



**Kirkwood City Council  
Agenda  
Kirkwood City Hall  
City Council Chambers  
139 South Kirkwood Road  
Kirkwood, MO 63122  
Thursday, July 1, 2021, 7:00 p.m.  
*Posted on June 28, 2021***

**I. PLEDGE OF ALLEGIANCE**

**II. ROLL CALL**

**III. INTRODUCTIONS AND RECOGNITIONS**

1. Fire Department Recognition

**IV. PRESENTATIONS**

**V. PUBLIC HEARINGS**

1. A request for a Special Use Permit Amendment and Site Plan Amendment to enclose the canopy for additional showroom/office use and enclose the rear area north of the service reception area at 10725 Manchester Road (Lou Fusz Toyota)

**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 June 17, 2021 Council Meeting Minutes
- b) Resolution 69-2021, accepting the proposal of Professional Environmental Engineers, Inc. for Professional Environmental Services for use by various City departments, for 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 memo)
- c) Resolution 70-2021, accepting the bid of Graybar Electric Co. for the purchase street lighting equipment for the Argonne Alley Project and authorizing and directing the Director of Procurement to issue a Purchase Order (\$21,623)
- d) Resolution 71-2021, accepting the bid of Raineri Building Materials for Ready Mix Concrete for use by various City departments for 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 memo)

**VIII. UNFINISHED BUSINESS**

1. 10882, amending the provisions of the Municipal Code, Chapter 25 – Zoning and Subdivision, regarding revisions to the review procedures for Special Use Permits and revisions to the minimum standards for Row Dwellings and Two-Family Dwellings in the B-2, Central Business District
2. Bill 10883, authorizing and directing the Mayor to enter into a Missouri Highways and Transportation Commission Transportation Alternatives Funds Program Agreement for the awarded Surface Transportation Program (STP) 5502(613) Historic Kirkwood Amtrak Station Restoration Project

**IX. NEW BUSINESS**

1. Resolution 72-2021, accepting the proposal of The Barn for Concession Services for the Kirkwood Performing Arts Center for an initial term of 12 months with the option to renew for four additional 12 month terms and authorizing and directing the Mayor to enter into a contract

**X. CONSENT AGENDA ITEMS FOR DISCUSSION (IF ANY)**

**XI. CITY COUNCIL REPORTS**

**XII. CHIEF ADMINISTRATIVE OFFICER REPORTS**

**XIII. CITY ATTORNEY REPORTS**

**XIV. CITY CLERK REPORTS**

1. Upcoming Public Hearings:

**XV. MEETING ADJOURNMENT**

The next regular meeting of the Kirkwood City Council will take place at **7:00 p.m. on July 15, 2021.**

**CONTINUED ITEMS  
NONE**

**TABLED ITEMS  
NONE**



**Kirkwood City Council:** Mayor Tim Griffin, Council Members Maggie Duwe, Liz Gibbons, Bob Sears, Wallace Ward, Kara Wurtz, and Mark Zimmer

**Contact Information:** For full City Council contact information visit [www.kirkwoodmo.org/council](http://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.

# 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 Amendment and Site Plan Amendment to enclose the canopy for additional showroom/office use and enclose the rear area north of the service reception area at 10725 Manchester Road (Lou Fusz Toyota)**

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 II Amy Lowry**

Mayor: David, 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.

Before the undersigned Notary Public personally appeared **Stephen Pope** 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 10, 2021** edition and ending with the **June 10, 2021** edition, for a total of 1 publications:

06/10/2021

**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 1, 2021 to consider the following:

***A request for a Special Use Permit Amendment and Site Plan Amendment to enclose the canopy for additional showroom/office use and enclose the rear area north of the service reception area at 10725 Manchester Road (Lou Fusz Toyota).***

Laurie Asche, CMC/MRCC  
City Clerk

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Stephen Pope  
Stephen Pope

Subscribed & sworn before me this 10 day of June, 2021  
(SEAL)

Brandon M. Crail  
Notary Public

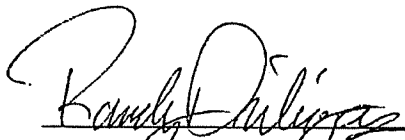


## AFFIDAVIT OF PUBLICATION

Date: 06/11/21

City of Kirkwood  
139 S. Kirkwood Rd.  
Kirkwood, MO 63122

I, Randy Drilingas, being duly sworn, both depose and say that I am an authorized representative of the WKTimes LLC, publishers of the Webster-Kirkwood Times Newspaper in the county of St. Louis, MO, and that the advertisement shown below was published in the Webster-Kirkwood Times June 11, 2021 edition.

