



**Kirkwood City Council
Agenda
Thursday, August 1, 2019, 7:00 p.m.
Kirkwood City Hall
City Council Chambers
139 South Kirkwood Road
Kirkwood, MO 63122
*Posted on July 26, 2019***

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. INTRODUCTIONS AND RECOGNITIONS

IV. PRESENTATIONS

V. PUBLIC HEARINGS

VI. PUBLIC COMMENTS – 3 MINUTE LIMIT PER PERSON

The Public Comments portion of the meeting is an opportunity for the City Council to listen to comments from citizens. It is not a question and answer session and the City Council will not respond to comments or answer questions during this period. The Mayor may refer any matter brought up to the City Council to the Chief Administrative Officer or City Clerk if action is needed.

VII. CONSENT AGENDA

All items within the Consent Agenda will be enacted by one motion of the Council with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Agenda and placed on the Regular Agenda by request of a member of the City Council. The expenditures listed in the consent agenda are items already approved in the current city budget.

- a) Approval of the July 18, 2019 City Council Meeting Minutes
- b) Resolution 112-2019, accepting the bid of McConnell & Associates for resurfacing and power washing of the tennis courts and authorizing and directing the Mayor to enter into a contract (not to exceed amount of \$57,000)

VIII. UNFINISHED BUSINESS

- 1. Substitute Bill 10763, granting Special Use Permits for a pet day care and kennel (commercial) with outdoor use at 902 South Kirkwood road, subject to certain Conditions
- 2. Bill 10774, authorizing and directing the Mayor to enter into an agreement with the Missouri Highways and Traffic Commission for the awarded Surface Transportation Program (STP) 5502(609) for the Geyer Road Resurfacing Project Phase 2

IX. NEW BUSINESS

- 1. Bill 10775, granting a Special Use Permit for a Bed and Breakfast establishment at 627 Hickory Hollow Lane, subject to certain conditions
- 2. Bill 10776, amending the Kirkwood Code of Ordinances, Chapter 14, Article VIII. Section 14-394 "Schedule D: Limited Parking" by removing the limited parking on the east side of Clay Avenue from Wilson Avenue to 100 feet south of Manchester



Road, and on the south side of Wilson Avenue from Clay Avenue to Kirkwood Road

3. Bill 10777, appropriating funds from the Transfer to Other Funds Account to a Revenue Account and then appropriating the funds from the Revenue Account to the Other Professional Services Account for the management of the Aquatic Center (\$27,170)
4. Bill 10778, authorizing and directing the mayor to enter into a Cost Share Agreement, First Supplemental Agreement, with the Missouri Highways and Transportation Commission for the roadway enhancements on Manchester Road between Kirkwood Road and the eastern City limits
5. Bill 10779, appropriating funds from the Equitable Sharing Fund Balance to the Equipment Account for the purchase of vest carriers for the Police Department (\$11,500)
6. Bill 10780, calling a Bond Election in the City of Kirkwood
7. Resolution 113-2019, accepting the proposal of CMT Consulting for the STP 5502(609) Geyer Road Design – Phase II Project and authorizing and directing the Mayor to enter into a contract (not to exceed of \$219,782)

X. CONSENT AGENDA ITEMS FOR DISCUSSION (IF ANY)

XI. CITY COUNCIL REPORTS

XII. CHIEF ADMINISTRATIVE OFFICER REPORTS

**Other Items may be added after the publication of the agenda. Please contact the City Clerk's Office at 822-5802 for any additional information that may have been added after the publication of the agenda.*

XIII. CITY ATTORNEY REPORTS

XIV. CITY CLERK REPORTS

**Other Items may be added after the publication of the agenda. Please contact the City Clerk's Office at 822-5802 for any additional information that may have been added after the publication of the agenda.*

XV. MEETING ADJOURNMENT

PLEASE NOTE: The next regular meeting of the Kirkwood City Council will take place at 7:00 p.m. on August 15, 2019.

UPCOMING PUBLIC HEARINGS

August 15, 2019:

1. A request for a Special Use Permit and Site Plan for Audi Kirkwood at 10230 and 10240 Manchester Road.
2. A request for a Special Use Permit to operate a bakery with retail sales at 137 West Jefferson Avenue.



3. A request for a Special Use Permit for Mission Taco Joint at 105 East Jefferson to operate an amusement establishment (arcade) in a portion of the restaurant.

CONTINUED ITEMS
NONE

TABLED ITEMS

1. Bill 10645, amending the provisions of the Municipal Code, Appendix A – Zoning, regarding Side Yard Setbacks in the R-3 Single Family Residential District
2. Bill 10690, amending the provisions of the Municipal Code, Appendix A – Zoning, regarding Height Requirement in the B-2 Business District

Kirkwood City Council: Mayor Tim Griffin; Council Members Nancy Luetzow, Maggie Duwe, Ellen Edman, Mark Zimmer, Wallace Ward, and Kara Wurtz

Contact Information: For full City Council contact information visit www.kirkwoodmo.org/council. To contact the City Clerk call 314-822-5802. To contact the Chief Administrative Officer call 314-822-5803.

Accommodation: The City of Kirkwood is interested in effective communication for all persons. Persons requiring an accommodation to attend and participate in the meeting should contact the City Clerk at 314-822-5802 at least 48 hours before the meeting. With advance notice of seven calendar days, the City of Kirkwood will provide interpreter services at public meetings for languages other than English and for the hearing impaired. Upon request, the minutes from this meeting can be made available in an alternate format, such as CD by calling 314-822-5802.

THE CONSENT AGENDA IS ATTACHED

- a) Approval of the July 18, 2019 City Council Meeting Minutes
- b) Resolution 112-2019, accepting the bid of McConnell & Associates for resurfacing and power washing of the tennis courts and authorizing and directing the Mayor to enter into a contract (not to exceed amount of \$57,000)



WHERE COMMUNITY AND SPIRIT MEET

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**Kirkwood City Council
Kirkwood City Hall
City Council Chambers
Thursday, July 18, 2019, 7:00 p.m.**

Pursuant to notice of meeting duly given by the Mayor, the City Council convened on Thursday, July 18, 2019, at 7:00 p.m. at Kirkwood City Hall, 139 South Kirkwood Road, Kirkwood, Missouri. Present were Mayor Griffin, Council Members Duwe, Edman, Luetzow, Ward, Wurtz, and Zimmer. Also in attendance were Chief Administrative Officer Russell Hawes, Assistant Chief Administrative Officer Georgia Ragland, City Clerk Laurie Asche, Deputy City Clerk Freddy Doss, and City Attorney John Hessel.

INTRODUCTIONS AND RECOGNITIONS

NONE

PRESENTATIONS

NONE

PUBLIC HEARINGS

Mayor Griffin recessed the meeting for the purpose of conducting a public hearing regarding a request for a Special Use Permit for a Bed and Breakfast at 627 Hickory Hollow Lane. Mr. Hessel entered the following exhibits into the record: an Affidavit of Publication in the St. Louis Countian on June 25, 2019, as Exhibit 1; an Affidavit of Publication in the Webster Kirkwood Times on June 28, 2019, as Exhibit 2; an aerial view map showing the subject property and the properties that were notified of the hearing, as Exhibit 3; a list of property owners who were sent notice of the public hearing, as Exhibit 4; the report of the Planning and Zoning Commission dated June 20, 2019, as Exhibit 5; a memo from City Planner Jonathan Raiche dated June 19, 2019, as Exhibit 6; and the Kirkwood Code of Ordinances as Exhibit 7.

City Planner Jonathan Raiche presented information pertaining to the request:

- The City received information that the owner was renting out rooms in their home through AirBnB. The City contacted the homeowner and informed them that they would need to comply with one of two options: 1) all renters must apply for occupancy permits with proper inspections conducted every time occupancy changes, or 2) the owner could apply for a Special Use Permit to operate a Bed and Breakfast.
- After discussion with City staff, the homeowner decided to apply for a Special Use Permit for a Bed and Breakfast.
- The applicant will continue to occupy the home as their primary residence and will rent out a maximum of two bedrooms to a maximum of three guests.



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- The applicant has indicated they will also comply with the requirement that guests shall not stay more than fourteen consecutive days or thirty days in a calendar year.
- The applicant does not plan to make any exterior alterations or place any signage on their property related to the Bed and Breakfast.
- The subject site includes an approximately 9' wide driveway that leads to a 1 car carport. The driveway length would allow for three cars to be parked single-stacked (including one in the carport).
- The property has enough road frontage to accommodate one car for on-street parking.
- The applicant indicates that the guest rooms will have a fire escape plan posted and a fire extinguisher centrally located in the house.
- Per the Kirkwood Code of Ordinances, the property owner must be a permanent resident in order to operate a Bed and Breakfast.

Comments from Public

1. Ruth Shaw, 517 Hickory Hollow, concerned about increased traffic.
2. Greg Hardy, 523 Hickory Hollow, concerned about increased traffic and questioned if more than one Bed and Breakfast would be allowable along the street.

The bill will be placed on the August 1, 2019 agenda for first reading consideration.

PUBLIC COMMENTS

1. David Schwer, 906 S. Kirkwood Road, owner of the adjacent building to the proposed Camp Bow Wow, spoke regarding concern about barking dogs and requested a more comprehensive sound study be performed. Concerned about property values being negatively impacted.
2. Mike Biffingnani, 5110 Butler Spurt Ct., 63128, performed the sound study for the proposed Camp Bow Wow. Gave a brief summary of the sound study performed.
3. Bob Vatterott, 310 Geyer Forest Drive, spoke in favor of the proposed Camp Bow Wow.

CONSENT AGENDA

Motion was made by Council Member Wurtz and seconded by Council Member Zimmer to approve the Consent Agenda. The Consent Agenda was unanimously approved.

- a) Approval of the July 3, 2019 City Council Meeting Minutes
- b) Resolution 108-2019, transferring funds from the Transformers, Poles, and Conductors Maintenance Account to the Special Events Account for the Electric Department (\$15,000)



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- c) Resolution 109-2019, accepting the bid of Reinhold Electric for Conduit Boring Services for the Electric Department with an initial term of 12 months with the option to renew for up to four additional 12 month terms pending budgetary approval and authorizing and directing the Mayor to enter into a contract (at the rates provided in the bid tab sheet)
- d) Resolution 110-2019, accepting the proposal of MacQueen Equipment Group for rescue tools for the Kirkwood Fire Department and authorizing and directing the Director of Procurement to issue a Purchase Order (\$98,435.40)
- e) Resolution 111-2019, accepting the proposal of Westport Pools for Chemical Sanitation Delivery System for the Kirkwood Aquatic Center and authorizing and directing the Mayor to enter into a contract (not to exceed \$35,275)

UNFINISHED BUSINESS

Bill 10759, adopting a revised City of Kirkwood Classification and Pay Plan, was brought before the council.

Roll Call:

| | |
|------------------------|-------|
| Mayor Griffin | "Yes" |
| Council Member Wurtz | "Yes" |
| Council Member Luetzow | "Yes" |
| Council Member Duwe | "Yes" |
| Council Member Edman | "Yes" |
| Council Member Zimmer | "Yes" |
| Council Member Ward | "Yes" |

The bill, having received majority approval of the council, was adopted and became Ordinance 10610.

Bill 10771, amending the Kirkwood Code of Ordinances, Chapter 14, Article VIII. Section 14-393 "Schedule C: No Parking Zones" by adding no parking on the North/West bound side of Dougherty Ferry Road from Geyer Road to Rieth Terrace, was brought before the council.

Roll Call:

| | |
|------------------------|-------|
| Mayor Griffin | "Yes" |
| Council Member Wurtz | "Yes" |
| Council Member Luetzow | "Yes" |
| Council Member Duwe | "Yes" |
| Council Member Edman | "Yes" |
| Council Member Zimmer | "Yes" |
| Council Member Ward | "Yes" |



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The bill, having received majority approval of the council, was adopted and became Ordinance 10611.

Bill 10772, approving two waivers to the Subdivision Code to accommodate an adjustment of the boundary line between properties at 222 and 226 East Argonne Drive, subject to certain conditions, was brought before the council.

Roll Call:

| | |
|------------------------|-------|
| Mayor Griffin | "Yes" |
| Council Member Wurtz | "Yes" |
| Council Member Luetzow | "Yes" |
| Council Member Duwe | "Yes" |
| Council Member Edman | "Yes" |
| Council Member Zimmer | "Yes" |
| Council Member Ward | "Yes" |

The bill, having received majority approval of the council, was adopted and became Ordinance 10612.

Bill 10773, approving two waivers to the Subdivision Code to accommodate an adjustment of the boundary line between properties located at 424 and 428 Lee Avenue, subject to certain conditions, was brought before the council.

Roll Call:

| | |
|------------------------|-------|
| Mayor Griffin | "Yes" |
| Council Member Wurtz | "Yes" |
| Council Member Luetzow | "Yes" |
| Council Member Duwe | "Yes" |
| Council Member Edman | "Yes" |
| Council Member Zimmer | "Yes" |
| Council Member Ward | "Yes" |

The bill, having received majority approval of the council, was adopted and became Ordinance 10613.

NEW BUSINESS

Motion was made by Council Member Luetzow and seconded by Council Member Duwe to bring Substitute Bill 10763 to the floor for consideration. The motion was unanimously approved.

Substitute Bill 10763, granting Special Use Permits for a Pet Day Care and Kennel (Commercial) with outdoor use at 902 South Kirkwood Road, subject to certain



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conditions, was brought before the council. Motion was made by Council Member Zimmer and seconded by Council Member Wurtz to accept the bill for first reading approval. A call for vote was mistakenly made. Motion was made by Council Member Ward and seconded by Council Member Edman to reconsider the acceptance of first reading approval. The motion was unanimously approved.

Motion was made by Council Member Duwe and seconded by Council Member Zimmer to accept the bill for first reading approval. A discussion took place.

Motion was made by Council Member Luetzow and seconded by Council Member Duwe to waive Robert's Rule of Order to allow the petitioner to address the council. The motion was unanimously approved. A discussion took place.

An Amended Substitute Bill will be drafted to include language pertaining to the installation of a sound reducing canopy and the containment and treatment of waste water.

The bill received first reading approval and was held over.

Bill 10774, authorizing and directing the Mayor to enter into an agreement with the Missouri Highways and Traffic Commission for the awarded Surface Transportation Program (STP) 5502(609) for the Geyer Road Resurfacing Project Phase 2, was brought before the council. Motion was made by Council Member Duwe and seconded by Council Member Luetzow to accept the bill for first reading approval.

The bill received first reading approval and was held over.

CONSENT AGENDA ITEMS FOR DISCUSSION

NONE

CITY COUNCIL REPORTS

Council Member Zimmer reported that the Industrial Development Authority held a meeting on July 17, 2019 and approved a vendor for the Downtown Retail Study.

CHIEF ADMINISTRATIVE OFFICER REPORT

Mr. Hawes reported that the City of Kirkwood received a Liquor License Renewal Application from Kirkwood Athletic, 2377 Marshall Road. Motion as made by Council Member Zimmer and seconded by Council Member Duwe to approve the application. The motion was unanimously approved.

CITY ATTORNEY REPORT

Mr. Hessel had nothing to report.



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CITY CLERK REPORT

Ms. Asche read the report of the July 17, 2019 Planning and Zoning Commission meeting. The following action took place:

1. At the request of the petitioner, who is requesting amendments to the Zoning Code and a Special Use Permit for a tattoo studio on the second floor of 108 North Kirkwood Road, the application was continued to the August 21 meeting.
2. The Commission unanimously recommended approval of a Special Use Permit and Site Plan for Audi Kirkwood at 10230 and 10240 Manchester Road. A public hearing will be scheduled.
3. After a presentation from Britt's Bakehouse for a Special Use Permit to operate a bakery with retail sales at 137 West Jefferson Avenue, the Commission unanimously recommended approval. A public hearing will be scheduled.
4. After a presentation from Mission Taco Joint for a Special Use Permit to operate an amusement establishment in a portion of their restaurant at 105 East Jefferson, the Commission unanimously recommended approval. A public hearing will be scheduled.
5. Staff provided updates on development projects recently reviewed by the City Council.
6. Staff provided an update on the Zoning, Subdivision, and Sign Code Review project.
7. Staff provided the quarterly update on the Envision Kirkwood 2035 Comprehensive Plan.

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 8:25 p.m. The next regular council meeting is scheduled for August 1, 2019, at 7:00 p.m.

Laurie Asche, CMC/MRCC
City Clerk

Approved:

RESOLUTION 112-2019

A RESOLUTION ACCEPTING THE BID OF MCCONNELL & ASSOCIATES (PURSUANT TO TIPS COOPERATIVE CONTRACT) IN THE NOT TO EXCEED AMOUNT OF \$57,000 (WHICH INCLUDES A CONTINGENCY OF \$5,300) FOR RESURFACING AND POWER WASHING OF THE TENNIS COURTS AND AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A CONTRACT.

WHEREAS, the City may use services that have been competitively bid and awarded by TIPS Cooperative Contract, and

WHEREAS, the most responsible bid received was that of McConnell & Associates under TIPS Cooperative Contract #170205 in the not to exceed amount of \$57,000 (which includes a contingency of \$5,300) and which bid acceptance is approved by the Chief Administrative Officer and recommended by the Director of Procurement and the Director of Parks and Recreation, and

WHEREAS, funds are available in Account #302-2001-600.75.03, Project #PR2005.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The bid of McConnell & Associates under TIPS Cooperative Contract #170205 in the not to exceed amount of \$57,000 (which includes a contingency of \$5,300) for resurfacing and power washing of the tennis courts is hereby accepted and approved.

SECTION 2. The Mayor is hereby authorized and directed to enter into a contract with McConnell & Associates under TIPS Cooperative Contract #170205 in the not to exceed amount of \$57,000 (which includes a contingency of \$5,300) for resurfacing and power washing of the tennis courts.

SECTION 3. This Resolution shall be in full force and effect after its passage and approval.

PASSED AND APPROVED THIS 1ST DAY OF AUGUST 2019.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Legislation Request

Resolution

Place On The Agenda Of: 8/1/2019

Step #1:

Strategic Plan NO Goal # & Title

Background To Issue:

The post tension concrete tennis courts in Kirkwood Park have held up very well since their construction in 2012 but do require resurfacing every six to seven years to maintain their playability, safety and appearance. A proposal has been secured from McConnell and Associates to clean and resurface all nine tennis courts.

Recommendations and Action Requested:

This is a request to enter into a contract with McConnell and Associates for a not to exceed amount of \$57,000 (including \$5,300 in contingency funding) to clean and resurface nine tennis courts in Kirkwood Park. Costs to be charged to Account #302-2001-600-7503 (Building and Site Improvements) and Project PR2005.

Alternatives Available:

Costs could be cut by eliminating some of the extra striping, eliminating resurfacing of the ninth court, and the option to complete the project in two phases.

Does this project have a public information component? Yes No

Cost: \$57,000.00 Account #: 30220016007503 Project #: PR2005 Budgeted: YES

If YES, Budgeted Amount: \$65,000.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

The tennis courts in Kirkwood Park need to be resurfaced every six or seven years in order to maintain their playability, safety and appearance. A proposal was secured from McConnell and Associates under the TIPS procurement program for the resurfacing work. The scope of work includes power washing the nine courts, resurfacing of the eight concrete with two coats of material and the ninth court with one coat, and adding additional pickleball court striping.

BY: Murray Pounds

Date: 7/23/2019

Authenticated: poundsm

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Approve

Purchasing Director's Comments:

[Empty text box for Purchasing Director's Comments]

BY: David Weidler

Date: 7/25/2019

Authenticated: weidledc

You can attach up to 3 files along with this request.


 13210 Resolution Letter.pdf
 Adobe Acrobat Document
 164 KB

 File Attachment

 File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Budgetary Approval

From Account # or Fund Name:

[Empty text box for From Account # or Fund Name]

To Account # or Fund Name:

[Empty text box for To Account # or Fund Name]

Finance Director's Comments:

[Empty text box for Finance Director's Comments]

BY: John Adams

Date: 7/25/2019

Authenticated: adamsjr

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve Diasapprove

Chief Administrative Officer's Comments:

[Empty text box for Chief Administrative Officer's Comments]

BY: 

Date: 7-25-19

July 25, 2019

To: Russell B. Hawes, Chief Administrative Officer

For Your Consideration: Tennis Courts – Resurfacing & Power Washing, Bid # 13210

| Vendor | Total |
|------------------------------|--------------|
| MAC / McConnell & Associates | \$51,700.00 |

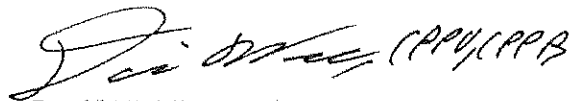
The City of Kirkwood may use cooperative contracts that are competitively bid. TIPS competitively bid contracts for “Synthetic or Natural Sports Fields, Courts or Tracks”, and was the lowest responsible and responsive bidder. The TIPS contract number is 170205.

This work includes the cleaning and resurfacing of nine (9) tennis courts in Kirkwood Park

Funds are available in the amount of \$65,000.00 in account number 302-2001-600.75-03, project number PR2005.

Attached is a request from Murray Pounds, Director of Parks and Recreation, for a resolution authorizing a contract in the amount of \$51,700.00 with a contingency of \$5,300.00 for a total not to exceed value of \$57,000.00 to be issued to McConnell & Associates for Tennis Courts – Resurfacing & Power Washing.

Respectfully,



David Weidler, CPPO, CPPB
Director of Procurement

SUBSTITUTE BILL 10763

ORDINANCE

AN ORDINANCE GRANTING SPECIAL USE PERMITS FOR A PET DAY CARE AND KENNEL (COMMERCIAL) WITH OUTDOOR USE AT 902 SOUTH KIRKWOOD ROAD SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, Sharon Jeffries made application (PZ-24-19) for Special Use Permits for the purpose of operating a Pet Day Care and Kennel (Commercial) with outdoor use to be located at 902 South Kirkwood Road; and

WHEREAS, the Planning and Zoning Commission did on the 15th day of May, 2019, by adopting the Planning and Zoning Commission Report dated May 15, 2019, (attached hereto as Exhibit "A" and incorporated by reference herein), recommend the granting of said Special Use Permits subject to certain conditions and did find that granting of said permits would not substantially increase traffic hazards or congestion, would not substantially increase fire hazards, would not adversely affect the character of the neighborhood, would not adversely affect the general welfare of the community, and would not overtax public utilities, and that granting such permit would be consistent with the zoning laws; and

WHEREAS, the Council did on the 6th day of June, 2019, hold a public hearing with respect to such application after duly advertising and giving proper notice of such hearing and does find that the granting of such permit and site plan approval, subject to certain conditions, would not substantially increase traffic hazards or congestion, would not substantially increase fire hazards, would not adversely affect the character of the neighborhood, would not adversely affect the general welfare of the community, and would not overtax public utilities; and

WHEREAS, the Council does further find that the general welfare requires that such permit be subject to the conditions hereinafter set out.

