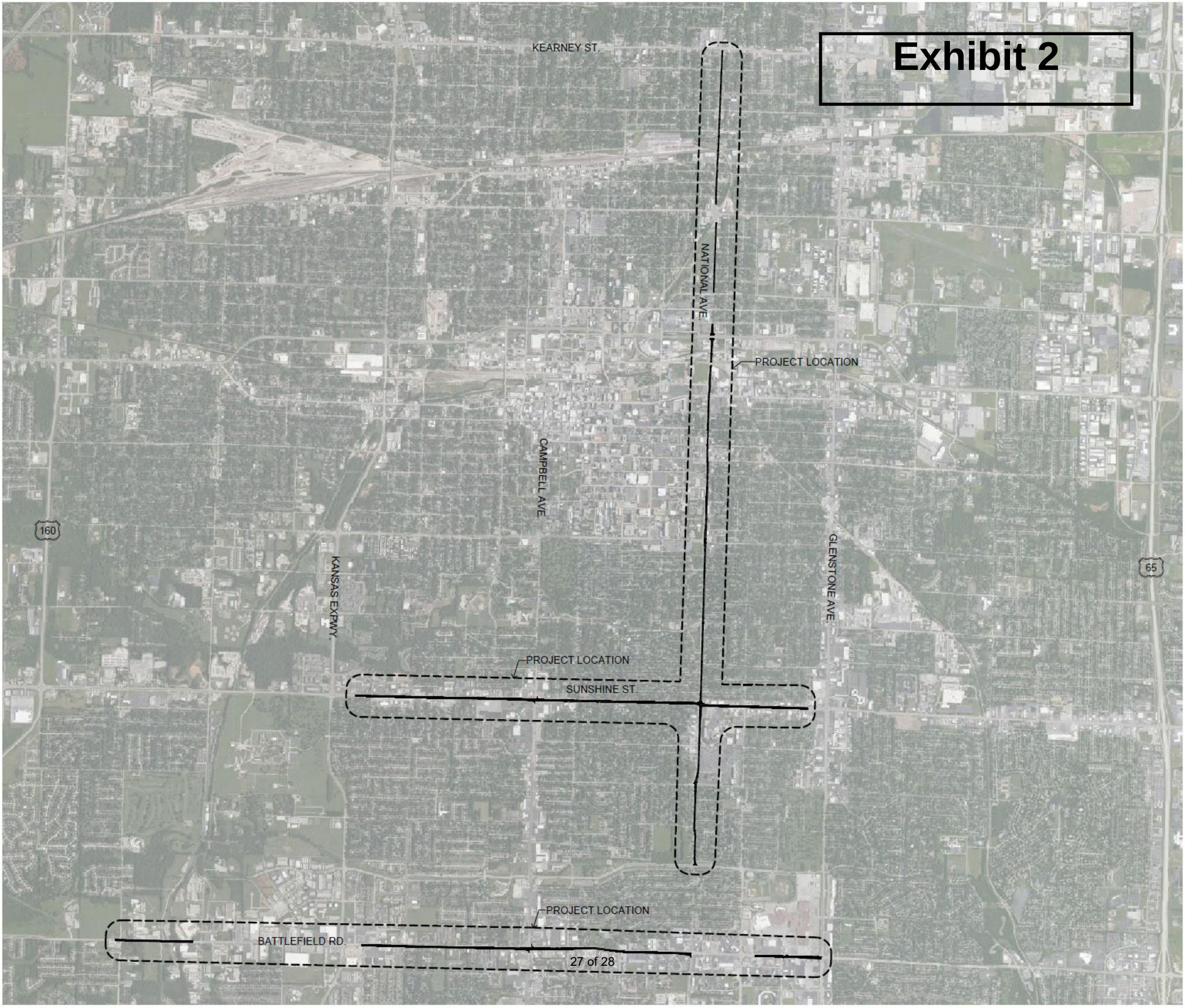


Exhibit 2
KEARNEY ST.
NATIONAL AVE
PROJECT LOCATION
CAMPBELL AVE
160
KANSAS EXPWY.
GLENSTONE AVE.
65
PROJECT LOCATION
SUNSHINE ST.
PROJECT LOCATION
BATTLEFIELD RD.

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:

Dan Smith 3/4/20
Department Head Date

Approved By:

3/4/20
Director of Finance Date

City Manager Date

Authorization:

Council Bill No. 2020-053
Ordinance No.
1st Reading
2nd Reading
Journal Imp No.

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

WHEREAS, the City and Ridge Investment Group, LLC, desire to establish the proportional share of sewer infrastructure costs at 36 percent ($328,081.67) and 64 percent, respectively, with the City establishing a firm financial ceiling for reimbursement of estimated project costs, plus a 20 percent ($65,459.70) budgetary contingency allowance based on estimated costs, for a maximum City contribution of $393,541.37; and

WHEREAS, the developer agreement will further establish a pro-rata construction cost reimbursement to be paid to City and Developer from each new connection fee in the proposed area.

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

Section 1 – The City Manager, or his designee, is hereby authorized to enter into a sewer improvement developer and construction costs reimbursement agreement with Ridge Investment Group, LLC, said agreement to be in substantially the same form as the document attached hereto and incorporated herein by reference as "Exhibit 1," and to do all things necessary to carry out the intent of the agreement.

Section 2 – The budget of the Department of Environmental Services Clean Water Fund for Fiscal Year 2019-2020 is hereby amended in the accounts and in the amounts as shown on Budget Adjustment No. 039, a copy of which is attached hereto and incorporated herein by reference as “Exhibit 2.”

Section 3 – 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: _____, Deputy City Attorney

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. <u>City agrees to</u>:

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. <u>Miscellaneous Provisions:</u>

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 of 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/sovimmunity.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:

_____
Director of Environmental Services

Approved as to form:

_____
Assistant City Attorney

CITY OF SPRINGFIELD, MISSOURI

By: _____
City Manager

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:

3/4/20
Department Head Date

Approved By:

3/4/20
Director of Finance Date

City Manager Date

Authorization:

Council Bill No. 2020-054
Ordinance No. _____
1st Reading _____
2nd Reading _____
Journal Imp No. _____

One-rdg. _____
P. Hrngs. _____
Pgs. 3
Filed: 03-03-20

Sponsor: Fisk

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020- 056 SPECIAL ORDINANCE _____

AN 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.

WHEREAS, by Special Ordinance 26604, City Council renamed the "Small Business Development Loan Program" the "Commercial Loan Program" ("CLP"); and

WHEREAS, since 1984, the city has operated the CLP, a program capitalized by the federal Community Development Block Grant Program; and

WHEREAS, under the CLP, business-development loans are available for property acquisition and rehabilitation; and

WHEREAS, the City must use all CLP loans 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; and

WHEREAS, since 1984, the Loan Committee has made 234 CLP loans totaling more than $32,000,000, primarily to help further center city revitalization efforts; and

WHEREAS, the CLP is currently funded through revolving-loan income and now has $1,000,000 available to loan; and

WHEREAS, in 2015, City Council approved changes to CLP rules and regulations that included allowing the Loan Committee to establish the interest rate for 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; and

WHEREAS, continuously low interest rates are available through bank financing; and

WHEREAS, federal regulations still add costs to CLP loans; and

WHEREAS, the Loan Committee's interest rates may not be competitive in today's market; and

WHEREAS, the Loan Committee requests authorization from City Council to allow the Loan Committee, by vote, the option of lowering the interest rate on Business Development Loans throughout the program year if the prime rate decreases.

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

Section 1 – City Council hereby authorizes the Loan Committee, by vote, to exercise the option of lowering the interest rate of the Business Loan Program during the program year, if the prime rate decreases.

Section 2 – 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 2020-056

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

Cheri Hagler, Commercial Loan Officer

Recommended by:

Mary Lilly Smith

Mary Lilly Smith, Director

Approved by:

Jason A. Gage

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

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.'

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows, that:

Section 1 – The Springfield City Code, Chapter 78, 'Offenses and Miscellaneous Provisions,' Article VII, 'Offenses Against Property,' is hereby amended by the addition of a new Section 78-285.5, 'Trespass onto real property,' which reads as follows:

Section 78-285.5 - Trespass onto real property.

1. A person commits trespass onto real property if he or she enters unlawfully upon real property of another. This is an offense of absolute liability.

2. Trespass onto real property shall be punishable upon conviction as provided in Section 1-7 of the Springfield City Code, except that a conviction for this offense shall not be punishable by any sentence of incarceration, and the maximum fine that may be imposed upon a conviction for this offense shall be Four Hundred Dollars ($400.00).

Section 2 – Severability Clause. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, to the extent the remainder of this Ordinance can be validly and reasonably interpreted and enforced, such decision shall not affect the validity of the remaining portions 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:_____, Assistant City Attorney

Approved for Council action:_____, 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. X
P. Hrngs. _____
Pgs. 3
Filed: 03-17-20

Sponsored by: McClure

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020- 065 GENERAL ORDINANCE _____

AN ORDINANCE

SUSPENDING enforcement of portions of sections 36-368(9) and 36-473(e) of the Zoning Ordinance; and declaring an emergency pursuant to City Charter section 2.12; for the purpose of limiting public gatherings during the Mayor's declaration of civil emergency.

WHEREAS, on March 16, 2020, the Mayor of the City of Springfield, declared a civil emergency in response to the ongoing coronavirus disease 2019 ("COVID-19") pandemic; and

WHEREAS, on March 16, 2020, Springfield City Council, by its passage of Special Ordinance 27293, prohibited certain public gatherings of 50 or more persons; and

WHEREAS, Special Ordinance 27293 authorized the Mayor, during the duration of the declaration of civil emergency, to issue additional orders amending which public gatherings are prohibited; and

WHEREAS, on March 17, 2020, the Mayor did issue an order prohibiting public gatherings of 10 or more persons; and

WHEREAS, because of the ongoing COVID-19 pandemic, City Council desires to suspend the enforcement of the "neighborhood meeting" requirements found at sections 36-368(9) and 36-473(e) of the Zoning Ordinance; and

WHEREAS, City Council finds that suspending these requirements for the duration of the Mayor's declaration of civil emergency, or any amendment thereto, furthers the important public health goal of limiting person to person contact; and

WHEREAS, City Council finds that the suspension of these requirements for the duration of the Mayor's declaration of civil emergency, or any amendment thereto, does not prohibit interested parties from utilizing other avenues of communication to express their opinions to City Council; and

WHEREAS, City Council finds that the enactment of this Ordinance constitutes an emergency pursuant to City Charter section 2.12 in that continued public gatherings will facilitate the spread of COVID-19.

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

Section 1 – City Council hereby suspends, and directs the City Manager to suspend, enforcement of section 36-368(9) of the Zoning Ordinance. All other provisions of City Code shall remain in effect provided they are not inconsistent with this Ordinance.

Section 2 – City Council hereby suspends, and directs the City Manager to suspend, enforcement of sections 36-473(2)(e)2, 36-473(2)(e)3, 36-473(2)(e)4, 36-473(e)5, 36-473(e)6, & 36-473(e)7 of the Zoning Ordinance. All other provisions of City Code shall remain in effect provided they are not inconsistent with this Ordinance.

Section 3 – The suspension authorized by this Ordinance shall remain in effect for the duration of the Mayor's declaration of civil emergency, or any amendment or extension thereto.

Section 4 – City Council hereby finds and declares that an emergency exists in that public gatherings will facilitate the spread of COVID-19 and therefore this Ordinance relates to the preservation of public health and safety pursuant to section 2.12 of the City Charter and may be passed in one reading. 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 2020-065

FILED: 03-17-20

ORIGINATING DEPARTMENT: Law

PURPOSE: To suspend enforcement of portions of sections 36-368(9) and 36-473(e) of the Zoning Ordinance; and declaring an emergency pursuant to City Charter section 2.12; for the purpose of limiting public gatherings during the Mayor's declaration of civil emergency.

BACKGROUND INFORMATION: On March 16, 2020, the Mayor of the City of Springfield, declared a civil emergency in response to the ongoing coronavirus disease 2019 ("COVID-19") pandemic. In addition, the Springfield City Council adopted Special Ordinance 27293 on that same day. Said Ordinance prohibited certain public gatherings and authorized the Mayor to issue additional orders amending which public gathering are prohibited during the pendency of the civil emergency declaration.

On March 17, 2020, the Mayor issued a further order amending which public gatherings are prohibited. Due to the ongoing COVID-19 pandemic City Council desires to suspend the enforcement of the "neighborhood meeting" requirements found at sections 36-368(9) and 36-473(e) of the Zoning Ordinance. Some development review cases require the applicant to conduct an in-person meeting with interested neighbors. Given the concerns of transmitting COVID-19 by person to person contact, this Ordinance would suspend those portions of the Zoning Ordinance which require a neighborhood meeting. Interested parties still have the option of submitting comment cards to Planning and Development staff.

This Ordinance is drafted as an emergency measure given the ongoing public health pandemic. It may be adopted with only one-reading.

Submitted by:

Nick Woodman, Assistant City Attorney

Approved by:

Jason Gage, City Manager

Recommended by:

Rhonda Lewsader, City Attorney

One-rdg. X
P. Hrngs. _____
Pgs. 4
Filed: 03-31-20

Sponsored by: Lear

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020 - 062 SPECIAL ORDINANCE _____

AN ORDINANCE

AUTHORIZING the City Manager, or his designee, to accept a subaward from the Missouri Department of Public Safety/Missouri State University on behalf of the Springfield Fire Department, which includes multiple pieces of equipment that will support the sustainment and operation of the Springfield Fire Department Region-D Bomb Squad and the Hazardous Materials Team, valued at up to $221,791.00, through a grant from the State Homeland Security Grant Program.

_____

WHEREAS, General Ordinance 6072 authorized the City Manager to apply for the State Homeland Security Grant Program ("SHSGP") grant; and

WHEREAS, the Bomb Squad of the Springfield Fire Department ("SFD") currently utilizes equipment that was purchased through SHSGP grants to establish core capabilities of response to explosive-device incidents within Springfield and Missouri Region D; and

WHEREAS, the Hazardous Materials Team requires replacement of radiation and chemical detection equipment and remote air sensing monitors

WHEREAS, the bomb squad and Hazardous Materials Team are critical parts of the HSRRS, which is designed to respond to chemical, biologic, radiologic, nuclear, and explosive incidents; and

WHEREAS, this grant will provide for the replacement of personal protective equipment for the Bomb Squad, currently valued at $70,948.92, for the replacement of radiation and chemical detection equipment and remote air sensing monitors for the Hazardous Materials Team, currently valued at $150,842.08, as set forth in the Subaward Agreement, which is attached hereto as "Exhibit A" and incorporated herein by reference; and

WHEREAS, this equipment is necessary to maintain the safety of SFD personnel and to provide the response capabilities deemed core requirements for the HSRRS.

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

Section 1 – The City Manager, or his designee, is hereby authorized to accept equipment, for the SFD Bomb Squad and Hazardous Materials Team, with a total value of $221,791.00, and to do all things necessary to carry out the intent of the grant, including the execution of contracts upon approval as to form by the City Attorney.

Section 2 – City Council hereby finds and declares that this Ordinance authorizes the acceptance of equipment from the SHSGP and may be passed as a one-reading ordinance under City Charter Section 2.16(25) as it relates to a contract for the acceptance of grant funds from a state or federal agency. Therefore, 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- 062

FILED: 03-31-20

ORIGINATING DEPARTMENT: FIRE

PURPOSE: Authorizing the City Manager, or his designee, to accept a subaward from the Missouri Department of Public Safety/Missouri State University on behalf of the City of Springfield, Missouri, Fire Department, which includes multiple pieces of equipment which will support the sustainment and operation of the Springfield Fire Department Region-D Bomb Squad and the Hazardous Materials Team, valued at up to $221,791.00, through a grant from the State Homeland Security Grant Program.

BACKGROUND INFORMATION: The Springfield Fire Department ("SFD") currently utilizes equipment that was purchased through the State Homeland Security Grants program to establish core capabilities of response to explosive-device incidents and incidents involving hazardous materials within Springfield, as well as Missouri Region D. The capabilities were identified as core requirements by the U.S. Department of Justice and FBI Bomb Squad Commanders Advisory Board as part of the accreditation process and the State's Homeland Security Regional Response System ("HSRRS").

Equipment provided through this grant award provides for sustainment of the Bomb Squad operational capabilities by providing a bomb suit which is required personal protective equipment for the Fire Department bomb technicians to complete their duties. Also provided for the Bomb Squad is the replacement of portable X-ray equipment needed for threat identification. The combined total for replacement of both pieces of equipment is $70,948.92 and has been approved by the Regional Homeland Security Oversight Committee for purchase.

Equipment provided through this grant award provides for sustainment of the Hazardous Materials Team operational capabilities by providing for the sustainment of Hazmat monitoring equipment currently in use, and the replacement of monitoring equipment that has reached the end of its service life. This includes the replacement of radiation detection equipment with meters that combine functions of multiple pieces of equipment, combining two chemical detection monitors with a multi-function monitor, and the replacement of remote air sensing monitors, and supplies necessary for monitor function and sustainment. The combined total for the Hazardous Materials equipment and supplies approved for funding by the Regional Homeland Security Oversight Committee is $150,842.08.

This Ordinance may be passed in one reading under City Charter Section 2.16 (25) as it relates to the acceptance of grant funds from a state agency.

REMARKS: The addition of this equipment is necessary to maintain the safety of our personnel in order to provide the response capabilities deemed as core requirements

for the SFD's role in the Homeland Security Regional Response System. The SFD has no other identified funding source for these expenses.

Submitted by:

David Pennington, Fire Chief

Approved by:

Jason Gage, City Manager

One-rdg. X
P. Hrngs. _____
Pgs. 4
Filed: 03-17-20

Sponsored by: Lear

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020- 066 SPECIAL ORDINANCE _____

AN ORDINANCE

AUTHORIZING the City Manager, or his designee, to accept a Digital/Automotive Apprenticeship Grant in the amount of $57,200.00 from the Missouri Department of Higher Education and Workforce Development; entering into necessary agreements to carry out the grant; amending the budget for the Department of Workforce Development for Fiscal Year 2019-2020 in the amount of $57,200.00; and declaring that this bill qualifies for approval in one reading.

WHEREAS, the City has the opportunity, through its Department of Workforce Development, to accept $57,200.00 in funds allocated by the United States Department of Labor through the Missouri Department of Higher Education and Workforce Development to create a registered apprenticeship training model that anticipates serving 13 individuals during the performance period; and

WHEREAS, an amendment to the budget of the Department of Workforce Development for Fiscal Year 2019-2020 has been approved and recommended by the City Manager.