  
Authorized Agent, Randy Drilingas  
Webster-Kirkwood Times



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

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Laurie Asche, CMC/MRCC  
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PROPERTY OWNER  
10725 MANCHESTER ROAD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1124 N KIRKWOOD RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1200 N KIRKWOOD RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
126 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
120 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
130 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
136 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1513 NORTHLIN DR  
KIRKWOOD, MO 63122

PROPERTY OWNER  
142 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
148 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
205 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
8726 GENERAL GRANT LN  
SAINT LOUIS, MO 63123

PROPERTY OWNER  
214 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
220 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1206 N KIRKWOOD RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
230 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
224 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1201 LYNCHESHTER LN  
KIRKWOOD, MO 63122

PROPERTY OWNER  
113 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1214 N KIRKWOOD RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
109 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1920 S FEDERAL ST., #D  
CHICAGO, IL 60616

PROPERTY OWNER  
133 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
137 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
151 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
205 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
213 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
217 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
223 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
229 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
106 WOODRIDGE RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
134 HUNTLEIGH DR  
KIRKWOOD, MO 63122

PROPERTY OWNER  
138 HUNTLEIGH DR  
KIRKWOOD, MO 63122

PROPERTY OWNER  
144 HUNTLEIGH DR  
KIRKWOOD, MO 63122

PROPERTY OWNER  
202 HUNTLEIGH DR  
KIRKWOOD, MO 63122

PROPERTY OWNER  
2626 S BIG BEND BLVD  
SAINT LOUIS, MO 63143

PROPERTY OWNER  
1043 CURRAN AVE  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1951 NEWBURYPORT RD  
CHESTERFIELD, MO 63005

PROPERTY OWNER  
16100 SWINGLEY RIDGE RD, STE 210  
CHESTERFIELD, MO 63017

PROPERTY OWNER  
10610 MANCHESTER RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
10510 MANCHESTER RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1204 WILLOW VIEW DR  
KIRKWOOD, MO 63122

PROPERTY OWNER  
843 N WOODLAWN AVE  
KIRKWOOD, MO 63122

PROPERTY OWNER  
1049 N TAYLOR AVE  
KIRKWOOD, MO 63122

PROPERTY OWNER  
129 E MAPLE AVE  
KIRKWOOD, MO 63122

PROPERTY OWNER  
P.O. BOX 31081  
SAINT LOUIS, MO 63131

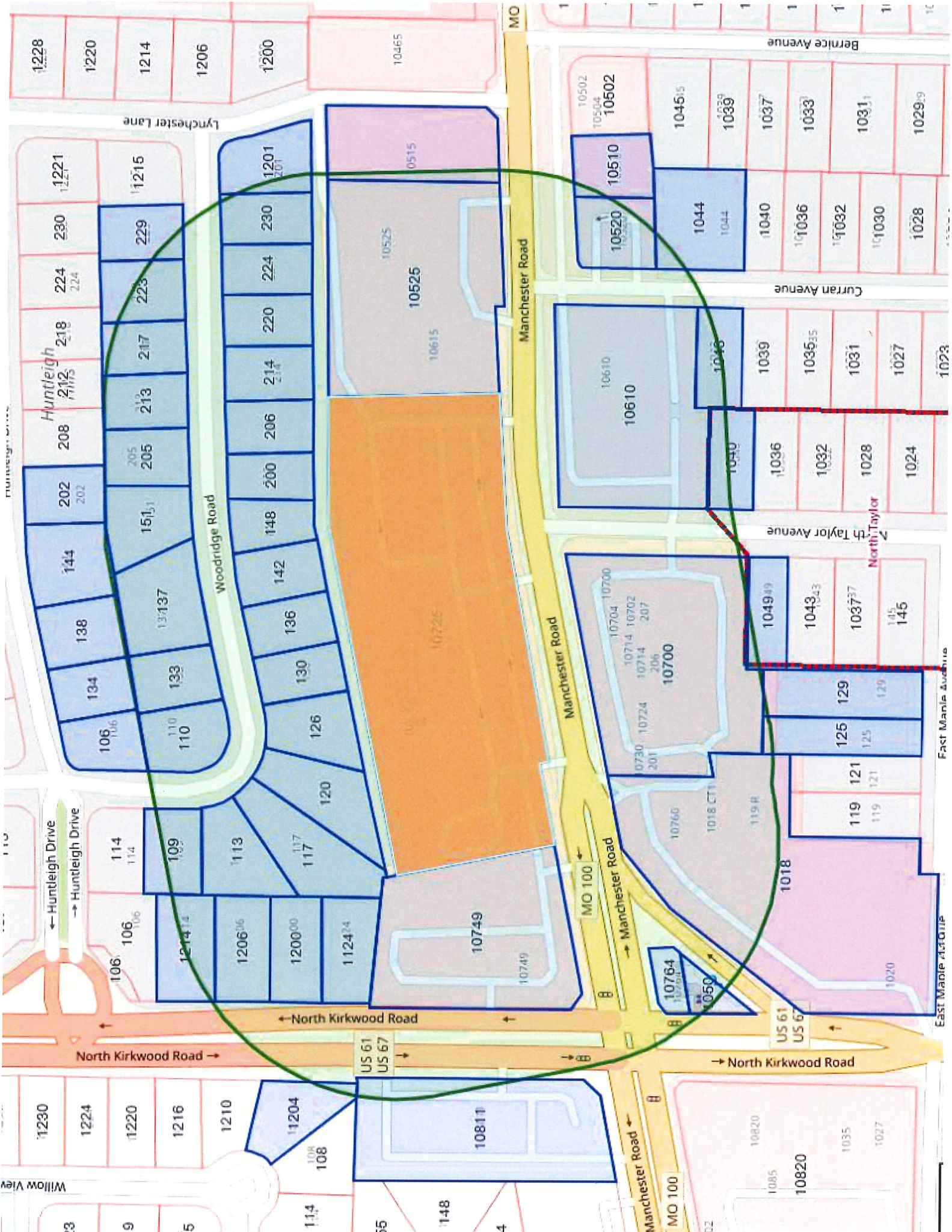
PROPERTY OWNER  
2650 WARRENVILLE RDG, STE 700  
DOWNERS GROVE, IL 60515