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

SECTION 1. Special Use Permits for Pet Day Care and Kennel (Commercial) with outdoor use are granted on the property known as 902 South Kirkwood Road subject to the following conditions:

1. The project shall be constructed and maintained in accordance with the Site Plan and Floor Plan stamped "Received July 3, 2019, City of Kirkwood Public Services Department", and the Lighting Plan stamped "Received March 12, 2019, City of Kirkwood Public Services Department", except as noted herein.
2. A performance guarantee in the form of a cash deposit or letter of credit in an amount approved by the Public Services Department and an administrative fee (10% of the first \$10,000 and 2% of the remaining balance of the performance guarantee) shall be submitted within one year of approval and prior to the issuance of a foundation letter or building permit to insure the completion of the proposed improvements, utilities and

landscaping; to replace public improvements damaged by construction activities (sidewalks, curbs, etc.); and to guarantee significant trees designated to be saved. The letter of credit shall be in effect for a minimum of two years and may be extended in minimum six-month intervals as approved by the Department of Public Services. The Letter of Credit shall be drawn from a St. Louis area bank.

3. Outdoor use shall be limited to the fully-enclosed fenced play areas indicated on the Site Plan stamped "Received July 3, 2019, City of Kirkwood Public Services Department" and shall be limited to the hours of 7am to 7pm.
4. The existing chain link fence and gate along the front property line and the fence along the north and south property lines for a minimum of 20 feet from the front property line shall be removed. Existing barbed wire on the entire existing chain link fence shall also be removed.
5. Landscape islands in the northwest and southwest corners of the property shall be installed and maintained as indicated on the Site Plan stamped "Received July 3, 2019, City of Kirkwood Public Services Department".
6. The existing accessory structure located in the southeast corner of the property shall be removed as indicated on the proposed plan.
7. The top rail of the existing chain link fence that will remain on the property shall be painted or replaced. All portions of the chain link fence located in front of the existing building shall be maintained to be rust-free for aesthetic reasons.
8. No parking is permitted along the north side of the middle island. Striping and signage may be required by the Fire Marshal.
9. Potholes shall be patched as directed by the Public Services Department.
10. Per Section A-1000.6, two bicycle racks to accommodate a total of four bicycles shall be installed. Said racks must comply with all regulations contained within Section A-1000.6.
11. An emergency access and pet removal plan for after hour incidents shall be provided for review and approval by the Fire Marshal prior to issuance of permits.
12. All new curb is required to be 18" concrete barrier curb.
13. Parking lot entrances shall be 7" thick concrete and ADA compliant.
14. The water system shall meet the requirements of the Kirkwood Fire and Water Departments. The Fire Department shall approve the water flow for the project. If satisfactory water flow is not available from the existing water system in accordance with City policy, the petitioner shall install the necessary mains and accessories.
15. During excavation and construction activities, the area of the site that is disturbed for this project shall be fully enclosed by a 6-foot high chain link fence to prevent the entry of unauthorized persons. The gate for the fence shall be locked during non-working hours.
16. No parking of construction trailers, material storage, equipment storage, or construction equipment is authorized on the public streets at any time.

17. Enclosures are required to screen all dumpsters, grease receptacles, and similar items on the site and shall be constructed of sight-proof materials (e.g. masonry, split-faced concrete masonry units, etc.) similar or complementary to the main building and not less than six feet in height. Latching gates of similar or complementary materials shall be required to completely enclose the dumpster.
18. An accessible route in compliance with ADA standards shall be provided from the proposed accessible parking spaces to the accessible entrance of the building.
19. All rooftop equipment, air-conditioning units and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way.
20. The Architectural Review Board shall approve all signs and building architecture prior to the issuance of any building permits.

SECTION 2. Erosion and sediment control devices shall be sufficient to protect all off-site property from siltation and shall be installed prior to beginning of any grading or construction. The siltation control measures shall be installed and approved by the Public Services Department prior to issuance of any permit. These devices shall be maintained during the construction activities. Failure to maintain these devices authorizes the Public Services Department to issue a Stop Work Order for the building permit until such devices are restored.

SECTION 3. The approval of these special use permits shall not authorize any person to unreasonably alter, increase, or redirect the surface water run off so as to cause harm to any person or property.

SECTION 4. The premises and improvements as approved by these special use permits shall be in good working order and maintained in good repair at all times.

SECTION 5. The applicant by accepting and acting under the special use permits herein granted accepts the permit subject to the reservations, restrictions, and conditions set forth in the Code of Ordinances and in this Ordinance and agrees to comply with each provision subject to the penalties prescribed under Section 1-8 of the Code of Ordinances and subject to revocation of this permit in the event such provisions are not complied with.

SECTION 6. The applicant further agrees by accepting and acting under these special use permits herein granted that this ordinance does not grant applicant any special rights, privileges, or immunities.

SECTION 7. This ordinance shall become null and void in the event the petitioner does not obtain a building permit within one year of the passage of this ordinance.

SECTION 8. The applicant and her successors and assigns by accepting and acting under the approval herein granted accepts the approval subject to the condition that failure to abate any violation of this approval or any provisions of the Code of Ordinances of the City of Kirkwood within five (5) days after notice by hand delivery or first-class mail shall result in an administrative investigation fee of \$500 due to the City of Kirkwood. An invoice shall be issued. A Stop Work Order to cease all work on the premises except such work as directed by the Public Services Director to abate the violation may be issued for any work on the premises until the

investigation fee is paid in full. The City may demand payment of said fee from the holder of the letter of credit, any bond, or escrow if not paid within 30 days of the invoice.

SECTION 9. This ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS day of _____, 2019.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Introduced:

1st Reading:

2nd Reading:



GAUS
ACOUSTICS

GAUS ACOUSTICS

CAMP BOW WOW

Sound Study - 902 S. Kirkwood Rd

Mike Biffignani
7-1-2019

Sondare Acoustics
5110 Butler Spur Ct
St Louis, MO.
63128 314-568-8042

July 1, 2019

Kaitlin Miller
Gaus Acoustics
2721 Sutton
Maplewood, MO. 63143

Sharon Jeffries
Camp Bow Wow
902 S. Kirkwood Rd
Kirkwood, MO. 63122

Subject: Sound Assessment for Camp Bow Wow

Sharon

Per your request Sondare Acoustics has performed the following sound assessment for a new Camp Bow Wow to be located at 902 S. Kirkwood Rd in St. Louis MO. Since the facility is not currently operational, the sound study is to predict sound levels due to dogs, "campers", producing sounds in outdoor play areas.

Background Information-

1. The proposed Camp Bow Wow is to be located in an existing building at the address above. It is about a 150'x70' building on a 440'x108' lot. The building is about 230' to the east of Kirkwood Rd. There is about 28' between the building and the north property line and 15' from the south property line and 75' from the east property line. The outdoor play areas are to be located on the north side of the building and extend 14' from the building leaving 14' to the property line.
2. Surrounding areas - The surrounding areas are mostly commercial. There are business condos about 20-25' to the south of the property line, a MAACO auto repair about 130' north of the property line, a residential neighborhood approximately 260' north east of the property line, a and commercial property adjacent to the east property line. There is significant road traffic on Kirkwood Rd and a train track about 15-20' north of the north property line.
3. Ordinances - Since the property is located in Kirkwood, it is assumed that their ordinances would apply. "Chapter 17. Offenses, Miscellaneous, Article v. Offenses Concerning Public Peace, section 17-70 Conduct Constituting Disturbing Noises, paragraph (e)" states that "Animals, birds, etc. The keeping of any animal or bird which will disturb the comfort or repose of any persons in the vicinity by making long, continual or frequent noise." is a violation. Zoning A-220 Site Plan Review 220.7 (5) states "Visual and sound buffering should be provided for property located in surrounding areas."

For reference, St Louis County has a more quantitative noise control code in the “Noise Related Ordinance Chapter 625 Noise Control Code, section 625.050” which lists permissible noise levels for different types of noise sources. The permissible levels also vary by land use and day and night. The permissible levels are provided for length of time the noise exists during a 60 minute measurement period. The shorter duration the higher the level allowed.

Both of these ordinances can be found online or copies can be provided.

Reference Sound Information-

1. Outdoor sound can travel outward in all directions. The level of sound received from a sound source can be impacted by the distance between the source and receiver, temperature, wind, absorption of the air and any barriers around the source or receiver (the ground, walls, fencing, etc.). The sound from the source can also be impacted by the ambient or background sound without the sound source present. It should be noted that the measurement of a sound at a receiver is the total sound of the source plus the ambient sound. If the ambient sound is 10dB below the sound source, it will have no effect on the sound source level. Also, if the ambient sound is 10dB greater than the sound source, very little of the sound source will be measured. The ground, large walls and enclosures can increase the sound source level due to reflections of the sound. In addition, walls, fences and other barriers can reduce sound source levels by blocking and reflecting the sound or absorbing it. Although a barrier can block sound, the sound can bend around the barrier and be received on the other side.
2. Sound from barking-
Dog barking is an intermittent sound that can vary in level. The sound level can be between 60-100dBA although some large dogs can be greater than 100dBA. The sound level can vary during the bark. The bark sound is mainly between 550Hz and 4000 Hz depending on the size and type of dog. For this study an average sound level for one dog barking will be 80dBA. (“A” is a weighting scale used to correlate with how humans perceive sound).
3. Community noise annoyance -
Noise can be considered to be unwanted or undesirable sound. Perception of sound as noise can be very subjective. There have been many studies and standards developed to quantify noise annoyance especially for traffic, railroads and airplanes. An example of assessing community noise annoyance is provided in Attachment A.

Camp Bow Wow Operating Assumptions-

These assumptions are for the preparation of this sound study, actual operating procedures may vary and can be provided by Camp Bow Wow.

1. There will be four to five outdoor play areas located on the north side of the building. They will extend about 14' from the side of the building. An 8' high privacy PVC fence will be along the perimeter of the entire play area. Open slat fencing will separate each play area. Each play area may include a canopy type shade over the top of the play area.
2. A solid or flexible door will separate the indoor area from the outside play areas.
3. Although the campers may come and go into the outside area as needed, they will be supervised by counselors. There is 1 counselor assigned to 25 campers.

4. The play areas can accommodate 25 campers but only about 12 campers will be outside at one time.

5. If dogs are distracted and barking occurs, the counselors will investigate the cause and take action to stop the campers from barking, including bringing the campers inside. This may take 1-2 minutes and estimated to occur only once during an hour period. The barking could be from one dog or many at a time. At no time will long, continual, frequent barking be allowed. In addition, actions will be taken to not accept campers or remove campers from the camp that are determined to have issues with continual barking.

6. Campers will only be allowed in the outdoor play areas during daytime hours 7am -7pm.

Sound Analysis-

1. This analysis is to provide a prediction of the sound that might be produced in the outside play areas, the associated sound levels at the property line and sound levels at adjacent commercial and residential locations. If the facility was operational a sound measurement for daytime, nighttime hours or both would be conducted noting the Leq (equivalent sound level over time period) and/or other statistical measurements and Lmax. Since there is currently no sound being generated by the camp, assumptions, estimates, artificial sounds and short time duration measurements were used. The overall approach is as follows:

Step 1 - Calculate the sound level at several different receiver locations using a short duration sound source equivalent level of 12 dogs barking without buildings or barriers in the sound path. Although actual dog barks can be short duration intermittent sounds, the sound source to be used is a short duration discrete tone. The reduction of the sound level will only be the result of spherical spreading of the sound due to distance of the receiver from the source.

Step 2 - Using a sound source, measure the actual total sound level at each receiver location along with ambient levels. The ambient levels will be subtracted from the total measured sound levels to obtain just the sound level at the receiver from the source.

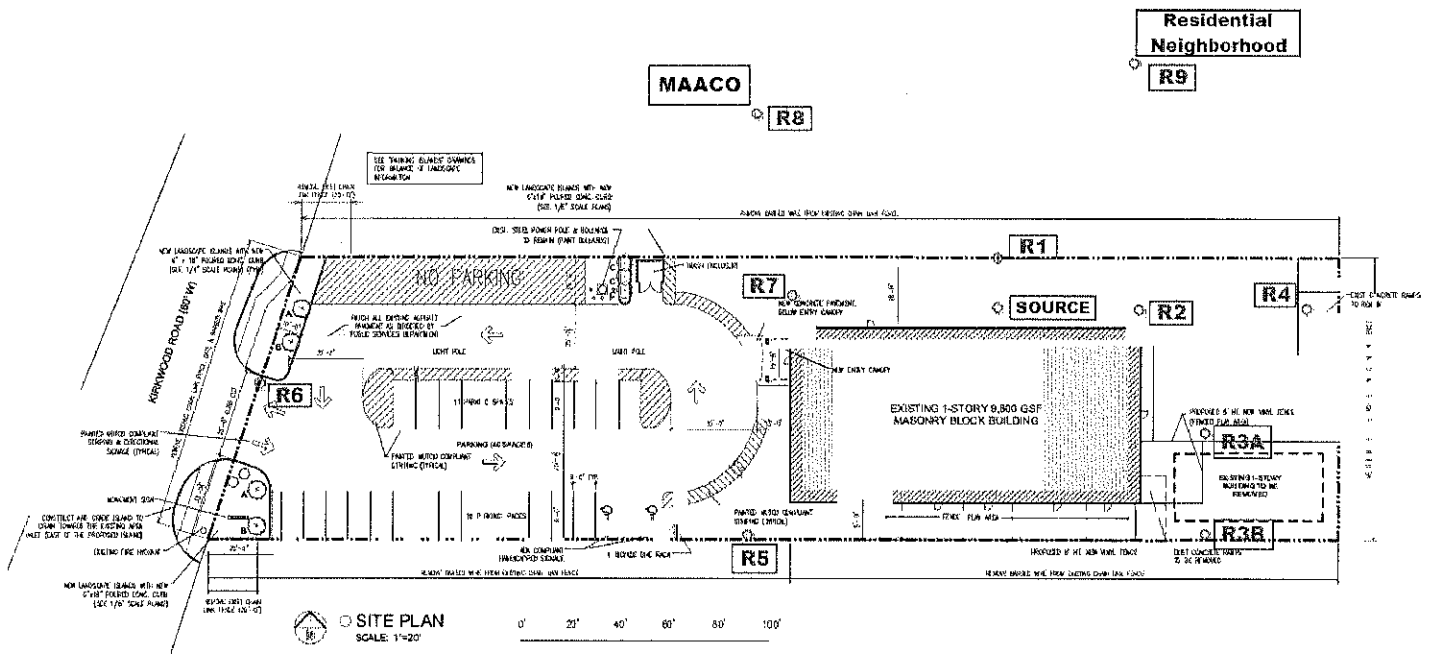
Step 3 - The measured source levels will be compared to the calculated levels in Step 1.

Step 4 - Calculate the effects of the perimeter fence around the outdoor play areas.

2. Assuming an average dog bark sound level of 80dBA, 12 dogs barking would be at a level of 91dBA. This level will be used for the sound source.

3. The source and receiver locations are provided in Figure 1. The source was assumed to be about 7' from the north wall and 100' from the building north west corner.

4. Step 1 results are in Figure 2.



SAINT LOUIS DESIGN ALLIANCE
 8014 DELMAR BLVD. SAINT LOUIS, MO 63112
 314.882.1212 www.sldall.com

CAMP BOW WOW
 902 S. KIRKWOOD RD. KIRKWOOD, MO 63122

Fig. 1

5. Step 2 -Measurements and results

1. Ambient levels or background sound levels without a source present were measured at all receiver locations. The time of day was 10am, the temperature was about 75-80 degrees and the wind was light 5-10 mph from the SE. Traffic on Kirkwood Rd was heavy due to stop light repairs. The ambient noise changed at the north property line due to increased noise from MAACO. There were also several airplanes flying overhead. See results in Figure 2

2. Measurements were taken using a loudspeaker as a source placed 7' from the north wall, 2' from the ground and about 100' from the north west corner of the building. A 1kHz short duration, discrete tone was used at a level of 91dBA, 3' from the loudspeaker. The speaker was positioned to be in the direction of the receiver location. Receivers were approximately 4 ft. from the ground. A calibrated Type 2 sound level meter was used. The measurements for receiver locations R1-R7 along with a comparison to the calculated sound levels in Step 1 are shown in Figure 2.

| Receiver | Step 1 calculation using 91dB source | Step 2 -Measurement of Ambient Level (dBA) | Step 2 -Measurement Total sound level (dBA) using 91dBA source | Step 2- Calculated sound level of the source w/o ambient | Step 3 – Compare calculated sound source level with measured Column 2 vs Column 5 |
|----------|--------------------------------------|--|--|--|---|
| R1 | 74 | 56 / 65* | 74 | 74 | *Ambient increased due to power washer at MAACO |
| R2 | 64 | 55 | 64 | 63.4 | |
| R3A | 61 | 49 | 50 | 40 | Building blocked the sound |
| R3B | 59 | 49 | 49 | 39 | Building/shed blocked sound |
| R4 | 62 | 48 | 60 | 59.7 | |
| R5 | 58 | 55 | 55 | 45 | Building blocked sound |
| R6 | 50 | 60-65 | 60-65 | 50-60 | Traffic noise louder than sound |
| R7 | 61 | 54 | 70 | 70 | Reflection from long north wall |
| R8 | 59 | Est~ 65 | | | |
| R9 | 53 | Est~ 50 | | | |

Fig. 2

6. Step 4 - Impact of perimeter play yard fencing

The privacy fencing is an 8' high barrier between the source and the surrounding area. It will block sound from inside the play area but unless a barrier or absorber is placed on top of the play area the sound will travel above the 8' height and continue up into the air. It will also deflect downward towards the ground. It is estimated that the sound reduction due to diffraction over the top of the fence will be about 15dB at a position about 2-4' above the ground. Using this reduction Figure 3 includes an estimated level at the receiver locations including the effects of the perimeter fence.

| Receiver | Ambient | Estimated sound level without ambient | Estimated sound level due to the reduction of the perimeter fence (-15dBA) | Estimated total Sound level with ambient and fence |
|----------|---------|---------------------------------------|--|--|
| R1 | 56/65 | 74 | 59 | 61/66 |
| R2 | 55 | 63.4 | 49 | 56 |
| R3A | 49 | 40 | 25 | 49 |
| R3B | 49 | 39 | 24 | 49 |
| R4 | 48 | 60 | 45 | 50 |
| R5 | 55 | 45 | 35 | 55 |
| R6 | 60-65 | 50-60 | 35-45 | 60/65 |
| R7 | 54 | 70 | 55 | 57 |
| R8 | 65 | Est ~ 59 | Est ~ 44 | 65 |
| R9 | 50 | Est ~ 53 | Est ~ 38 | 50.3 |

Fig. 3

Results and Conclusion

1. Ambient levels vary but are relatively high in the area surrounding the proposed site. Wind and wind direction can change ambient and sound level readings.
2. The building blocks the sound from the outdoor play area from getting to the south side property line. The level of blockage on the east side is dependent on the location of the play areas relative to the end of the east wall of the building. The measurements used a sound source simulating all 12 dogs barking at the sound location approximately 63' from the north east corner of the building. Measured levels may be higher if the source is located further east.
3. No actual measurements were taken at the MAACO building or the NE residential area, the levels shown are estimates. As shown in Fig. 3, it is estimated that the ambient levels at the MAACO building, the residential NE residential area, and the south side of the building will be higher than the sound source with fencing in place.
4. The traffic noise level at the west entrance will also be higher than the estimated sound source.
5. Given the highest sound level of 59dBA at R1, with fencing, is an intermittent, discrete tone, it would meet the St Louis County Commercial Daytime allowable level of 15 minute duration out of a 60 minute measurement period. The planned allowable "dog barking" duration for campers of 1-2 minutes per hour is much less than this criteria. It should be noted that an actual dog bark sound would be intermittent but not a discrete tone and may meet the 60 min out 60 minute commercial criteria.
6. Although the above data quantifies estimated sound levels, the key to meeting the Kirkwood noise ordinance is the management of the duration and frequency of the dog barking.

7. The estimated discrete tone, intermittent sound source level of 38dBA at the residential area would also meet the “less than 45dBA (at the point of complaint) - no community reaction” criteria as shown in Attachment A. It should be noted that since the residential area is at a higher elevation than the outdoor play areas, the fencing may not provide 15dB of reduction and the sound level could be higher.
8. Levels could also be higher due to reverberation from the play area enclosure. No adjustments were made for this. Sound levels inside the enclosure and sound traveling from the top of the enclosures can be mitigated with sound absorbing panels and sound absorbing canopies if needed.
9. As noted, the perception of intermittent sounds being annoying is very subjective. Even if actual levels are low, but are repetitious and long lasting, the sound can be perceived as annoying.
10. It is concluded that the combination of the building blocking the sound, the high daytime ambient levels in the surrounding areas along with the distance from the play areas to the residential and commercial businesses will significantly reduce the sound levels from the planned play areas. The key to minimizing noise annoyance will be the adherence of the operating procedures to manage and limit the duration and frequency of the barking from the campers.

Attachment A

Community Noise Annoyance reference criteria – “Fundamentals of Acoustics”, Kinser and Frey p.374 13.10 Community Response to Noise Table 13.10.1 Corrections to be added to the A weighted sound level to produce a measure of community reaction

| Noise Characteristic | Correction |
|----------------------------|------------|
| Pure tone | +5 |
| Intermittent | +5 |
| During work hours | -5 |
| Duration of noise each day | |
| Continuous | 0 |
| less than 30 min | -5 |
| less than 10 min | -10 |
| less than 5 | -15 |
| less than 1 | -20 |
| less than 15 sec | -25 |
| Neighborhood | |
| Quiet suburban | +5 |
| Suburban | 0 |
| Residential urban | -5 |
| Urban near industry | -10 |
| Heavy industry | -15 |

Complaint levels at the point of complaint
less than 45dBA – no community reaction
45-55 – sporadic reaction
50-60 - widespread reaction
55-65 – threat of action
over 65 vigorous action

Also see ISO R1996 (1971)

Estimate for Camp Bow Wow

Assume the ambient at the residential area is 50dBA and the sound from dog barking is measured at 38dBA accounting for the distance and the fencing. Assuming the dogs bark for about 1-2 minutes per hour or 12-24 minutes per a 12 hour day. Using the corrections above

38dBA

+5 intermittent

-5 only during work hours

-5 duration less than 30 min per day

-5 Residential urban

Estimated corrected sound level = 28dBA – “no community reaction” expected

If we were to assume that the dog barking could reach a level of 50dBA at the residential area, the corrected level would be 40dBA and still below the “no reaction” criteria.