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

Section 1 – The City Manager, or his designee, is hereby authorized to accept a Digital/Automotive Apprenticeship Grant in the amount of $57,200.00 from the Missouri Department of Higher Education and Workforce Development, for receipt and use by the City's Department of Workforce Development, and to do all things necessary to accept and to carry out the grant, including the execution of contracts, provided the form of any such contract is approved by the City Attorney.

Section 2 – The budget of the City's Department of Workforce Development, for Fiscal Year 2019-2020, is hereby amended in the accounts and in the amounts as shown on Budget Adjustment No. 42, a copy of which is attached hereto and

incorporated herein by reference as “Exhibit A.”

Section 3 – City Council 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. In the event additional funding is provided under this Grant by the grantor, the Director of Finance is hereby authorized to adjust this appropriation by an amount not to exceed 20 percent.

Section 5 – City Council hereby finds and declares that this Ordinance authorizes the acceptance of grant funds from the State of Missouri and may be passed as a one-reading ordinance under City Charter Section 2.16(25) as it relates to a contract for the acceptance of grant funds from a state or federal agency. 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 2020-066

FILED 03-17-20

ORIGINATING DEPARTMENT: Workforce Development.

PURPOSE: Authorizing the City Manager, or his designee, to accept a Digital/Automotive Apprenticeship Grant in the amount of $57,200.00 from the Missouri Department of Higher Education and Workforce Development; entering into necessary agreements to carry out the grant; amending the budget for the Department of Workforce Development for Fiscal Year 2019-2020 in the amount of $57,200.00; and declaring that this bill qualifies for approval in one reading..

BACKGROUND INFORMATION: The goal of this project is to place a minimum of 13 eligible workers into Digital or Automotive Registered Apprenticeships. Eligible participants are individuals who meet the general Workforce Innovation and Opportunity Act eligibility criteria, are authorized to work in the United States, and are in need of Registered Apprenticeship training. Funding may be expended through May 31, 2020.

This funding is related to the Franklin Apprenticeship Grant previously approved by City Council for training/apprenticeships in the automotive industry. Unlike the Franklin Apprenticeship program, the eligible participants are not required to be dislocated workers.

This Ordinance authorizes the acceptance of grant funds from the state or federal government and may be passed as a one-reading ordinance pursuant to City Charter Section 2.16(25) as it relates to a contract for acceptance of grant funds from a state or federal agency.

Recommended by:

Sally Payne, Interim Director
Department of Workforce Development

Approved by:

Jason Gage, City Manager

CITY OF SPRINGFIELD, MO
BUDGET ADJUSTMENT

Exhibit A

Budget Adjustment
042

Revenues:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
24100	21	28210	416010			$ 57,200.00	MO Dept. of Higher Education & Workforce Development
Net Revenue Adjustment						$ 57,200.00	

Expenditures:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
24100	21	28210	500110			$ 4,048.72	Base Salaries
24100	21	28210	500210			90.58	LAGERS Contribution
24100	21	28210	500250			310.86	FICA Contribution
24100	21	28210	500260			709.38	Health Ins Contribution
24100	21	28210	500280			40.46	Workers Comp Contribution
24100	21	28210	502680			52,000.00	Occupational Skills Training
Net Expenditure Adjustment						$ 57,200.00	

Fund Balance Appropriation:

Fund		Title	Amount

Explanation: To amend the FY2019-2020 budget and appropriate grant funds from the Missouri Department of Higher Education and Workforce Development for a digital/automotive apprenticeship grant.

Requested By:

Sally Payne 03/17/20
Department Head Date

Approved By:

Jason A. Hage 03/17/20
Director of Finance Date

City Manager Date

Authorization:

Council Bill No. 2020-066
Ordinance No.
1st Reading
2nd Reading
Journal Imp No.

One-rdg. _____
P. Hrngs. X
Pgs. 17
Filed: 03-31-20

Sponsored by: McGull

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020 - 063 GENERAL ORDINANCE _____

AN ORDINANCE

AMENDING the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning 6 acres of property generally located at the 900 and 1000 block of East Pythian Street from R-SF, Single-family Residential district, R-TH, Residential Townhouse district, and CS, Commercial Services district, to GI, Government and Institutional Use district; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission both recommend approval.)

WHEREAS, an application has been filed for a zoning change of the properties generally located at the 900 and 1000 block of East Pythian Street, and more fully described in "Exhibit A," from R-SF, Single-family Residential district, R-TH, Residential Townhouse district, and CS, Commercial Services district, to GI, Government and Institutional Use district; and

WHEREAS, following proper notice, a public hearing was held before the Planning and Zoning Commission on March 12, 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, the City has reviewed the applicant's request and prepared a staff report concerning the application which is attached hereto and incorporated herein by this reference as "Exhibit C;" and

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

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

Section 1 – The property described in "Exhibit A," which is attached hereto and incorporated herein by this reference, is hereby rezoned from R-SF, Single-family Residential district, R-TH, Residential Townhouse district, and CS, Commercial

Services district, to GI, Government and Institutional Use district. Springfield Land Development Code, Section 36-306, ‘Official zoning map and rules for interpretation,’ is hereby amended, changed and modified consistent with this Ordinance.

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

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

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 - 063

FILED: 03-31-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Amending the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning 6 acres of property generally located at the 900 and 1000 block of East Pythian Street from R-SF, Single-family Residential district, R-TH, Residential Townhouse district and CS, Commercial Services district, to GI, Government and Institutional Use district; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission both recommend approval).

BACKGROUND INFORMATION: ZONING CASE NUMBER Z-3-2020

The applicant, Ozarks Technical Community College (OTC"), is proposing to rezone approximately 6 acres of property generally located within the 900 and 1000 Block of East Pythian Street from R-SF, Single-family Residential district, R-TH, Residential Townhouse district and CS, Commercial Services district to GI, Government and Institutional Use district.

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the southern portion of property as appropriate for Medium-Intensity Retail, Office or Housing. This mixed category indicates that a variety of office, commercial and/or mid-or high-density housing may be appropriate at major intersections or along certain roadway corridors. The northern properties are identified as appropriate for Low-Density Housing. However, the OTC Zoning and Land Use Element of their 2010 Master Plan recommends this area as part of the proposed expansion of the OTC campus. The OTC Master Plan was adopted as an element of the Springfield Comprehensive Plan on May 17, 2010 (Resolution 9778).

The proposed zoning will consolidate the property owned by OTC south of Pythian Avenue into one zoning district which is consistent with the City-adopted Master Plan. This will allow the subject property to be developed like other large institutions in the City.

A traffic study has been submitted to Public Works Traffic Division and is under review based on OTC's Master Plan. Improvements will be determined at each phase of development of the Master Plan.

REMARKS:

The Planning and Zoning Commission held a public hearing on March 12, 2020, and recommended to approve, by a vote of 8 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. The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the southern property as appropriate for Medium Intensity Retail, Office or Housing. This mixed category indicates that a variety of office, commercial and/or mid-or high-density housing may be appropriate at major intersections or along certain roadway corridors. The northern portion of the property is identified as appropriate for Low Density Housing. However, the OTC Zoning and Land Use Element of their 2010 Master Plan recommends this area as part of the proposed expansion of the OTC campus. The OTC Master Plan was adopted as an element of the Springfield Comprehensive Plan on May 17, 2010 (Resolution 9778).

2. The proposed expansion and rezoning are recommended by the OTC 2010 Springfield Campus Master Plan as part of the Zoning and Land Use Element.

3. The proposed zoning will consolidate the property owned by OTC south of Pythian Avenue into one zoning district which is consistent with their Master Plan. This will allow the subject property to be developed like other large institutions in the City.

Submitted by:

Michael Sparlin

Michael Sparlin, Senior Planner

Recommended by:

Mary Lilly Smith

Mary Lilly Smith, Director

Approved by:

Jason A. Gage

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-3-2020

ALL THAT PART OF LOTS 17, 18, 19 AND 20 OF SILVER SPRINGS SUBDIVISION, RECORDED IN PLAT BOOK GG, PAGE 23, GREENE COUNTY RECORDERS OFFICE, AND LOTS 14, 15, 16, 17 AND 18, BLOCK 3, AND LOTS 19, 20, 21, 22, 23 AND 24, BLOCK 4, AND LOT 25, 26, 27, 28, 29 AND 30, BLOCK 5 OF J.M. RICHARDSON'S 2ND ADDITION, RECORDED IN PLAT BOOK A, PAGE 28, GREENE COUNTY RECORDER'S OFFICE, INCLUDING PORTIONS OF VACATED TEXAS AVENUE, HAMPTON AVENUE, CENTRAL STREET AND THE PLATTED ALLEY THAT RUNS EAST-WEST BETWEEN BLOCKS 5 AND 6 ON THE NORTH AND BLOCKS 3 AND 4 ON THE SOUTH OF SAID J.M. RICHARDSON'S 2ND ADDITION, ALL LYING IN THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 29 NORTH, RANGE 22 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 OF SAID J.M. RICHARDSON'S 2ND ADDITION;
THENCE SOUTH 89°04'54" EAST, ALONG THE NORTH LINE OF VACATED CENTRAL STREET, A DISTANCE OF 30.01 FEET TO THE POINT OF BEGINNING;
THENCE SOUTH 02°00'09" WEST, A DISTANCE OF 33.01 FEET TO A POINT ON THE CENTERLINE OF SAID VACATED CENTRAL STREET;
THENCE NORTH 89°04'54" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 805.95 FEET TO A POINT ON THE EAST RIGHT OF WAY OF PYTHIAN STREET;
THENCE ALONG SAID EAST RIGHT OF WAY THE FOLLOWING DESCRIBED 13 COURSES;
THENCE NORTH 23°13'13" EAST, 35.67 FEET TO THE NORTH LINE OF VACATED CENTRAL STREET;
THENCE NORTH 30°48'44" EAST, 44.66 FEET;
THENCE NORTH 52°37'45" EAST, 99.74 FEET;
THENCE NORTH 82°44'19" EAST, 29.66 FEET;
THENCE NORTH 37°57'23" EAST, 22.10 FEET;
THENCE NORTH 10°12'16" EAST, 40.08 FEET;
THENCE NORTHEASTERLY 92.13 FEET ALONG A 330.00 FOOT RADIUS CURVE TO THE LEFT, HAVING A CHORD BEARING AND DISTANCE OF NORTH 28°21'15" EAST, 91.83 FEET;
THENCE NORTH 20°21'22" EAST, 7.86 FEET;
THENCE NORTHEASTERLY 76.00 FEET ALONG A 270.00 FOOT RADIUS CURVE TO THE RIGHT, HAVING A CHORD BEARING AND DISTANCE OF NORTH 28°25'11" EAST, 75.75 FEET;
THENCE NORTHEASTERLY 94.15 FEET ALONG A 50.00 FOOT RADIUS CURVE TO THE LEFT, HAVING A CHORD BEARING AND DISTANCE OF NORTH 45°05'38" EAST, 80.84 FEET;

THENCE NORTHEASTERLY 174.33 FEET ALONG A 270.00 FOOT RADIUS CURVE TO THE RIGHT, HAVING A CHORD BEARING AND DISTANCE OF NORTH 72°12’05” EAST, 171.32 FEET;

THENCE SOUTH 89°18’05” EAST, 81.52 FEET;
THENCE NORTH 88°59’42” EAST, 91.30 FEET;
THENCE SOUTH 01°55’33” WEST, LEAVING THE SAID RIGHT OF WAY AND ALONG THE WEST LINE OF A TRACT OF LAND RECORDED IN BOOK 2290 PAGE 740, GREENE COUNTY RECORDER’S OFFICE, A DISTANCE OF 47.52 FEET TO THE SOUTHWEST CORNER OF SAID TRACT;
THENCE SOUTH 89°11’54” EAST, ALONG THE SOUTH LINE OF SAID TRACT; A DISTANCE OF 180.25 FEET TO A POINT ON THE CENTERLINE OF VACATED HAMPTON AVENUE;
THENCE SOUTH 02°00’09” WEST, ALONG SAID CENTERLINE, A DISTANCE OF 49.96 FEET;
THENCE NORTH 88°58’02” WEST, LEAVING SAID CENTERLINE AND ALONG THE NORTHLINE OF A TRACT OF LAND RECODED IN BOOK 2665 PAGE 585, GREENE COUNTY RECORDER’S OFFICE, A DISTANCE OF 180.17 FEET;
THENCE SOUTH 01°55’33” WEST, ALONG THE WEST LINE OF SAID TRACT, A DISTANCE OF 129.97 FEET TO THE CENTERLINE OF THE VACATED ALLEY;
THENCE SOUTH 89°02’56” EAST, ALONG SAID CENTERLINE, A DISTANCE OF 180.00 FEET TO A POINT ON THE CENTERLINE OF SAID VACATED HAMPTON AVENUE;
THENCE SOUTH 02°00’09” WEST, ALONG SAID CENTERLINE, A DISTANCE OF 207.62 FEET TO THE POINT OF BEGINNING
CONTAINING 261,548 SQUARE FEET
THIS DESCRIPTION WAS PREPARED BY CJW TRANSPORTATION CONSULTANTS, LLC; CORPORATE LAND SURVEY NUMBER 2007008003.

Exhibit B

RECORD OF PROCEEDINGS
ZONING CASE Z-5-2020 & CONDITIONAL OVERLAY DISTRICT NO. 184
Planning and Zoning Commission – March 12, 2020

Z-3-2020
900 and 1000 blk East Pythian Street
Applicant: Ozarks Technical Community College and Junior College of Central Southwest Missouri and Community College District Central SW

(King Coltrin and Britton Jobe recused)

Mr. Hosmer stated that this is a request to rezone approximately 6 acres of property generally located in the 900 and 1000 Block of East Pythian Street from R-SF, Single-family Residential District, R-TH, Residential Townhouse District and CS, Commercial Services District to GI, Government and Institutional Use District. The Comprehensive Plan identifies the southern area as appropriate for Medium Intensity Retail, Office or Housing and the northern portion of the property as Low Density Housing. The OTC Zoning and Land Use Element of their 2010 Master Plan recommends this area as part of the proposed expansion of the OTC campus. (Council Bill No. 2010-129). The Transportation Plan classifies Pythian as a Local roadway. A Traffic Impact Study has been submitted for review. Improvements will be determined at each phase of development of the Master Plan. A fee in lieu of on-site stormwater detention will not be allowed, and the property is not located in a stream buffer. The proposed zoning will consolidate the property owned by OTC south of Pythian Avenue into one zoning district which is consistent with their Master Plan. Staff recommends approval.

Mr. Doennig opened the public hearing.

Jonathan Staats, 5051 S. National, stated that OTC is continuing to rezone due to expansion of the campus and here to answer any questions.

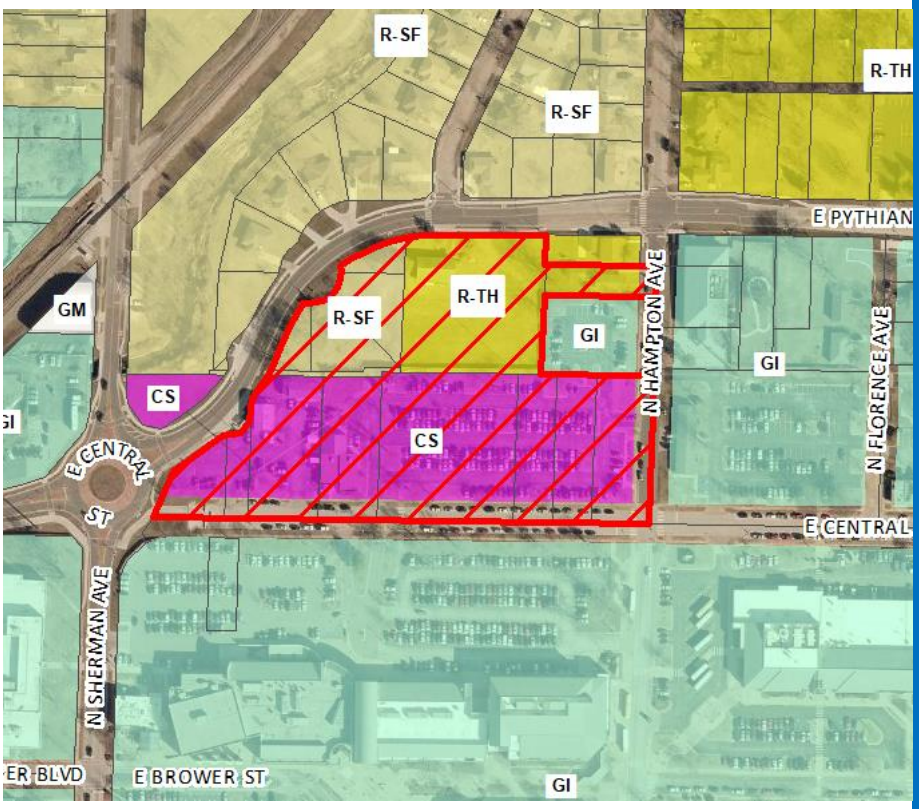
Mr. Doennig closed the public hearing.

COMMISSION ACTION:
Mr. Thomas motioned to **approve** Z-3-2020 (900 and 1000 blk East Pythian Street). Ms. Ogilvy seconded the motion. Ayes: Doennig, Ogilvy, Broekhoven, Shuler, Thomas, and Rose. Nays: None. Abstain: None. Absent: Cox.
(King Coltrin and Britton Jobe recused)

Bob Hosmer, AICP
Planning Manager

Exhibit C

PLANNING AND ZONING COMMISSION PUBLIC HEARING:	MARCH 12, 2020
CITY COUNCIL PUBLIC HEARING:	APRIL 6, 2020



CASE NUMBER:
Z-3-2020

PROJECT LOCATION: 900 and 1000 block of East Pythian Street

ACRES: 6 acres

EXISTING LAND USE: Institutional Use, parking lot and vacant land

APPLICANT:
Junior College District of Southwest Missouri (OTC)

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

STAFF RECOMMENDATIONS:
Approve

PROPOSED MOTION:
Move to approve Z-3-2020 as submitted in the staff report.

SUMMARY OF REQUEST:

Request to rezone approximately 6 acres of property generally located in the 900 and 1000 Block of East Pythian Street from R-SF, Single-family Residential District, R-TH, Residential Townhouse District and CS, Commercial Services District to GI, Government and Institutional Use District.