PROPERTY OWNER  
214 MAIN ST, #476  
EL SEGUNDO, CA 90245

PROPERTY OWNER  
10811 MANCHESTER RD  
KIRKWOOD, MO 63122

PROPERTY OWNER  
925 N LINDBERGH BLVD  
SAINT LOUIS, MO 63141







WHERE COMMUNITY AND SPIRIT MEET

June 3, 2021

Russell B. Hawes  
Chief Administrative Officer

At the June 2, 2021, meeting of the Planning and Zoning Commission, the following action was taken:

1. After a presentation by staff and Lou Fusz Toyota for a Special Use Permit Amendment and Site Plan Amendment to enclose the canopy for additional showroom/office use and enclose the rear area north of the service reception area at 10725 Manchester Road, the Commission recommended approval subject to conditions contained in the staff memo dated June 2, 2021.
2. After a presentation by staff and Grace Episcopal Church for Zoning Code Text Amendments to allow commissaries and non-profit offices as renters in churches, Commissioners Adkins, Diel, and Salzer-Lutz were appointed to a Subcommittee. The Subcommittee will meet via Zoom on June 9, 2021, at 8:30 a.m.

The next meeting will be held on June 16, 2021, at 7 p.m. via Zoom.

Respectfully submitted,

Jim Adkins, Chair  
Planning and Zoning Commission

# MEMORANDUM



**TO:** P&Z COMMISSION

**FROM:** AMY LOWRY, PLANNER II

**SUBJECT:** PZ-03-22; 10725 MANCHESTER ROAD (LOU FUSZ TOYOTA) SPECIAL USE PERMIT (VEHICLE SALE AND RENTAL; MOTOR VEHICLE REPAIR SHOP, MAJOR; AND VEHICLE WASH) AND SITE PLAN REVIEW AMENDMENTS

**DATE:** JUNE 2, 2021

**CC:** JONATHAN D. RAICHE, PLANNING & DEVELOPMENT SERVICES DIRECTOR  
ANDI YANCEY, PLANNER I  
PATTI DODEL, ENGINEERING ADMIN. ASSISTANT

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The petitioner is requesting Special Use Permit and Site Plan Review Amendments to make alterations and additions in two areas of the main building of the automobile dealership located in the B-3, Highway Business District, at 10725 Manchester Road:

- (1) The open canopy area on the south side of the building fronting Manchester Rd is proposed to be enclosed for additional showroom and office use. Current showroom area is 6,709 sq. ft. with 1,570 sq. ft. to be added with the enclosure.
- (2) An addition is proposed on the west side of the building in the area north of the service reception and west of the service shop. Such addition will allow vehicles to move between the service reception and the service shop in an enclosed, covered area. Current service area is 12,325 sq. ft. with 1,091 sq. ft. to be added with the addition.

***DISCUSSION:***

A Zoning Matters sign was posted on the property on May 26, 2021. Although 12 display car parking spaces will be removed with the open canopy proposed enclosure, an analysis of parking at the site indicates 45 parking spaces required for the motor vehicle repair area and 42 parking spaces required for the vehicle sales area – for a total of 87 required parking spaces. The vehicle wash is private to the site (not open to the public) and therefore does not require additional required parking spaces. There are approximately 258 parking spaces on the site. The Fire Marshal has indicated that access to the site is adequate. Staff has determined that the proposed additions do not result in an extension of the building envelope in a north/south or east/west direction, which means that no additional linear footage of building frontage is being created. Therefore, no new landscaping is required or anticipated with the proposal. There are no expected changes to the site or building lighting.

***RECOMMENDATION:***

Staff finds that the proposed additions could be accomplished with few restrictions. Due to the simple nature of the request, Staff is requesting action from the Planning & Zoning Commission at the June 2, 2021 meeting rather than the formation of a subcommittee.

Staff recommends this petition be **approved** with the following conditions:

1. Special Use Permit (Vehicle Sale and Rental; Motor Vehicle Repair Shop, Major; and Vehicle Wash) and Site Plan Review Amendments shall be approved for 10725 Manchester Rd (Lou Fusz Toyota) limited to the enclosure of the open canopy area on the south side of the building and the addition on the west side of the building in accordance with the Architectural Site Plan stamped "Received May 11, 2021 City of Kirkwood Public Services Department".

2. The applicant, by accepting and acting under the Special Use Permit approval granted, accepts the approval subject to the reservations, restrictions, and conditions set forth in the Code of Ordinances and the Staff memorandum dated June 2, 2021, 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 approval in the event such provisions are not complied with.
3. A performance guarantee in an amount approved by the City Engineer shall be submitted to the City of Kirkwood prior to the issuance of any building permits.
4. An administrative fee in the amount of 10% of the first \$10,000 of performance guarantee plus 2% exceeding \$10,000 shall be submitted before acceptance of the performance guarantee by the City. The fee supports site inspection and project administration costs.
5. 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.
6. Any new lighting used to illuminate the site or building shall be designed in accordance with Zoning Code Section A-1040 and fixture cut sheets shall be submitted.
7. All rooftop equipment, air-conditioning units, and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way.
8. 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.
9. No parking of construction trailers, material storage, equipment storage or construction equipment is authorized on the public streets at any time.
10. The Architectural Review Board shall approve all exterior architecture prior to the issuance of a building permit.