Legislation Request

Ordinance

Place On The Agenda Of: 6/6/2019

Step #1:

Strategic Plan Select... Goal # & Title

Background To Issue:

The applicant has applied for multiple Special Use Permit to allow for operation of a Pet Day Care and Kennel (Commercial) operation with outdoor uses. The request includes the renovation of the existing building at 902 S. Kirkwood Road which was previously occupied by ABC Material and is zoned I-1, Light Industrial. Additional information can be found in the attached documents.

Recommendations and Action Requested:

The Planning & Zoning Commission recommended approval of the request with conditions by a vote of 7-0. A public hearing is requested for June 6th with City Council's consideration following.

Alternatives Available:

Cost: \$0.00 Account #: 0 Project #: Budgeted: YES
If YES, Budgeted Amount: \$0.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Jonathan Raiche Date: 5/22/2019 Authenticated: raichejd

You can attach up to 3 files along with this request.



2019-06-06 PZ-24-19
Ordinance.doc
Microsoft Word 97 - 2003
Document
45.5 KB



2019-05-15 PZ-24-19
Report.pdf
Adobe Acrobat Document
4.31 MB



2019-06-06 PZ-24-19 CC
Plans.pdf
Adobe Acrobat Document
5.04 MB

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Select...


Purchasing Director's Comments:

BY: Select...


Date:

Authenticated:

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Select...

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

BY: Select...

Date:

Authenticated:

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve

Diasapprove

Chief Administrative Officer's Comments:

BY:



Date:

5-31-19

CITY OF KIRKWOOD
PLANNING AND ZONING SUBCOMMITTEE REPORT
May 15, 2019

PETITION NUMBER: PZ-24-19

ACTION REQUESTED: SPECIAL USE PERMITS (PET DAY CARE, KENNEL, OUTDOOR USE)

PROPERTY OWNER: ROBERT VATTEROTT PROPERTIES, INC.

PETITIONER: SHARON JEFFRIES, CAMP BOW WOW

PETITIONER'S AGENT: PETER NEWTON, HILLIKER CORP
JEFF MUGG, SAINT LOUIS DESIGN ALLIANCE

PROPERTY LOCATION: 902 SOUTH KIRKWOOD ROAD

ZONING: I-1, LIGHT INDUSTRIAL DISTRICT

DRAWINGS SUBMITTED: SITE PLAN AND FLOOR PLAN PREPARED BY SAINT LOUIS DESIGN ALLIANCE ARCHITECTS STAMPED "RECEIVED MAY 9, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT"

LIGHTING PLAN STAMPED "RECEIVED MARCH 12, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT"

DESCRIPTION OF PROJECT:

The petitioner is requesting multiple Special Use Permits to allow the operation of a pet day-care facility with overnight boarding, training, and grooming services in the existing building and property located at 902 South Kirkwood Road. The property was most recently occupied by ABC Supply Company. The property has been historically used for similar uses with outdoor storage as a non-conforming use. The legal non-conforming outdoor storage component has been abandoned for more than 180 days and therefore has lost the legal non-conforming status. The property and building are currently vacant.

The petitioner proposes to renovate the interior of the main existing building and the existing parking lot. The building will be renovated to include a large area with individual boarding facilities, common indoor play areas, office area, grooming areas, and a reception area. In addition to the indoor facilities, the applicant has also proposed multiple outdoor play areas enclosed by an 8' tall vinyl fence.

ZONING, LAND USE, AND COMPREHENSIVE PLAN:

The subject property is presently zoned I-1, Light Industrial District and is designated as Transition Mix Use by the EnVision Kirkwood 2035 Comprehensive Plan. The Transition Mix Use Land Use designation includes the provision for Regional Commercial uses. The proposed land use is listed in this district as a Special Use requiring the applicant to apply for a Special Use Permit. Surrounding land uses and zoning include the following:

To the south: A multi-building office park is located to the south and is zoned I-1.

To the north: Commercial/light industrial buildings are located across the BNSF railroad right-of-way and are zoned I-1.

To the east: A combination of commercial/light industrial uses and single-family residential homes are located to the east. These properties are zoned I-1 and R-4.

To the west: Commercial/light industrial buildings are located across Kirkwood Road and are zoned I-1.

OUTSTANDING DEPARTMENTAL/AGENCY COMMENTS:

Engineering: 1. Applicant shall provide staking/layout of the entrance location for the City contractor to install as part of the S. Kirkwood Road TAP project.
2. Construct and grade island at SW property corner to drain towards the existing area inlet east of the proposed island. Area Inlet A will be eliminated from the City's TAP project.

Fire: 1. Provide an emergency access and pet removal plan for after hour incidents. It looks like there are over 100 indoor pet pens and even partial occupancy could quickly overwhelm our ability function, maintain safety for our personnel and safely remove the pets.

DISCUSSION:

A Zoning Matters sign was posted on the property on March 29, 2019, and notice of the Planning & Zoning Commission was properly posted. This request was first presented by City Staff and the applicant at the Planning & Zoning Commission meeting on April 3, 2019. A subcommittee meeting was held on-site on April 8, 2019. A list of attendees at the subcommittee meeting can be seen in Exhibit A. Discussion at the subcommittee meeting included the following items:

- The outdoor training area needs to be delineated on the plan and hours of outdoor use need to be specified.
- The incorporation of conditions from the most recent approval on the site into this proposed site plan.
- The existing accessory structure needs to be removed or repaired per building code prior to occupancy of the main building is granted.
- The top rail of the existing chain link fence that is to remain should be painted or replaced.

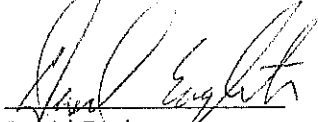
RECOMMENDATION:

The subcommittee recommends that this petition be **approved** with the following conditions:

1. The project shall be constructed and maintained in accordance with the plans referenced in the Drawing Submitted portion of this report, except as noted herein.
2. Outdoor use shall be limited to the fenced areas indicated on the Site Plan stamped "RECEIVED MAY 9, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT" and shall be limited to the hours of 7am to 7pm.
3. The existing chain link fence and gate along the front property line and the fence along the north and south property lines for a minimum of 20 feet from the front property line shall be removed. Existing barbed wire on the entire existing chain link fence shall also be removed.
4. Landscape islands in the northwest and southwest corners of the property shall be installed and maintained as indicated on the Site Plan stamped "RECEIVED MAY 9, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT".

5. The existing accessory structure located in the southeast corner of the property shall be removed as indicated on the proposed plan.
6. The top rail of the existing chain link fence that will remain on the property shall be painted or replaced. All portions of the chain link fence located in front of the existing building shall be maintained to be rust-free for aesthetic reasons.
7. No parking is permitted along the north side of the middle island. Striping and signage may be required by the Fire Marshal.
8. Potholes shall be patched as directed by the Public Services Department.
9. Per Section A-1000.6, two bicycle racks to accommodate a total of four bicycles shall be installed. Said racks must comply with all regulations contained within Section A-1000.6.
10. An emergency access and pet removal plan for after hour incidents shall be provided for review and approval by the Fire Marshal prior to issuance of permits.
11. The petitioner shall comply with all standard conditions as listed in Exhibit B.

Respectfully submitted,


David Eagleton

Ron Evens

EXHIBIT B
STANDARD CONDITIONS

1. A performance guarantee in the form of a cash deposit or letter of credit in an amount approved by the Public Services Department and an administrative fee shall be submitted within one year of approval and prior to the issuance of a building permit to insure the completion of the proposed improvements, utilities and landscaping; to replace public improvements damaged by construction activities (sidewalks, curbs, etc.); and to guarantee significant trees designated to be saved. The letter of credit shall be in effect for a minimum of two years and may be extended in minimum six-month intervals as approved by the Department of Public Services. The Letter of Credit shall be drawn from a St. Louis area bank.
2. The premises and improvements as approved by this Special Use Permit shall be in good working order and maintained in good repair at all times.
3. Architectural Review Board shall approve all signs and building architecture prior to the issuance of any building permits.
4. All new rooftop mechanical equipment shall be fully screened from view of adjoining properties. The exact dimensions and materials of the screening shall be approved by the Building Commissioner.
5. The water system shall meet the requirements of the Kirkwood Fire and Water Departments.
6. No parking of construction trailers, material storage, equipment storage or construction equipment is authorized on the public streets at any time.
7. Enclosures are required to screen all dumpsters, grease receptacles, and similar items on the site and shall be constructed of sight-proof materials (e.g. masonry, split-faced concrete masonry units, etc.) similar or complementary to the main building and not less than six feet in height. Latching gates of similar or complementary materials shall be required to completely enclose the dumpster.

PROCEDURE FOR PUBLIC HEARING

Mayor: At this time the council will recess to conduct a public hearing regarding:

A request for a Special Use Permit for a Pet Day Care and Commercial Kennel with Outdoor Use proposed for 902 S. Kirkwood Road (Camp Bow Wow)

Mayor: Mr. Hessel, do you wish to enter any exhibits into the record?

Mayor: Mr. Hawes, who will present this issue to the City Council?

City Planner Jonathan Raiche

Mayor: Georgia, has anyone completed a card to speak regarding this proposal?

Mayor: Is there anyone in the audience that did not complete a card that wishes to speak regarding this issue? (Please be sure to fill out a card before you leave so your name and address is reflected in the record)

Mayor: Hearing no further discussion, the council will take this matter under advisement and consider the hearing to be recessed.



AFFIDAVIT OF PUBLICATION

STATE OF MISSOURI
COUNTY OF ST. LOUIS

} S.S.

Page 1 of 1

Before the undersigned Notary Public personally appeared **Chanel Jones** on behalf of **THE COUNTIAN, ST. LOUIS COUNTY** who, being duly sworn, attests that said newspaper is qualified under the provisions of Missouri law governing public notices to publish, and did so publish, the notice annexed hereto, starting with the **May 21, 2019** edition and ending with the **May 21, 2019** edition, for a total of 1 publications:

05/21/2019

CITY OF KIRKWOOD NOTICE OF PUBLIC HEARING

Before the City Council of
Kirkwood, Missouri

The Council of the City of Kirkwood will hold a public hearing in City Hall, 139 South Kirkwood Road, Kirkwood, Missouri at the hour of 7:00 p.m., Thursday, June 6, 2019 to consider the following:

1. *Amendments to the Zoning Code regarding regulation of Medical Marijuana related to Amendment 2 of the State Constitution - Citywide*
2. *A request for a Special Use Permit for a Pet Day Care and Commercial Kennel with Outdoor Use proposed for 902 S. Kirkwood Road (Camp Bow Wow)*
3. *A request for a Special Use Permit for a Restaurant at 151 W. Jefferson (Gelato Di Riso)*

Laurie Asche, CMC/MRCC
City Clerk

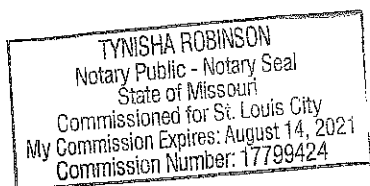
The City of Kirkwood is interested in effective communication for all persons. Persons requiring an accommodation to attend and participate in the meeting should contact the City Clerk at 314-822-5802 at least 48 hours before the meeting. With advance notice of seven calendar days, the City of Kirkwood will provide interpreter services at public meetings for languages other than English and for the hearing impaired. Upon request, the minutes from this meeting can be made available in an alternate format, such as CD by calling 314-822-5802. 11747084 County May 21, 2019

Chanel Jones

Chanel Jones

Subscribed & sworn before me this 21st day of May, 2019
(SEAL)

Tynisha Robinson
Notary Public





AFFIDAVIT OF PUBLICATION

City of Kirkwood

Attn: Laurie Asche
City Clerk
139 S. Kirkwood Rd.
Kirkwood, MO 63122

I, Terry Cassidy, verify that the attached Public Hearing
Notice was published in the Webster-Kirkwood Times on
May 24, 2019


Advertising Consultant



NOTICE OF PUBLIC HEARING before the City Council of Kirkwood, MO

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- 1. Amendments to the Zoning Code regarding regulation of Medical Marijuana related to Amendment 2 of the State Constitution – Citywide**
- 2. A request for a Special Use Permit for a Pet Day Care and Commercial Kennel with Outdoor Use proposed for 902 S. Kirkwood Road (Camp Bow Wow)**
- 3. A request for a Special Use Permit for a Restaurant at 151 W. Jefferson (Gelato Di Riso)**

Laurie Asche, CMC/MRCC
City Clerk

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PROPERTY OWNER
6767 N HANLEY RD
SAINT LOUIS, MO 63134

PROPERTY OWNER
680 GREENVIEW DR
SAINT LOUIS, MO 63122

PROPERTY OWNER
400 BEL AIR CT
ALLEN, TX 75013

PROPERTY OWNER
135 CHESTER AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
646 NORTON AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
832 MINNIE AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
1519 LYNKIRK LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
1819 VIRGINIA LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
915 S TAYLOR AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
906 S KIRKWOOD RD
SAINT LOUIS, MO 63122

PROPERTY OWNER
3771 PORTLAND TRAIL DR
SUWANEE, GA 30024

PROPERTY OWNER
P.O. BOX 11676
SAINT LOUIS, MO 63105

PROPERTY OWNER
609 S ELLIOTT AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
822 MINNIE AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
2350 MARKET ST
SAINT LOUIS, MO 63103

PROPERTY OWNER
203 COMMERCE AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
840 S KIRKWOOD RD
SAINT LOUIS, MO 63122

PROPERTY OWNER
509 LAKE AVE
SAINT LOUIS, MO 63119

PROPERTY OWNER
215 COMMERCE AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
1253 DOUGHERTY FERRY RD
SAINT LOUIS, MO 63122

PROPERTY OWNER
32 CEDARBROOK LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
833 S KIRKWOOD RD
SAINT LOUIS, MO 63122

PROPERTY OWNER
122 JEFFERSON RD
SAINT LOUIS, MO 63119

PROPERTY OWNER
7576 BLACKBERRY AVE
SAINT LOUIS, MO 63130

PROPERTY OWNER
902 S KIRKWOOD RD
SAINT LOUIS, MO 63122

PROPERTY OWNER
12747 W WATSON RD
SAINT LOUIS, MO 63127

PROPERTY OWNER
209 COMMERCE AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
818 MINNIE AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
152 E ROSE HILL AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
910 S KIRKWOOD RD, STE 120
SAINT LOUIS, MO 63122

PROPERTY OWNER
148 E ROSE HILL AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
910 S KIRKWOOD RD, STE 130
SAINT LOUIS, MO 63122

PROPERTY OWNER
60 FRANK ST
UNION, MO 63084

PROPERTY OWNER
902 S KIRKWOOD RD, 140
SAINT LOUIS, MO 63122

PROPERTY OWNER
1 FAIRVIEW PL
FENTON, MO 63026

PROPERTY OWNER
910 S KIRKWOOD RD, STE 100
SAINT LOUIS, MO 63122

PROPERTY OWNER
136 E ROSE HILL AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
120 E ROSE HILL AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
906 S KIRKWOOD RD
SAINT LOUIS, MO 63122

PROPERTY OWNER
116 E ROSE HILL AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
575 MARYVILLE CENTRE
SAINT LOUIS, MO 63141



WHERE COMMUNITY AND SPIRIT MEET

May 16, 2019

Russell B. Hawes
Chief Administrative Officer

At the May 15, 2019, meeting of the Planning and Zoning Commission, the following action was taken:

1. The Commission unanimously recommended approval of the final plat and development plans for an eight-lot Community Unit Plan known as Emmerson Estates Subdivision at 2017 Lily Avenue and 2040 Boaz Avenue.
2. The Commission unanimously recommended approval of Special Use Permits for a kennel/pet day care/outdoor use and the associated site plan or Camp Bow Wow at 902 South Kirkwood Road.
3. The Commission unanimously recommended approval of a Special Use Permit for a restaurant known as Gelato Di Riso at 151 West Jefferson Avenue.
4. By a vote of 5 to 2, the Commission recommended approval of amendments to the Zoning Code for medical marijuana facilities.

The next meeting will be held on June 19, 2019, at 7 p.m.

Respectfully submitted,

Allen Klippel, Chair
Planning and Zoning Commission

**CITY OF KIRKWOOD
PLANNING AND ZONING SUBCOMMITTEE REPORT
May 15, 2019**

PETITION NUMBER: PZ-24-19

ACTION REQUESTED: SPECIAL USE PERMITS (PET DAY CARE, KENNEL, OUTDOOR USE)

PROPERTY OWNER: ROBERT VATTEROTT PROPERTIES, INC.

PETITIONER: SHARON JEFFRIES, CAMP BOW WOW

PETITIONER'S AGENT: PETER NEWTON, HILLIKER CORP
JEFF MUGG, SAINT LOUIS DESIGN ALLIANCE

PROPERTY LOCATION: 902 SOUTH KIRKWOOD ROAD

ZONING: I-1, LIGHT INDUSTRIAL DISTRICT

DRAWINGS SUBMITTED: SITE PLAN AND FLOOR PLAN PREPARED BY SAINT LOUIS DESIGN ALLIANCE ARCHITECTS STAMPED "RECEIVED MAY 9, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT"

LIGHTING PLAN STAMPED "RECEIVED MARCH 12, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT"

DESCRIPTION OF PROJECT:

The petitioner is requesting multiple Special Use Permits to allow the operation of a pet day-care facility with overnight boarding, training, and grooming services in the existing building and property located at 902 South Kirkwood Road. The property was most recently occupied by ABC Supply Company. The property has been historically used for similar uses with outdoor storage as a non-conforming use. The legal non-conforming outdoor storage component has been abandoned for more than 180 days and therefore has lost the legal non-conforming status. The property and building are currently vacant.

The petitioner proposes to renovate the interior of the main existing building and the existing parking lot. The building will be renovated to include a large area with individual boarding facilities, common indoor play areas, office area, grooming areas, and a reception area. In addition to the indoor facilities, the applicant has also proposed multiple outdoor play areas enclosed by an 8' tall vinyl fence.

ZONING, LAND USE, AND COMPREHENSIVE PLAN:

The subject property is presently zoned I-1, Light Industrial District and is designated as Transition Mix Use by the EnVision Kirkwood 2035 Comprehensive Plan. The Transition Mix Use Land Use designation includes the provision for Regional Commercial uses. The proposed land use is listed in this district as a Special Use requiring the applicant to apply for a Special Use Permit. Surrounding land uses and zoning include the following:

To the south: A multi-building office park is located to the south and is zoned I-1.

To the north: Commercial/light industrial buildings are located across the BNSF railroad right-of-way and are zoned I-1.

- To the east: A combination of commercial/light industrial uses and single-family residential homes are located to the east. These properties are zoned I-1 and R-4.
- To the west: Commercial/light industrial buildings are located across Kirkwood Road and are zoned I-1.

OUTSTANDING DEPARTMENTAL/AGENCY COMMENTS:

- Engineering: 1. Applicant shall provide staking/layout of the entrance location for the City contractor to install as part of the S. Kirkwood Road TAP project.
2. Construct and grade island at SW property corner to drain towards the existing area inlet east of the proposed island. Area Inlet A will be eliminated from the City's TAP project.
- Fire: 1. Provide an emergency access and pet removal plan for after hour incidents. It looks like there are over 100 indoor pet pens and even partial occupancy could quickly overwhelm our ability function, maintain safety for our personnel and safely remove the pets.

DISCUSSION:

A Zoning Matters sign was posted on the property on March 29, 2019, and notice of the Planning & Zoning Commission was properly posted. This request was first presented by City Staff and the applicant at the Planning & Zoning Commission meeting on April 3, 2019. A subcommittee meeting was held on-site on April 8, 2019. A list of attendees at the subcommittee meeting can be seen in Exhibit A. Discussion at the subcommittee meeting included the following items:

- The outdoor training area needs to be delineated on the plan and hours of outdoor use need to be specified.
- The incorporation of conditions from the most recent approval on the site into this proposed site plan.
- The existing accessory structure needs to be removed or repaired per building code prior to occupancy of the main building is granted.
- The top rail of the existing chain link fence that is to remain should be painted or replaced.

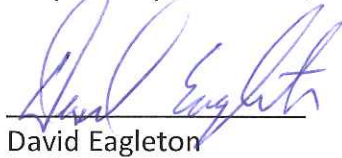
RECOMMENDATION:

The subcommittee recommends that this petition be **approved** with the following conditions:

1. The project shall be constructed and maintained in accordance with the plans referenced in the Drawing Submitted portion of this report, except as noted herein.
2. Outdoor use shall be limited to the fenced areas indicated on the Site Plan stamped "RECEIVED MAY 9, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT" and shall be limited to the hours of 7am to 7pm.
3. The existing chain link fence and gate along the front property line and the fence along the north and south property lines for a minimum of 20 feet from the front property line shall be removed. Existing barbed wire on the entire existing chain link fence shall also be removed.
4. Landscape islands in the northwest and southwest corners of the property shall be installed and maintained as indicated on the Site Plan stamped "RECEIVED MAY 9, 2019 CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT".

5. The existing accessory structure located in the southeast corner of the property shall be removed as indicated on the proposed plan.
6. The top rail of the existing chain link fence that will remain on the property shall be painted or replaced. All portions of the chain link fence located in front of the existing building shall be maintained to be rust-free for aesthetic reasons.
7. No parking is permitted along the north side of the middle island. Striping and signage may be required by the Fire Marshal.
8. Potholes shall be patched as directed by the Public Services Department.
9. Per Section A-1000.6, two bicycle racks to accommodate a total of four bicycles shall be installed. Said racks must comply with all regulations contained within Section A-1000.6.
10. An emergency access and pet removal plan for after hour incidents shall be provided for review and approval by the Fire Marshal prior to issuance of permits.
11. The petitioner shall comply with all standard conditions as listed in Exhibit B.

Respectfully submitted,



David Eagleton

Ron Evens

EXHIBIT B
STANDARD CONDITIONS

1. A performance guarantee in the form of a cash deposit or letter of credit in an amount approved by the Public Services Department and an administrative fee shall be submitted within one year of approval and prior to the issuance of a building permit to insure the completion of the proposed improvements, utilities and landscaping; to replace public improvements damaged by construction activities (sidewalks, curbs, etc.); and to guarantee significant trees designated to be saved. The letter of credit shall be in effect for a minimum of two years and may be extended in minimum six-month intervals as approved by the Department of Public Services. The Letter of Credit shall be drawn from a St. Louis area bank.
2. The premises and improvements as approved by this Special Use Permit shall be in good working order and maintained in good repair at all times.
3. Architectural Review Board shall approve all signs and building architecture prior to the issuance of any building permits.
4. All new rooftop mechanical equipment shall be fully screened from view of adjoining properties. The exact dimensions and materials of the screening shall be approved by the Building Commissioner.
5. The water system shall meet the requirements of the Kirkwood Fire and Water Departments.
6. No parking of construction trailers, material storage, equipment storage or construction equipment is authorized on the public streets at any time.
7. Enclosures are required to screen all dumpsters, grease receptacles, and similar items on the site and shall be constructed of sight-proof materials (e.g. masonry, split-faced concrete masonry units, etc.) similar or complementary to the main building and not less than six feet in height. Latching gates of similar or complementary materials shall be required to completely enclose the dumpster.