FINDINGS FOR STAFF RECOMMENDATION:

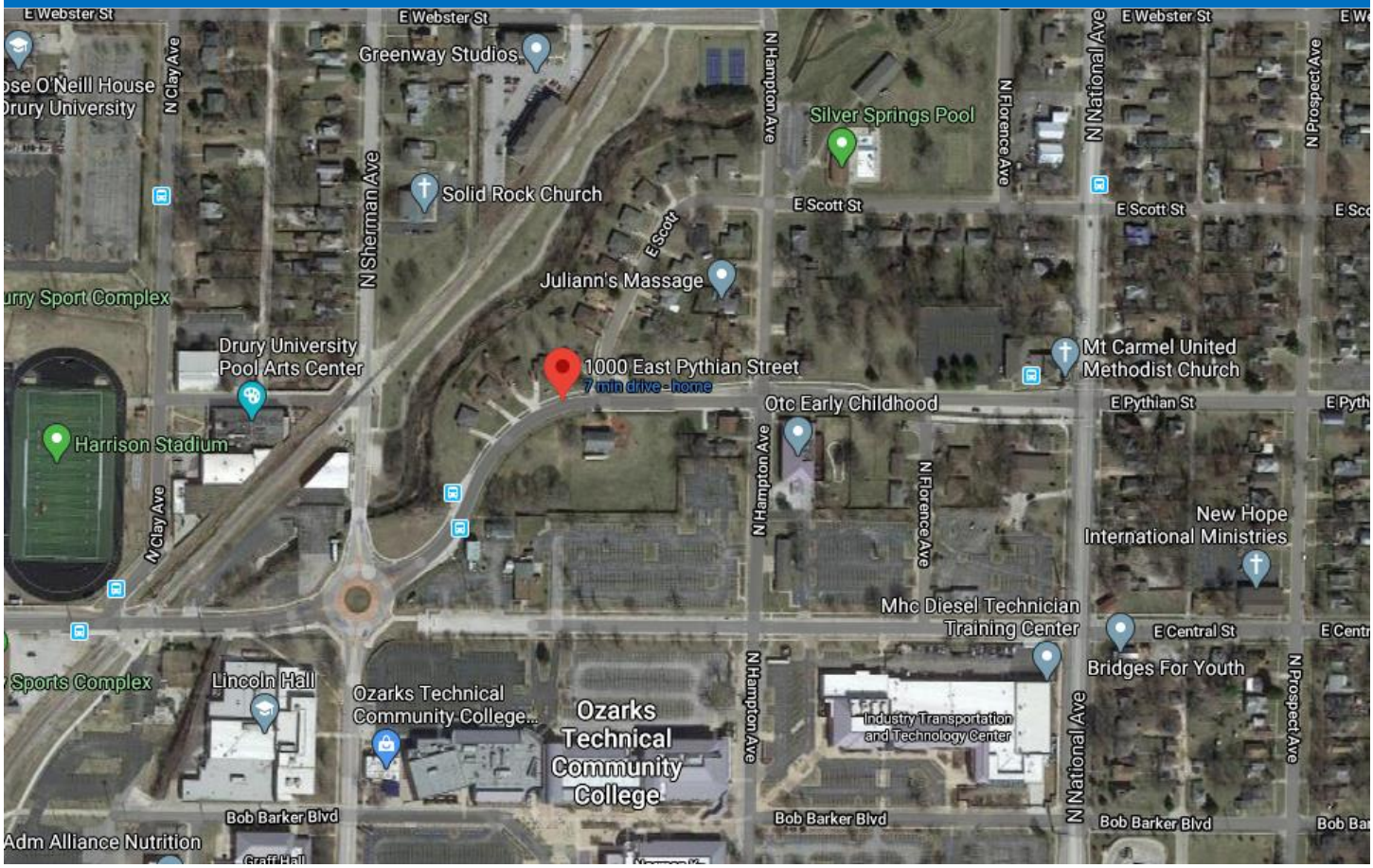
1. The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the southern property as appropriate for Medium Intensity Retail, Office or Housing. This mixed category indicates that a variety of office, commercial and/or mid-or high-density housing may be appropriate at major intersections or along certain roadway corridors. The northern portion of the property is identified as appropriate for Low Density Housing. However, the OTC Zoning and Land Use Element of their 2010 Master Plan recommends this area as part of the proposed expansion of the OTC campus. The OTC Master Plan was adopted as an element of the Springfield Comprehensive Plan on May 17, 2010 (Council Bill No. 2010-129).

2. The proposed expansion and rezoning are recommended by the OTC 2010 Springfield Campus Master Plan as part of the Zoning and Land Use Element.

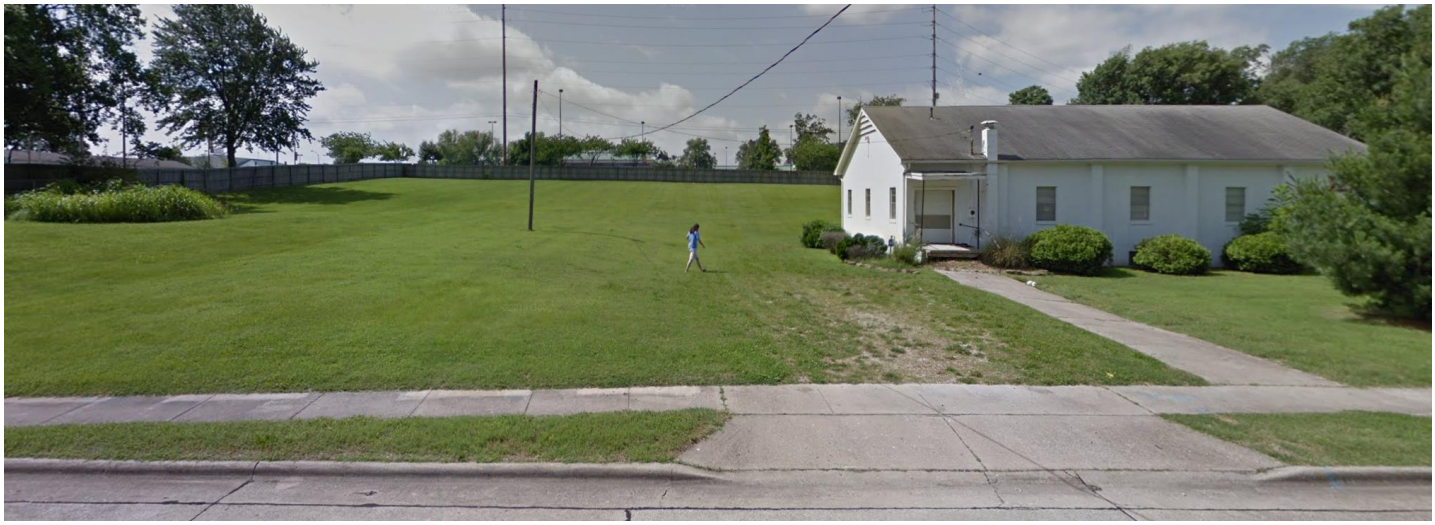
3. The proposed zoning will consolidate the property owned by OTC south of Pythian Avenue into one zoning district which is consistent with their Master Plan. This will allow the subject property to be developed like other large institutions in the City.

SURROUNDING ZONING AND LAND USES:				
	NORTH	**SOUTH**	**EAST**	**WEST**
ZONING	R-TH, R-SF	GI	GI	R-SF, CS
LAND USE	Single-family residence	OTC parking and school uses	OTC parking and childcare facility	Single-family residence, undeveloped land

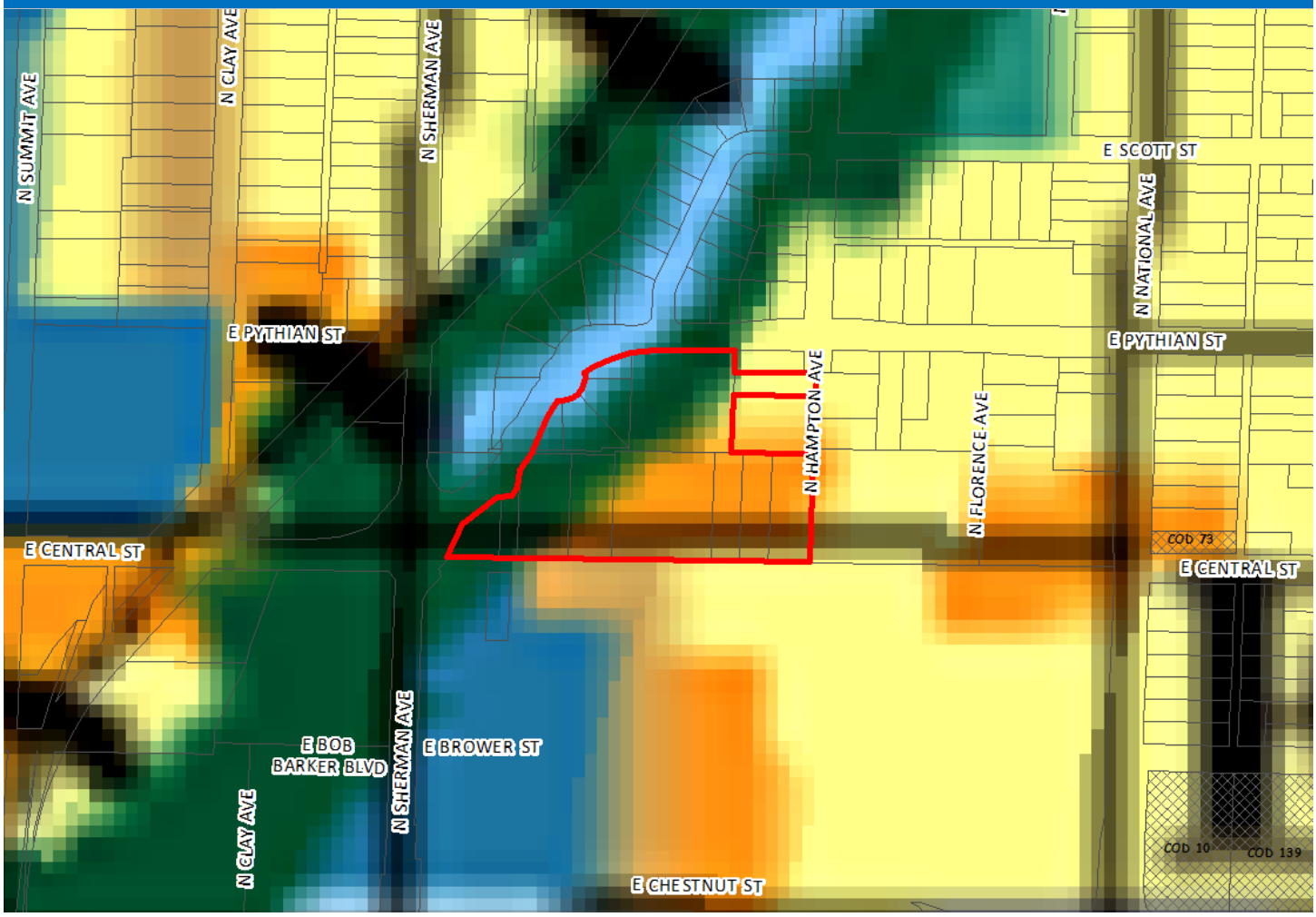
SURROUNDING LAND USES (GOOGLE MAP AERIAL VIEW):



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:

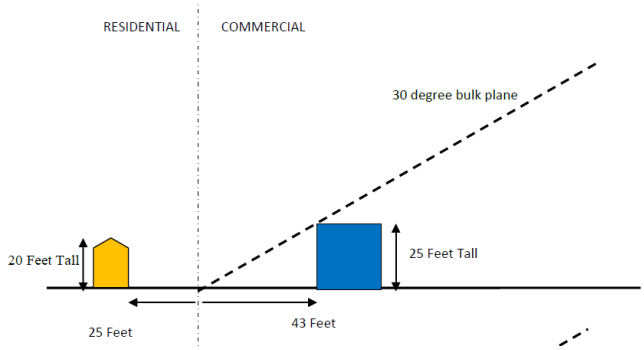
The subject property was zoned R-SF, R-TH and CS District in a community-wide rezoning to the current Zoning Ordinance regulations in March 1995 (G.O. 4494).

ZONING ORDINANCE REQUIREMENTS:

CODE ITEM	REQUIREMENTS FOR GI
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	20 percent

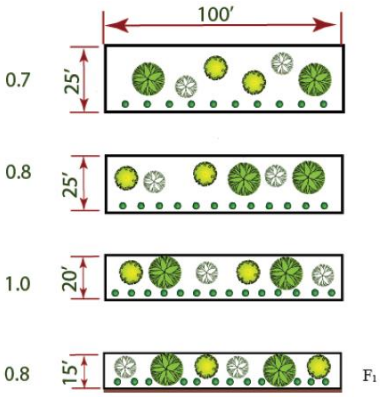
BULK PLANE

All structures shall remain below a 30-degree bulk plane as measured from the boundary of any R-SF or R-TH district



BUFFERYARD AND LANDSCAPING

A bufferyard type D is required adjacent to R-TH zoned property.



A bufferyard type S1 is required along the north boundary adjacent to Pythian Street.

COMPATIBILITY WITH COMPREHENSIVE PLAN:

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the southern property as appropriate for Medium-Intensity Retail, Office or Housing. This mixed category indicates that a variety of office, commercial and/or mid-or high-density housing may be appropriate at major intersections or along certain roadway corridors. The north properties are identified as appropriate for Low-Density Housing.

The 2010 OTC Springfield Campus Master Plan recommends that the subject properties be included as part of the proposed expansion of the OTC campus. The Plan recommends that existing properties owned by OTC for college uses and properties in areas acquired and planned for college uses should be rezoned to GI, Government and Institutional Use District. The OTC Master Plan was adopted as an element of the Springfield Comprehensive Plan on May 17, 2010 (Council Bill No. 2010-129).

STAFF COMMENTS:

1. The applicant, Ozarks Technical Community College, is proposing to rezone approximately 6 acres of property generally located within the 900 and 1000 Block of East Pythian Street from R-SF, Single-family Residential District, R-TH, Residential Townhouse District and CS, Commercial Services District to GI, Government and Institutional Use District.

2. The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the southern portion of property as appropriate for Medium-Intensity Retail, Office or Housing. This mixed category indicates that a variety of office, commercial and/or mid-or high-density housing may be appropriate at major intersections or along certain roadway corridors. The northern properties are identified as appropriate for Low-Density Housing. However, the OTC Zoning and Land Use Element of their 2010 Master Plan recommends this area as part of the proposed expansion of the OTC campus. The OTC Master Plan was adopted as an element of the Springfield Comprehensive Plan on May 17, 2010 (Council Bill No. 2010-129).

3. The proposed zoning will consolidate the property owned by OTC south of Pythian Avenue into one zoning district which is consistent with the City-adopted Master Plan. This will allow the subject property to be developed like other large institutions in the City.

4. A traffic study has been submitted to Public Works Traffic Division and is under review based on OTC's Master Plan. Improvements will be determined at each phase of development of the Master Plan.

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 February 13, 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: 7 Returned: 0

DEPARTMENT COMMENTS:

ATTACHMENT 1
DEPARTMENT COMMENTS

BUILDING DEVELOPMENT SERVICES COMMENTS:

No objections to rezoning.

CITY UTILITIES COMMENTS:

No objections to rezoning.

CLEAN WATER SERVICES COMMENTS:

No objection to rezoning.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

STREET CLASSIFICATION, RIGHT-OF-WAY, & JURISDICTION

City's Transportation Plan classifies E. Pythian Street as a Local roadway. The standard right-of-way width for E. Pythian Street is 30 feet from the centerline. It appears additional right-of-way is not needed along E. Pythian Street. A survey is recommended to determine the exact amount of existing right-of-way. E. Pythian Street is a city maintained street.

TRAFFIC COUNTS & ON-STREET PARKING

There is not a recent traffic count on E. Pythian Street. On-street parking is not allowed along E. Pythian Street.

DRIVEWAY ACCESS

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

SIDEWALK

There is existing sidewalk along a portion of the property frontage of E. Pythian Street. The existing infrastructure meets current City Standards.

TRAILS, BUS STOPS, & ADDITIONAL INFORMATION

There is a Greenway Trail in the area surrounding the property pertaining to this zoning. There are bus stops along E. Pythian Street. The proposed development is in an area that provides for multiple direct connections and provides for good connectivity in the area.

IMPROVEMENTS

A Traffic Impact Study is automatically required when property rezones to GI. A Traffic Study has been submitted and is under review based on OTC's Master Plan. Improvements will be determined at each phase of development of the Master Plan.

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	E. Pythian Street	Local	No	30	30

	AM Peak	PM Peak	Weekday	Weekend
Existing Trips Generated				
***Proposed Trips Generated**				
Additional Trips Generated				

*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 North Jordan 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 will be required if an additional acre of impervious is added. 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	North Jordan 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

FIRE DEPARTMENT COMMENTS:

No objection to rezoning.

Attachment 2

AFFIDAVIT OF NEIGHBORHOOD NOTIFICATION AND MEETING SUMMARY

1. Request change to zoning from: R-TH, R-SF, CS to GI
   (existing zoning) *(proposed zoning)*
2. Meeting Date & Time: February 13th, 2020 from 4:00pm to 6:30pm
3. Meeting Location: Ozarks Technical Community College, Lincoln Hall, Room 211
4. Number of invitations that were sent: 157
5. How the mailing list was generated: Via City of Springfield Planning Services
6. Number of neighbors in attendance (attach a sign-in sheet): 2
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 comments on the plan were received at the meeting.

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

   None received.

I, Jonathan Staats (*print name)*, attest that the neighborhood meeting was held on February 13th, 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

Jonathan Staats

Printed name of person completing affidavit

Pythian Area Rezoning & ROW Relinquishment

SIGN-IN SHEET - February 13, 2020

	Name	Address or Company	Phone	E-mail
1	JONATHAN STAATS	5051 S. NATIONAL AVE	417.889.3400	jstaats@gocjw.com
2	ROB RECTOR	3748 E. CHATTANOOGA	417 447-4852	rectorr@otc.edu
3	Danny Gutirrez	2855 S Pinehurst Ave	573-286-4566	gutirred@otc.edu
4	Doris Cox	1025 N. Hampton	496 5441	
5	Brandon Cammill	Drury University	417-873-7219	bgammill@drury.edu
6				
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18				
19				
20				

One-rdg. _____
P. Hrngs. X
Pgs. 21
Filed: 03-31-20

Sponsored by: Simpson

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020- 064 GENERAL ORDINANCE _____

AN ORDINANCE

AMENDING the Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' by rezoning approximately 43 acres of property generally located at 2401 East Sunshine Street from HM, Heavy Manufacturing district, to IC, Industrial Commercial district; establishing Conditional Overlay District No. 184; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission both recommend approval.)