BILL  
ORDINANCE

AN ORDINANCE GRANTING A SPECIAL USE PERMIT AMENDMENT FOR VEHICLE SALE AND RENTAL; MOTOR VEHICLE REPAIR SHOP, MAJOR; AND VEHICLE WASH, AND APPROVING THE AMENDED SITE PLAN AT 10725 MANCHESTER ROAD (LOU FUSZ TOYOTA) SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, Stephen J. Hollander made application (PZ-03-22) for a Special Use Permit amendment to Ordinances 9967 and 10341 and for amended site plan approval at 10725 Manchester Road for alterations and additions in two areas of the main building of the Lou Fusz automobile dealership located in the B-3, Highway Business District; and

WHEREAS, the Planning and Zoning Commission did on the 2<sup>nd</sup> day of June, 2021, by adopting the Staff memorandum dated June 2, 2021 (attached hereto and incorporated by reference herein), recommend the granting of said Special Use Permit amendment and the approval of such amended site plan after finding that the request met the criteria listed in Sections 25-20(e) and 25-19(h) of the Zoning and Subdivision Code, subject to certain conditions; and

WHEREAS, the Council did on the 1<sup>st</sup> day of July, 2021, 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 Special Use Permit amendment and the approval of such amended site plan would not substantially increase traffic hazards or congestion, substantially increase fire hazards, adversely affect the character of the neighborhood, adversely affect the general welfare of the community, or overtax public utilities; and

WHEREAS, the Council does find that the granting of such Special Use Permit amendment and the approval of the amended site plan would meet the criteria listed in Sections 25-20(e) and 25-19(h) of the Zoning and Subdivision Code; and

WHEREAS, the Council does further find that the general welfare requires that such permit and amended site plan approval 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 amendment for Vehicle Sale and Rental; Motor Vehicle Repair Shop, Major; and Vehicle Wash and an amended site plan for alterations and additions shall be approved at 10725 Manchester Road subject to the following conditions:

1. Ordinances 9967 and 10341 shall remain in effect except that the following conditions shall prevail when conflicting with those conditions found in Ordinances 9967 and 10341.

2. The additions and alterations are limited to the enclosure of approximately 1,570 square feet under the open canopy area on the south side of the building for new showroom space, the addition of two new overhead doors on the south side of the building, and the addition of approximately 1,091 square feet on the west side of the building for new service area in accordance with the Architectural Site Plan stamped "Received June 23, 2021 City of Kirkwood Public Services Department".
3. A performance guarantee in an amount approved by the City Engineer shall be submitted to the City prior to the issuance of any building permits.
4. An administrative fee in the amount of 10% of the first \$10,000 of performance guarantee plus 2% exceeding \$10,000 shall be submitted before acceptance of the performance guarantee by the City. The fee supports site inspection and project administration costs.
5. Any new lighting used to illuminate the site or building shall be designed in accordance with Section 25-52 of the Zoning and Subdivision Code and fixture cut sheets shall be submitted to the City.
6. All rooftop equipment, air-conditioning units, and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way.
7. 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.
8. No parking of construction trailers, material storage, equipment storage or construction equipment is authorized on the public streets at any time.
9. The Architectural Review Board shall approve all exterior architecture prior to the issuance of a building permit.

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 this Special Use Permit and amended site plan shall not authorize any person to unreasonably alter, increase, or redirect the surface water runoff so as to cause harm to any person or property.

SECTION 4. The premises and improvements as approved by this Special Use Permit and amended site plan 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 Permit and amended site plan approval herein granted, accepts the permit and approval 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 and approval in the event such provisions are not complied with.

SECTION 6. The applicant further agrees by accepting and acting under this Special Use Permit and amended site plan approval 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 applicant does not obtain a building permit for the construction approved by this ordinance within one year of the passage of this ordinance.

SECTION 8. 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. 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 \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor, City of Kirkwood

ATTEST:

\_\_\_\_\_  
City Clerk

Introduced: July 1, 2021

1<sup>st</sup> Reading: July 15, 2021

2<sup>nd</sup> Reading: August 5, 2021

# Legislation Request

Ordinance

Place On The Agenda Of: 7/1/2021

Step #1:

Strategic Plan NO Goal # & Title

Background To Issue:

Stephen J. Hollander, on behalf of Lou Fusz Toyota, is requesting Special Use Permit and site plan amendments for additions and alterations in 2 areas of the vehicle dealership building at 10725 Manchester Road in the B-3 Zoning District. Additional information on the request can be found in the attached Staff Memos and applicant materials.

Recommendations and Action Requested:

The Planning & Zoning Commission unanimously recommended approval of the request at the June 2, 2021 meeting based upon Staff's memo. A public hearing is requested followed by the City Council's consideration of the ordinance drafted to approve said request, subject to conditions.