June 6, 2019

Kirkwood City Hall
139 S. Kirkwood Road
Kirkwood, MO 63122
Attn: Mayor Timothy E. Griffin & City Council

Re: Proposed Special Use Permit – 902 S. Kirkwood Road

Dear Mayor Griffin and City Council Members:

The undersigned, Kirkwood Office Properties, LLC, is the owner of the property located at 816 S. Kirkwood Road, Kirkwood, MO, 63122.

It has come to our attention that a Petitioner is requesting a Special Use Permit in order to operate a Pet Day Care and Commercial Kennel with Outdoor Use at 902 S. Kirkwood Road. Please be advised that, as the owner of a neighboring property, we are concerned with the level of noise that will be generated during business hours if the requested Special Use Permit is granted.

We have reviewed the Planning & Zoning Subcommittee Report dated May 15, 2019, and while the Recommendation for Approval does contain a stipulation limiting the hours of Outdoor Use to 7:00am – 7:00pm, we respectfully request that the City Council strongly consider the noise effect upon the neighboring homes, and businesses which operate during these hours. Prior to granting the Special Use Permit, we request that additional studies be done to determine the distance at which noise from a typical Pet Day Care with Outdoor Use will affect neighboring properties, and the City Municipal Code be considered.

Per the City Municipal Code Chapter 17, Article V, 17-69: “It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which unreasonably or unnecessarily either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of other in the City.” Further, the Code lists “the keeping of any animal or bird which will disturb the comfort or repose of any persons in the vicinity by making long, continual, or frequent noise” as a violation of this Article.

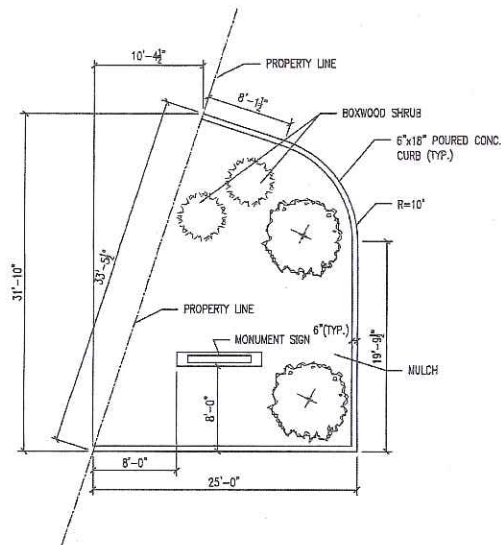
We request this letter be submitted to the City of Kirkwood City Council in advance of the June 6, 2019 Meeting, and that this letter be entered as part of the public record.

Thank you in advance for your consideration.

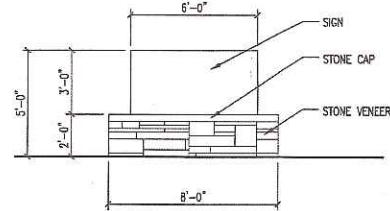
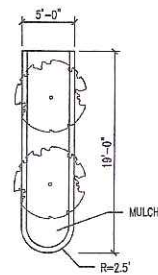
Regards,

Kirkwood Office Properties, LLC
J. Daniel Sabio

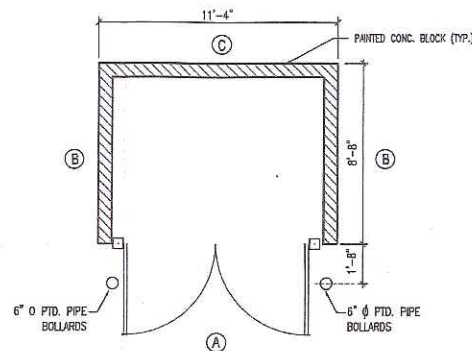
CC: Cushman & Wakefield, Property Management



PARKING ISLANDS
SCALE: 1/8"=1'-0"

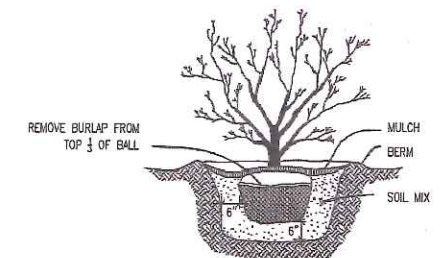


MONUMENT SIGN
SCALE: 1/4"=1'-0"

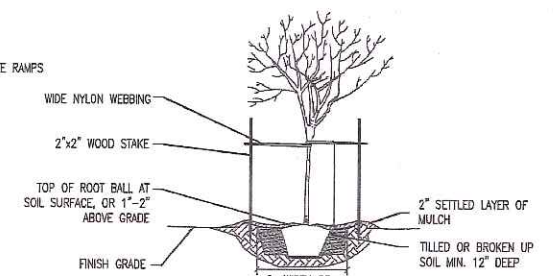


TRASH ENCLOSURE PLAN AND ELEVATIONS
SCALE: 1/4"=1'-0"

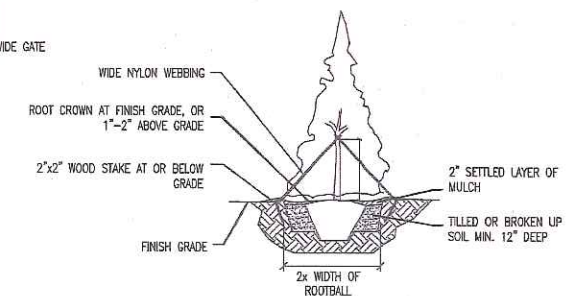
| LANDSCAPE SCHEDULE | | | | |
|--------------------|--------------------------|------|-------------|---------|
| SYMBOL | NAME | QTY. | SIZE | SPACING |
| A | FLOWERING CRABAPPLE TREE | 2 | 1 1/2" CAL. | 14 FEET |
| B | FLOWERING DOGWOOD TREE | 2 | 1 1/2" CAL. | 14 FEET |
| C | EMERALD GREEN | 3 | 1 1/2" CAL. | 8 FEET |
| | BOXWOOD SHRUB | 2 | 2 GAL. | 5 FEET |



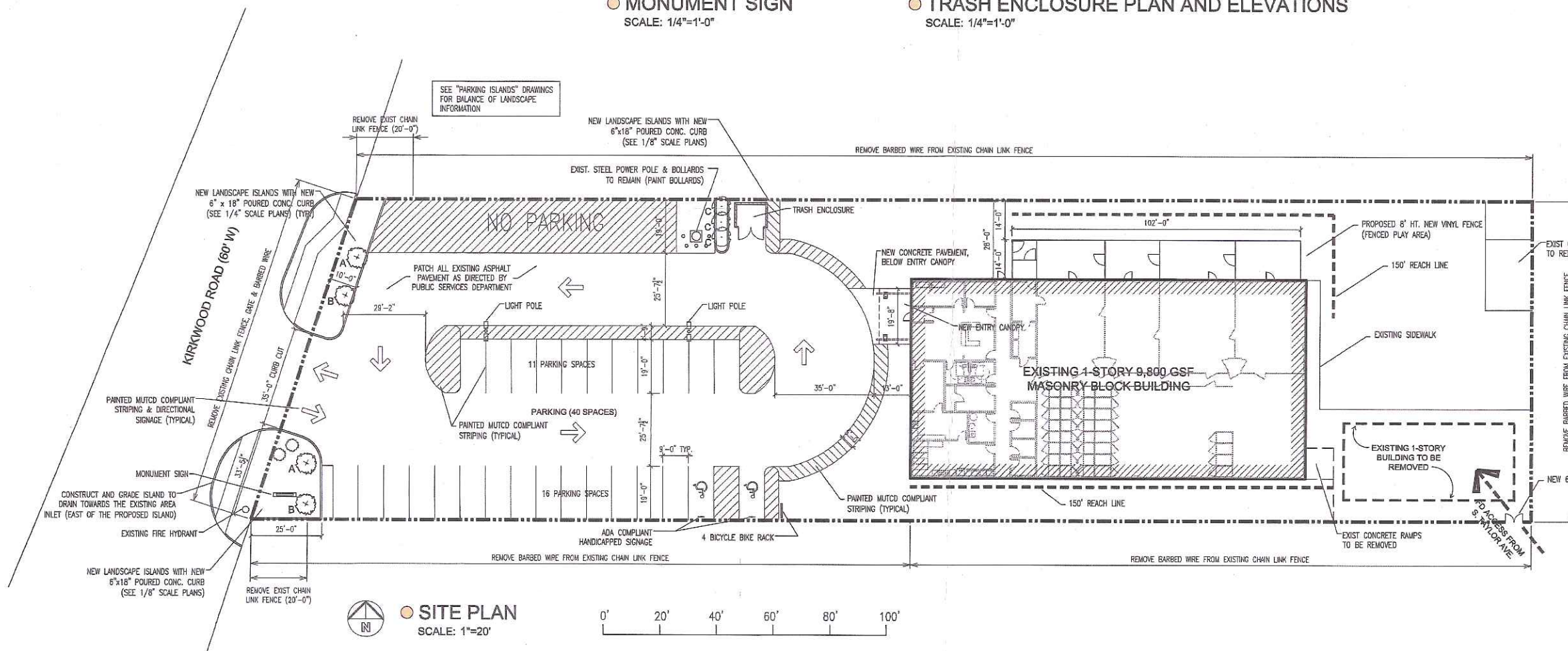
SHRUB PLATING
N.T.S.



TREE PLATING
N.T.S.



EVERGREEN PLATING
N.T.S.



SITE PLAN
SCALE: 1"=20'

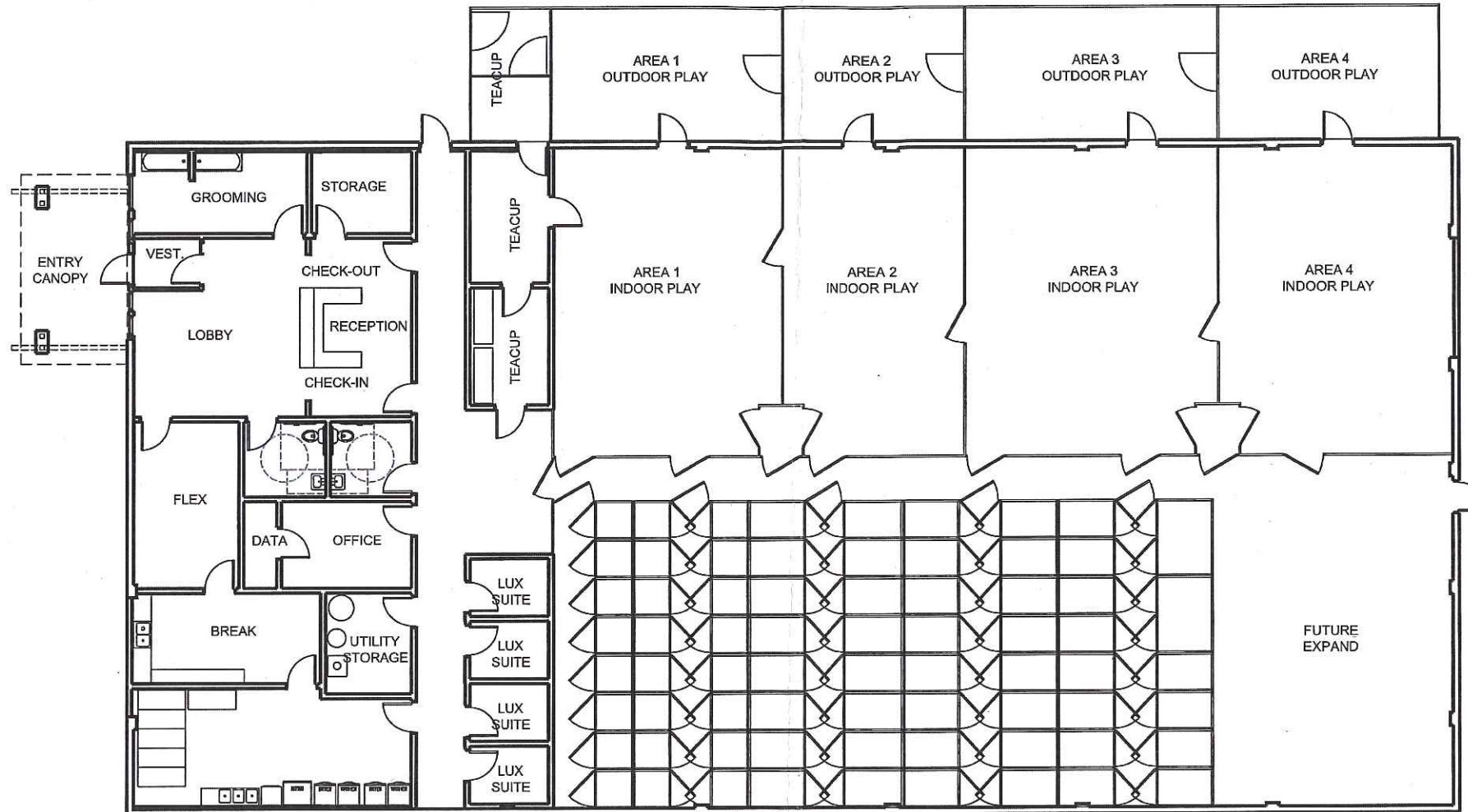


SAINT LOUIS DESIGN ALLIANCE
6014 DELMAR BLVD.
314.863.1313
SAINT LOUIS, MO 63112
www.slda.com

CAMP BOW WOW
902 S. KIRKWOOD RD. KIRKWOOD, MO 63122



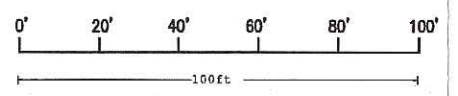
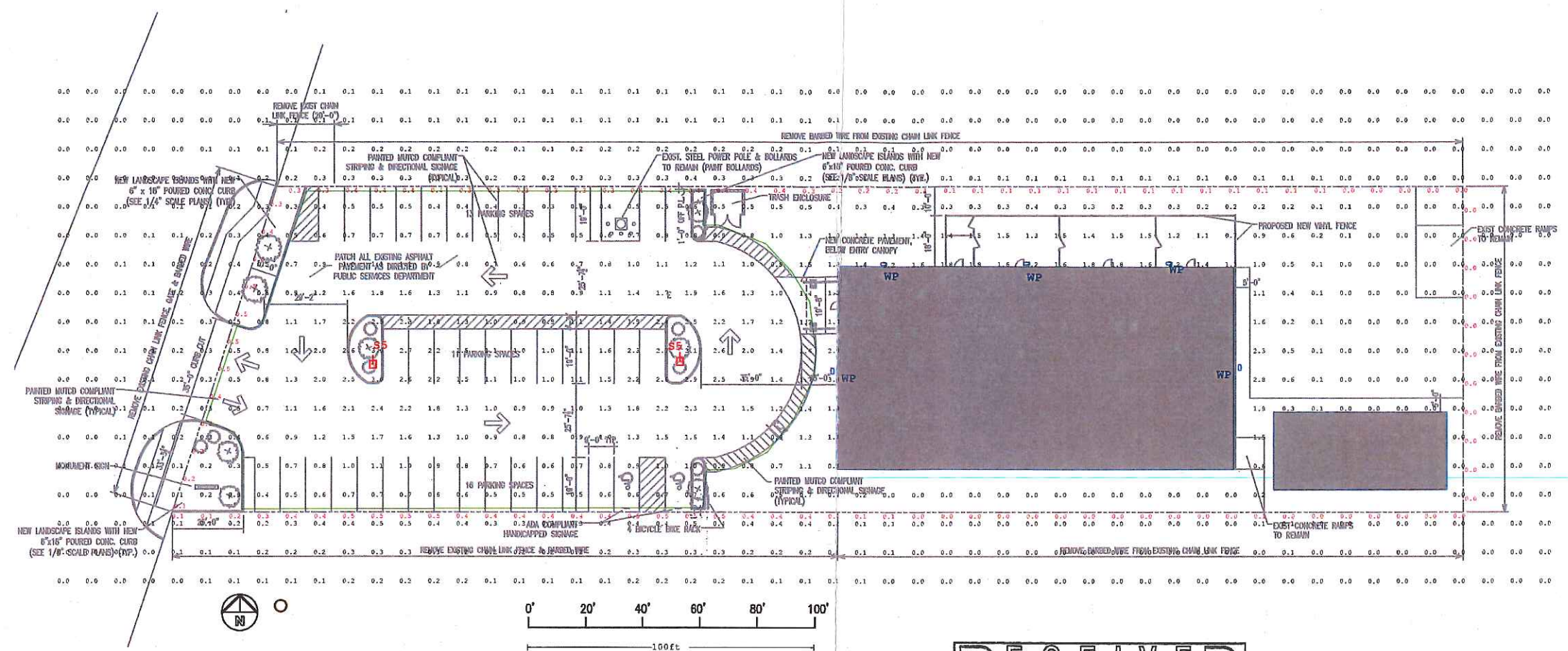
07.02.2019




FLOOR PLAN
 SCALE: 1/16"=1'-0"

RECEIVED
 JUL 03 2019
 CITY OF KIRKWOOD
 PUBLIC SERVICES DEPARTMENT

REGISTERED ARCHITECT
 STATE OF MISSOURI
 JEFFERY PAUL
 MISSOURI
 NUMBER
 A-5221
 07.02.2019



RECEIVED
 MAR 12 2019
 CITY OF KIRKWOOD
 PUBLIC SERVICES DEPARTMENT

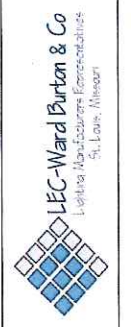
3.12.19
 JEFFERY
 PAUL
 MUGG
 NUMBER
 A-5221

20' MOUNTING HEIGHT SHOWN (18' POLE + 2' CONCRETE BASE)
 MAINTAINED LIGHT LEVELS

| Calculation Summary | | | | | | | | |
|---------------------|-------------|-------|------|-----|-----|---------|---------|--|
| Label | CalcType | Units | Avg | Max | Min | Avg/Min | Max/Min | |
| ALL CALC POINTS | Illuminance | Fc | 0.46 | 3.8 | 0.0 | N.A. | N.A. | |
| PROPERTY LINE | Illuminance | Fc | 0.21 | 0.5 | 0.0 | N.A. | N.A. | |
| PARKING LOT CALCS | Illuminance | Fc | 1.20 | 3.1 | 0.3 | 4.00 | 10.33 | |

| Luminaire Schedule | | | | | | | | |
|--------------------|-----|-------|--|-------------|-------|------------|-------------|--|
| Symbol | Qty | Label | Description | Lum. Lumens | LLF | Lum. Watts | Total Watts | |
| □ | 2 | S5 | VP-L-64L-135-4K7-5W-XXX-A-DB/SSS-B-18-40-A-1-B3-DB | 17009 | 0.900 | 137.6 | 275.2 | |
| □ | 5 | WP | LNC2-12LU-4K-2-1 WALL MOUNTED @ 12' AFG | 2466 | 0.900 | 27.6 | 138 | |

DISCLAIMER:
 The lighting calculations contained herein are for estimation purposes only and are based upon information provided at the time of calculation. Actual results may differ due to variances in surface finishes and reflectance, supply voltage, and final fixture placement. LEC - Ward Burton & Co. will not be held responsible for light level differences encountered as a result of these variances.



| # | Date | Comments |
|---|------|----------|
| | | |
| | | |

Drawn By: EBB
 Checked By:
 Date: 3/11/2019
 Scale:

Filename: CMP ROW ROW POINT 5 MAX SPILL.AGI

BILL 10774

ORDINANCE

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRAFFIC COMMISSION FOR THE AWARDED SURFACE TRANSPORTATION PROGRAM (STP) 5502(609) FOR THE GEYER ROAD RESURFACING PROJECT PHASE 2.

WHEREAS, City Council authorized for the submittal of a Surface Transportation Program (STP) Application under to East-West Gateway Council of Governments for federal funds for Geyer Road Resurfacing Project Phase 2, and

WHEREAS, the Missouri Highways and Transportation Commission has determined that the Geyer Road Resurfacing Project Phase 2 is consistent with the goals of the Surface Transportation Program and has awarded grant funding for the project, and

WHEREAS, the Engineering Department recommends the City enter into an agreement with the Missouri Highways and Traffic Commission for the awarded STP-5502(609) for 80% of the project costs not to exceed \$1,139,635.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The Mayor is hereby authorized and directed to enter into an agreement with the Missouri Highways and Traffic Commission for the awarded Surface Transportation Program STP-5502(609) for 80% of the project costs not to exceed \$1,139,635 for the Geyer Road Resurfacing Project Phase 2.

Section 2. This ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS DAY OF

Mayor, City of Kirkwood

ATTEST:

City Clerk

1st Reading:

2nd Reading:

Legislation Request

Ordinance

Place On The Agenda Of: 7/18/2019

Step #1:

Strategic Plan YES Goal # & Title: Goal 5. Invest for the future through infrastructure. Objective C.2

Background To Issue:

The Missouri Highways and Transportation Commission has determined that the Geyer Road Resurfacing Phase 2 Project is consistent with the goals of the Surface Transportation Program and has awarded funding for the project.

Recommendations and Action Requested:

The Engineering Department recommends approval of an ordinance authorizing the Mayor to enter into an agreement with the Missouri Highways and Traffic Commission for the awarded STP 5502(609) for 80% of the project costs not to exceed \$1,139,635.00.

Alternatives Available:

Does this project have a public information component? Yes No

Cost: \$0.00 Account #: 0 Project #: Budgeted: YES

If YES, Budgeted Amount: \$0.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Ted Dunkmann

Date: 7/9/2019

Authenticated: dunkmatj

You can attach up to 3 files along with this request.



STP-5502(609) Cover Letter.pdf
Adobe Acrobat Document
170 KB



STP-5502(609) Agreement.pdf
Adobe Acrobat Document
413 KB



FFATAForm1590SubRecipientin
formationForm.xlsx
Microsoft Excel Worksheet
33.2 KB

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Approve

Purchasing Director's Comments:

[Empty text box for Purchasing Director's Comments]


BY: David Weidler


Date: 7/10/2019

Authenticated: weidledc

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #3: If budgetary approval is required (Must have Finance Department's approval).

Select...