WHEREAS, an application has been filed for a zoning change of the property generally located at 2401 East Sunshine Street from HM, Heavy Manufacturing district to IC, Industrial Commercial district with Conditional Overlay District No. 184; and

WHEREAS, Conditional Overlay District No. 184 shall modify the requirements of the Springfield Land Development Code Section 36-434, IC, Industrial Commercial district, by requiring that the property described in "Exhibit B" comply with the requirements described in "Exhibit A;" and

WHEREAS, following proper notice, a public hearing was held before the Planning and Zoning Commission, a copy of the Record of Proceedings from said public hearing being attached hereto and incorporated herein by this reference as "Exhibit C," and said Commission made its recommendation; and

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

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

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

Section 1 – The property described in "Exhibit B," which is attached hereto and incorporated herein by this reference, is hereby rezoned from HM, Heavy Manufacturing district, to IC, Industrial Commercial district, with Conditional Overlay District No. 184. Springfield Land Development Code, Section 36-306, 'Official zoning map and rules for interpretation,' is hereby amended, changed and modified consistent with this Ordinance.

Section 2 – City Council hereby establishes Conditional Overlay District No. 184 which shall contain the requirements and standards provided on "Exhibit A," which is attached hereto and incorporated herein by this reference as though set forth herein. The requirements of Conditional Overlay District No. 184 shall modify the requirements of the Springfield Land Development Code Section 36-434, IC, Industrial Commercial district, by requiring the property described on "Exhibit B" comply with the requirements contained in "Exhibit A."

Section 3 – City Council hereby directs the City Manager, or designee, to update the City's digital zoning map to reflect this rezoning, and City Council adopts the map thereby amended as the Official Zoning Map of Springfield, Missouri, as provided for in the Springfield Land Development Code, Section 36-306, 'Official zoning maps and rules of interpretation.'

Section 4 – The Official Zoning Map herein adopted shall be maintained and archived in the same digital form in which this Council has approved its adoption.

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 -064

FILED: 03-31-20

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 43 acres of property generally located at 2401 East Sunshine Street from HM, Heavy Manufacturing district, to IC, Industrial Commercial district; establishing Conditional Overlay District No. 184; and adopting an updated Official Zoning Map. (Staff and Planning and Zoning Commission both recommend approval.)

BACKGROUND INFORMATION: ZONING CASE NUMBER Z-5-2020/ CONDITIONAL OVERLAY DISTRICT NO. 184

The applicant is proposing to rezone approximately 43 acres of property generally located at 2401 East Sunshine Street from HM, Heavy Manufacturing to IC, Industrial Commercial and establish Conditional Overlay District No. 184.

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the subject property as appropriate for General Industry, Transportation and Utilities. This category includes industry that involves railroad service, heavy truck traffic, extensive outdoor storage, noise or odors, and the handling of raw materials. It also includes railroad yards, power plants and the airports. The land use of the subject property is a longstanding industrial use which led to it being designated as General Industry land use category, although the property exists within a commercial corridor on Sunshine Street. The adjacent properties in this area along Sunshine Street are designated as appropriate for Medium Intensity Retail, Office or Housing.

The application would allow the continuation of the existing industrial uses and permit new commercial and retail uses. The existing uses occupy a portion of the 43-acre property, and this would allow for future commercial and retail development along Sunshine Street.

The property is located at the intersection of Sunshine Street and Lone Pine Avenue, which are classified as a primary arterial and secondary arterial, respectively.

The Conditional Overlay District requires that a traffic study be submitted and approved by MoDOT. The traffic study would identify possible roadway improvements, if necessary, to accommodate future land uses.

REMARKS:

The Planning and Zoning Commission held a public hearing on March 12, 2020, and recommended to approve, by a vote of 8 to 0.

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

FINDINGS FOR STAFF RECOMMENDATION:

1. The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the subject property as appropriate for General Industry, Transportation and Utilities. This category includes industry that involves railroad service, heavy truck traffic, extensive outdoor storage, noise or odors, and the handling of raw materials. It also includes railroad yards, power plants and the airports. The land use of the subject property is a longstanding industrial use which led to it being designated as General Industry land use category, although the property exists within a commercial corridor on Sunshine Street. The adjacent properties in this area along Sunshine Street are designated as appropriate for Medium Intensity Retail, Office or Housing.

2. The application would allow the continuation of the existing industrial uses and permit new commercial and retail uses. The existing uses occupy a portion of the 43-acre property, and this would allow for future commercial and retail development along Sunshine Street.

3. This request is consistent with the City’s policies to promote infill development and increased intensity where investments have already been made in public services and infrastructure.

Submitted by:

Michael Sparlin

Michael Sparlin, Senior Planner

Recommended by:

Mary Lilly Smith

Mary Lilly Smith, Director

Approved by:

Jason A. Gage

Jason Gage, City Manager

EXHIBITS:
Exhibit A, Conditional Overlay District Provisions
Exhibit B, Legal Description
Exhibit C, Record of Proceedings
Exhibit D, Development Review Staff Report

ATTACHMENTS:
Attachment 1: Department Comments
Attachment 2: Conditional Overlay District Provisions
Attachment 3: Neighborhood Meeting Summary

Exhibit A

CONDITIONAL OVERLAY DISTRICT PROVISIONS
ZONING CASE Z-5-2020 & CONDITIONAL OVERLAY DISTRICT NO. 184

The requirements of *Section 36-343* of the *Springfield Zoning Ordinance* shall be modified herein for development within this district to include the following.

1. A traffic study is required to be submitted and approved by MODOT at the time of development.

Exhibit B

LEGAL DESCRIPTION
ZONING CASE Z-5-2020 & CONDITIONAL OVERLAY DISTRICT NO. 184

BEGINNING AT THE SOUTHEAST CORNER OF ENTERPRISE PARK, A RECORDED SUBDIVISION IN THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI, SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF SUNSHINE STREET; THENCE N 02°04'53" E, ALONG THE EAST LINE OF SAID ENTERPRISE PARK, 149.82 FEET; THENCE N 14°28'59" E, ALONG THE EAST LINE OF SAID ENTERPRISE PARK, 666.97 FEET; THENCE N 02°01'15" E, ALONG THE EAST LINE OF SAID ENTERPRISE PARK, 278.01 FEET; THENCE N 59°36'03" E, ALONG THE EAST LINE OF SAID ENTERPRISE PARK, 118.42 FEET; THENCE ALONG THE EAST LINE OF SAID ENTERPRISE PARK AND THROUGH A CURVE TO THE LEFT, HAVING A RADIUS OF 325.00 FEET AND HAVING A CENTRAL ANGLE OF 34°28'46", 195.58 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF (S1/2) OF THE SOUTHEAST QUARTER (SE¼) OF SECTION TWENTY-NINE (29), TOWNSHIP TWENTY-NINE (29) NORTH, RANGE TWENTY ONE (21) WEST; THENCE S 87°19'11" E, ALONG THE NORTH LINE OF THE S1/2 OF THE SE¼ OF SAID SECTION 29, 946.22 FEET TO THE WEST RIGHT-OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE IN A SOUTHEASTERLY DIRECTION, ALONG SAID WEST RIGHT-OF-WAY LINE AND THROUGH A CURVE TO THE RIGHT, HAVING A RADIUS OF 10693.00 FEET AND A CENTRAL ANGLE OF 07°09'53", 1337.13 FEET TO THE NORTH RIGHT-OF-WAY LINE OF SUNSHINE STREET; THENCE NORTH 87°26'27" W, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID SUNSHINE STREET, 1648.33 FEET TO THE POINT OF BEGINNING, BEING A PART OF THE PROPERTY RECORDED IN BOOK 1523, PAGE 81 AND BOOK 1522, PAGE 1970, RESPECTIVELY, IN GREENE COUNTY, MISSOURI.

Exhibit C

RECORD OF PROCEEDINGS
ZONING CASE Z-5-2020 & CONDITIONAL OVERLAY DISTRICT NO. 184
Planning and Zoning Commission – March 12, 2020

Z-5-2020 w/COD #184
2401 East Sunshine Street
Applicant: Southwest Missouri Investments, Inc.

Mr. Hosmer stated that this is a request to rezone approximately 43 acres of property generally located at 2401 East Sunshine Street from HM, Heavy Manufacturing to IC, Industrial Commercial and establish Conditional Overlay District No. 184. The Comprehensive Plan identifies this area as an appropriate for General Industry, Transportation and Utilities. The IC district is intended to allow industrial operations and activities in combination with commercial uses. The Transportation Plan classifies Sunshine Street primary arterial, Lone Pine Avenue as a secondary arterial and Enterprise Avenue as a Collector roadway. A traffic study will be submitted and approved by MoDOT to identify possible roadway improvements to accommodate the future land uses. A fee in lieu of on-site stormwater detention will not be allowed. The property is not located in a stream buffer. Staff recommends approval.

Mr. Doennig opened the public hearing.

Mr. Christopher Swan, 319 N. Main, here to answer any questions.

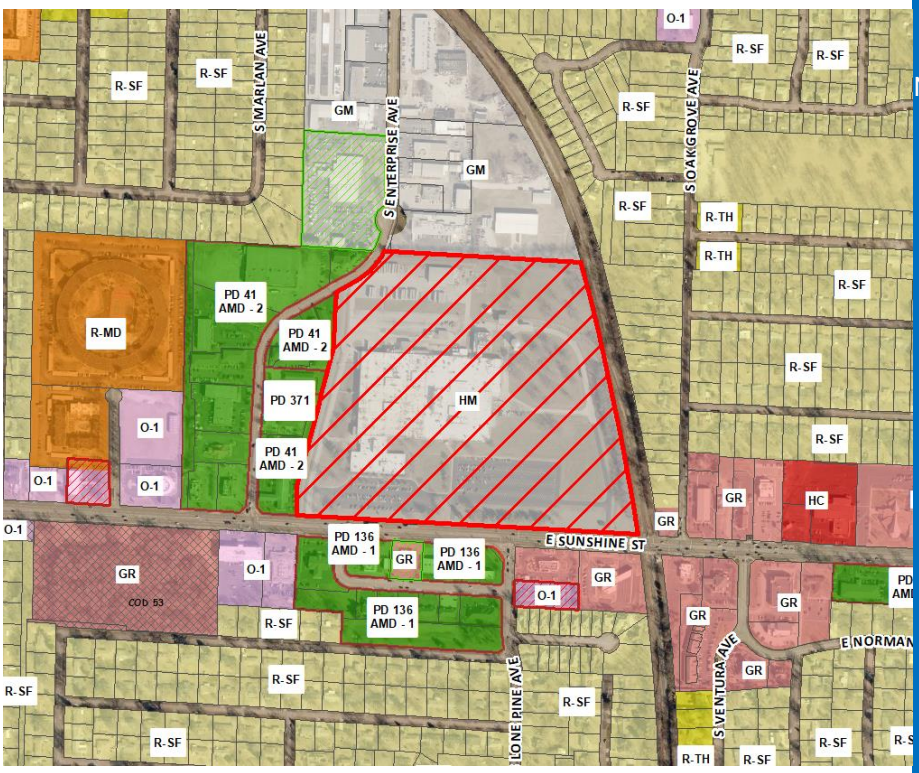
Mr. Doennig closed the public hearing.

COMMISSION ACTION:
Mr. Jobe motioned to **approve** Z-5-2020 w/COD #184 (2401 East Sunshine Street). Mr. Coltrin seconded the motion. Ayes: Doennig, Coltrin, Ogilvy, Broekhoven, Shuler, Thomas, Rose, and Jobe. Nays: None. Abstain: None. Absent: Cox.

Bob Hosmer, AICP
Planning Manager

Exhibit D

PLANNING AND ZONING COMMISSION PUBLIC HEARING:	MARCH 12, 2020
CITY COUNCIL PUBLIC HEARING:	APRIL 6, 2020



CASE NUMBER:
Z-5-2020 w/ Conditional Overlay District No. 184

PROJECT LOCATION: 2401 East Sunshine Street

ACRES: 43 acres

EXISTING LAND USE:
Industrial/Manufacturing use

APPLICANT: Southwest Missouri Investments, Inc.

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

STAFF RECOMMENDATIONS:
Approve

PROPOSED MOTION:
Move to approve Z-5-2020 w/ COD No. 184 as submitted.

SUMMARY OF REQUEST:

To rezone approximately 43 acres of property generally located at 2401 East Sunshine Street from HM, Heavy Manufacturing to IC, Industrial Commercial and establish Conditional Overlay District No. 184.

FINDINGS FOR STAFF RECOMMENDATION:

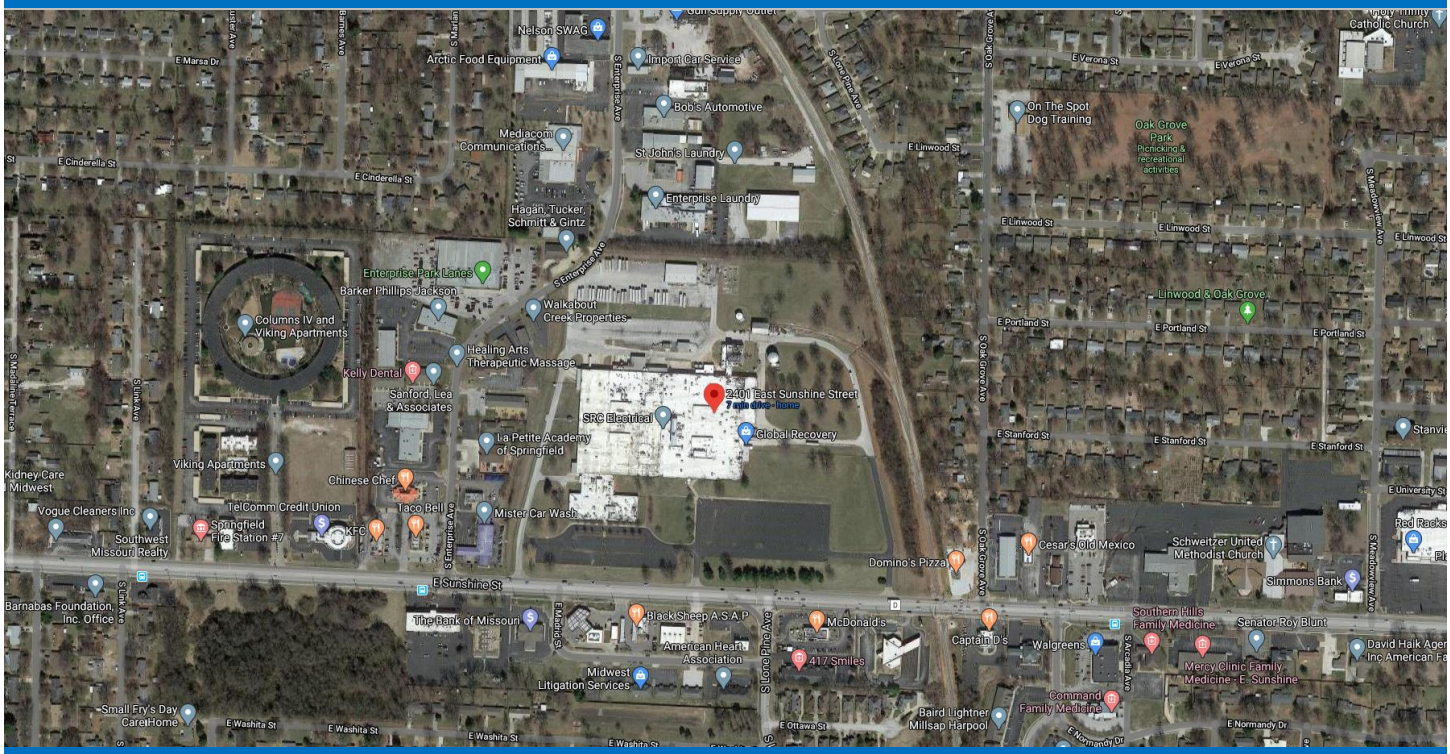
1. The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the subject property as appropriate for General Industry, Transportation and Utilities. This category includes industry that involves railroad service, heavy truck traffic, extensive outdoor storage, noise or odors, and the handling of raw materials. It also includes railroad yards, power plants and the airports. The land use of the subject property is a long-standing industrial use which led to it being designated as General Industry land use category, although the property exists within a commercial corridor on Sunshine Street. The adjacent properties in this area along Sunshine Street are designated as appropriate for Medium Intensity Retail, Office or Housing.

2. The application would allow the continuation of the existing industrial uses and permit new commercial and retail uses. The existing uses occupy a portion of the 43-acre property, and this would allow for future commercial and retail development along Sunshine Street.

3. This request is consistent with the City's policies to promote infill development and increased intensity where investments have already been made in public services and infrastructure.

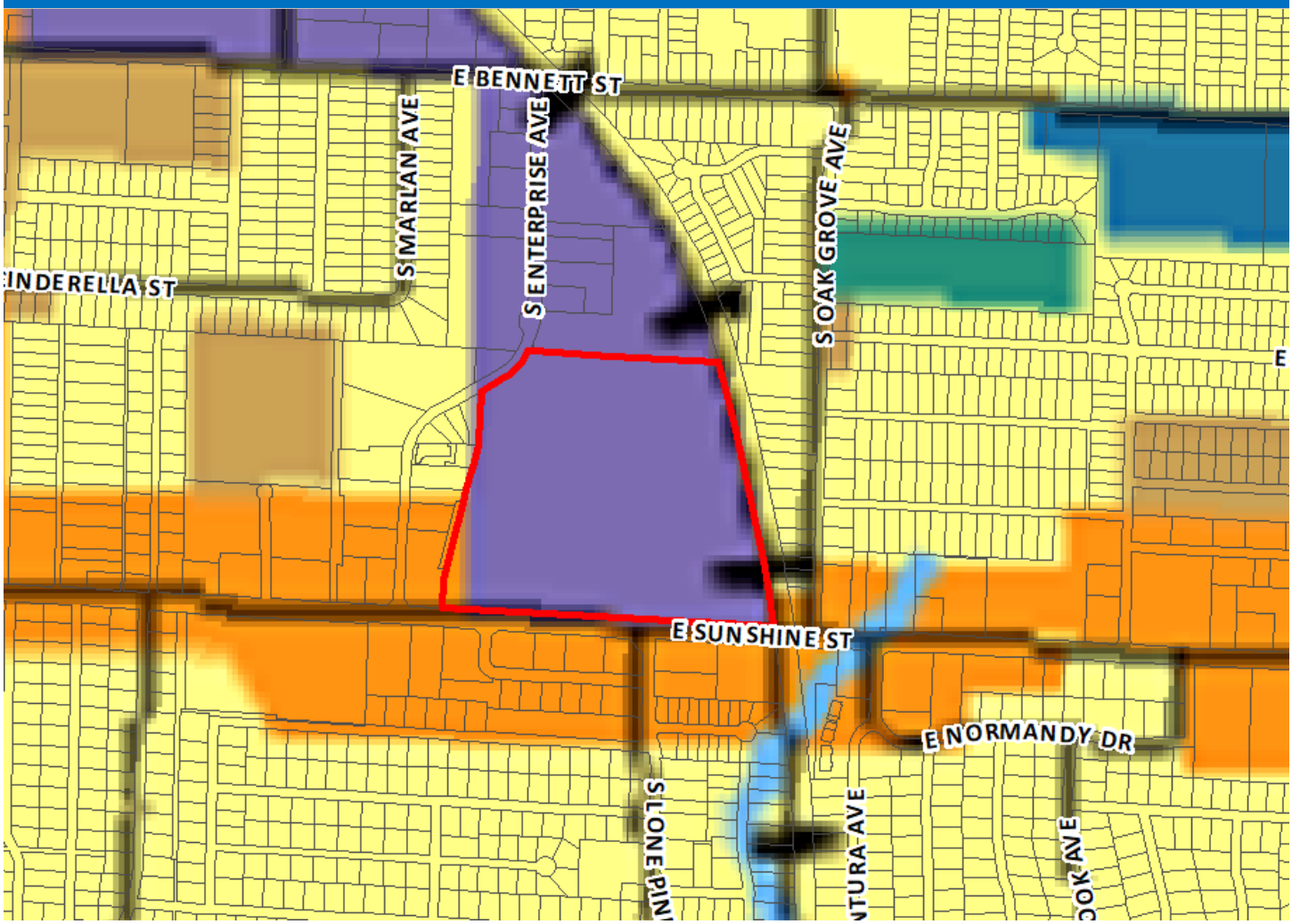
SURROUNDING ZONING AND LAND USES:				
	NORTH	**SOUTH**	**EAST**	**WEST**
ZONING	GM	GR, PD 136 Amd 1	GR, R-SF	PD 41 Amd 2, PD 371
LAND USE	Commercial Laundry cleaner	Retail and Restaurant uses	Restaurant and single-family residence	Car Wash, day care, veterinary, and other office uses.