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: Amy Lowry

Date: 6/24/2021

Authenticated: lowryag

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



2021-07-01 PZ-3-22  
Ordinance.docx  
Microsoft Word Document  
22.9 KB



CCMemo&RevSitePlan.pdf  
Microsoft Edge PDF Document  
1.88 MB



P&ZMemo&ApplicationPacket.  
pdf  
Microsoft Edge PDF Document  
12.4 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.



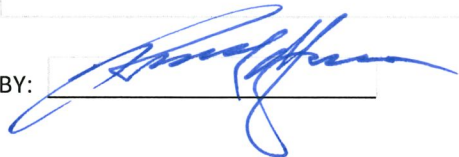
Approve



Disapprove

Chief Administrative Officer's Comments:

BY:



Date:

6-25-21

# MEMORANDUM

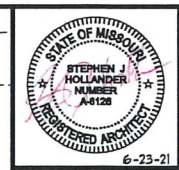


WHERE COMMUNITY AND SPIRIT MEET™

**TO:** MAYOR & CITY COUNCIL  
**FROM:** AMY LOWRY, PLANNER II *AGL*  
**SUBJECT:** PZ-03-22; 10725 MANCHESTER ROAD (LOU FUSZ TOYOTA) SPECIAL USE PERMIT AMENDMENT (VEHICLE SALE AND RENTAL; MOTOR VEHICLE REPAIR SHOP, MAJOR; AND VEHICLE WASH) AND SITE PLAN REVIEW  
**DATE:** JULY 1, 2021  
**CC:** RUSS HAWES, CHIEF ADMINISTRATIVE OFFICER  
BILL BENSING, PUBLIC SERVICES DIRECTOR  
JONATHAN RAICHE, PLANNING & DEVELOPMENT SERVICES DIRECTOR  
JOHN HESSEL, CITY ATTORNEY  
LAURIE ASCHE, CITY CLERK

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After the Planning and Zoning Commission meeting of June 2, 2021 whereby the Commission recommended approval of Special Use Permit and site plan amendments in accordance with an architectural site plan stamped "Received May 11, 2021 City of Kirkwood Public Services Department", the petitioner, Stephen J. Hollander on behalf of Lou Fusz Toyota, submitted a revised architectural site plan stamped "Received June 23, 2021 City of Kirkwood Public Services Department". The June 23<sup>rd</sup> architectural site plan further alters the south, front side of the building to install two new overhead doors to provide a new indoor vehicle delivery area, where vehicles are transferred to the new owners after purchase. Such installation would require a removal of three parking spaces in that area. Because said change does not have a major impact on the site plan as there are approximately 255 remaining parking spaces on the site and 87 parking spaces are required by the City's parking regulations, and as ARB review is required, Staff would recommend that the Mayor and Council review the petition with the architectural site plan stamped "Received June 23, 2021 City of Kirkwood Public Services Department". Alternatively, at their discretion, the Mayor and Council may send the petition back to the Planning and Zoning Commission for review of the project with the revised site plan.



THIS DRAWING CONTAINS PROPRIETARY INFORMATION BELONGING TO S.J. HOLLANDER ARCHITECT. ANY REPRODUCTION OR UNAUTHORIZED USE IS STRICTLY PROHIBITED, EXCEPT WITH PRIOR WRITTEN CONSENT OF THE ARCHITECT.

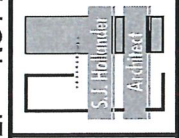
© S.J. HOLLANDER ARCHITECT 2021

Remodel for:  
**Lou Fusz Toyota**  
 10725 Manchester Road  
 Kirkwood, MO 63122

PROJECT NO.  
**219042**

REVISIONS NO.	DATE	ITEM

**S.J. Hollander Architect**  
 Stephen J. Hollander, AIA  
 516 First Capitol Drive  
 St. Charles, Missouri 63301  
 Phone (636) 947-4140