From Account # or Fund Name: The Electric Fund

To Account # or Fund Name:

Finance Director's Comments:

[Empty text box for Finance Director's Comments]

BY: John Adams

Date: 7/10/2019

Authenticated: stephesf

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve

Diasapprove

Chief Administrative Officer's Comments:

[Empty text box for Chief Administrative Officer's Comments]

BY: 

Date: 7-10-19

Missouri Department of Transportation

1590 Woodlake Drive
Chesterfield, Missouri 63017-5712
314.275.1500
Fax: 573.522.6475
1.888.ASK MODOT (275.6636)

July 3, 2019

Mr. Ted Dunkmann, P.E.
City Engineer
City of Kirkwood
139 South Kirkwood Road
Kirkwood, MO 63122

RE: City of Kirkwood
Geyer Road, Phase 2
Federal Project No. STP-5502(609)
TIP# 6917-22
Draft Program Agreement and Programming Comments

Dear Mr. Dunkmann:

This federal aid project is shown in the regional Transportation Improvement Program (TIP) and has been assigned a federal project number of STP-5502(609). Please use this number on all future project correspondence. **In order for the City to remain eligible for federal reimbursement for Design, Right of Way, or Construction activities, the City must first obtain MoDOT approval.** This project will be administered per the direction given in the Local Public Agency (LPA) Manual. The LPA Manual can be viewed at MoDOT's website.

Federal Aid Program Agreement

Enclosed for your review is a draft copy of the STP program agreement for the above noted project. This agreement must be fully executed by the City and by the Missouri Highways and Transportation Commission (MHTC) before obligation of federal funds and authorization of reimbursable work. **The federal reimbursement rate included in this agreement is based on the reimbursement rate requested in the TIP Application. Please note this rate may be less than 80%.** Federal Form 1273, 'Required Contract Provisions for Federal Aid Construction Contracts' (which outlines the requirements of the Federal-Aid process) is attached to the draft program agreement. If this program agreement is acceptable to the City, then please return two executed copies of the agreement to this office with original signatures. Each copy of the program agreement must include a copy of the location map labeled "Exhibit A", the project schedule labeled "Exhibit B" and a copy of Form 1273. Also submit a copy of the City's applicable enabling ordinance. Please note that the person authorized to sign the agreement per the enabling ordinance will be required to provide signatures on the executed program agreements. MoDOT will forward the agreements to the MHTC for execution and will return a fully executed program agreement to your office.

Also enclosed is the 1590 Federal Funding Accountability and Transparency Act (FFATA) form that must be filled out and returned to this office. This form is required from Local Agencies for each project receiving fed-aid funds.



*Our mission is to provide a world-class transportation experience that
delights our customers and promotes a prosperous Missouri.*

www.modot.org

Federal funds for Preliminary Engineering have not been programmed for this project. Design work may begin at any time since this work is not reimbursable.

If the City is seeking federal funds for consultant Construction Engineering services/Inspection then the City must use a Qualification Based Selection (QBS) process for the procurement of engineering services. The QBS process must include a public announcement, advertisement or other acceptable method that assures qualified in-state and out-of-state consultants are given a fair opportunity for consideration, which allows for a minimum two-week response time. The City must use the MoDOT Consultant Resources website to post the public announcement or advertisement (Figure 136.4.7, sample solicitation form) for the two week period. The solicitation form/RFQ should be sent electronically to this office for review and placement on the MoDOT website.

The City's project files must contain documentation on when the sponsor's review team met to evaluate the prospective consultants. The project sponsor must also have an attendance sheet with the date they met. A copy of the advertisement must be placed in the sponsor project file. All of this information must be submitted to MoDOT for filing along with the consultant contract submittal.

If the City plans on using City forces to perform reimbursable design work then a cover letter must be submitted that shows an estimate of cost for the design work, including classification of workers, estimated hours, rate per hour, and total amount. Once the estimated funds have been approved and obligated by FHWA, then MoDOT will provide the City with approval to begin reimbursable City force design work.

Design Criteria

The City's engineer of record for this project will be considered responsible for determining the appropriate design parameters chosen, see LPA 136.7.2.7. If any improvements are to occur on MoDOT right of way, the project design criteria that will be used will need to be approved by MoDOT.

Environmental Requirements

The City must submit the LPA Request for Environmental Review (RER) to MoDOT's Environmental Division. The RER initiates MoDOT environmental and historic preservation staff's review of the project to determine the appropriate NEPA classification. The RER form is located in section 136.6.2 of the LPA Manual.

Utilities, Public Meetings, Preliminary Plan Submittal

All utility companies that are affected by this project should be notified of the project scope and project schedule at this time. Utility company comments may affect preliminary plan development. To help address utility coordination issues, MoDOT now requires a Utilities Scoping Checklist for each utility. Please submit the Utility Scoping Checklist with the preliminary plans. (See EPG Figure 136.7.8).

As stated in the LPA manual, public hearings are required for certain projects. If a public hearing is required for this project, please provide this office with a copy of the advertisement for the public hearing that is to be published.

ADA requirements

The Americans with Disabilities Act (ADA) requires that all facilities must be designed to current accessibility standards. When final plans for this project are submitted to MoDOT for review, the plans will need to include enough detail to show that sidewalks, curb cuts, detectable warning panels, etc., meet ADA requirements.

Once preliminary plans are complete, please submit an electronic copy of the plans via CD for review/approval.

If you have any questions, please contact me at Thomas.McCloskey@modot.mo.gov or (314) 453-1831.

Sincerely,

A handwritten signature in black ink that reads "Tom McCloskey". The signature is written in a cursive style with a large, looping initial "T".

Tom McCloskey
District Design Liaison
MoDOT

csk

Copy: Josh Schwenk – East West Gateway

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: STP-5502(609)
Award Year: 2022
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 Kirkwood, St. Louis 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 Geyer Road, Phase 2 involves:

2" mill and resurfacing 2 lanes, curb and gutter repair, vertical realignment at the railroad, reconstruction of traffic and pedestrian signals to meet ADA and MUTCD standard, and updating of pedestrian facilities to ADA compliance

The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project Geyer Road, Phase 2 by the Commission is within the jurisdiction of the City. 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:

Geyer Road from West Adams Avenue to 50' north of Big Bend 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. However upon written request by the City and the written acceptance by the Commission, the Commission shall acquire right of way for the City. Upon approval of all agreements, plans and specifications by the Commission and the FHWA, the commission will file copies of said plans in the office of the county clerk: and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of City, and the City will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the City. The City shall pay into court all awards and final judgments in favor of any such condemnees. The City shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.

(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 not to exceed \$1,139,635. 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 Geyer Road, Phase 2 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 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:
139 South Kirkwood Road
Kirkwood, MO 63122

- (B) To the Commission:
1590 Woodlake Drive
Chesterfield, MO 63017
Facsimile No.: (573) 522-6480

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 _____, 20____.

Executed by the Commission this ____ day of _____, 20____.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF KIRKWOOD

By _____

Title _____

Title _____

ATTEST:

ATTEST:

By _____

Secretary to the Commission

Title _____

Approved as to Form:

Approved as to Form:

By _____

Commission Counsel

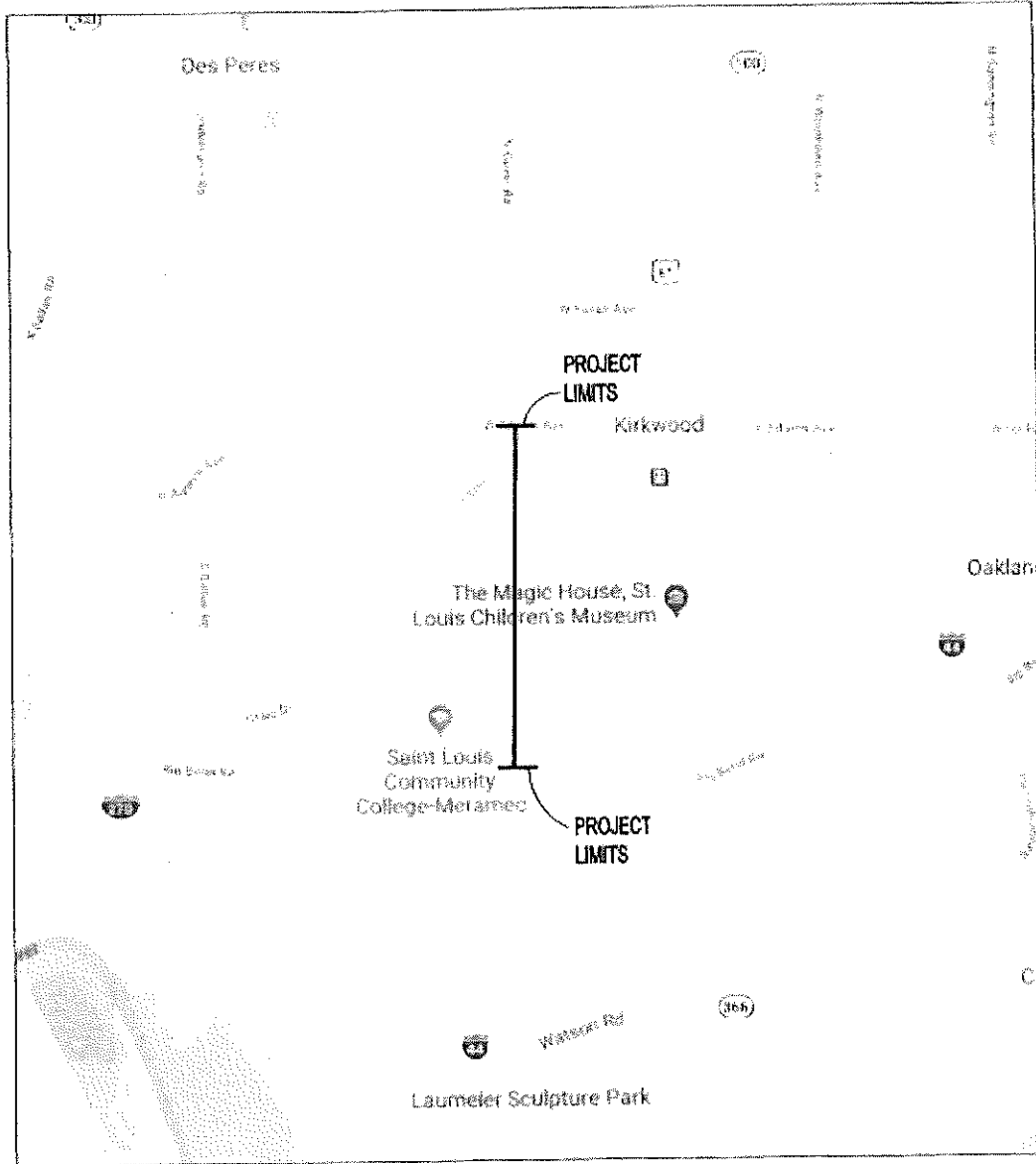
Title _____

Ordinance No: _____

Exhibit A - Location of Project

DWG: G:\TEAM DRIVES\CEM-ENG\ENGINEERING\KIRKWOOD\1701-17-01 STP GRANT - GEYER ROAD - 2018 LOCATION MAP.DWG

PL01: 6/12/18



SCALE: N.T.S.


| | | | |
|--|--|---|--------------|
| CEM Engineering, LLC  WWW.CEM-ENG.COM 110 VICTORY COURT PH. (636) 383-5299 MOSCOW MILLS, MO 63362 | DESIGNED BY: CEM DRAWN BY: CEM CHECKED BY: CEM | LOCATION MAP GEYER ROAD IMPROVEMENTS CITY OF KIRKWOOD ST. LOUIS COUNTY, MISSOURI | |
| | DATE: 6/12/18 | PROJECT: 1701-17-2 | EXHIBIT: LOC |

Exhibit B – Project Schedule

Project Description: STP-5502(602)

2" mill and resurfacing 2 lanes, curb and gutter repair, vertical realignment at the railroad, reconstruction of traffic and pedestrian signals to meet ADA and MUTCD standard, and updating of pedestrian facilities to ADA compliance

| PROJECT DEVELOPMENT SCHEDULE | | | |
|---|---------------------------------|----------------------------------|--------------------------------|
| <i>Note: Many stages can occur concurrently.</i> | | | |
| Activity Description | Start Date (MM/YYYY) | Finish Date (MM/YYYY) | Time Frame (Months) |
| Receive notification letter | 11/2018 | 11/2018 | 1 |
| Execute agreement (project sponsor and DOT) | 12/2018 | 12/2019 | 12 |
| Engineering services contract submitted and approved* | 12/2019 | 4/2020 | 5 |
| Obtain environmental clearances (106, CE-2, etc.) | 4/2020 | 8/2020 | 5 |
| Public meeting/hearing | 6/2020 | 6/2020 | 1 |
| Develop and submit preliminary plans | 4/2020 | 8/2020 | 5 |
| Preliminary plans approved | 9/2020 | 9/2020 | 1 |
| Develop and submit right-of-way plans | 9/2020 | 3/2021 | 7 |
| Review and approval of right-of-way plans | 4/2021 | 5/2021 | 2 |
| Submit and receive approval for notice to proceed for right-of-way acquisition (A-Date)* | 6/2021 | 7/2021 | 2 |
| Right-of-way acquisition | 7/2021 | 7/2022 | 12 |
| Utility coordination | 4/2020 | 7/2022 | 15 |
| Develop and submit PS&E | 1/2022 | 7/2022 | 8 |
| District approval of PS&E/advertise for bids* | 7/2022 | 8/2022 | 3 |
| Submit and receive bids for review and approval | 11/2022 | 1/2023 | 3 |
| Project implementation/construction | 1/2023 | 12/2023 | 12 |

* Finish date must match fiscal year for each milestone shown in bold text.

*Note: the dates established in the schedule above will be used in the applicable ESC between the sponsor agency and consultant firm.

**Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and requires request to adjust.

Exhibit C - Required Contract Provisions

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 \$40 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

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

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.

Form 1590 Sub Recipient (Project Sponsor) Information

Federal Funding Accountability and Transparency Act 2006 (FFATA)

This section to be complete by district liaison.

MoDOT District: St. Louis

Project Federal ID Number: STP 5502(609)

Project Dollar Amount (Federal only): \$1,139,635.00

Sub-Recipient (Project Sponsor) Information

Name and Address

Name: City of Kirkwood

Address: 139 S. Kirkwood Road

City: Kirkwood State: MO

Zip: 63122

Project Sponsor DUNS Number: 020360103

Date of Central Contractor Registry (CCR) registration: 8/16/2015

| | | |
|--|------------------------------|--|
| Project Sponsor Annual Gross Revenues Exceed 80% or more in Federal Awards | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
|--|------------------------------|--|

| | | |
|---|------------------------------|--|
| Sub-Recipients Annual Gross Revenues Equal or Exceed \$25,000,000 | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
|---|------------------------------|--|

If either of the above questions are answered NO then project sponsor is exempt from the providing the officer compensation information in the next section.

| | Officer Name | Officer Compensation |
|--|--------------|----------------------|
| Project sponsor Highly Compensated Officer | | |
| | | |
| | | |
| | | |
| | | |

Return form with program agreement OR mail, email or fax form to one of the following:

| | |
|---|--|
| Missouri Department of Transportation Financial Services Division 105 West Capitol Avenue PO Box 270 Jefferson City, MO 65102-0270 | Fax Number: 1-573-522-1441 Email: Obligate@modot.mo.gov |
|---|--|

| | |
|---|--------------|
| PREPARED BY: | DATE: |
| Name and Title: Ted Dunkmann, City Engineer Phone number: 314.822.5820 Email: dunkmatj@kirkwoodmo.org | 7/8/2019 |

BILL 10775

ORDINANCE

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A BED AND BREAKFAST ESTABLISHMENT AT 627 HICKORY HOLLOW LANE SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, Adam Roth made application (PZ-5-20) for a Special Use Permit to operate a Bed and Breakfast Establishment at 627 Hickory Hollow Lane; and

WHEREAS, the Planning and Zoning Commission did on the 19th day of June, 2019, recommend the granting of said Special Use Permit subject to certain conditions consistent with the recommendations included in the Staff Report dated June 19, 2019 and did find that granting of said permit would not substantially increase traffic hazards or congestion, would not substantially increase fire hazards, would not adversely affect the character of the neighborhood, would not adversely affect the general welfare of the community, and would not overtax public utilities, and that granting such permit would be consistent with the zoning laws; and

WHEREAS, the Council did on the 18th day of July, 2019, hold a public hearing with respect to such application after duly advertising and giving proper notice of such hearing and does find that the granting of such permit, subject to certain conditions, would not substantially increase traffic hazards or congestion, would not substantially increase fire hazards, would not adversely affect the character of the neighborhood, would not adversely affect the general welfare of the community, and would not overtax public utilities; and

WHEREAS, the Council does further find that the general welfare requires that such permit be subject to the conditions hereinafter set out.

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

SECTION 1. A Special Use Permit is hereby granted for a Bed and Breakfast Establishment on the property known as 627 Hickory Hollow Lane subject to the following conditions:

1. Said establishment shall rent a maximum of 2 bedrooms to a maximum of 3 total guests per night.
2. Said establishment is required to keep a written log, subject to inspection by the City, of all guests. Said log will be utilized to track the maximum consecutive rental days and maximum rental days in a calendar year.
3. Fire escape plans shall be posted in all guest rooms and an operable fire extinguisher shall be centrally located within the establishment in a visible area or with visible signage indicating the location.
4. An annual business license shall be obtained from the City's Finance Department.

5. An annual inspection by the City's Building Department shall be required.

SECTION 2. The approval of this special use permit shall not authorize any person to unreasonably alter, increase, or redirect the surface water run off so as to cause harm to any person or property.

SECTION 3. The premises and improvements as approved by this Special Use Permit shall be in good working order and maintained in good repair at all times.

SECTION 4. The applicant by accepting and acting under the Special Use Permit herein granted accepts the permit subject to the reservations, restrictions, and conditions set forth in the Code of Ordinances and in this Ordinance and agrees to comply with each provision subject to the penalties prescribed under Section 1-8 of the Code of Ordinances and subject to revocation of this permit in the event such provisions are not complied with.

SECTION 5. The applicant and his successors and assigns by accepting and acting under the approval herein granted accepts the approval subject to the condition that failure to abate any violation of this approval or any provisions of the Code of Ordinances of the City of Kirkwood within five (5) days after notice by hand delivery or first-class mail shall result in an administrative investigation fee of \$500 due to the City of Kirkwood. An invoice shall be issued. A Stop Work Order to cease all work on the premises except such work as directed by the Public Services Director to abate the violation may be issued for any work on the premises until the investigation fee is paid in full. The City may demand payment of said fee from the holder of the letter of credit, any bond, or escrow if not paid within 30 days of the invoice.

SECTION 6. The applicant further agrees by accepting and acting under this Special Use Permit herein granted that this Ordinance does not grant applicant any special rights, privileges, or immunities.

SECTION 7. This ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS day of _____, 2019.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Introduced:

1st Reading:

2nd Reading:

Legislation Request

Ordinance

Place On The Agenda Of: 7/18/2019

Step #1:

Strategic Plan NO Goal # & Title

Background To Issue:

The owner of a single-family residential home at 627 Hickory Hollow Lane has applied for a Special Use Permit to operate a Bed and Breakfast Establishment. Additional details about the proposal can be found in the applicant's cover letter and the staff memo attached to this request.

Recommendations and Action Requested:

The Planning & Zoning Commission recommended approval of this item at their June 19th meeting by a vote of 5-2. A public hearing is requested for the July 18, 2019 City Council meeting followed by Council consideration of the drafted legislation.

Alternatives Available:

Does this project have a public information component? Yes No

Cost: \$0.00 Account #: 0 Project #: Budgeted: YES
If YES, Budgeted Amount: \$0.00 If NO, or if insufficient funding (Complete Step #3).


Department Head Comments:

BY: Jonathan Raiche


Date: 7/11/2019

Authenticated: raichejd

You can attach up to 3 files along with this request.


2019-07-18 PZ-5-20
Ordinance.doc
Microsoft Word 97 - 2003
Document
39.0 KB


2019-06-19 PZ-5-20 Memo.pdf
Adobe Acrobat Document
2.19 MB


2019-05-31 PZ-5-20 Cover
Letter.pdf
Adobe Acrobat Document
875 KB

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Select...

Purchasing Director's Comments:

[Empty text box for Purchasing Director's Comments]

BY: Select...


Date:


[Empty date field]


Authenticated:

[Empty authentication field]

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Select...

From Account # or Fund Name:

[Empty dropdown menu]

To Account # or Fund Name:

[Empty dropdown menu]

Finance Director's Comments:

[Empty text box for Finance Director's Comments]

BY: Select...

Date:

[Empty date field]

Authenticated:

[Empty authentication field]

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve

Diasapprove

Chief Administrative Officer's Comments:

[Empty text box for Chief Administrative Officer's Comments]

BY:



Date:

7-15-19

MEMORANDUM

TO: PLANNING & ZONING COMMISSION
FROM: JONATHAN D. RAICHE, CITY PLANNER *JDR*
SUBJECT: PZ-5-20; 627 HICKORY HOLLOW,
SPECIAL USE PERMIT (BED & BREAKFAST)
DATE: JUNE 19, 2019
CC: BILL BENSING, PUBLIC SERVICES DIRECTOR



WHERE COMMUNITY AND SPIRIT MEET™

INTRODUCTION

The owner of the single-family house located at 627 Hickory Hollow Lane has applied for a Special Use Permit for a Bed and Breakfast. The City received information that the owner was renting out rooms in his home through AirBnB. After the City confirmed this, the homeowner was contacted and informed that he would need to comply with one of two options:

- 1) All renters must apply for occupancy permits with proper inspections conducted every time occupancy changes, or
- 2) The owner could apply for a Special Use Permit to operate a Bed & Breakfast.

After discussion with City Staff, the owner decided to apply for a Special Use Permit for a Bed & Breakfast. As noted in his cover letter, the applicant will continue to occupy the home as his primary residence and will rent out a maximum of 2 bedrooms to a maximum of 3 guests. The applicant has indicated he will also comply with the requirement that guests shall not stay more than 14 consecutive days or 30 days in a calendar year. He does not plan to make any exterior alterations or place any signage on his property related to the Bed & Breakfast.

The subject site includes an approximately 9' wide driveway that leads to a 1car carport. The driveway length would allow for three cars to be parked single-stacked (including one in the carport). The property also has enough road frontage to accommodate one car for on-street parking. The applicant indicates that the guest rooms will have a fire escape plan posted and a fire extinguisher centrally located in the house.

BACKGROUND

With the growing popularity of web-based, short-term rental sites like AirBnB, all communities across the country have seen a renewed interest in this type of business. While the method for marketing and renting these establishments has changed, Bed & Breakfasts and other short-term vacation rentals have been a longstanding activity in many communities.