SURROUNDING LAND USES (GOOGLE MAP AERIAL VIEW):



GOOGLE MAPS STREET VIEW:

GROWTH MANAGEMENT AND LAND USE PLAN:

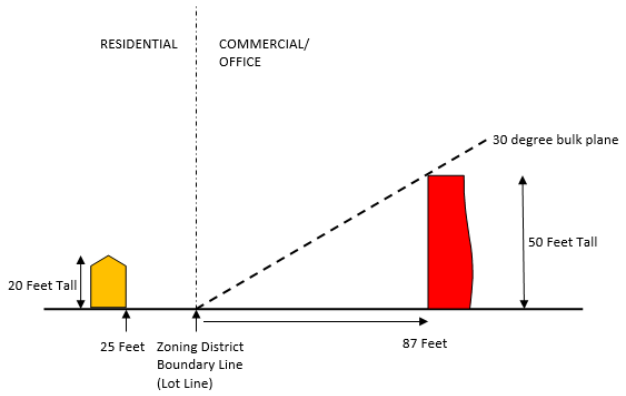


- Low-Density Housing
- Medium or High Density Housing
- Medium Intensity Retail, Office or Housing
- High Intensity Retail, Office or Housing
- Greater Downtown
- Business Park
- Light Industrial, Office and Office-Warehouse
- General Industry, Transportation and Utilities
- Park
- School
- Golf
- Community-Public
- 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 HM, Heavy Manufacturing in 1995 during the citywide re-mapping.

ZONING ORDINANCE REQUIREMENTS:

CODE ITEM	REQUIREMENTS FOR IC
Use Limitations	No dust, particulate matter, or noxious or toxic matter of any sort shall be emitted or discharged at any time. All uses shall operate in accordance with the noise standards contained in section 36-485, noise standards. All industrial operations and activities, except off-street parking and loading facilities and storage, shall be conducted wholly inside a building, or buildings. Storage may be maintained outside a building in side yards or rear yards if such storage area is screened from public streets, designated arterials or greater street classifications, and from other property, except property located in an IC, LI, GM, or HM district. All outdoor storage shall be at least 100 feet from any residential district boundary.
Maximum Structure Height	None, except that all structures shall remain below a 30-degree bulk plane as measured from the boundaries of any R-SF or R-TH district.
Minimum open space	Not less than 15 percent
Maximum impervious area	Shall not exceed 85 percent of total lot area
BULK PLANE	**BUFFERYARD AND LANDSCAPING**
30-degree bulk plane is required along the east property line adjacent to R-SF zoning.  	A bufferyard is not required when there is an intervening public street with a right-of-way width greater than 70 feet or railroad rights-of-way (does not include railroad spurs on private property) between two districts. Whenever any development in an IC industrial commercial district is located adjacent to a different zoning district, screening and a bufferyard shall be provided in accordance with sections 36-480, screening and fencing, and 36-482, landscaping and bufferyards.

COMPATIBILITY WITH COMPREHENSIVE PLAN:

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the subject property as appropriate for General Industry, Transportation and Utilities. This category includes industry that involves railroad service, heavy truck traffic, extensive outdoor storage, noise or odors, and the handling of raw materials. It also includes railroad yards, power plants and the airports. The adjacent properties in this area along Sunshine Street are designated as appropriate for Medium Intensity Retail, Office or Housing.

The property is located at the intersection of Sunshine Street and Lone Pine Avenue, which are classified as primary arterial and secondary arterial, respectively. The north part of the property is located adjacent to Enterprise Avenue which is classified as a collector roadway.

STAFF COMMENTS:

1. The applicant is proposing to rezone approximately 43 acres of property generally located at the 2401 East Sunshine Street from HM, Heavy Manufacturing to IC, Industrial Commercial and establish Conditional Overlay District No. 184.

2. The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies the subject property as appropriate for General Industry, Transportation and Utilities. This category includes industry that involves railroad service, heavy truck traffic, extensive outdoor storage, noise or odors, and the handling of raw materials. It also includes railroad yards, power plants and the airports. The land use of the subject property is a long-standing industrial use which led to it being designated as General Industry land use category, although the property exists within a commercial corridor on Sunshine Street. The adjacent properties in this area along Sunshine Street are designated as appropriate for Medium Intensity Retail, Office or Housing.

3. The IC district is intended to allow industrial operations and activities in combination with commercial uses in those areas where the combination of such uses is consistent with adopted policies and plans. This district is designed primarily to accommodate land that both meets the above intent and was zoned for industrial uses prior to the enactment of said ordinance. All industrial operations are permitted provided they are conducted inside a building, although related outdoor storage is permitted. Areas zoned IC are intended to be located primarily at major intersections in or adjacent to industrial areas and on land that is designated as a mixed industrial/commercial use area in the comprehensive plan.

4. The property is located at the intersection of Sunshine Street and Lone Pine Avenue, which are classified as a primary arterial and secondary arterial, respectively.
5. The application would allow the continuation of the existing industrial uses and permit new commercial and retail uses. The existing uses occupy a portion of the 43-acre property, and this would allow for future commercial and retail development Sunshine Street.

6. The Conditional Overlay District requires that a traffic study be submitted and approved by MoDOT. The traffic study would identify possible roadway improvements, if necessary, to accommodate future land uses.

7. This request is consistent with the City's policies to promote infill development and increased intensity where investments have already been made in public services and infrastructure.

8. The proposed rezoning was reviewed by City departments and comments are contained in Attachment 1.

NEIGHBORHOOD MEETING:

The applicant held a neighborhood meeting on February 18, 2020 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: 43 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 rezoning however we have the following comments regarding sanitary sewer;

Critical issues;
1. Public sewer is not shown as being available to the parent tract and we have no sewer permit on record for the existing buildings. Need to show how the existing buildings are served with public sewer.
2. Sewer is not available to the proposed development areas either. If these two area are to be split from the main property, public improvements will be required to extend sanitary sewer onsite. Sewer to be designed and constructed according to city design standards. The sewer extension would need to be constructed and accepted or escrowed prior to approval of a plat or issuance of a building permit.
3. Must pay Engineering, Inspection and Technology Fees, which are 5.34% of the public improvement construction costs prior to final approval of public improvement plans.
Standard comments;
4. When building plans are submitted, specify the point of connection to public sewer on the utility plan. Dimension the distance to the up and down stream manholes and the size of the proposed lateral.
5. A sewer impact permit fee will be required for all new buildings. This fee is based on the size of the proposed water meter(s) according to city code no. 120.246. Specify the size of the proposed water meter on the utility plan.
6. Any Food Service Establishment or development with a commercial kitchen must install an approved grease interceptor and may be subject to City Fats, Oils, & Grease Program annual permitting fees.
7. Any commercial development or industrial users may be subject to annual industrial user pretreatment fees exacted by the City. These fee amounts vary dependent upon the volume of water used daily, by type of industry, by various SIC codes, or by any wastewater sampling activities and lab costs incurred by the City, when applicable.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

STREET CLASSIFICATION, RIGHT-OF-WAY, & JURISDICTION

City's Transportation Plan classifies E. Sunshine Street as a Primary Arterial roadway and S. Enterprise Avenue as a Collector roadway. The standard right-of-way width for E. Sunshine Street is 50 feet from the centerline. The standard right-of-way width for S. Enterprise Avenue is 30 feet from the centerline. It appears no right of way is needed along E. Sunshine Street and an additional 5-feet of right-of-way is needed along S. Enterprise Avenue. A survey is recommended to determine the exact amount of existing right-of-way. E. Sunshine Street is maintained by MoDOT and S. Enterprise Avenue is maintained by the City.

TRAFFIC COUNTS & ON-STREET PARKING

The most recent traffic count on E. Sunshine Street is 33,340 vehicles per day. There is not a recent traffic count for S. Enterprise Avenue. On-street parking is not allowed along E. Sunshine Street or on S. Enterprise Avenue.

DRIVEWAY ACCESS

There are currently three driveway access points onto the property from E. Sunshine Street. Sunshine is under the jurisdiction of MoDOT. MoDOT's comments state that the access points may need to be changed based on how the property is redeveloped. There are no existing access points on S. Enterprise Avenue. Any new access points will have to meet the City of Springfield's driveway spacing standards for a Collector roadway.

SIDEWALK

There is not existing sidewalk along the property frontage of E. Sunshine Street or S. Enterprise Avenue. MoDOT requires a Traffic Study to be submitted for redevelopment of this property. Sidewalk is required to be constructed along the property frontage on S. Enterprise Avenue and may be required to be constructed along E. Sunshine Street based on the results of the Traffic Study.

TRAILS, BUS STOPS, & ADDITIONAL INFORMATION

There is not a Greenway Trail in the area surrounding the property pertaining to this zoning. There are two bus stops along E. Sunshine Street and no bus stops along S. Enterprise Avenue. The proposed development is in an area that provides for multiple direct connections and provides for good connectivity in the area.

IMPROVEMENTS

A Traffic Impact Study is required at the time of development, as the change in zoning significantly increases the trip generation in the AM/PM peaks by more than 100 additional trips and more than 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	E. Sunshine Street	Primary Arterial	No	50	50
Street 2	S. Enterprise Avenue	Collector	No	25	30

	AM Peak	PM Peak	Weekday	Weekend
Existing Trips Generated	287	328	1599	
***Proposed Trips Generated**	738	3198	34,440	
Additional Trips Generated	451	2,870	32,841	

*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 Galloway 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 and water quality is required according to Chapter 96. A fee in lieu of on-site stormwater detention will not be allowed and detention will be required. The property is not located in a stream buffer area. A land disturbance permit is required if the development disturbs more than one (1) acre

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 more than one acre 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. Water quality will still need to be provided if more than one acre is disturbed.

Public Works Stormwater Division	Response
Drainage Basin	Galloway 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

FIRE DEPARTMENT COMMENTS:

No objections to rezoning.

REQUIREMENTS FOR APPROVAL:

ATTACHMENT 2
CONDITIONAL OVERLAY DISTRICT PROVISIONS
ZONING CASE Z-5-2020 & CONDITIONAL OVERLAY DISTRICT NO. 184

The requirements of *Section 36-434* of the *Springfield Zoning Ordinance* shall be modified herein for development within this district to include the following.

1. A traffic study is required to be submitted and approved by MODOT at the time of development.

AFFIDAVIT OF NEIGHBORHOOD NOTIFICATION AND MEETING SUMMARY

1. Request change to zoning from: **Heavy Manufacturing** to **Industrial Commercial**
2. Meeting Date & Time: **Tuesday February 18 2020**
3. Meeting Location: **2401 East Sunshine**
4. Number of invitations that were sent: **168**
5. How the mailing list was generated: **by City**
6. Number of neighbors in attendance (attach a sign-in sheet): **six**
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).

   Everybody felt that the zoning change was fine. No issues

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

   nothing to address

I, **Geoffrey Butler** (*print name*), attest that the neighborhood meeting was held on **2/18/20** (*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 H. Butler AIA

Printed name of person completing affidavit

Neighborhood Meeting Sign-in Sheet

SRC Rezoning 2401 East Sunshine 2/18/20 4:00-6:30 PM

Max Moore 417 8396612

Jeara Varney 417-887-0898

Darla Merrett 417-887-0898

Dr. Rebecca Skinner 417-887-0898

Tom Lonsky 4178408100

SPRING VALLEY VET CLINIC

Joe Fonda 417-818-5009

PRODUCT 204-1 (Single Sheets) 205-1 (Padded)

One-rdg. X
P. Hrngs. _____
Pgs. 7
Filed 03-17-20

Sponsored by Simpson

COUNCIL BILL 2020-068 RESOLUTION _____

A RESOLUTION

DETERMINING the official intent of the City of Springfield, Missouri, to issue its Industrial Development Revenue Bonds in a principal amount not to exceed $48,000,000 to finance the costs of a project under the provisions of Sections 100.010 to 100.200 RSMo.

WHEREAS, the City of Springfield, Missouri (the "City") is authorized and empowered under the provisions of Article VI, Section 27 of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of (i) providing funds to pay the costs of such projects and to lease or sell such projects to others upon such terms and conditions as the City shall deem advisable, or (ii) loaning the proceeds from the sale of such bonds to others upon such terms and conditions as the City shall deem advisable to provide funds to pay the costs of such projects; and

WHEREAS, the Kraft Heinz Foods Company (together with any successors or assigns, the "Company"), has requested that the City (i) issue its industrial development revenue bonds in an aggregate principal amount not to exceed $48,000,000 in one or more series to provide funds to pay the costs of acquiring and installing manufacturing equipment and processes and adding product lines at the Company's plant in Springfield, Missouri (the "Project"), and (ii) lease the Project to the Company with an option to purchase the Project, for the purpose of providing property tax abatement for the Project, all in accordance with and pursuant to the Act; and

WHEREAS, the City desires to express its intent to provide tax abatement for the Project by the issuance of its industrial development revenue bonds to be issued under the Act in an aggregate principal amount not to exceed $48,000,000 in one or more series (the "Bonds"), which Bonds will be payable solely out of payments, revenues and receipts derived by the City from the lease or sale of the Project to the Company.

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

Section 1 – City Council hereby finds and determines that the Project will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City for the Project will be in furtherance of the public purposes set forth in the Act.

Section 2 – City Council determines and declares the official intent of the City to issue Bonds for the Project in an aggregate principal amount not to exceed $48,000,000, subject to the terms and conditions herein. The proceeds of the Bonds will be used to purchase, install and improve the Project and to pay all expenses and costs of the City in connection with the issuance of the Bonds.

Section 3 – Subject to the conditions of this Resolution, the City will (i) enter into a trust indenture with a bank or trust company, as corporate trustee, pursuant to which the City will issue the Bonds to pay the costs of financing the Project, including repayment to the Company of advances made by it in connection with the Project, with such maturities, interest rates, redemption terms, security provisions and other terms and provisions as may be determined by subsequent ordinance or resolution of the City; (ii) purchase the Project and enter into a lease agreement with the Company to lease (with an option to purchase) the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such security agreements and other instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of the Bonds by the City and take or cause to be taken such other action as may be required to implement the aforesaid.

Section 4 – The issuance of the Bonds and the execution and delivery of any documents related to financing the Project are subject to (i) approval of a plan for industrial development with respect to the Project by the City Council in accordance with Section 100.059.1 of the Act (the “Plan”), (ii) approval of documents as to form by the City Council of the City; (iii) approval by the appropriate officers of the Company; (iv) obtaining by the Company of any necessary governmental licenses, permits and approvals, including adoption of an approving ordinance by the City; and (v) agreement by the City, the Company and the purchasers of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project, including a PILOT agreement setting forth the terms of the property tax abatement to be described in the Plan.

Section 5 – The Company may make certain expenditures in connection with the purchase of the Project after the date of this Resolution and before the issuance of the Bonds, and the City desires and intends to reimburse the Company from proceeds of the Bonds for such expenditures.

Section 6 - By accepting the terms of this Resolution and proceeding with the Project, the Company will be considered to have agreed (i) to indemnify and hold the City harmless against liability with respect to any destruction of or damages to property

or any injury to or death of any person or persons occurring in connection with the Project (other than liability for any loss or damages that may result from misconduct or from wrongful acts of the City), and (ii) to pay the regular fees and charges of the City for its services in connection with financing the Project as well as all of its expenses in connection therewith.

Section 7 – Any provision hereof to the contrary notwithstanding, nothing herein contained shall be construed to impose a charge against the general credit of the City or to impose any pecuniary liability upon the City except with respect to the proper application of the proceeds to be derived by the City from the sale of the Bonds and of the revenues and receipts to be derived by the City from any financing, leasing or sale of the Project. Nothing herein shall be deemed to restrict the City or the State of Missouri or any agency or any political subdivision thereof in determining the order or priority of the issuance of bonds by the City or to require the City to give the Bonds priority as to issuance or as to the time of issuance over any other bonds previously or subsequently approved by the City for issue.

Section 8 – The City Attorney and Gilmore & Bell, P.C., as Bond Counsel, together with the officers and employees of the City, are hereby authorized to work with the Company and the purchaser or purchasers of the Bonds, their respective counsel and others, to prepare for submission to and final action by the City all documents necessary to effect the completion and approval of the Plan and the authorization, issuance and sale of the Bonds and other actions contemplated hereunder in connection with the financing of the Project.

Section 9 – This Resolution shall terminate in the event that some or all of the Bonds are not issued by date that is two years from the passage of this resolution, as shown below.

Section 10 – This Resolution shall inure to the benefit of the City and the Company and their respective successors and assigns.

Section 11 – This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

Passed at meeting: _____

_____
Mayor

Attest: _____, City Clerk

Filed as Resolution _____

Approved as to form: _____, Assistant City Attorney

Approved for Council action: _____, City Manager

EXPLANATION TO COUNCIL BILL 2020- 068

FILED: 03-17-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Determining the official intent of the City of Springfield, Missouri, with regard to issuing Industrial Development Revenue Bonds in a principal amount not to exceed $48,000,000, to finance the costs of a project under the provisions of Section 100.010 to 100.200 RSMo.