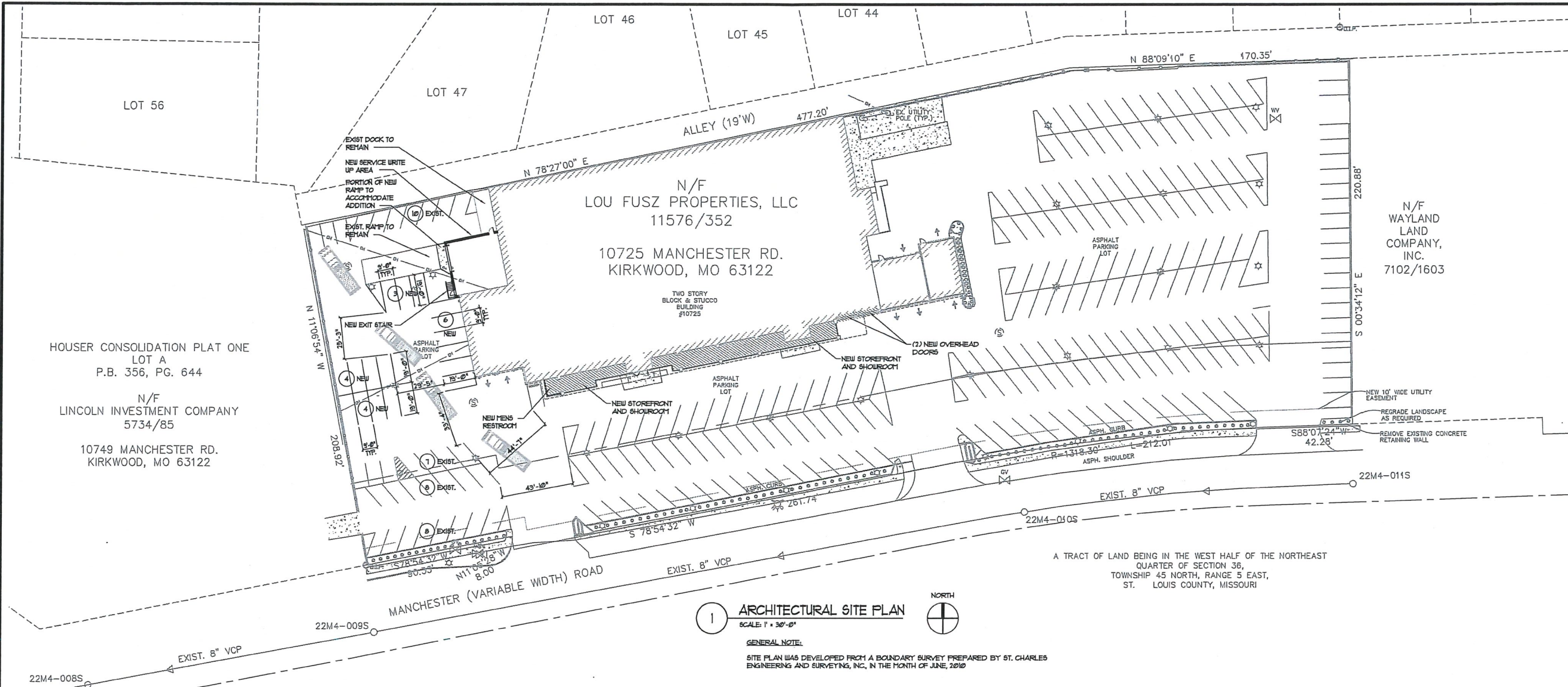
DATE  
**June 21, 2021**

SHEET TITLE  
**Architectural Site Plan**

SHEET NO.

**A0.1**

Progress Set 6-21-2021 - NOT FOR CONSTRUCTION



**1 ARCHITECTURAL SITE PLAN**  
 SCALE: 1" = 30'-0"

GENERAL NOTE:  
 SITE PLAN WAS DEVELOPED FROM A BOUNDARY SURVEY PREPARED BY ST. CHARLES ENGINEERING AND SURVEYING, INC. IN THE MONTH OF JUNE, 2010



LAND DESCRIPTION  
 A Tract of land being in the west half of the northeast quarter of Section 36, Township 45 North, Range 5 East, St. Louis County, Missouri and being more particularly described as follows:  
 Beginning at the southeast corner of Lot A of "Houser Consolidation Plat One", a subdivision recorded in Plat Book 356, Pg. 6-44 of the St. Louis County records thence along the east line of said subdivision North 11 degrees 06 minutes 54 seconds West, a distance of 208.92 feet to a point in the southern line of a 19'W alley established by instrument recorded in Book 2669, Page 119 of said county records thence along said southern line North 18 degrees 21 minutes 09 seconds East, a distance of 412.00 feet and North 88 degrees 09 minutes 10 seconds East, a distance of 170.35 feet thence leaving said line and along the western line of property conveyed to Wayland Land Company, Inc. in Book 1102, Page 1603 of said county records South 00 degrees 34 minutes 12 seconds East, a distance of 220.88 feet to a point in the northern right of way line of Manchester (Variable Width) Road thence along said right of way line the following courses and distances: South 88 degrees 07 minutes 24 seconds West, a distance of 42.28 feet to a point of curve to the left having a radius of 1318.30 feet and a central angle of 09 degrees 12 minutes 52 seconds thence westerly along the arc a distance of 212.01 feet South 78 degrees 54 minutes 32 seconds West, a distance of 261.74 feet North 11 degrees 06 minutes 54 seconds West, a distance of 80.33 feet and South 78 degrees 54 minutes 32 seconds West, a distance of 50.33 feet to the POINT OF BEGINNING.  
 Containing 13134 square feet or 3.148 acres, more or less.  
 END OF DESCRIPTION.

**2 LAND DESCRIPTION**  
 SCALE: NO SCALE

# MEMORANDUM



**TO:** P&Z COMMISSION

**FROM:** AMY LOWRY, PLANNER II *AGL*

**SUBJECT:** PZ-03-22; 10725 MANCHESTER ROAD (LOU FUSZ TOYOTA) SPECIAL USE PERMIT (VEHICLE SALE AND RENTAL; MOTOR VEHICLE REPAIR SHOP, MAJOR; AND VEHICLE WASH) AND SITE PLAN REVIEW AMENDMENTS

**DATE:** JUNE 2, 2021

**CC:** JONATHAN D. RAICHE, PLANNING & DEVELOPMENT SERVICES DIRECTOR  
ANDI YANCEY, PLANNER I  
PATTI DODEL, ENGINEERING ADMIN. ASSISTANT

---

The petitioner is requesting Special Use Permit and Site Plan Review Amendments to make alterations and additions in two areas of the main building of the automobile dealership located in the B-3, Highway Business District, at 10725 Manchester Road:

- (1) The open canopy area on the south side of the building fronting Manchester Rd is proposed to be enclosed for additional showroom and office use. Current showroom area is 6,709 sq. ft. with 1,570 sq. ft. to be added with the enclosure.
- (2) An addition is proposed on the west side of the building in the area north of the service reception and west of the service shop. Such addition will allow vehicles to move between the service reception and the service shop in an enclosed, covered area. Current service area is 12,325 sq. ft. with 1,091 sq. ft. to be added with the addition.