The City of Kirkwood has not adopted new regulation in response to the increased interest in short-term rentals, but instead has used its existing regulations. As listed above, the two options are for all renters to apply for legal occupancy permits or to receive a Special Use Permit as a Bed & Breakfast. Because the Bed & Breakfast use category requires that the property owner reside at property, many of the concerns of unmonitored guests are addressed. Additionally, the City would be able to revoke a Special Use Permit if the operation is found to be in violation with the conditions of said permit.

While there may be a need in the future to create additional regulations and/or procedures, Staff feels that the current regulations provide individuals with two options of renting their homes. These options may not be practical for someone who wants to have high-turnover and frequent rentals at a home that they do not occupy; however, Staff believes this can be an effective way of safe-guarding neighbors.

REQUEST

The Planning & Zoning Commission may choose to assign a subcommittee to this item and develop a subcommittee report per the usual process; however, due to the fact that no physical site changes are being proposed, Staff wanted to provide the opportunity for the Commission to vote on this item at their June 19th, 2019 meeting. If the commission would like to vote to recommend approval of said item to the City Council, Staff would recommend that a motion would include the following conditions:

1. A Special Use Permit shall be granted to allow for the operation of a Bed & Breakfast Establishment at the property known as 627 Hickory Hollow Lane.
2. Said establishment shall rent a maximum of 2 bedrooms to a maximum of 3 total guests per night.
3. Said establishment is required to keep a written log, subject to inspection by the City, of all guests. Said log will be utilized to track the maximum consecutive rental days and maximum rental days in a calendar year.
4. Fire escape plans shall be posted in all guest rooms and an operable fire extinguisher shall be centrally located within the establishment in a visible area or with visible signage indicating the location.
5. An annual business license shall be obtained from the City's Finance Department.
6. An annual inspection by the City's Building Department shall be required.

Special Use Permit for Adam Roth

627 Hickory Hollow Ln, Kirkwood, MO 63122 | 573.880.8440 | adam.roth.138@gmail.com

Date

Jonathan Raiche
City Planner
City of Kirkwood
139 S. Kirkwood Rd
Kirkwood, MO 63122

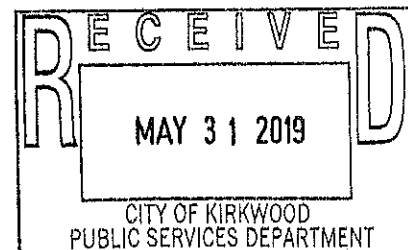
Dear Jonathan Raiche:

This application is for a Special Use Permit for the property at 627 Hickory Hollow Ln in Kirkwood, MO 63122. The property will be used for a Bed and Breakfast Establishment. I will continue to occupy the property and host guest thru the Airbnb website. I will offer guests two private bedrooms, a shared bathroom, and access to the common areas of my home. The maximum number of overnight guests is three. I will not provide meals, only bottled water and access to a coffee maker. Hours of operation will be twenty-four hours a day and seven days a week. Four parking spots are available to occupants; three spots in the driveway/carport and one public on street space in front of dwelling. There will be no employees; only me running the operation. Guest rooms will have a Fire Escape Plan posted. A fire extinguisher will be centrally located. Rooms will be rented on a daily basis and for no more than fourteen consecutive days and not more than thirty days in a calendar year to any particular guests. There will be no exterior evidence of such establishment and no alterations to the dwelling. The goal is to provide a safe and friendly environment for guest to stay and explore in Kirkwood. This operation will benefit guests that are either just passing through, here for business, for pleasure, or for neighbors going thru tough times.

Sincerely,



Adam Roth



PROCEDURE FOR PUBLIC HEARING

Mayor: At this time the council will recess to conduct a public hearing regarding:

A request for a Special Use Permit for a Bed and Breakfast at 627 Hickory Hollow Lane

Mayor: Mr. Hessel, do you wish to enter any exhibits into the record?

Mayor: Mr. Hawes, who will present this issue to the City Council?

City Planner Jonathan Raiche

Mayor: Georgia, has anyone completed a card to speak regarding this proposal?

Mayor: Is there anyone in the audience that did not complete a card that wishes to speak regarding this issue? (Please be sure to fill out a card before you leave so your name and address is reflected in the record)

Mayor: Hearing no further discussion, the council will take this matter under advisement and consider the hearing to be recessed.



AFFIDAVIT OF PUBLICATION

STATE OF MISSOURI
COUNTY OF ST. LOUIS

} S.S.

Page 1 of 1

Before the undersigned Notary Public personally appeared **Karie Clark** on behalf of **THE COUNTIAN, ST. LOUIS COUNTY** who, being duly sworn, attests that said newspaper is qualified under the provisions of Missouri law governing public notices to publish, and did so publish, the notice annexed hereto, starting with the **June 25, 2019** edition and ending with the **June 25, 2019** edition, for a total of 1 publications:

06/25/2019

**CITY OF KIRKWOOD
NOTICE OF PUBLIC HEARING
BEFORE THE CITY COUNCIL OF
KIRKWOOD, MISSOURI**

The Council of the City of Kirkwood will hold a public hearing in City Hall, 139 South Kirkwood Road, Kirkwood, Missouri at the hour of 7:00 p.m., Thursday, July 18, 2019 to consider the following:

A request for a Special Use Permit for a Bed and Breakfast at 627 Hickory Hollow Lane.

Laurie Asche, CMC/MRCC
City Clerk

The City of Kirkwood is interested in effective communication for all persons. Persons requiring an accommodation to attend and participate in the meeting should contact the City Clerk at 314-822-5802 at least 48 hours before the meeting. With advance notice of seven calendar days, the City of Kirkwood will provide interpreter services at public meetings for languages other than English and for the hearing impaired. Upon request, the minutes from this meeting can be made available in an alternate format, such as CD by calling 314-822-5802. 11760970 County Jun. 25, 2019

Karie Clark

Karie Clark

Subscribed & sworn before me this 25th day of June, 2019
(SEAL)

Chanel Jones
Notary Public

CHANEL JONES
Notary Public - Notary Seal
State of Missouri
Commissioned for St Louis County
My Commission Expires: August 08, 2022
Commission Number: 14397721



AFFIDAVIT OF PUBLICATION

City of Kirkwood

Attn:

City Clerk

139 S. Kirkwood Rd.

Kirkwood, MO 63122

Laurie Asche

I, Terry Cassidy, verify that the attached Public Hearing
Notice was published in the Webster-Kirkwood Times on

June 28, 2019


Advertising Consultant



NOTICE OF PUBLIC HEARING
before the City Council
of Kirkwood, MO

The Council of the City of Kirkwood will hold a public hearing in City Hall, 139 South Kirkwood Road, Kirkwood, Missouri at the hour of 7:00 p.m., Thursday, July 18, 2019 to consider the following:

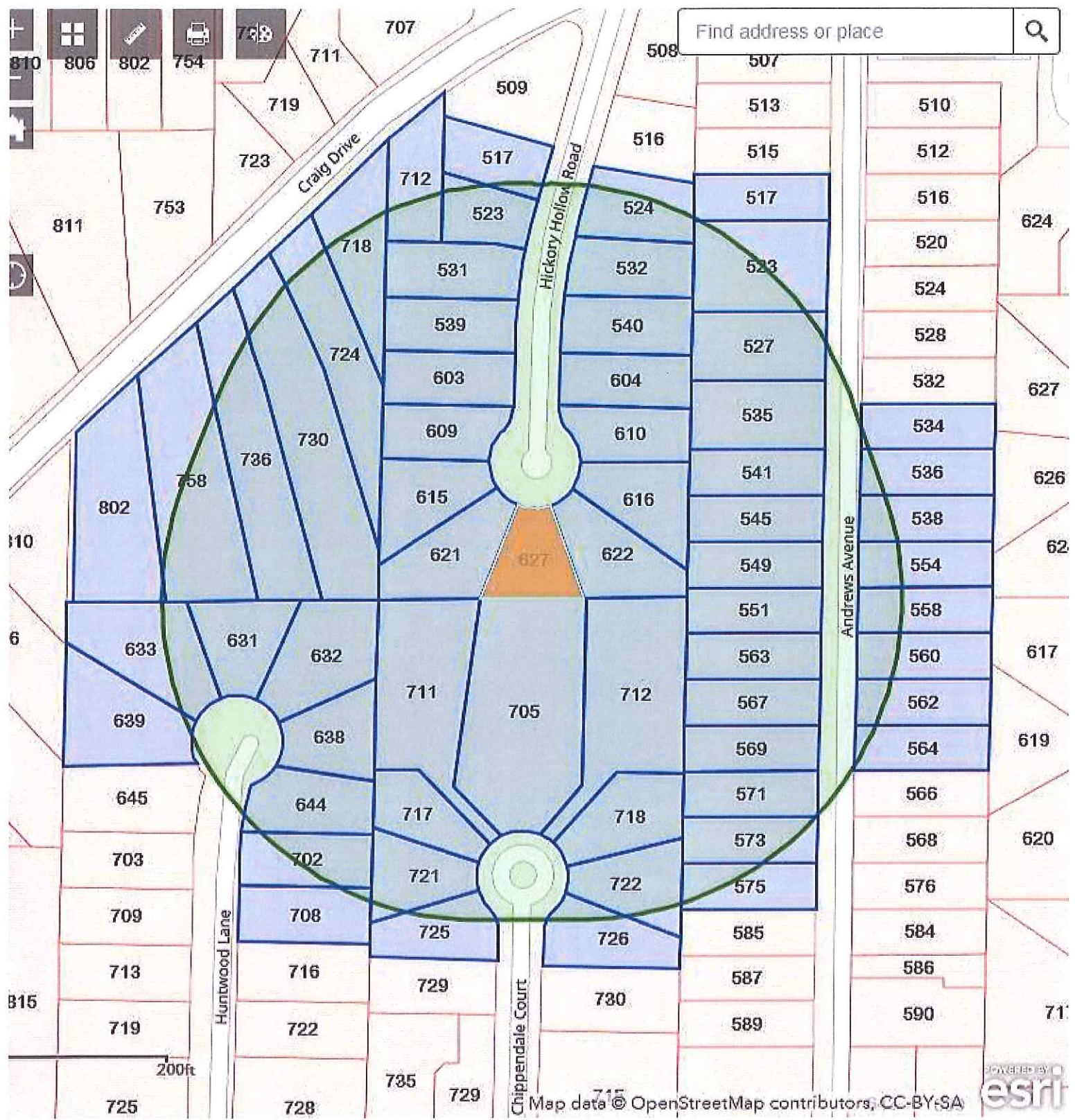
A request for a Special Use Permit for a Bed and Breakfast at 627 Hickory Hollow Lane.

Laurie Asche, CMCMRCC
City Clerk

The City of Kirkwood is pleased to assist communicators in their efforts. Persons wishing an accommodation to attend and participate in this hearing should contact the City Clerk's Office at least 10 business days in advance of the hearing. For more information, please contact the City Clerk's Office at 636-875-3300 or visit the City's website at www.kirkwoodmo.gov.

06/09/2019 1

07/03 2:42 PM



Map data © OpenStreetMap contributors, CC-BY-SA



PROPERTY OWNER
726 CHIPPENDALE CT
SAINT LOUIS, MO 63122

PROPERTY OWNER
725 CHIPPENDALE CT
SAINT LOUIS, MO 63122

PROPERTY OWNER
708 HUNTWOOD LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
575 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
722 CHIPPENDALE CT
SAINT LOUIS, MO 63122

PROPERTY OWNER
702 HUNTWOOD LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
721 CHIPPENDALE CT
SAINT LOUIS, MO 63122

PROPERTY OWNER
573 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
718 CHIPPENDALE CT
SAINT LOUIS, MO 63122

PROPERTY OWNER
1964 RIETH TER
SAINT LOUIS, MO 63122

PROPERTY OWNER
12165 AUDRAIN RD 971
CENTRALIA, MO 65240

PROPERTY OWNER
644 HUNTWOOD LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
569 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
564 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
567 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
8047 COUNTY LINE DR
ROBERTSVILLE, MO 63072

PROPERTY OWNER
638 HUNTWOOD LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
639 HUNTWOOD LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
563 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
560 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
633 HUNTWOOD LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
705 CHIPPENDALE CT
SAINT LOUIS, MO 63122

PROPERTY OWNER
712 CHIPPENDALE CT
SAINT LOUIS, MO 63122

PROPERTY OWNER
551 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
558 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
340 W JEFFERSON AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
1420 WOODHUE DR
SAINT LOUIS, MO 63126

PROPERTY OWNER
627 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
340 W JEFFERSON AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
538 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
622 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
616 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
541 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
741 DOUGHERTY PL
SAINT LOUIS, MO 63122

PROPERTY OWNER
610 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
534 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
328 W ARGONNE DR
SAINT LOUIS, MO 63122

PROPERTY OWNER
802 CRAIG DR
SAINT LOUIS, MO 63122

PROPERTY OWNER
604 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
527 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
540 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
532 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
7729 CLAYTON RD
SAINT LOUIS, MO 63117

PROPERTY OWNER
517 ANDREWS AVE
SAINT LOUIS, MO 63122

PROPERTY OWNER
523 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
524 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
517 HICKORY HOLLOW LN
SAINT LOUIS, MO 6312

PROPERTY OWNER
631 HUNTWOOD LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
632 HUNTWOOD LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
711 CHIPPENDALE CT
SAINT LOUIS, MO 63122

PROPERTY OWNER
621 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
615 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
609 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
603 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
11263 E APPALOOSA PL
SCOTTSDALE, AZ 85259

PROPERTY OWNER
531 HICKORY HOLLOW LN
SAINT LOUIS, MO 63122

PROPERTY OWNER
712 CRAIG DR
SAINT LOUIS, MO 63122

PROPERTY OWNER
758 CRAIG DR
SAINT LOUIS, MO 63122

PROPERTY OWNER
724 CRAIG DR
SAINT LOUIS, MO 63122

PROPERTY OWNER
730 CRAIG DR
SAINT LOUIS, MO 63122

PROPERTY OWNER
736 CRAIG DR
SAINT LOUIS, MO 63122

PROPERTY OWNER
8666 SUMNER AVE
FORT MYERS, FL 33908



WHERE COMMUNITY AND SPIRIT MEET

June 20, 2019

Russell B. Hawes
Chief Administrative Officer

At the June 19, 2019, meeting of the Planning and Zoning Commission, the following action was taken:

1. After a presentation to waive two Subdivision Code requirements to accommodate a boundary adjustment between 222 and 226 East Argonne Drive, the Commission unanimously recommended approval.
2. After a presentation for amendments to the Zoning Code and a Special Use Permit for a tattoo studio on the second floor of 108 North Kirkwood Road, Commissioners Drewel and Evens were appointed to the Subcommittee; and a meeting was scheduled at the site for June 25 at 7:30 a.m.
3. After a presentation for a Special Use Permit for a Bed and Breakfast at 627 Hickory Hollow Lane, the Commission voted 5 to 2 recommending approval.
4. After a presentation to waive two Subdivision Code requirements to accommodate a boundary adjustment between 424 and 428 Lee Avenue, the Commission unanimously recommended approval.
5. After a presentation to subdivide 1943 Westview Avenue into two lots, the Commission unanimously recommended approval of the preliminary plat.
6. After a presentation for a Special Use Permit and Site Plan for Audi Kirkwood at 10230-10240 Manchester Road, Commissioners O'Donnell and Diel were appointed to the Subcommittee; and a meeting was scheduled at the site for June 25 at 9:00 a.m.
7. The applicant's agent for a request for a Special Use Permit for a medical office at 10505 Big Bend Boulevard requested the item be continued to the Commission's July 17 meeting.
8. The Commission elected the following slate of officers:
Chairman – Allen Klippel
Vice Chairman – Jim O'Donnell
Secretary/Treasurer – Wanda Drewel

MEMORANDUM

TO: PLANNING & ZONING COMMISSION
FROM: JONATHAN D. RAICHE, CITY PLANNER *JDR*
SUBJECT: PZ-5-20; 627 HICKORY HOLLOW,
SPECIAL USE PERMIT (BED) & BREAKFAST
DATE: JUNE 19, 2019
CC: BILL BENSING, PUBLIC SERVICES DIRECTOR



WHERE COMMUNITY AND SPIRIT MEET®

INTRODUCTION

The owner of the single-family house located at 627 Hickory Hollow Lane has applied for a Special Use Permit for a Bed and Breakfast. The City received information that the owner was renting out rooms in his home through AirBnB. After the City confirmed this, the homeowner was contacted and informed that he would need to comply with one of two options:

- 1) All renters must apply for occupancy permits with proper inspections conducted every time occupancy changes, or
- 2) The owner could apply for a Special Use Permit to operate a Bed & Breakfast.

After discussion with City Staff, the owner decided to apply for a Special Use Permit for a Bed & Breakfast. As noted in his cover letter, the applicant will continue to occupy the home as his primary residence and will rent out a maximum of 2 bedrooms to a maximum of 3 guests. The applicant has indicated he will also comply with the requirement that guests shall not stay more than 14 consecutive days or 30 days in a calendar year. He does not plan to make any exterior alterations or place any signage on his property related to the Bed & Breakfast.

The subject site includes an approximately 9' wide driveway that leads to a 1-car carport. The driveway length would allow for three cars to be parked single-stacked (including one in the carport). The property also has enough road frontage to accommodate one car for on-street parking. The applicant indicates that the guest rooms will have a fire escape plan posted and a fire extinguisher centrally located in the house.

BACKGROUND

With the growing popularity of web-based, short-term rental sites like AirBnB, all communities across the country have seen a renewed interest in this type of business. While the method for marketing and renting these establishments has changed, Bed & Breakfasts and other short-term vacation rentals have been a longstanding activity in many communities.

The City of Kirkwood has not adopted new regulation in response to the increased interest in short-term rentals, but instead has used its existing regulations. As listed above, the two options are for all renters to apply for legal occupancy permits or to receive a Special Use Permit as a Bed & Breakfast. Because the Bed & Breakfast use category requires that the property owner reside at property, many of the concerns of unmonitored guests are addressed. Additionally, the City would be able to revoke a Special Use Permit if the operation is found to be in violation with the conditions of said permit.

While there may be a need in the future to create additional regulations and/or procedures, Staff feels that the current regulations provide individuals with two options of renting their homes. These options may not be practical for someone who wants to have high-turnover and frequent rentals at a home that they do not occupy; however, Staff believes this can be an effective way of safe-guarding neighbors.

REQUEST

The Planning & Zoning Commission may choose to assign a subcommittee to this item and develop a subcommittee report per the usual process; however, due to the fact that no physical site changes are being proposed, Staff wanted to provide the opportunity for the Commission to vote on this item at their June 19th, 2019 meeting. If the commission would like to vote to recommend approval of said item to the City Council, Staff would recommend that a motion would include the following conditions:

1. A Special Use Permit shall be granted to allow for the operation of a Bed & Breakfast Establishment at the property known as 627 Hickory Hollow Lane.
2. Said establishment shall rent a maximum of 2 bedrooms to a maximum of 3 total guests per night.
3. Said establishment is required to keep a written log, subject to inspection by the City, of all guests. Said log will be utilized to track the maximum consecutive rental days and maximum rental days in a calendar year.
4. Fire escape plans shall be posted in all guest rooms and an operable fire extinguisher shall be centrally located within the establishment in a visible area or with visible signage indicating the location.
5. An annual business license shall be obtained from the City's Finance Department.
6. An annual inspection by the City's Building Department shall be required.

BILL 10776

ORDINANCE

AN ORDINANCE AMENDING THE KIRKWOOD CODE OF ORDINANCES, CHAPTER 14, ARTICLE VIII. SECTION 14-394 "SCHEDULE D: LIMITED PARKING" BY REMOVING THE LIMITED PARKING ON EAST SIDE OF CLAY AVENUE FROM WILSON AVENUE TO 100 FEET SOUTH OF MANCHESTER ROAD, AND ON THE SOUTH SIDE OF WILSON AVENUE FROM CLAY AVENUE TO KIRKWOOD ROAD.

WHEREAS, it was brought to the Police Department's attention that the posted "2-hour parking, 8:00 a.m. to 6:00 p.m., except Sundays and Holidays" signs on the 100 block of Wilson Avenue are often ignored and not enforced, and

WHEREAS, the Streets and Codes Issue Team has reviewed the relevance of these posted signs and concluded that the posted restrictions are no longer necessary, and

WHEREAS, the Streets and Codes Issue Team recommends that the "2-hour parking, 8:00 a.m. to 6:00 p.m., except Sundays and Holidays" signs be removed.

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

SECTION 1. The Kirkwood Code of Ordinances, Chapter 14, Article VIII. Section 14-394 (d) is hereby amended by removing the following:

Clay Avenue (east side) from Wilson Avenue to 100 feet south of Manchester Road.

Wilson Avenue (south side) from Clay Avenue to Kirkwood Road.

SECTION 2. The Street Department is hereby directed to remove the "2-hour parking, 8:00 a.m. to 6:00 p.m., except Sundays and Holidays" signs in the above locations.

SECTION 3. This Ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS DAY OF.

Mayor, City of Kirkwood

ATTEST:

City Clerk
1st Reading:
2nd Reading:

Legislation Request

Ordinance

Place On The Agenda Of: 8/1/2019

Step #1:

Strategic Plan NO Goal # & Title Amend Parking Ordinance #14.394 Schedule D: Limited Parking (...)

Background To Issue:

As brought to the Police Department's attention, the posted "2-Hour Parking, 8am-6pm, Except Sundays and Holidays" signs on the 100 block of Wilson, were often ignored and certainly never enforced. The City's SCIT committee reviewed the relevance of these posted signs and concluded the posted restrictions are no longer necessary.

Recommendations and Action Requested:

The SCIT committee makes the recommendation to amend the City' Ordinance #14.394 Schedule D: Limited Parking (d) by removing:

- 1) Clay Avenue, east side, from Wilson Avenue to 100 feet south of Manchester Road
 - 2) Wilson Avenue, south side, from Clay Avenue to Kirkwood Road
- from the list.

The current signs will be removed by the street department and no additional restrictions will be added to the effected areas.

Alternatives Available:

N/A

Does this project have a public information component? Yes No

Cost: \$0.00 Account #: xx Project #: 0 Budgeted: NO

If YES, Budgeted Amount: \$0.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

N/A

BY: Brian Murphy


Date: 7/18/2019

Authenticated: baldriga

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. (Must have **Purchasing Director's approval**).

Select...

Purchasing Director's Comments:

BY: Select...

Date:

Authenticated:

You can attach up to 3 files along with this request.

| | | |
|---|---|---|
|  File Attachment |  File Attachment |  File Attachment |
|---|---|---|

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Select...

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

BY: Select...