BACKGROUND INFORMATION: The Kraft Heinz Foods Company ("Kraft Heinz") has been a part of the Springfield community for 81 years. They began producing processed cheese in 1939 on the second floor of a building on West Mill Street before moving to their current location in 1954. They have expanded their physical plant and production lines several times and now have 780,000 square feet of production and distribution space in Springfield with over 30 production lines.

The Springfield plant produces several hundred million pounds of product annually, including such popular food items as Kraft Macaroni and Cheese, Velveeta and Kraft and Cracker Barrel Shreds and Chunks. The Springfield Kraft Heinz plant employs approximately 950 employees with an average salary of over $48,000 plus benefits. The total annual salaries and wages for the Springfield Kraft Heinz plant are approximately $47 million. Annual turnover is less than 4 percent and the average term of service is 14 years. Kraft Heinz is active in the community, donating to nonprofit organizations focused on fighting hunger and promoting healthy lifestyles.

In 2012, City Council approved issuance of $26 million in Industrial Development Revenue Bonds as part of a $55 million expansion of cheese and pasta production. This equipment, with approximate total cost of $49 million, is in use in the Springfield plant today.

In 2016, City Council approved issuance of $36 million in Industrial Development Revenue Bonds as part of a production equipment expansion. This equipment is in use in the Springfield plant today.

Company Request

The Kraft Heinz Foods Company requests City Council authorize up to $48 million in Industrial Development Revenue Bonds as an incentive to purchase and improve manufacturing equipment and processes and add product lines at the Springfield plant. The proposed project includes installation of new manufacturing lines, new processing equipment for product innovation, and improvements to existing lines and processes. Kraft Heinz anticipates that the total project investment, including installation and soft costs, will cost approximately $48 million. The investment will not result in the addition of new jobs, but it will help retain the existing jobs at the facility. The project is

competitive with other locations and the company indicates that this assistance would enhance the viability of the project and increase the likelihood that this project - and the associated job retention, capital investment, and economic and fiscal impact – will take place in Missouri. The project location decision is anticipated by Q3 2020. The company is requesting that the City consider personal property tax exemption of 75% for 5 years on the purchase of the equipment. The City's adopted policy is to grant 50% abatement for 10 years. The net impact of this request is consistent with the City's adopted policy.

Chapter 100 Industrial Development Revenue Bonds

Chapter 100 RSMo. allows local governments to issue bonds to finance industrial development projects and certain types of commercial development for private corporations, partnerships, and individuals. Upon issuance of the bonds, the company transfers ownership of the development site and/or equipment to the local government. The bond proceeds are then used to fund the construction or acquisition of the project. The company buys the bonds and repays them over a set time period. Once the bonds are completely repaid, the local government conveys titles of the site and/or equipment back to the company. Since the real and/or personal property is owned by the local government during the time the bonds are outstanding, the property is tax-exempt, however, the City of Springfield typically requires a payment in lieu of taxes for a portion of the exempted taxes. The local government has no monetary obligation with respect to repayment of the bonds.

Economic Development Incentives Policy

The *Economic Development Incentives Policy Manual,* adopted by City Council on February 22, 2011, and amended May 12, 2014, includes policies related to the use of Chapter 100, Industrial Development Revenue Bonds, for Personal Property Tax Exemption:

1. For existing businesses the total personal property to be acquired and installed must have a cost of at least $5 million and the business must create or retain a minimum of 100 jobs with an average wage equal or greater than the Greene County average wage.

2. The exemption will typically be granted at a rate of 50% on new personal property for 10 years. The City may consider an increased exemption level in those cases where the jobs created or retained pay 150% or more of the Greene County average wage. The City will typically require the company to make payments in lieu of taxes to all taxing jurisdictions in an amount equal to 50% of the exempted personal property taxes. These PILOTS will be distributed in accordance with local levies. Failure to pay PILOTS will result in termination of the tax exemption.

3. Replacement of equipment financed under a previous Springfield Chapter 100 Bond issuance is not eligible.

4. The company will be required to annually report employment numbers to the City. Tax exemption shall be terminated effective the last day of the calendar year in the event the company reduces its labor force by more than 25% from the preceding year or by more than 50% from the date of the first year of the abatement.

5. The beneficiary will be responsible for all costs relating to issuing the bonds and obtaining the exemption.

REMARKS: The purpose of this Council action is to signal Council intent to consider the use of this incentive and to direct staff to prepare an Industrial Development Plan and other financing documents. This resolution does not approve the use of any incentives for the project. The Industrial Development Plan will contain information about the level and condition of incentives and will be presented for City Council approval at a later date.

Staff recommends approval.

Submitted by:

Sarah Kerner

Sarah Kerner, Economic Development Director

Recommended by:

Mary Lilly Smith

Mary Lilly Smith, Director

Approved by:

Jason A. Gage

Jason Gage, City Manager

One-rdg. _____
P. Hrngs. _____
Pgs. 9
Filed: 03-17-20

Sponsored by: McGull

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020- 069 SPECIAL ORDINANCE _____

AN ORDINANCE

AUTHORIZING the City Manager, or designee, to execute a Preliminary Funding Agreement between the City of Springfield, Missouri, and Kraft Heinz Foods Company; and amending the budget in the amount of $50,000.00, for the purpose of funding the preparation and review of documents and other actions related to the issuance of Chapter 100 bonds.

_____

WHEREAS, Kraft Heinz Food Company is exploring the possibility of another expansion of their facilities in Springfield; and

WHEREAS, the City desires to execute a Preliminary Funding Agreement with Kraft Heinz Food Company by which the City will retain Gilmore & Bell, P.C. to prepare necessary documents for a possible Chapter 100 bond issuance to support the possible expansion; and

WHEREAS, City Council desires to amend the budget for Fiscal Year 2019-2020 in connection with said Preliminary Funding Agreement.

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

Section 1 − The City Manager, or designee, is hereby authorized to execute a Preliminary Funding Agreement with Kraft Heinz Foods Company, said agreement to be substantially in the same form and content as that document attached hereto and incorporated herein by reference as “Exhibit A.”

Section 2 − The City Manager, City Clerk, and other appropriate officers of the City are hereby authorized and directed to execute, attest, acknowledge, and deliver for and on behalf of, and as the act and deed of the City, the Preliminary Funding Agreement and such other documents, certificates, and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 3 − The budget for Fiscal Year 2019-2020 is hereby amended in the accounts and in the amounts as shown on Budget Adjustment No. 043, a copy of which is attached hereto and incorporated herein by reference as “Exhibit B.”

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: _____, Assistant City Attorney

Approved for Council Action: _____, City Manager

EXPLANATION TO COUNCIL BILL 2020-069

FILED: 03-17-20

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: Authorizing the City Manager, or designee, to execute a Preliminary Funding Agreement between the City of Springfield, Missouri, and Kraft Heinz Foods Company; and amending the budget in the amount of $50,000.00, for the purpose of funding the preparation and review of documents and other actions related to the issuance of Chapter 100 bonds.

BACKGROUND INFORMATION: Industrial Development Revenue ("Chapter 100") bonds provide partial personal property tax abatement on equipment purchases. Chapter 100 bonds do not impose a charge against the general credit of the City or impose any monetary liability upon the City for their repayment.

In 2012, the City authorized issuance of up to $26 million in Chapter 100 bonds for the purchase of equipment for the Springfield plant of Kraft Foods Group, Inc., (now "Kraft Heinz Food Group"). This equipment, with the approximate total cost of $49 million, is in use in the Springfield Plant.

In 2016, the City authorized issuance of up to $36 million in Chapter 100 bonds for the purchase of equipment for the Springfield plant of Kraft Heinz Food Group. This equipment is in use in the Springfield plant, along with approximately 90 additional employees hired as a result of the project.

REMARKS: Kraft Heinz is exploring the possibility of another expansion in Springfield and has requested to enter into a Preliminary Funding Agreement by which the City will retain Gilmore & Bell, P.C. to begin preparing the necessary documents for another possible Chapter 100 bond issuance, and Kraft Heinz will pay for the costs of preparing of the documents.

Approval of this funding agreement does not approve the issuance of bonds or any other document than the funding agreement. The funding agreement expressly provides in paragraph 8 that all future approvals are subject to legislative discretion.

The preliminary funding agreement requires that the company deposit an initial $10,000 with the City, with further deposits at various stages of the process. A budget adjustment is needed to appropriate the funds.

Staff recommends approval.

Submitted by:

Sarah Kerner, Economic Development Director

Recommended by:

Mary Lilly Smith, Director

Approved by:

Jason Gage, City Manager

Exhibit A

PRELIMINARY FUNDING AGREEMENT

This **PRELIMINARY FUNDING AGREEMENT** ("Agreement") is entered into this _____ day of _____, 2020, between the **CITY OF SPRINGFIELD, MISSOURI** (the "City"), and **KRAFT HEINZ FOOD COMPANY**, a _____ corporation (together with its successors or assigns the "Developer").

RECITALS

WHEREAS, the City is a constitutional charter city incorporated and exercising governmental functions and powers pursuant to its charter and the Constitution and the Revised Statutes of the State of Missouri; and

WHEREAS, the Developer is a _____ corporation and is authorized to conduct business in the State of Missouri; and

WHEREAS, the City has been requested by the Developer to consider an application (the "Application") for the City to issue a series of bonds (the "Bonds") in the approximate amount of $48,000,000 for the purpose of financing a project for industrial development under the provisions of Sections 100.010 to 100.200 of the Revised Statutes of Missouri (the "Act"); and

WHEREAS, if the Application is approved by the City, the City may be requested to provide such other services and assistance as may be required to implement and administer the Application through its completion; and

WHEREAS, the City does not have a source of funds to finance costs incurred for additional legal, financial and other consultants or for direct out-of-pocket expenses and other costs resulting from activities necessary to review, evaluate, process and consider the Application; and

WHEREAS, it is the City's policy that a Developer who desires assistance from the City in a public-private partnership or through the use of economic incentive tools shall demonstrate the financial ability to allow for the full and fair evaluation by the City of all development proposals and requests for economic incentives from the City; and

WHEREAS, in order for the City to fully consider and evaluate the Application, the Developer seeks to deposit funds with the City to be used by the City to pay for actual out-of-pocket expenses necessary to perform a full evaluation of the Application and engage consultants as needed for such evaluation.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Services to be Performed by Gilmore & Bell, P.C. on Behalf of the City.**

Gilmore & Bell, P.C., on behalf of the City shall:

A. Prepare a proposed plan for industrial development conforming with the Act (the "Plan");

B. Prepare a bond ordinance (the "Ordinance") and resolution of intent (the "Resolution of Intent") for consideration by the City Council of the City; and

C. Prepare a bond trust indenture (the "Indenture"), lease-purchase agreement (the "Lease Agreement") and PILOT Agreement (the "PILOT Agreement") for the transaction.

2. **Expenses.** The cost of preparing the Chapter 100 Plan and the cost-benefit analysis and preparing the Resolution of Intent will be $10,000 which amount is due upon the later of the adoption of the Resolution of Intent or the execution of both parties of this Agreement (the "Deposit"). An additional $10,000 would be due upon the distribution by Gilmore & Bell, P.C. of the initial drafts of the Ordinance, Indenture and Lease Agreement, and a further additional amount of up to $30,000 would be due at the time the Bond issue is closed (collectively, the "Additional Funds").

3. **Additional Funding.**

A. The City shall submit statements to the Developer for the amounts due as set forth under **Section 2.** The Developer shall pay the City the amounts set forth on such statements within ten (10) days of receipt thereof, provided that the final payment shall be paid concurrently with the closing of the Bonds. If such funds are not so received, the unpaid balance shall be subject to a penalty of two percent (2%) per month until paid, but in no event shall such penalty exceed twenty-four percent (24%) per annum, and City shall be relieved of any and all obligations hereunder until paid or may terminate this Agreement pursuant to **Section 6**. Developer shall supply the Deposit and Additional Funds in a timely manner so that City activities may continue without interruption.

B. The City and the Developer agree that the expenses incurred hereunder will be related to the City retaining Gilmore & Bell, P.C., for special legal counsel and bond counsel services. The parties agree that Gilmore & Bell, P.C. will represent only the City in the transaction and that an attorney-client relationship will exist between Gilmore & Bell, P.C. and the City.

4. **Disbursement of Funds.** The City shall disburse the Deposit and Additional Funds for payment in accordance with its normal procedures.

5. **Further Administration and Expenses**. The documents authorizing the issuance of the Bonds are anticipated to commit the Developer to payment of certain ongoing fees and expenses as shall be set forth therein.

6. **Termination.**

A. In the event the Developer fails to perform any of its obligations herein, the City may terminate this Agreement, and any other agreement between the parties, at its sole discretion if the Developer fails to cure the default within ten (10) days after written notice to the Developer of the default. Termination by the City shall also terminate any duties and obligations of the City with respect to this Agreement, including, but not limited to, the City's processing of Developer's Application and preparation, review and processing of the Documents. Upon such termination, the City shall retain the Deposit and Additional Funds, if any, necessary to pay or reimburse the City for all expenses incurred under this Agreement to the date of termination.

B. The parties hereto acknowledge that the Developer may determine to abandon the Application. Upon written notice of abandonment by the Developer, this Agreement shall terminate and the City may terminate any other agreement between the parties and shall retain the Deposit and Additional Funds, if any, necessary to reimburse the City for all expenses incurred under this Agreement to the date of termination and any monies due and owing to the City pursuant to any other agreement.

C. Upon termination of this Agreement, in the event the Deposit and Additional Funds are insufficient to reimburse the City for the outstanding expenses of the City payable hereunder, the Developer shall reimburse the City as set forth in **Section 3**. After termination of this Agreement, any amounts remaining from the Deposit and the Additional Funds after all amounts have either been paid as directed by, or reimbursed to, the City shall be returned to the Developer.

D. This Agreement may be terminated by mutual agreement of the City and the Developer by mutual written consent to be executed after the Application is approved.

7. **Notice.** Any notice, approval, request or consent required by or asked to be given under this Agreement shall be deemed to be given if in writing and mailed by United States mail, postage prepaid, or delivered by hand, and addressed as follows:

To the City:	To the Developer:
City of Springfield, Missouri	_____
840 Boonville	_____
Springfield, Missouri 65801	_____
Attn: City Attorney	Attn: _____
With a copy to:	With a copy to:
David Martin	_____
Gilmore & Bell, P.C.	_____
2405 Grand Blvd., Suite 1100	_____
Kansas City, Missouri 64108	_____

Each party may specify that notice be addressed to any other person or address by giving to the other party ten (10) days prior written notice thereof.

8. **City Requirements and Prior Approval.** The Developer agrees to comply with all applicable laws and City ordinances, including, but not limited to, the City's zoning ordinances, subdivision regulations and all planning or infrastructure requirements related to the development of Developer's property. The parties agree that execution of this Agreement in no way constitutes a waiver of any requirements of applicable City ordinances or policies with which the Developer must comply and does not in any way constitute prior approval of any future proposal for development, including the Application. The parties understand that the City may not lawfully contract away its police powers and that approval of the Application and any zoning, subdivision and similar development applications cannot be contractually guaranteed. This Agreement does not alter or diminish the City's ability to exercise its legislative discretion to consider the Application in accordance with the Act and all applicable laws any other applications with respect to development of Developer's property.

The parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

CITY OF SPRINGFIELD, MISSOURI

By: _____
Jason Gage, City Manager

(SEAL)

ATTEST:

_____
City Clerk

Approved as to form

By: _____
Assistant City Attorney

KRAFT HEINZ FOOD COMPANY

By: _____

Name: _____

Title: _____

CITY OF SPRINGFIELD, MO
BUDGET ADJUSTMENT

Exhibit B

Budget Adjustment
043

Revenues:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
22500	17	60210	414100	100460	00000	$ 50,000	Kraft Heinz Food Company Preliminary Funding Agreement
Net Revenue Adjustment						$ 50,000	

Expenditures:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
22500	17	60210	504580	100460	00000	$ 50,000	Kraft Heinz Food Company Preliminary Funding Agreement
Net Expenditure Adjustment						$ 50,000	

Fund Balance Appropriation:

Fund		Title	Amount
			-

Explanation: To amend the FY2019-2020 budget for a preliminary funding agreement with Kraft Heinz Food Company in association with legal fees.

Requested By:

Mary Lilly Smith 03/17/20
Department Head Date

Approved By:

03/17/20
Director of Finance Date

City Manager Date

Authorization:

Council Bill No. 2020-069
Ordinance No.
1st Reading
2nd Reading
Journal Imp No.

One-rdg. _____
P. Hrngs. _____
Pgs. 9
Filed: 03-31-20

Sponsored by: Ollis

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020- 067 SPECIAL ORDINANCE _____

AN ORDINANCE

AUTHORIZING the City Manager, or his designee, to enter into a license agreement with Sun Belt Environmental Services, Inc., for the purpose of installing and maintaining four monitoring wells on public right-of-way at the site of the former Litton Systems property generally located at 4811 West Kearney Street to monitor groundwater conditions at no cost to the City.

WHEREAS, an environmental investigation is being conducted at the former Litton Systems property generally located at 4811 West Kearney Street; and

WHEREAS, this investigation is being conducted with oversight from the Missouri Department of Natural Resources; and

WHEREAS, part of said environmental investigation is the installation and maintenance of four monitoring wells at said location; and

WHEREAS, Sun Belt Environmental Services, Inc., requires the permission of the City to install and maintain monitoring wells in the City right-of-way; and

WHEREAS, said agreement is at no cost to the City.

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

Section 1 – The City Manager, or his designee, is hereby authorized to enter into a license agreement with Sunbelt Environmental Services, Inc., said agreement to be substantially similar to the document attached hereto and incorporated herein by this reference as "Exhibit A."

Section 2 – 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- 067

FILED: 03-31-20

ORIGINATING DEPARTMENT: Public Works

PURPOSE: Authorizing the City Manager, or his designee, to enter into a License Agreement with Environmental Works, Inc., to install and maintain four monitoring wells on public right-of-way at the site of the former Litton Systems property generally located at 4811 West Kearney Street to monitor groundwater conditions at no cost to the City.

BACKGROUND INFORMATION: The purpose of the monitoring wells is for an environmental investigation taking place at 4811 West Kearney Street, the former Litton Systems property. This investigation is being conducted with the oversight and approval of the Missouri Department of Natural Resources. The proposed monitoring wells will be placed within public right-of-way on Willard Road in proximity to what is shown on "Exhibit B." Each location, shown on the exhibit as Willard S1 and Willard S3, will have two monitoring wells. One drilled to an approximate depth of 300 feet and one drilled to an approximate depth of 900 feet, depending on field conditions. The wells are planned to be flush with the ground when completed, to not be an obstruction to snow removal or other city activities.