***DISCUSSION:***

A Zoning Matters sign was posted on the property on May 26, 2021. Although 12 display car parking spaces will be removed with the open canopy proposed enclosure, an analysis of parking at the site indicates 45 parking spaces required for the motor vehicle repair area and 42 parking spaces required for the vehicle sales area – for a total of 87 required parking spaces. The vehicle wash is private to the site (not open to the public) and therefore does not require additional required parking spaces. There are approximately 258 parking spaces on the site. The Fire Marshal has indicated that access to the site is adequate. Staff has determined that the proposed additions do not result in an extension of the building envelope in a north/south or east/west direction, which means that no additional linear footage of building frontage is being created. Therefore, no new landscaping is required or anticipated with the proposal. There are no expected changes to the site or building lighting.

***RECOMMENDATION:***

Staff finds that the proposed additions could be accomplished with few restrictions. Due to the simple nature of the request, Staff is requesting action from the Planning & Zoning Commission at the June 2, 2021 meeting rather than the formation of a subcommittee.

Staff recommends this petition be **approved** with the following conditions:

1. Special Use Permit (Vehicle Sale and Rental; Motor Vehicle Repair Shop, Major; and Vehicle Wash) and Site Plan Review Amendments shall be approved for 10725 Manchester Rd (Lou Fusz Toyota) limited to the enclosure of the open canopy area on the south side of the building and the addition on the west side of the building in accordance with the Architectural Site Plan stamped "Received May 11, 2021 City of Kirkwood Public Services Department".

2. The applicant, by accepting and acting under the Special Use Permit approval granted, accepts the approval subject to the reservations, restrictions, and conditions set forth in the Code of Ordinances and the Staff memorandum dated June 2, 2021, 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 approval in the event such provisions are not complied with.
3. A performance guarantee in an amount approved by the City Engineer shall be submitted to the City of Kirkwood prior to the issuance of any building permits.
4. An administrative fee in the amount of 10% of the first \$10,000 of performance guarantee plus 2% exceeding \$10,000 shall be submitted before acceptance of the performance guarantee by the City. The fee supports site inspection and project administration costs.
5. 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.
6. Any new lighting used to illuminate the site or building shall be designed in accordance with Zoning Code Section A-1040 and fixture cut sheets shall be submitted.
7. All rooftop equipment, air-conditioning units, and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way.
8. 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.
9. No parking of construction trailers, material storage, equipment storage or construction equipment is authorized on the public streets at any time.
10. The Architectural Review Board shall approve all exterior architecture prior to the issuance of a building permit.



APPLICATION FOR PLANNING AND ZONING REVIEW

DATE: May 10, 2021 ZONING DISTRICT: B-3 Highway Business
CASE NUMBER: PZ-3-22 LOCATOR NUMBER: 22M420042
PROJECT ADDRESS: 10725 Manchester Road
PROJECT NAME: Lou Fusz Toyota

ACTION REQUESTED

- CUP, Development Plan or Final Site Plan (circle one)
Development Plan, B4, B5, or R6 (circle one)
Final Site Plan, B4, B5, or R6 (circle one)
[X] Site Plan Review, Minor or Major (circle one)
Site Plan Modification
Alternative Equivalency
Special Use Permit, Category: Vehicle Sale & Rental
Subdivision, Major
Subdivision Modification
Text Amendment
Vacation, Right-of-Way or Easement (circle one)
Zoning Map Amendment, From to
Comments:

PETITIONER INFORMATION

I (We) hereby certify that I (we) have legal interest in the hereinabove described property and that all information given herein is true and a statement of fact
Name (Print): Lou Fusz Properties LLC Signature: [Signature] Phone No.: 314 568 0440
Mailing Address: 1 Athletic Dr Earth City City: Earth City State: MO Zip: 63045
E-mail Address: cfo@fusz.com
Petitioner's Status: [X] Corporation [ ] Partnership [ ] Individual
Relationship of Petitioner to Property: [X] Owner [ ] Tenant [ ] Option Holder (Attach Copy of Contract) [ ] Other

AGENT INFORMATION

Agent's Name: Stephen J Hollander Signature: [Signature] Phone No.: 636-947-4140
Mailing Address: 519 First Capitol Dr City: St. Charles State: MO Zip: 63301
E-mail Address: Steve-sjharchitect@sbcglobal.net
(NOTE: The petitioner's agent, if listed, shall receive all official communication)