Date:

Authenticated:

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve Diasapprove

Chief Administrative Officer's Comments:

BY: 

Date: 7-25-19

BILL 10777

ORDINANCE

AN ORDINANCE APPROPRIATING \$27,170 FROM THE TRANSFER TO OTHER FUNDS ACCOUNT TO A REVENUE ACCOUNT AND THEN APPROPRIATING THE FUNDS FROM THE REVENUE ACCOUNT TO THE OTHER PROFESSIONAL SERVICES ACCOUNT FOR THE MANAGEMENT OF THE AQUATIC CENTER.

WHEREAS, the contract with Midwest Pool Managements for the management of the Aquatic Center exceeded the budgeted amount, and

WHEREAS, funds in the amount of \$27,170 need to be appropriated from Account #302-2001-491.10.10 (Transfer to Other Funds) to Account #101-0000-391.10.05 (Revenue) then from Account #101-0000-391.10.05 (Revenue) to Account #101-2004-451.31.10 (Other Professional Services).

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

SECTION 1. Funds in the amount of \$27,170 are hereby appropriated from Account #302-2001-491.10.10 (Transfer to Other Funds) to Account #101-0000-391.10.05 (Revenue) then from Account #101-0000-391.10.05 (Revenue) to Account #101-2004-451.31.10 (Other Professional Services) for the management of the Aquatic Center.

SECTION 2. This Ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS DAY OF.

Mayor, City of Kirkwood

ATTEST:

City Clerk
1st Reading:
2nd Reading:

Legislation Request

Ordinance

Place On The Agenda Of: 8/1/2019

Step #1:

Strategic Plan Select... Goal # & Title

Background To Issue:

Prior to the start of the 2019 Aquatic Center season, the Aquatic Center management contractor, Lifeguards Unlimited went out of business on May 17, 2019, seven days before the Aquatic Center was planned to open. The City and the Recreation Department were able to establish a new contract on an emergency basis with Midwest Pool Management for operation of the Aquatic Center for the 2019 season. The new contract is for a greater amount than what was originally budgeted and therefore additional funding will be required.

Recommendations and Action Requested:

Budget authorization is available in account 302-2001-491-1010 (Transfer to Other Funds).
We need council's authorization to appropriate funds into revenue account 101-0000-391-10-05 (27,170)
We need council's authorization to appropriate to expenditure account 101-2004-451-31-10 Other professional services (27,170)

Alternatives Available:

Does this project have a public information component? Yes No

Cost: \$27,170.00 Account #: 10120044513110 Project #: Budgeted: NO

If YES, Budgeted Amount: If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

See attached memorandum.

BY: Murray Pounds

Date: 7/22/2019

Authenticated: henkek

You can attach up to 3 files along with this request.



Aquatic management Budget
Transfer 2019.doc
Microsoft Word 97 - 2003
Document
97,0 KB

File Attachment

File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing**

Director's approval).

Select...

Purchasing Director's Comments:

[Empty text box for Purchasing Director's Comments]

BY: Select...

Date: [Empty text box]

Authenticated: [Empty text box]

You can attach up to 3 files along with this request.

| | | |
|-------------------|-------------------|-------------------|
| 📎 File Attachment | 📎 File Attachment | 📎 File Attachment |
|-------------------|-------------------|-------------------|

Step #3: If budgetary approval is required (Must have Finance Department's approval).

Appropriation

From Account # or Fund Name: [Empty text box]

To Account # or Fund Name: [Empty text box]

Finance Director's Comments:

Budget authorization is available in account 302-2001-491-1010 (Transfer to Other Funds).
 We need council's authorization to appropriate funds into revenue account 101-0000-391-10-05 (27,170)
 We need council's authorization to appropriate to expenditure account 101-2004-451-31-10 Other professional services (27,170)

BY: John Adams

Date: 7/23/2019

Authenticated: adamsjr

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve Diasapprove

Chief Administrative Officer's Comments:

[Empty text box for Chief Administrative Officer's Comments]

BY: 

Date: 7-25-19

From the desk of ..
Kyle Henke, Superintendent of Recreation
111 S. Geyer Road, Kirkwood, Missouri 63122
Phone: 314.822.5856 Fax: 314.984.5931
E-mail: henkekk@kirkwoodmo.org



Memo

To: Kirkwood City Council
From: Kyle Henke, Murray Pounds
CC: John Adams, Russ Hawes
Date: 7/22/2019
Re: Aquatic Center – Management Contract Budget Increase

The ability to operate the aquatic center relies on the use of an aquatic facility management company. The aquatic center was managed by Lifeguards Unlimited for the previous 5 seasons. On May 17, 2019, seven days before the aquatic center was planned to open, Lifeguards Unlimited announced they were going out of business. Working together, the Recreation Department and the Procurement Department were able to secure another contractor prior to opening. Midwest Pool Management, the management company used prior to Lifeguards Unlimited by the City for over a decade, was available to ensure the aquatic center opened as planned.

The Midwest Pool Managements contract does however come at a higher cost than the amount budgeted for such services. The budget for the 2019 season was established at \$274,900 for services to be provided by Lifeguards Unlimited. The Midwest Pool Management contract fee is \$285,600, a difference between the two contracts of \$10,700. In addition to this amount \$16,470 was invoiced and paid to Lifeguards Unlimited for preseason work completed previous to their closure. The invoiced amount of \$16,470 and the difference in contract fees of \$10,700 result in the need of an amount of \$27,170 to cover all the current and projected costs for both contractors.

The specific legislative action requested is to transfer \$27,170 from account 302-2001-491-1010 (Transfer to Other Funds) to account 101-2004-451-3110 (Other Professional Services) to cover the additional cost of the Midwest Pool Management contract and the fees already paid and invoiced by Lifeguards Unlimited. Funds are available in the transfer account due to a financially successful year on the part of the Recreation Department during Fiscal Year 2018-19.

BILL 10778

ORDINANCE

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A COST SHARE AGREEMENT, FIRST SUPPLEMENTAL AGREEMENT, WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR THE ROADWAY ENHANCEMENTS ON MANCHESTER ROAD BETWEEN KIRKWOOD ROAD AND THE EASTERN CITY LIMITS.

WHEREAS, on November 12, 2018 the Missouri Highways and Transportation Commission and the City of Brentwood and the City of Kirkwood entered into the Missouri Highways and Transportation Commission Cost Share Agreement for roadway enhancements on Manchester Road between Kirkwood Road and the eastern City limits, and

WHEREAS, the City of Brentwood has received additional federal funding for portions of the work within their city limits, and

WHEREAS, the Missouri Highways and Transportation Commission and the City of Brentwood and the City of Kirkwood revised the original agreement, as provided in the First Supplemental Agreement (a copy of which is attached hereto and referenced herein), and

WHEREAS, the new agreement does not alter the funding or obligations of the City of Kirkwood.

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

SECTION 1. The Mayor is hereby authorized and directed to enter into a Cost Share Agreement, First Supplemental Agreement, with the Missouri Highways and Transportation Commission roadway enhancements on Manchester Road between Kirkwood Road and the eastern City limits.

SECTION 2. This Ordinance shall be in full force and effect after its passage and approval.

PASSED AND APPROVED THIS DAY OF.

Mayor, City of Kirkwood

ATTEST:

City Clerk
1st Reading:
2nd Reading:

Legislation Request

Ordinance

Place On The Agenda Of: 8/1/2019

Step #1:

Strategic Plan NO Goal # & Title

Background To Issue:

The City previously entered into a joint cost share agreement with the City of Brentwood and the Missouri Highways and Traffic Commission for improvements to the MODOT Route 100 resurfacing project. The City of Brentwood has received additional federal funding for portions of the work within their city limits. The agreement must be modified to reflect these funding changes for the City of Brentwood. The new agreement does not alter the funding or obligations for the City of Kirkwood.

Recommendations and Action Requested:

The Engineering Department recommends approval of an ordinance authorizing the Mayor to enter into a supplemental agreement modifying the original cost share agreement with the Missouri Highways and Traffic Commission.

Alternatives Available:

Does this project have a public information component? Yes No

Cost: \$0.00 Account #: 00000000000000 Project #: 00000000... Budgeted: NO

If YES, Budgeted Amount: \$0.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Ted Dunkmann

Date: 7/17/2019

Authenticated: dunkmatj

You can attach up to 3 files along with this request.



2019-06-50817 first
supplemental agreement - to
Brentwood and Kirkwood.docx
Microsoft Word Document
52.7 KB



Manchester Road
Improvements Exhibit B -
supplemental agreement.xlsx
Microsoft Excel Worksheet
42.2 KB

File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. (Must have Purchasing Director's approval).

Approve

Purchasing Director's Comments:

BY: David Weidler

Date: 7/25/2019

Authenticated: weidledc

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Select...

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

This project is not budgeted in the FY 19 budget. Funds are available with in the FY 19 under project PW1901

BY: Select...

Date:

Authenticated:

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve

Diasapprove

Chief Administrative Officer's Comments:

BY: 

Date:

7-25-19

CCO Form: FS08
Approved: 03/04 (BDG)
Revised: 03/17 (MWH)
Modified: 07/19 (MWH)

Route 100, St. Louis County
Project No. J6S1718B, J6S1718C
Cities of Brentwood and
Kirkwood

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
COST SHARE AGREEMENT
FIRST SUPPLEMENTAL AGREEMENT**

THIS FIRST SUPPLEMENTAL AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Brentwood (hereinafter, "Brentwood") and the City of Kirkwood (hereinafter, "Kirkwood"). Brentwood and Kirkwood collectively referred to as "the Cities" in this First Supplemental Agreement.

WITNESSETH:

WHEREAS, on November 12, 2018, the Commission and the Cities entered into the **Missouri Highways and Transportation Commission Cost Share Agreement**, (hereinafter, "Original Agreement"); and

WHEREAS, Brentwood has been allocated Surface Transportation Block Grant funds (STBG) 6895 22 by East West Gateway Coordinating Council, and

WHEREAS, the Commission and the Cities now desire to revise the Original Agreement as provided in this First Supplemental Agreement

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

(1) **REVISION:** Subsection (B) under section (9) ESTIMATED COSTS AND FINANCIAL RESPONSIBILITIES: of the Original Agreement is hereby removed in its entirety and replaced with the following:

(B) **BRENTWOOD'S FINANCIAL RESPONSIBILITIES:** Brentwood shall be responsible for six million two hundred seventy six thousand nine hundred thirty seven dollars (\$6,276,937) and for any additional amounts referenced in (9)(E) and (9)(F). Of this amount, one million four hundred twenty eight thousand three hundred ninety dollars (\$1,428,390) is for right of way acquisition, and four million eight hundred forty eight thousand five hundred forty seven dollars (\$4,848,547) is for construction and utility relocation. Brentwood shall remit a check in the amount of one million four hundred twenty eight thousand three hundred ninety dollars (\$1,428,390) to cover right of way acquisition no later than five (5) days after the Acquisition Date is issued.

Brentwood shall remit a check in the amount of three million six hundred forty eight thousand five hundred forty seven dollars (\$3,648,547) and Brentwood agrees that the Commission may obligate one million two hundred thousand dollars (\$1,200,000) of Brentwood's allocated Surface Transportation Block Grant (STBG) 6895-22 funds to cover estimated construction and utility relocation costs no later than five (5) days prior to the Commission's advertisement of the project for bids. Each of these checks should be made payable to the *Missouri Highway and Transportation Commission – Local Fund*. If Brentwood fails to make any of the required deposits, the Commission is under no obligation to continue with the project.

(2) REVISION: Exhibit "B" of the Original Agreement is hereby removed in its entirety and replaced with the Exhibit "B" attached hereto.

(3) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this First Supplemental Agreement, the Original Agreement between the parties shall remain in full force and effect and shall extend and apply to this First Supplemental Agreement as if fully written in this First Supplemental Agreement.

[Remainder of Page Intentionally Left Blank; Signatures and Execution Appear on Following Page]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by Brentwood this ____ day of _____, 20__.

Executed by Kirkwood this ____ day of _____, 20__.

Executed by the Commission this ____ day of _____, 20__.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF BRENTWOOD

Title _____

By _____
Title _____

ATTEST:

ATTEST:

Secretary to the Commission

By _____
Title _____

Approved as to Form:

Approved as to Form:

Commission Counsel

Title: _____

Ordinance No _____

CITY OF KIRKWOOD

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

Title: _____

Ordinance No _____

Exhibit B - Revised

Project Name: Manchester Road Improvements

MoDOT Project Numbers: J6S17188 and J6S1718C

Description: Acquire right of way and construct pedestrian improvements and enhancements on Route 100 within the city limits of Brentwood and Kirkwood. 82.6% of the improvements are within the City of Brentwood. 17.4% of the improvements are within the City of Kirkwood. Brentwood and Kirkwood are responsible for 100% of the cost of preliminary engineering.

Total Project Estimate: \$14,589,605 (Cost Share eligible - \$13,116,794)

Local Entities: City of Brentwood and City of Kirkwood

Total Project Costs

| | Current Estimate | Cost Share Eligible | Total Cost of Improvements within the City of Brentwood | Total Cost of Improvements within the City of Kirkwood |
|--|------------------|---------------------|---|--|
| Preliminary Engineering - Consultant | \$1,345,811.00 | \$0.00 | \$0 | \$0 |
| Feasibility Study | \$102,000.00 | \$0.00 | \$0 | \$0 |
| Environmental Assessment | \$25,000.00 | \$0.00 | \$0 | \$0 |
| Preliminary Engineering - MoDOT staff | \$5,000.00 | \$5,000.00 | \$4,130 | \$870 |
| Right of Way Acquisition (including easements) | \$2,794,580 | \$2,794,580 | \$2,368,255 | \$426,325 |
| Right of Way Incidentals | \$384,790 | \$384,790 | \$326,089 | \$58,701 |
| Construction and Utilities | \$9,485,959 | \$9,485,959 | \$7,767,349 | \$1,718,610 |
| Construction Engineering | \$446,465 | \$446,465 | \$368,567 | \$77,898 |
| Total | \$14,589,605 | \$13,116,794.00 | \$10,834,390 | \$2,282,404 |

Brentwood Costs (6S17188)

| | Current Estimate | Cost Share Eligible | Total Cost of Improvements within the City of Brentwood | City Share Within the City of Brentwood | Surface Transportation Block Grant Funds | Cost Share Funds |
|--|------------------|---------------------|---|---|--|------------------|
| Preliminary Engineering - Consultant | \$1,345,811.00 | \$0.00 | \$0 | \$0 | | |
| Feasibility Study | \$102,000.00 | \$0.00 | \$0 | \$0 | | |
| Environmental Assessment | \$25,000.00 | \$0.00 | \$0 | \$0 | | |
| Preliminary Engineering - MoDOT staff | \$5,000.00 | \$5,000.00 | \$4,130 | \$4,130 | | \$939,865 |
| Right of Way Acquisition (including easements) | \$2,794,580 | \$2,794,580 | \$2,368,255 | \$1,428,390 | | \$2,918,802 |
| Right of Way Incidentals | \$384,790 | \$384,790 | \$326,089 | \$3,648,547 | \$1,200,000 | \$3,858,667 |
| Construction and Utilities | \$9,485,959 | \$9,485,959 | \$7,767,349 | \$5,076,937 | \$1,200,000 | \$3,858,667 |
| Construction Engineering | \$446,465 | \$446,465 | \$368,567 | \$46.85% | 11.08% | 35.62% |
| Total | \$14,589,605 | \$13,116,794.00 | \$10,834,390 | \$10,834,390 | \$1,200,000 | \$3,858,667 |
| Percent of Brentwood Costs | | | | 46.85% | 11.08% | 35.62% |

Kirkwood Costs (6S1718C)

| | Current Estimate | Cost Share Eligible | Total Cost of Improvements within the City of Kirkwood | City Share Within the City of Kirkwood | Cost Share Funds | MoDOT District |
|--|------------------|---------------------|--|--|------------------|----------------|
| Preliminary Engineering - Consultant | \$1,345,811.00 | \$0.00 | \$0 | \$0 | | |
| Feasibility Study | \$102,000.00 | \$0.00 | \$0 | \$0 | | |
| Environmental Assessment | \$25,000.00 | \$0.00 | \$0 | \$0 | | |
| Preliminary Engineering - MoDOT staff | \$5,000.00 | \$5,000.00 | \$870 | \$870 | | \$870 |
| Right of Way Acquisition (including easements) | \$2,794,580 | \$2,794,580 | \$426,325 | \$300,896 | \$125,429 | \$58,701 |
| Right of Way Incidentals | \$384,790 | \$384,790 | \$58,701 | \$1,021,364 | \$697,246 | \$77,898 |
| Construction | \$9,485,959 | \$9,485,959 | \$1,718,610 | \$77,898 | \$822,675 | \$137,469 |
| Construction Engineering | \$446,465 | \$446,465 | \$77,898 | \$1,322,260 | 36.05% | 6.02% |
| Total | \$14,589,605 | \$13,116,794.00 | \$2,282,404 | \$2,282,404 | \$822,675 | \$137,469 |
| Percent of Kirkwood Costs | | | | 57.99% | 36.05% | 6.02% |

Cities of Brentwood and Kirkwood are responsible for overruns within their respective city limits. Underruns will be based on the pro-rata share.

Exhibit B

Project Name: Manchester Road Improvements

MoDOT Project Numbers: J6S1718B and J6S1718C

Description: Acquire right of way and construct pedestrian improvements and enhancements on Route 100 within the city limits of Brentwood and Kirkwood. 82.6% of the improvements are within the City of Brentwood. 17.4% of the improvements are within the City of Kirkwood.

Total Project Estimate: \$14,589,605 (Cost Share eligible - \$13,116,794)

Local Entities: City of Brentwood and City of Kirkwood

| | Current Estimate | Cost Share Eligible | Total Cost of Improvements within the City of Brentwood | Total Cost of Improvements within the City of Kirkwood |
|--|---------------------|------------------------|--|---|
| Preliminary Engineering - Consultant | \$1,345,811.00 | \$0.00 | \$0 | \$0 |
| Feasibility Study | \$102,000.00 | \$0.00 | \$0 | \$0 |
| Environmental Assessment | \$25,000.00 | \$0.00 | \$0 | \$0 |
| Preliminary Engineering - MoDOT staff | \$5,000.00 | \$5,000.00 | \$4,130 | \$870 |
| Right of Way Acquisition (including easements) | \$2,794,580 | \$2,794,580 | \$2,368,255 | \$426,325 |
| Right of Way Incidentals | \$384,790 | \$384,790 | \$326,089 | \$58,701 |
| Utilities | \$556,665 | \$556,665 | \$396,015 | \$160,650 |
| Construction | \$8,929,294 | \$8,929,294 | \$7,371,334 | \$1,557,960 |
| Construction Engineering | \$446,465 | \$446,465 | \$368,566.95 | \$77,898.05 |
| Total | \$14,589,605 | \$13,116,794.00 | \$10,834,390 | \$2,282,404 |

Project Responsibilities

| | |
|--------------------------|---------------------------------------|
| Design | City of Brentwood City of Kirkwood |
| Right of Way Acquisition | Commission |
| Letting | Commission |
| Inspection | Commission |

Financial Responsibilities

| | | |
|--|---------------------|-------------|
| District | \$836,255 | 6% |
| Cost Share Funds | \$4,681,342 | 36% |
| City Responsibility | \$7,599,197 | 58% |
| City of Brentwood (47.9% of Cost Share eligible) | \$6,276,936.72 | |
| City of Kirkwood (10.1% of Cost Share eligible) | \$1,322,260.28 | |
| Total: | \$13,116,794 | 100% |

How are overruns and underruns handled?

Overruns will be the cities' responsibility

Underruns will be split 58/42

Section C

Project Estimates and Funding Chart

| | <i>Current Estimate</i> | <i>Services Provided By</i> | <i>Funded By</i> | <i>Funding Source</i> |
|------------------------------------|-------------------------|--|------------------|---------------------------------------|
| <i>Feasibility Studies</i> | \$102,000 | TWM - Engineering Arcturis - Landscape Architect | Local Entity | Local Funds - Payment Complete |
| <i>Preliminary Engineering</i> | #REF! | TWM - Engineering Arcturis - Landscape Architect (Streetscape) PDS - Landscape Architect (Tunnel) Terracon - Geotechnical Kivindy Engineering Services (KES) - Utility Coordination | Local Entity | Local Funds |
| <i>Environmental Assessment</i> | \$25,000 | Terracon | Local Entity | Local Funds |
| <i>ROW Acquisition (Land)</i> | #REF! | MoDOT | Cost Share | Cost Share Funds |
| <i>ROW Acquisition Incidentals</i> | #REF! | MoDOT | Cost Share | Cost Share Funds |
| <i>Utilities</i> | #REF! | Affected Utility Company | Cost Share | Cost Share Funds |
| <i>Construction Contract</i> | #REF! | Contractor to be determined | Cost Share | Cost Share Funds |
| <i>Construction Engineering</i> | #REF! | MoDOT | MoDOT | MoDOT District Funds |
| <i>Project Total</i> | #REF! | N/A | N/A | N/A |

Summary of Financial Responsibilities

| | | |
|--|--------------|--|
| <i>MoDOT District Funds</i> | #REF! | In discussion with MoDOT's SL District Southwest Area Team, MoDOT would prefer to let the contracts in combination and administer all of them under one single contract. MoDOT would absorb the CE costs for all projects. |
| Cost Share Funds | #REF! | The Local Entity is requesting a 60/40 split of the costs identified for Cost Share. In other words, the Local Entity will pay 60% of the costs, MoDOT will pay 40% of the costs. |
| <i>Local Entity</i> | #REF! | In total, including design costs that are totally paid for by the Local Entity, the Local Entity plans to absorb 62.2% of total project costs. |
| <i>Other</i> | N/A | |
| <i>Project Total</i> | #REF! | |
| <i>Requesting MFTC loan?</i> | No | |
| <i>Year(s) Cost Share/Economic Funds Requested</i> | 2018 - 2022 | |
| <i>If local entity's match include STP or CMAQ funds, what year are these funds available?</i> | N/A | There are no STP funds approved for this project at this time. |

Exhibit B

Project Name: Manchester Road Improvements

MoDOT Project Numbers: J6S1718B and J6S1718C

Description: Acquire right of way and construct pedestrian improvements and enhancements on Route 100 within the city limits of Brentwood and Kirkwood. 82.6% of the improvements are within the City of Brentwood. 17.4% of the improvements are within the City of Kirkwood.