The License Agreement permits the consultant to install and maintain four (4) monitoring wells in the public right-of-way in a location and in a manner approved by a designated representative of the Director of Public Works. The City has previously granted permission to install similar wells in other locations and there is no cost to the City. Proof of insurance has been received by the Department of Public Works to protect the interests of the City of Springfield in connection with this project.

Supports the following City Council Priorities:

- Quality of Place
- Economic vitality
- Public Safety

REMARKS: Public Works recommends approval of this Council bill.

Submitted by:

_____

Martin Gugel, Assistant Public Works Director

Recommended by:

Dan Smith, Director of Public Works

Approved by:

Jason Gage, City Manager

Exhibit A

ROUTING ORDER	(1) ORIGINATING DEPARTMENT	(2) LICENSEE	(3) FINANCE DEPARTMENT
	(4) LAW DEPARTMENT	(5) CITY MANAGER'S OFFICE	(6) CITY CLERK'S OFFICE
EFFECTIVE DATE	TERMINATION DATE	CONTRACT NUMBER:	

( ) NEW CONTRACT ( ) RENEWAL OF CONTRACT NO. _____

CITY	LICENSEE
CITY OF SPRINGFIELD	ENVIRONMENTAL WORKS, INC.
840 BOONVILLE, PO BOX 8368	1455 E. CHESTNUT EXPRESSWAY
SPRINGFIELD, MO 65802	SPRINGFIELD, MO 65802
PHONE: 417- 864-1801 FAX: 417-864-1983	PHONE: 816-807-8417
ATTN: DAN SMITH	ATTN: TREVOR LOWRY (ENVIRONMENTAL WORKS)
DEPT: PUBLIC WORKS	Tlowry@environmentalworks.com

LICENSE AGREEMENT
FOR MONITORING WELLS

This License Agreement, made and entered into this ____ day of _____, 20___, by and between Environmental Works, Inc., a Missouri corporation (hereinafter "Licensee") and the City of Springfield, Missouri, a municipal corporation, (hereinafter "City").

WITNESSETH:

Whereas, the City of Springfield, Missouri, is the owner of certain street right-of-way located near 4811 W. Kearney in Springfield, Missouri, and

Whereas, Licensee is a Missouri corporation in good standing, with its principal offices at 1455 E. Chestnut Expressway, Springfield, Missouri, 65802, and

Whereas, Licensee is an environmental consulting firm which provides sampling and analysis services in connection with hazardous releases from underground storage tanks and other sources, and

Whereas, Licensee has been retained for the purpose of performing site characterization studies, and

Whereas, the Missouri Department of Natural Resources has requested a system of monitoring wells be installed in an area which includes the City property,

NOW, THEREFORE, for and in consideration of the mutual promises and agreements herein contained, it is agreed by the City and Licensee, as follows:

1. License to Install and Maintain Groundwater Monitor Wells: City hereby grants to Licensee, its subcontractors, employees and agents, a license to enter upon City property for the purpose of installing, testing, repair and maintenance of four groundwater monitor wells in connection with its environmental site characterization study, said monitoring wells to be installed as near as feasible to the location shown on **Exhibit A**, which is attached hereto and incorporated by reference. This license shall commence on the date of the execution of this agreement and shall continue until terminated by either party. Upon termination, all well equipment shall be removed, the wells properly capped and covered by Licensee and the right-of-way premises restored to the satisfaction of City upon termination of this license.

2. Location of Monitoring Wells: The monitoring wells location selected by Licensee shall be approved by of the Director Public Works, or their authorized designee, prior to installation, who may regulate the time of the work and may require the work to be stopped at any time, in their discretion. Licensee, however, shall have full responsibility for the location of the monitoring wells installed. Installation and removal of the wells shall be undertaken pursuant to an excavation permit from the Director of Public Works,

subject to the requirements of applicable City Ordinances. Licensee shall conduct its activities so as to minimize any damage to City property and interference with the movement of motor vehicles in the areas where the monitoring wells are installed. Adequate guards and warning signs or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices will be provided by Licensee during construction. The monitoring wells shall not be installed below a depth of thirty (30) feet without express approval of the City and compliance with applicable City Ordinances. The monitoring wells shall be protected by metal covers flush with grade and the wells shall be constructed below ground level upon completion. Casings shall contain a locking device to prevent unauthorized access to the wells. No subsurface water drawn from the wells shall be stored on City premises. Well equipment shall conform to the description in **Exhibit B** attached hereto.

3. Indemnity: Licensee, in consideration for the grant of this license, agrees to defend and indemnify, and save the City and its duly elected officials, employees and agents, harmless from any and all claims, demands, causes of action, damages, judgments, costs, attorney fees or expenses, of any sort or kind whatsoever, including all damages for any injuries to person or persons, including death, or to property, arising out of or in connection with the activities on the property by Licensee, its subcontractors, agents and employees, notwithstanding any possible negligence on the part of the City, its duly elected officials, agents or employees, whether sole, concurrent or otherwise.

4. Insurance: 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, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Springfield 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. 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

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/sovimmunity.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.
Employer's Liability……. $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Nine Hundred Five Thousand Six Hundred Sixty-Four and no/100 Dollars ($2,905,664.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Thirty-Five Thousand Eight Hundred Forty-Nine and no/100 Dollars ($435,849.00) 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.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Nine Hundred Five Thousand Six Hundred Sixty-Four and no/100 Dollars ($2,905,664.00) for all

claims arising out of a single accident or occurrence and at least Four Hundred Thirty-Five Thousand Eight Hundred Forty-Nine and no/100 Dollars ($435,849.00) 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 through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

5. Conformity with Environmental Regulations: Licensee shall not cause or create any environmental hazards on the property, nor violate any other governmental laws or regulations which may be applicable to its activities on the premises and shall obtain any and all licenses, permits or consents which may be required for its activities on the premises. Licensee shall insure that its activities do not interfere, directly or indirectly, with any City operations. Licensee shall insure that any subcontractor shall comply with the requirements of this paragraph.

6. Restoration of Premises: Licensee will, at its own expense, promptly upon completion of the work, restore the premises to their pre-existing condition and to the satisfaction of the Director of Public Works.

7. Change in Grade: If the City changes the grade of the right-of-way, or changes the location of the street surface, improvements, structures or appurtenances located thereon during the term of the license, or any extensions thereof, thereby necessitating work on or relocation of the well, such work or relocation shall be at Licensee's sole cost and expense.

8. Compensation: No compensation will be payable from the City to Licensee, nor will Licensee be required to pay to City any rent or other fee for entry upon City premises, in accordance with this agreement.

9. Conflict of Interest: Licensee certifies that no member or officer of its corporation is an officer or employee of the City, or any of its boards or agencies, and further that no officer or employee or the City has any financial interest, direct or indirect, in this contract, nor is there any conflict of interest under state law.

10. Discrimination: The Licensee agrees not to discriminate on the basis of or because of the race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any person in connection with it activities under the license.

11. Assignment: This License may not be assigned to any other party. City must approve any subcontractor performing work under this license.

12. Notices: Any notices given under this agreement shall be in writing and may be delivered in person or by facsimile transmission, to City, addressed to City Attorney, City of Springfield, 840 Boonville, Springfield, Missouri 65802, or to Licensee, addressed to Environmental Works, Inc., 1455 E. Chestnut Expressway, Springfield, Missouri 65802.

13. Entire Agreement: This document and the Exhibits attached hereto contains the entire agreement between 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.

14. Applicable Law: This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri and in litigation pertaining hereto venue shall be proper only in the Circuit Court of Greene County, Missouri.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year first written above.

APPROVED AS TO FORM

_____
Assistant City Attorney, or their designee

Environmental Works, Inc.

By:
_____

Printed Name:
_____

Title:
_____

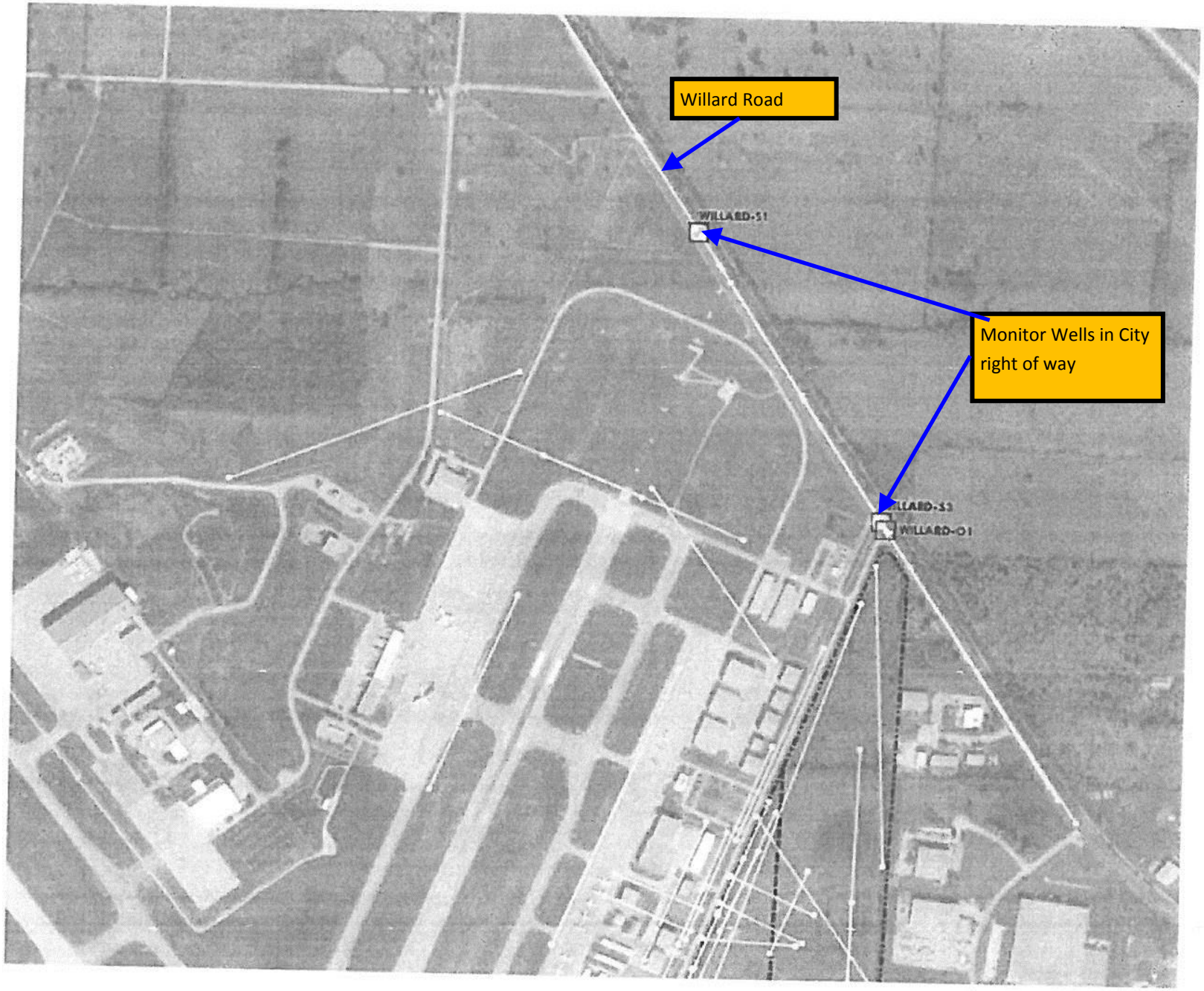
Date: _____

CITY OF SPRINGFIELD, MISSOURI

By:
_____
Assistant City Manager, or their designee

Date: _____

Exhibit B


Willard Road
WILLARD-S1
Monitor Wells in City right of way
WILLARD-O1

One-rdg. X
P. Hrngs. _____
Pgs. 3
Filed: 03-17-20

Sponsored by: McClure

COUNCIL BILL 2020- 072 RESOLUTION _____

A RESOLUTION

CONFIRMING the appointments of Ryan Dock, Connie Rhoades Hinds, Irene Schaefer, and Justin Skinner to the Commercial Street Community Improvement District Board of Directors. (Staff and the Commercial Street Community Improvement District Board of Directors recommend approval.)

WHEREAS, on June 15, 2009, City Council passed Special Ordinance 25611 approving a petition requesting the formation of the Commercial Street Community Improvement District ("CID") and thereby establishing the same; and

WHEREAS, said petition established the qualifications and process for appointing members of the CID Board of Directors through appointment by the Mayor with confirmation by City Council; and

WHEREAS, there is presently a need to appoint four members to the Board of Directors; and

WHEREAS, the Mayor recommends the appointment of Ryan Dock, Connie Rhoades Hinds, Irene Schaefer, and Justin Skinner to the Commercial Street Community Improvement District Board of Directors.

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

Section 1 – City Council hereby confirms the appointment of Ryan Dock to the Commercial Street Community Improvement District Board of Directors, with his term to expire on July 13, 2021; and City Council hereby confirms the appointments of Connie Rhoades Hinds, Irene Schaefer, and Justin Skinner to the Commercial Street Community Improvement District Board of Directors with their terms to expire on July 13, 2023.

Section 2 – This Resolution shall be in full force and effect immediately upon adoption.

Passed at meeting: _____

_____
Mayor

Attest: _____, City Clerk

Filed as Resolution _____

Approved as to form: _____, Assistant City Attorney

Approved for Council action: _____, City Manager

EXPLANATION TO COUNCIL BILL 2020- 072

FILED: 03-17-20

ORIGINATING DEPARTMENT**:** Planning and Development

PURPOSE: To confirm the appointment of Ryan Dock, Connie Rhoades Hinds, Irene Schaefer, and Justin Skinner to the Commercial Street Community Improvement District Board of Directors. (Staff and the Commercial Street Community Improvement District Board of Directors recommend approval.)

BACKGROUND: As required by the petition establishing the Commercial Street Community Improvement District ("CID"), City Council must confirm appointments to the CID Board of Directors. The CID Board of Directors recommends the following appointments to the Board:

Seat	Name	Qualification	Term Beginning	Term Expiring	Notes
1	Connie Rhoades Hinds	Business owner	7/13/2019	7/13/2023	New appointment
2	Irene Schaefer	Business owner	7/13/2019	7/13/2023	New appointment
3	Justin Skinner	Registered voter	7/13/2019	7/13/2023	New Appointment
4	Ryan Dock	Property owner	7/13/2017	7/13/2021	New appointment to fill unexpired term

REMARKS: Staff recommends approval.

Submitted by:

Matt D. Schaefer, AICP
Senior Planner

Recommended by:

Mary Lilly Smith, Director

Approved by:

Jason Gage, City Manager

One-rdg. _____
P. Hrngs. _____
Pgs. 15
Filed: 03-03-20

Sponsored by: Ferguson

First Reading: _____ Second Reading: _____

COUNCIL BILL 2020- 058 SPECIAL ORDINANCE _____

AN 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.)

WHEREAS, an original Preliminary Plat of Doling Landing dated January 20, 2020, is on file in the Department of Planning and Development; and

WHEREAS, on February 13, 2020, the Planning and Zoning Commission met and approved the Preliminary Plat of Doling Landing which is generally located at 2520 North Bolivar Road a copy of the Record of Proceedings from said meeting are attached hereto as “Exhibit A” and incorporated herein by this reference.

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

Section 1 – City Council hereby authorizes the Director of Planning and Development, on behalf of the City of Springfield, to accept the dedication of public streets and easements as shown on the Preliminary Plat of Doling Landing, which is generally located at 2520 North Bolivar Road, as approved by the Planning and Zoning Commission. The original plat of Doling Landing is on file in the Department of Planning and Development (“Approved Preliminary Plat”), a reduced version of which is attached hereto for general reference as “Exhibit B – Attachment 3” and all of “Exhibit B,” including any and all attachments, is incorporated herein by this reference.

Section 2 – The Director of Planning and Development shall be authorized to accept the land, easements, and improvements dedicated to the City, as shown on the

Approved Preliminary plat, upon the filing and recording of a final plat in accordance with this Ordinance and the Subdivision Regulations of the City, which final plat shall substantially conform to the Approved Preliminary Plat, including those conditions described in “Exhibit B – Attachment 2” and upon the Director of Public Works certifying to the Director of Planning and Development and the City Clerk that the public improvements have been made in accordance with City standards and specifications. Said public improvements shall not be accepted until the occurrence of the above written conditions.

Section 3 – The final plat shall not be recorded until: (1) the public improvements relating to the Approved Preliminary Plat have been constructed according to the specifications of the City of Springfield, Missouri, and are approved by the Director of Public Works, and all engineering fees, permit fees, licenses, and other fees occasioned by or in connection with the construction of said improvements have been paid to the City; or (2) in lieu of the construction of the improvements, that the Applicant has filed with the City Manager, according to the terms of the Subdivision Regulations of the City, the prescribed financial assurances in a form acceptable to the City to ensure the construction of the improvements and the payment to the City of all engineering fees, permit fees, licenses, and other fees occasioned by, or which will be occasioned by, the construction of the improvements.

Section 4 – Upon compliance with all the requirements of this Ordinance, including the conditions described in “Exhibit B – Attachment 2” the City Clerk is hereby authorized to endorse City Council’s approval upon the final plat pursuant to Section 445.030, RSMo., and such endorsement shall constitute the acceptance of the Public Improvements contained therein.

Section 5 – This Ordinance shall be in full force and effect from and after its passage and is subject to Section 36-226 of the Land Development Code.

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 - 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

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

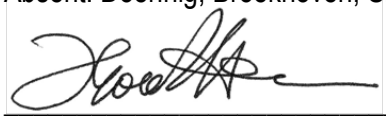
Mr. Hosmer stated that this is a request to approve a 4.78 acre 24-lot residential subdivision located at 2520 North Bolivar Road. The Comprehensive Plan identifies this area as appropriate for Medium Intensity Retail, Office or Housing. The Transportation Plan classifies Bolivar Road as a Local Street 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.