Total Project Estimate: \$14,589,605 (Cost Share eligible - \$13,116,794)

Local Entities: City of Brentwood and City of Kirkwood

| | Current Estimate | Cost Share Eligible | Total Cost of Improvements within the City of Brentwood | Total Cost of Improvements within the City of Kirkwood |
|--|---------------------|------------------------|--|---|
| Preliminary Engineering - Consultant | \$1,345,811.00 | \$0.00 | \$0 | \$0 |
| Feasibility Study | \$102,000.00 | \$0.00 | \$0 | \$0 |
| Environmental Assessment | \$25,000.00 | \$0.00 | \$0 | \$0 |
| Preliminary Engineering - MoDOT staff | \$5,000.00 | \$5,000.00 | \$4,130 | \$870 |
| Right of Way Acquisition (including easements) | \$2,794,580 | \$2,794,580 | \$2,368,255 | \$426,325 |
| Right of Way Incidentals | \$384,790 | \$384,790 | \$326,089 | \$58,701 |
| Utilities | \$556,665 | \$556,665 | \$396,015 | \$160,650 |
| Construction | \$8,929,294 | \$8,929,294 | \$7,371,334 | \$1,557,960 |
| Construction Engineering | \$446,465 | \$446,465 | \$368,566.95 | \$77,898.05 |
| Total | \$14,589,605 | \$13,116,794.00 | \$10,834,390 | \$2,282,404 |

| | Current Estimate | Cost Share Eligible | Total Cost of Improvements within the City of Brentwood | City Share Within the City of Brentwood | Total Cost of Improvements within the City of Kirkwood | City Share Within the City of Kirkwood |
|--|---------------------|------------------------|--|--|---|---|
| Preliminary Engineering - Consultant | \$1,345,811.00 | \$0.00 | \$0 | | \$0 | |
| Feasibility Study | \$102,000.00 | \$0.00 | \$0 | | \$0 | |
| Environmental Assessment | \$25,000.00 | \$0.00 | \$0 | | \$0 | |
| Preliminary Engineering - MoDOT staff | \$5,000.00 | \$5,000.00 | \$4,130 | | \$870 | |
| Right of Way Acquisition (including easements) | \$2,794,580 | \$2,794,580 | \$2,368,255 | \$1,428,390 | \$426,325 | \$300,896 |
| Right of Way Incidentals | \$384,790 | \$384,790 | \$326,089 | | \$58,701 | |
| Utilities | \$556,665 | \$556,665 | \$396,015 | \$284,527 | \$160,650 | \$59,937 |
| Construction | \$8,929,294 | \$8,929,294 | \$7,371,334 | \$4,564,020 | \$1,557,960 | \$961,427 |
| Construction Engineering | \$446,465 | \$446,465 | \$368,566.95 | | \$77,898.05 | |
| Total | \$14,589,605 | \$13,116,794.00 | \$10,834,390 | \$6,276,937 | \$2,282,404 | \$1,322,260 |

| | | |
|--|---------------------|-------------|
| District | \$836,255 | 6% |
| Cost Share Funds | \$4,681,342 | 36% |
| City Responsibility | \$7,599,197 | 58% |
| City of Brentwood (47.9% of Cost Share eligible) | \$6,276,936.72 | |
| City of Kirkwood (10.1% of Cost Share eligible) | \$1,322,260.28 | |
| Total: | \$13,116,794 | 100% |

BILL 10665

ORDINANCE 10509

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A COST SHARE AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR THE ROADWAY ENHANCEMENTS ON MANCHESTER ROAD BETWEEN KIRKWOOD ROAD AND THE EASTERN CITY LIMITS.

WHEREAS, the City of Kirkwood and the City of Brentwood submitted a joint "Surface Transportation Program (STP) Application" to the East-West Gateway Council of Governments for federal funds for the roadway enhancements on Manchester Road between Kirkwood Road and the eastern City limits, which was awarded, and

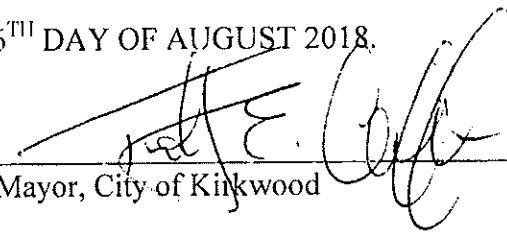
WHEREAS, the Engineering Department recommends the City enter into a Cost Share Agreement with the Missouri Highways and Traffic Commission for the awarded STP Application for 57.93% of the project costs.

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

SECTION 1. The Mayor is hereby authorized and directed to enter into a Cost Share Agreement with the Missouri Highways and Transportation Commission for 57.93% of the project costs for the roadways enhancements on Manchester Road between Kirkwood Road and the eastern City limits.

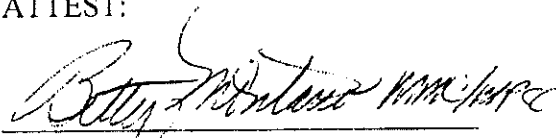
SECTION 2. This Ordinance shall be in full force and effect after its passage and approval.

PASSED AND APPROVED THIS 16TH DAY OF AUGUST 2018.



Mayor, City of Kirkwood

ATTEST:



City Clerk

1st Reading: August 2, 2018
2nd Reading: August 16, 2018

BILL 10779

ORDINANCE

AN ORDINANCE APPROPRIATING \$11,500 FROM THE EQUITABLE SHARING FUND BALANCE TO THE EQUIPMENT ACCOUNT FOR THE PURCHASE OF VEST CARRIERS FOR THE POLICE DEPARTMENT.

WHEREAS, the Police Department would like to purchase outer ballistic vest carriers designed to move some equipment from the duty belt onto the vest, and

WHEREAS, funds in the amount of \$11,500 needs to be appropriated from the Equitable Sharing Fund Balance to Account #205-1201-429.75.05 (Equipment).

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

SECTION 1. Funds in the amount of \$11,500 are hereby appropriated from the Equitable Sharing Fund Balance to Account #205-1201-429.75.05 (Equipment).

SECTION 2. This Ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS DAY OF.

Mayor, City of Kirkwood

ATTEST:

City Clerk
1st Reading:
2nd Reading:

Legislation Request

Ordinance

Place On The Agenda Of: 8/1/2019

Step #1:

Strategic Plan NO Goal # & Title

Background To Issue:

The Police Department wishes to provide uniformed officers with an outer ballistic vest carrier designed to move some equipment from the duty belt onto the vest, to improve the comfort of the officers in the field and potentially minimize negative physical effects of carrying required gear. These vest covers are specifically designed to look like uniform shirts and are manufactured by Point Blank for their brand vest. For this reason, Point Blank has identified Leon Uniform Company as the sole distributor for these items in this area. Letter attached.

Recommendations and Action Requested:

The Police Department is requesting Council approval of the appropriation from Equitable Sharing of \$11,500 to be used for the purchase of these vest carriers from Leon Uniform Company.

Alternatives Available:

Not make the purchase

Does this project have a public information component? Yes No

Cost: \$11,500.00 Account #: 20512014297505 Project #: Budgeted: NO

If YES, Budgeted Amount: If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Brian Murphy

Date: 7/25/2019

Authenticated: folluojd

You can attach up to 3 files along with this request.



Leons Kirkwood PD Sole
Source.pdf
Adobe Acrobat Document
256 KB



guardian-uniform-shirt-carrier-
2019.pdf
Adobe Acrobat Document
1.61 MB

File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Approve

Purchasing Director's Comments:

BY: David Weidler

Date: 7/25/2019

Authenticated: weidledc

You can attach up to 3 files along with this request.

| | | |
|-------------------|-------------------|-------------------|
| 📎 File Attachment | 📎 File Attachment | 📎 File Attachment |
|-------------------|-------------------|-------------------|

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Appropriation

From Account # or Fund Name: Equitable Sharing Fund Balance

To Account # or Fund Name: 20512014297505 Equipment

Finance Director's Comments:

BY: John Adams

Date: 7/25/2019

Authenticated: adamsjr

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve Diasapprove

Chief Administrative Officer's Comments:

BY: 

Date: 7-25-19



Ryan Nelson
 Territory Representative IA, KS, MO, NE
 100 N. Cedar ST, Hooper, NE 68031
 (954) 728-0646
rnelson@pbearmor.com

2102 SW 2nd Street
 Pompano Beach, FL 33069
 Local: 954.630.0900
 Toll Free: 800.413.5155
 Fax: 954.656.6659
www.pointblankenterprises.com

Captain John Folluo,

I want to thank you for considering the purchase of Point Blank products through our distributor, Leon Uniform Company.

Please accept this letter as verification that Leon Uniform Company is currently the only authorized distributor of Point Blank Products with in the Greater St. Louis Metro area, and more specifically, the City of Kirkwood, MO.

Please feel free to contact me if you have any questions or concerns. I can be reached via cell phone at: (954) 728-0646, or via email at: rnelson@pbearmor.com.

Thank You,

Ryan Nelson
 Point Blank Enterprises, Inc.
 07/16/2019



GUARDIAN UNIFORM

Combining the functionality of a load bearing vest with the tailored appearance of a Uniform Shirt Carrier, the **Guardian Uniform** provides the ultimate fusion of versatility and design. The carrier features multi-functional pockets, MOLLE webbing to attach equipment pouches and a concealed center zipper for easy donning and doffing. Available with Point Blank's NIJ-Standard-0101.06 Level IIA, II or IIIA ballistic systems, the Guardian USC is the ideal choice for around-the-clock protection and comfort.

Features:

- Exceptionally strong and durable 500 denier Cordura® outer shell construction
- Two tailored chest pockets
- Adjustable side elastic closure
- ID loop panel in the front and back
- 2-3 rows of MOLLE Compatible webbing depending on size of carrier
- Adjustable and removable cummerbund
- Slick back design with durable drag handle
- Front interior pocket accommodates 10" x 12", 8" x 10", or 5" x 8" plates
- Back interior pocket accommodates 10" x 12" or 8" x 10" plates
- Front center flap with buttons conceal zipper opening
- Concealed center zipper for easy donning and doffing
- Custom Agency ID Placards in the front and back

Options:

- SPEED Plates and SPEED Plates Plus
- Hard Armor Plates
- BODYARMORVENT™ Retrofit Kit
- ThorShield® Electroshock Protection
- Equipment Pouches

Colors: Black, Ranger Green, OD Green, Multi-cam, Midnight Navy, Coyote, and Silver Tan



Available with optional



BILL NO. 10780

ORDINANCE NO. _____

AN ORDINANCE CALLING A BOND ELECTION IN THE CITY OF KIRKWOOD, MISSOURI.

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

Section 1. The City Council of the City of Kirkwood, Missouri (the "City") finds it necessary and hereby declares its intent to borrow (a) not to exceed \$9,000,000 for the purpose of reconstructing, resurfacing, repairing and improving the City's streets (collectively, the "Street Project") and (b) not to exceed \$3,000,000 for the purpose of renovating, improving, and equipping the Kirkwood train station (the "Train Station Project"), and to evidence such borrowing by the issuance of general obligation bonds of the City.

Section 1. A special election is hereby ordered to be held in the City on November 5, 2019, on the following separate propositions:

PROPOSITION _____

Shall the City of Kirkwood, Missouri, issue its general obligation bonds in the amount not to exceed \$9,000,000 for the purpose of reconstructing, resurfacing, repairing and improving the City's streets?

PROPOSITION _____

Shall the City of Kirkwood, Missouri, issue its general obligation bonds in the amount not to exceed \$3,000,000 for the purpose of renovating, improving, and equipping the Kirkwood train station?

The authorization of said bonds (collectively, the "Bonds") will authorize the levy and collection of an annual tax in addition to the other taxes provided for by law on all taxable tangible property in the City sufficient to pay the interest and principal of the approved bonds as they fall due and to retire the same within twenty years from the date thereof.

Section 2. The form of the Notice of Bond Election for said election, a copy of which is attached hereto as Exhibit A and made a part hereof, is hereby approved.

Section 3. The City Clerk is hereby authorized and directed to notify the Board of Election Commissioners of St. Louis County, Missouri, of the adoption of this Ordinance no later than 5:00 p.m. on August 27, 2019, and to include in said notification all of the terms and provisions required by Chapter 115 of the Revised Statutes of Missouri, as amended.

Section 4. The City expects to make expenditures on and after the date of adoption of this Ordinance in connection with the Street Project and the Waterworks Project, and the City intends to reimburse itself for such expenditures with the proceeds of the Bonds. The maximum principal amount of Bonds expected to be issued for the Street Project is \$9,000,000 and the maximum principal amount of Bonds expected to be issued for the Train Station Project is \$3,000,000.

Section 5. The Mayor, the City Administrator, the City Clerk and other officers and representatives of the City are hereby authorized and directed to take such other action as may be necessary to carry out the purpose and intent of this Ordinance.

Section 6. This Ordinance shall take effect and be in full force from and after its passage and approval by the City Council.

PASSED and **APPROVED** this ____ day of August, 2019.

CITY OF KIRKWOOD, MISSOURI

[SEAL]

Mayor

ATTEST:

City Clerk

EXHIBIT A

NOTICE OF BOND ELECTION

CITY OF KIRKWOOD, MISSOURI

Notice is hereby given to the qualified voters of the City of Kirkwood, Missouri (the "City"), that the Board of Aldermen of the City has called a special election to be held in the City on November 5, 2019, commencing at 6:00 a.m. and closing at 7:00 p.m., on the propositions contained in the following sample ballot:

**OFFICIAL BALLOT
SPECIAL BOND ELECTION
CITY OF KIRKWOOD, MISSOURI**

TUESDAY, NOVEMBER 5, 2019

PROPOSITION _____

Shall the City of Kirkwood, Missouri, issue its general obligation bonds in the amount not to exceed \$9,000,000 for the purpose of reconstructing, resurfacing, repairing and improving the City's streets?

YES
NO

INSTRUCTIONS TO VOTERS: If you are in favor of a proposition, place an X in the box opposite "YES." If you are opposed to a proposition, place an X in the box opposite "NO."

The authorization of said bonds will authorize the levy and collection of an annual tax in addition to the other taxes provided for by law on all taxable tangible property in the City sufficient to pay the interest and principal of said bonds as they fall due and to retire the same within twenty years from the date thereof.

PROPOSITION _____

Shall the City of Kirkwood, Missouri, issue its general obligation bonds in the amount not to exceed \$3,000,000 for the purpose of renovating, improving, and equipping the Kirkwood train station?

YES
NO

INSTRUCTIONS TO VOTERS: If you are in favor of a proposition, place an X in the box opposite "YES." If you are opposed to a proposition, place an X in the box opposite "NO."

The authorization of said bonds will authorize the levy and collection of an annual tax in addition to the other taxes provided for by law on all taxable tangible property in the City sufficient to pay the

interest and principal of said bonds as they fall due and to retire the same within twenty years from the date thereof.

The election will be held at the following polling places in the City:

| PRECINCT | POLLING PLACE |
|----------|---------------|
| _____ | _____ |
| _____ | _____ |

DATED: _____, 2019.

Board of Election Commissioners of
St. Louis County, Missouri

Legislation Request

Ordinance

Place On The Agenda Of: 8/1/2019

Step #1:

Strategic Plan NO Goal # & Title

Background To Issue:

The City Council finds it necessary to declare its intent to borrow (a) not to exceed \$9,000,000 for the purpose of reconstructing, resurfacing, repairing, and improving the City's streets (collectively, the "Street Project") and (b) not to exceed \$3,000,000 for the purpose of renovating, improving, and equipping the Kirkwood Train Station (the "Train Station Project), and to evidence such borrowing by the issuance of general obligation bonds of the City.

Recommendations and Action Requested:

Adopt an Ordinance calling a Bond Election in the City of Kirkwood

Alternatives Available:

Does this project have a public information component? Yes No


Cost: \$0.00 Account #: 000000 Project #: Budgeted: YES

If YES, Budgeted Amount: \$0.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Laurie Asche Date: 7/25/2019 Authenticated: aschelb

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Select...


Purchasing Director's Comments:

BY: Select...


Date:

Authenticated:

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Select...

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

BY: Select...

Date:

Authenticated:

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve

Diasapprove

Chief Administrative Officer's Comments:

BY:

Date:

7-25-19

RESOLUTION 113-2019

A RESOLUTION ACCEPTING THE PROPOSAL OF CMT CONSULTING IN THE AMOUNT NOT TO EXCEED OF \$219,782 FOR THE STP 5502(609) GEYER ROAD DESIGN – PHASE II PROJECT AND AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A CONTRACT.

WHEREAS, a Request for Proposals was developed and proposals were received for the STP 5502(609) Geyer Road Design – Phase II Project, and

WHEREAS, a Selection Committee consisting of the Director of Procurement, Director of Public Services, City Engineer, Project Engineer, and Senior Procurement Officer/Analyst reviewed the proposals, and

WHEREAS, the Selection Committee recommends CMT Consulting as the most qualified to provide the STP 5502(609) Geyer Road Design – Phase II Project, and

WHEREAS, funds are available in Account #301-1401-600.75.14, Project #PW2004.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KIRKWOOD, MISSOURI, AS FOLLOWS:

SECTION 1. The proposal of CMT Consulting in the amount not to exceed of \$219,782 for the STP 5502(609) Geyer Road Design – Phase II Project is hereby accepted and approved.

SECTION 2. The Mayor is hereby authorized and directed to enter into a contract with CMT Consulting in the amount not to exceed of \$219,782 for the STP 5502(609) Geyer Road Design – Phase II Project.

SECTION 3. This Resolution shall be in full force and effect after its passage and approval.

PASSED AND APPROVED THIS 1ST DAY OF AUGUST 2019.

Mayor, City of Kirkwood

ATTEST:

City Clerk

Legislation Request

Resolution

Place On The Agenda Of: 8/1/2019

Step #1:

Strategic Plan YES

Goal # & Title Goal No. 5 Invest for future through public infrastructure.

Background To Issue:

Professional engineering services are needed for the design of the STP 5502(609) Geyer Road Resurfacing Phase 2 Project. Request for Qualifications were sent to design firms through the Procurement Department. A selection committee then reviewed and rated the responses of the interested firms and selected CMT to provide a fee proposal. CMT submitted a fee proposal of \$199,801.82 for the scope of services.

Recommendations and Action Requested:

It is recommended the city council accept the proposal by CMT and authorize an addition \$19,980.18 of contingency for a total authorized contract amount of not to exceed \$219,782.00 for engineering design services.

Alternatives Available:

Does this project have a public information component? Yes No

Cost: \$219,782.00 Account #: 30114016007514 Project #: PW2004 Budgeted: YES

If YES, Budgeted Amount: \$355,903.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Ted Dunkmann

Date: 7/23/2019

Authenticated: dunkmatj

You can attach up to 3 files along with this request.

 File Attachment

 File Attachment

 File Attachment

Step #2: If request involves approval of bids, contracts, proposals, purchases, etc. **(Must have Purchasing Director's approval).**

Approve

Purchasing Director's Comments:

BY: David Weidler

Date: 7/25/2019

Authenticated: weidledc

You can attach up to 3 files along with this request.



13245 Resolution Letter.pdf
Adobe Acrobat Document
285 KB

File Attachment

File Attachment

Step #3: If budgetary approval is required (**Must have Finance Department's approval**).

Budgetary Approval

From Account # or Fund Name:

To Account # or Fund Name:

Finance Director's Comments:

BY: John Adams

Date: 7/25/2019

Authenticated: adamsjr

Step #4: All Requests Require Chief Administrative Officer Approval for Placement on Meeting Agenda.

Approve Diasapprove

Chief Administrative Officer's Comments:

BY: 

Date: 7-25-19

July 25, 2019

To: Russell B. Hawes, Chief Administrative Officer

For Your Consideration: Selection Committee's Recommendation for a STP 5502 (609) Geyer Road Design – Phase II Project, RFQ #13050, RFP #13245

Per Article VI. Procurement, of the City of Kirkwood's Code of Ordinances, a selection committee was appointed by the Chief Administrative Officer and chaired by the Director of Procurement to review and recommend to Council a qualified firm to provide STP 5502 (609) Geyer Road – Phase II Design.

On March 19, 2019, a Request for Qualifications, RFQ # 13050, was sent to BAX Engineering, CMT Consulting, GBA, HR Green, IMEG Corp., Lochmueller Group and TWM.

Qualifications were received from BAX Engineering, CMT Consulting, HR Green, IMEG Corp., Lochmueller Group and TWM.

The Selection Committee which consisted of David Weidler, Director of Procurement, Bill Bensing Director of Public Services, Ted Dunkmann, City Engineer, Mitch Shaneberger, Project Engineer, and Cassandra James, Senior Procurement Officer/Analyst, reviewed the qualifications.

The Selection Committee reviewed and evaluated the qualifications based on:

- Specialized experience and technical competence of Firm with respect to the type of services required;
- Capacity and capability of Firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;
- Past record of performance of Firm with respect to such factors as control of costs, quality of work, and ability to meet schedules;
- Firm's proximity to and familiarity with the area in which the projects are located;

After review of qualifications, the Selection Committee selected CMT Consulting to provide proposals based on defined scope which was to include pricing structure.

Request for Proposal 13245 for STP 5502 (609) Geyer Road Design – Phase II Project. An abbreviated scope of services is as follows:

1. The preparation of preliminary plans, Right-of-Way plans, and final plans, specifications and estimates in accordance with MODOT LPA and FHWA regulations.
2. Preparation of right-of-way plans, exhibits, and title commitments for parcels where right-of-way or easements are required.
3. Specify location and standard ADA curb ramp detail type on plans where right-of-way availability and grades allow.

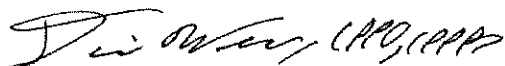
4. Detailed design of ADA curb ramps where necessary. Provide surveying for design if necessary.
5. Locate in field and indicate on plans concrete curb and gutter to be removed and replaced.
6. Locate in field and indicate on plans areas requiring full depth pavement repairs.
7. Traffic study(s) as necessary to provide safe pedestrian crossings at uncontrolled crosswalks and traffic signal improvements.
8. Coordination with the Union Pacific Railroad for the reconstruction of the railroad grade crossing and improvements necessary to provide an ADA compliant crossing.
9. Submittal of preliminary plans and design coordination with the Metropolitan St. Louis Sewer District and Missouri DNR if required.
10. Responsible for utility coordination and identifying conflicts.

After review of the qualified firm's proposal to perform these types of services, the Selection Committee is recommending CMT Consulting to perform STP 5502 (609) Geyer Road Design – Phase II Project based on the criteria and the scope listed above. This selected qualified firm will provide design phase services for a total value of \$199,801.82 with a contingency of \$19,980.18 for a total not to exceed value of \$219,782.00.

Funds are available in account number 301-1401-600.75-14; project number PW2004, in the amount of \$355,903.00.

Attached is a request from Ted Dunkmann, City Engineer, for a resolution requesting a contract be issued to CMT Consulting for a not to exceed value in the amount of \$219,782.00 for STP 5502 (609) Geyer Road Design – Phase II Project.

Respectfully,



David Weidler, CPPO, CPPB
Director of Procurement