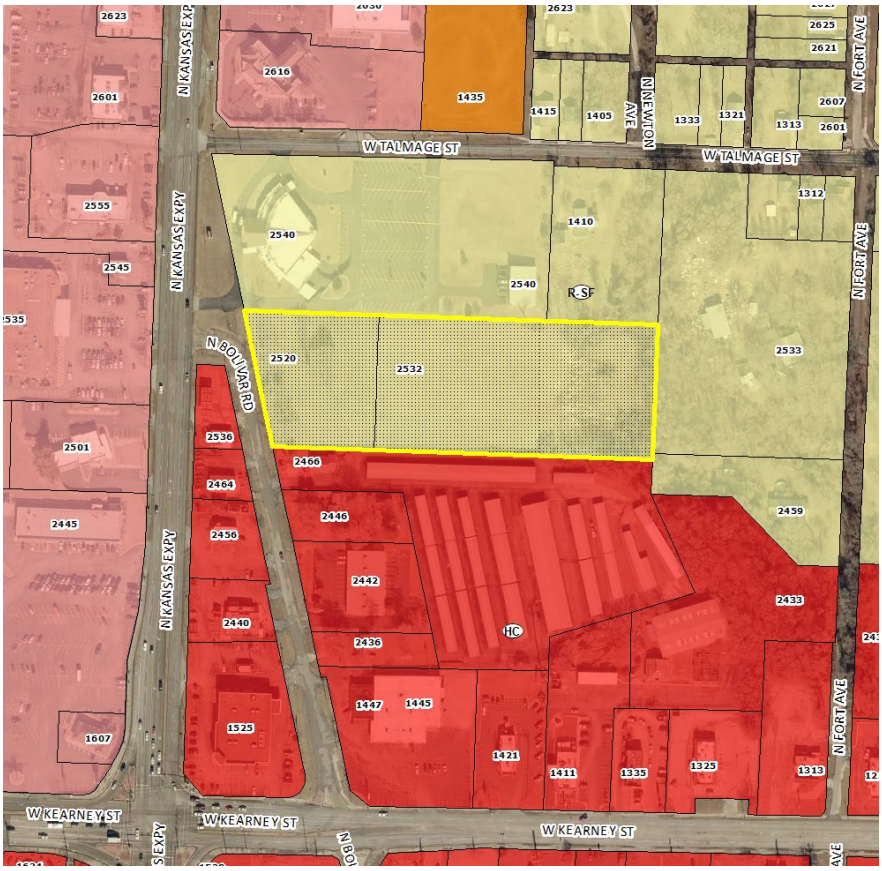


Bob Hosmer, AICP
Planning Manager

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*.

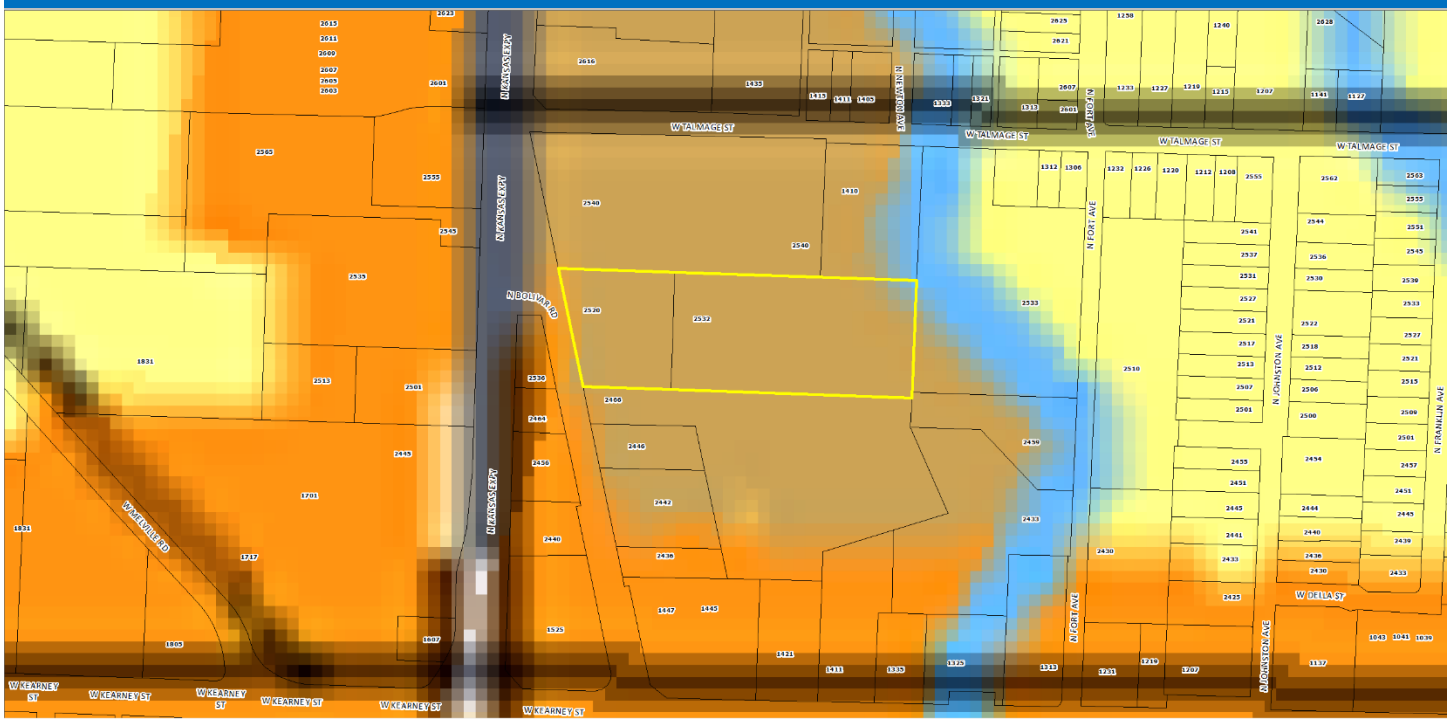
SURROUNDING ZONING AND LAND USES:

	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
See Maximum Structure Height	*No bufferyards required*

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.

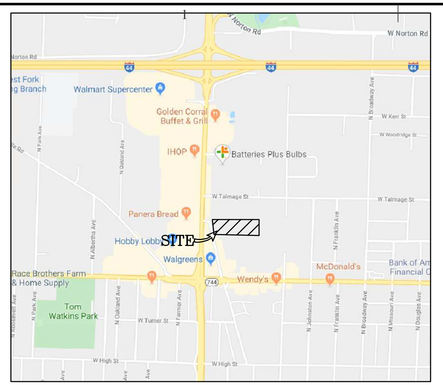
PRELIMINARY PLAT FOR DOLING LANDING

SPRINGFIELD,GREENE COUNTY, MISSOURI

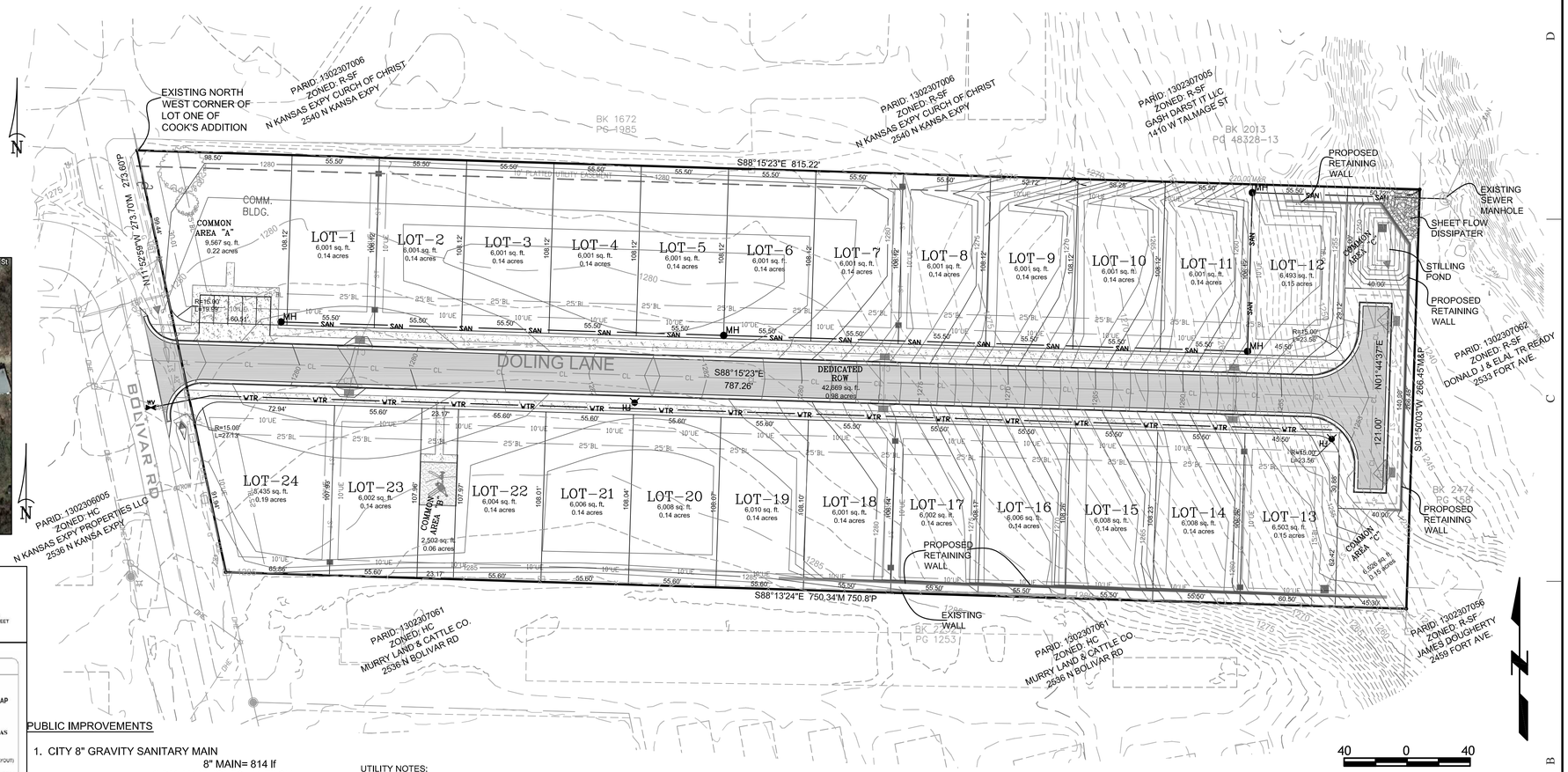
ATTACHMENT 3

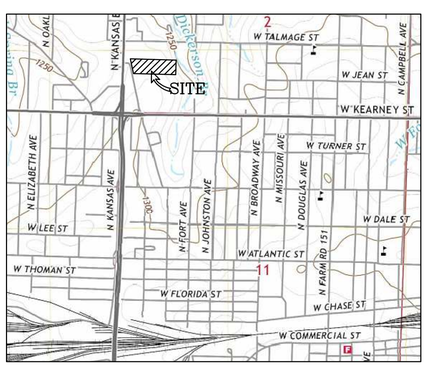
LAND OWNER:
PARID: 1302307011
PARID: 1302307054
ZONED: R-SF
BARBRA CTR HALL
2570 N BOLIVAR RD

DEVELOPER:
RAGA PROPOERTIES LLC
1855 S INGRAM MILLS RD SUITE 201
SPRINGFIELD, MO 65804
PHONE: (417)861-0522



LOCATION MAP





PUBLIC IMPROVEMENTS

1. CITY 8" GRAVITY SANITARY MAIN
   8" MAIN= 814 lf
   4' DIA MAN HOLES = 4 EACH
2. WATER MAIN
   8" MAIN = 755 lf
   8" VALVES= 1 EACH
   FIRE HYDRANTS = 2 EACH
4. CITY STREET
   CITY CURB = 1,794 lf
   ASPHALT PAVEMENT = 19,259 sf
5. CITY STORM
   18" PIPE = 1,030 LF
   STANDARD CURB INLETS = 8 EACH
   STANDARD JB / AREA INLETS = 2 EACH

UTILITY NOTES:
1. SANITARY SEWER MAIN SHALL BE BUILT TO CITY STANDARDS AND DEDICATED TO THE CITY ALONG WITH A 15' UTILITY EASEMENT.
1. WATER MAIN SHALL BE BUILT TO CITY STANDARDS AND DEDICATED TO THE CITY ALONG WITH A 15' UTILITY EASEMENT.

STORM SEWER NOTE:
1. WE HAVE NOT PROPOSED A STORM WATER DETENTION BASIN DUE TO THE CLOSE PROXIMITY OF THE FLOOD PLAIN AND EXISTING CREEK. THE CLIENT WILL COPENSATE THE CITY FOR REGOINAL STORM WATER PLAN.
2. WE PROPOSE TO COLLECT THE STORM RUNOFF WITH A PUBLIC STORM STURTURES AND PIPES WITHIN THE CITY ROW OR EASEMENTS.
3. ALL STORM SYSTEMS OUT SIDE CITY ROW OR EASEMENT WILL BE PRIVATE TO BE MAINTAINED BY THE HOA.
4. WE HAVE PROPOSED THESE STORM SYSTEMS OUTLET INTO A STILLING POND TO THE SHEET FLOW OFF THE PROPERTY TO THE EAST INTO THE EXISTING CREEK.

40 0 40
1"=40'

PERVIOUS VS IMPERVIOUS CALCULATIONS

LOT SIZE	208,398 SF
IMPERVIOUS SURFACES	
BUILDINGS, PORCHES, DRIVES,	77,500SF
STREET	25,373 SF
WALKS/MISC.	8,107SF
TOTAL	110,980SF
CALCULATIONS	
-/- =	53% IMPERVIOUS
	47% PERVIOUS (GREEN)

SYMBOL LEGEND

PROPOSED		EXISTING
MH	Manhole	MH
C.I.	Curb Inlet	C.I.
JB	Junction Box	JB
FI	Field Inlet	FI
FES	Flared End Section	FES
FH	Fire Hydrant	
BO	Blow Off	
WV	Water Valve	
WM	Water Meter	WM
	Straddle	
	Utility Pole	
	Guy Wire	
	Electric Transformer	
	Telephone Pedestal	
	Cable Pedestal	
CO	Clean Out	CO

LINE LEGEND

PROPOSED		EXISTING
ST	Storm Line	ST
SAN	Sanitary Line	SAN
WTR	Water Line	
25' BL	Building Line	BL
	Easement Line	
	4' Sidewalk	
	2' Curb	
840	Contour	840
	Tree Line	
X	Fence Line	X
G	Gas Line	G
	Overhead Telephone Line	OHT
	Underground Telephone Line	UGT
	Overhead Electrical Line	OHE
	Underground Electrical Line	UGE

NOTE:
1. EXISTING ZONING =R-SF
2. TOTAL SINGLE FAMILTY LOTS = 24
3. TOTAL UNITS = 24
4. TOTAL AREA =4.78ac
5. TOTAL GREEN SPACE TRACT A, B, C = 0.43ac
6. TOTAL DEDICATED ROW =0.94ac
7. TOTAL PERCENT OPEN SPACE = 0.45/ 4.78 =9% OPEN SPACE
8. TOTAL DEDICATED ROW = 0.98ac
9. TOTAL UNIT DENSITY = 24/4.78=5.02units/acre

LEGAL DESCRIPTION:
ALL OF COOK'S ADDITION, INCLUDING LOTS ONE THROUGH FORU ANS THAT PORTION SHOWN AS "RESERVED FOR FUTURE DEVELOPMENT" AS RECORDED IN PLAT BOOK "U" AT PAGE 57, CITY OF SPRINGFIRLD, GREENE COUNTY, MISSOURI.

BASIS OF BEARINGS:
ALL SURVEY MONUMENTS ARE TIED TO MISSOURI STATE PLANE COORDINATE SYSTEM OF1983. CENTRAL ZONE. GPS TIES TO STATION "GR-24"

N: 158110.276m
E: 428090.516m
ELEV: 376.4m
SCALE FACTOR: 0.9999443
DISTANCES SHOWN ARE GROUND DISTANCES

BENCHMARK
CITY OF SPRINGFIELD BM #228

NE CORNER, KANSAS EXPRESSWAY AND KEARNEY AVENUE
ELEV: 1293.33 (NAVF 1988)

	REQUIRED	PROPOSED
LOT WIDTH MIN MAX	50'-MIN	50'- MIN
LOT AREA	6,000-SF. MIN	6,000 S.F. MIN
FRONT YARD SETBACK	25' MIN	25' MIN
CORNER SIDE SETBACK	15' MIN	15' MIN
SIDE SETBACK	5' MIN	5' MIN
REAR SETBACK	15' MIN	15' MIN
MAX. BUILDING HEIGHT	35' MAX	35' MAX
MAX. LOT COVERAGE	40% MAX	40% MAX
MAX BLOCK LENGTH	800'	787'

PROPOSED	
UNITS & LOTS	24 LOTS & 24 UNITS
TOTAL LOT ACREAGE	4.78 ac
MIN. & MAX LOT WIDTH	55.5' AND 72'
MIN. & MAX LOT AREA	6,001 S.F.- 8,435S.F.
AVERAGE LOT AREA	6,100 S.F.
BUILDING TYPE	SINGLE FAMILY
MIN. LIVABLE FLOOR AREA	1,442 S.F.
TYPICAL BLDG. FOOT PRINT	36'W X 63'D

PROJECT CONTACTS: ROBERT WALQUIST, P.E..
821 NE COLUMBUS ST
LEE'S SUMMIT, MISSOURI 64063
Phone: (816) 550-5675

PRELIMINARY PLAT

DOLING LANDING
SPRINGFIELD, GREENE COUNTY, MISSOURI

Quist Engineering, Inc
Civil Engineering for Residential & Commercial Site Development
821 NE Columbus St.
Lee's Summit, Missouri 64063
Phone: (816) 550-5675
email: rwalquist@quistengineering.com

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1ST ISSUE
1-10-20

REVISIONS
1 1-20-20

SHEET NO.
C200

JOB NO.
E20-300

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

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.

WHEREAS, Mrs. Merrily Parker recently approached the Fire Department about providing a donation in support of the Fire Department's Fire and Life Safety education programs; and

WHEREAS, Mrs. Parker has graciously offered to donate $10,000.00, in support of said programs.

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

Section 1 – The City Manager, or his designee, is hereby authorized to accept the donation of $10,000.00 from Mrs. Merrily Parker to support the Fire Department's Fire and Life Safety education program.

Section 2 – The budget of the Springfield Fire Department for Fiscal Year 2019-2020 is hereby amended in the accounts and in the amounts as shown on Budget Adjustment No.041, a copy of which is attached hereto and incorporated herein by reference as "Exhibit A."

Section 3 – City Council hereby finds that the budget adjustment made in Section 2 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 – City Council greatly appreciates the donation and wishes to express its sincerest thanks to Mrs. Parker for said donation.

Section 6 – 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 2020-059

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:

3/4/20
Department Head Date

Approved By:

3/4/20
Director of Finance Date

City Manager Date

Authorization:

Council Bill No. 2020-059
Ordinance No.
1st Reading
2nd Reading
Journal Imp No.