PROPERTY OWNERS

Signature required or submit proof petitioner has legal interest in property.
Name: Lou Fusz Properties LLC Name:
Signature: [Signature] cfo Signature:
Address: 1 Athletic Dr Address:
City/State/Zip: Earth City Mo 63045 City/State/Zip:
Phone: 314 568 0440 Phone:

FOR CITY USE ONLY

Date Received: 5-11-2021 Total Received: \$1800.00 Agenda Date: 6-2-2021
B-4/B-5 Development Plan: \$1,000 + Acres @ \$100/Acre or portion over one acre) = \$
B-4/B-5 Final Site Plan or Amendment (when public hearing is not required): \$1,000
B-4/B-5 Development Plan Amendment (when public hearing is not required): \$500
CUP, Preliminary (Multi Family): \$1,000 + Dwelling units @ \$20/Each = \$ = \$
CUP, Preliminary (Detached Single Family): \$1,000 + Lots @ \$500/Lot = \$
CUP, Amendment, Without public hearing \$500; With public hearing \$800
CUP (Final): \$500 + 1-1/4% of \$ = \$
CUP Time Extension on Final: \$300
R6 Development Plan: \$1,000 + Dwelling units @ \$20/Unit = \$ = \$
Sidewalk Waiver on feet @ \$30/Foot = \$ = \$
Site Plan Review: \$1,000
Site Plan Review Amendment \$800 or Extension: \$300
Site Plan Review, Mixed Use in B2 Zoning District (Preliminary): \$1,000 (includes SPR fee) + \$25/acre or portion over one acre
Site Plan Review, Mixed use in B2 Zoning District (Final): \$500
Site Plan Review, Mixed use In B2 Zoning District Amendment: \$300
[X] Special Use Permit and Special Use Permit Amendments: \$1,000
Subdivision, Major Preliminary (Detached Single Family): Lots @ \$500/Lot = \$
Subdivision, Major or CUP (Final): Lots @ \$100/Lot = \$ + 1-1/4% of \$ = \$
Subdivision Plat Development Plan Amendment: \$200
Text Amendment: \$1,000
Vacation, Easement: \$75
Vacation, Right-of-way: \$100
Zoning Map Amendment: \$1,000
SUBCOMMITTEE ( )



APPLICATION FOR PLANNING AND ZONING REVIEW  
APPLICATION CHECKLIST (NON SUBDIVISION)  
MARCH 2021

MUST BE SIGNED AND ATTACHED TO APPLICATION FORM

The Planning and Zoning Commission meets on the first and third Wednesdays of each month at 7:00 p.m. in the Council Chambers at Kirkwood City Hall, 139 South Kirkwood Road (see attached schedule). Submittal of a petition authorizes the City to place a Zoning Matters sign on the premises advising the public of the petition.

An applicant shall complete and submit the following items to the Public Services Department according to the attached schedule. **These are the minimum submittal requirements needed for review. Failure to provide all information will result in the application being delayed or returned.**

- APPLICATION FORM.** All forms must be completed in full, including signature of property owners. A copy of the Contract between the property owner and petitioner will suffice. Incomplete or partial applications will not be accepted and will be returned to the petitioner. *All designated spaces on the forms must be appropriately filled in prior to filing of the application.*
- COVER LETTER.** A one-page letter describing the project in detail, including nature of business, proposed use, hours of operation, number of employees, etc.
- PROOF OF OWNERSHIP.** A copy of the title, deed, title commitment, or survey which includes the legal description of the property and present ownership only if the owner's signature does not match County records.
- DRAWINGS.**
  - (a) **Site plan** shall be signed and sealed by a Professional Engineer and shall show all required information as noted on attached checklist.
    - (1) 16 sets 11"x17" (folded into 8.5"x11"); and
    - (2) 3 sets 24"x36" (folded into 12"x9").
  - (b) **Floor plan**, if applicable - 16 copies 11"x17", folded.
  - (c) **MA Landscaping plan** showing the required information as noted on attached checklist (Article VIII Sections 25-58 through 25-61 of the Zoning and Subdivision Code)
    - (1) 16 sets 11"x17" (folded into 8.5"x11") and
    - (2) 3 sets 24"x36" (folded into 12"x9").
  - (d) **MA Lighting Plan** shall be signed and sealed by a registered design professional and include all information as required in Section 25-52 of the Zoning and Subdivision Code.
    - (1) 16 sets 11"x17" (folded into 8.5"x11") and
    - (2) 3 sets 24"x36" (folded into 12"x9")
- TREE STUDY.** Study shall be signed by a certified forester, certified arborist, or landscape architect and include value of significant trees and protection methods. Trees on abutting public rights-of-way and private property within five feet of all property lines shall also be shown on study.
- PHOTOGRAPHS.** Two sets of color photographs of site frontage, adjacent properties, and significant site features, including significant trees.
- PROCESSING FEE.** See Application for filing fee required for application

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date



**APPLICATION FOR PLANNING AND ZONING REVIEW  
SITE PLAN REVIEW / SPECIAL USE PERMIT  
DEVELOPMENT PLANS  
MARCH 2021**

**INFORMATION TO BE SHOWN ON SITE PLAN**

An application for site plan review may be filed by any person with a financial, contractual or proprietary interest in the property to be developed according to the submitted plan.

All applications for site plan review shall be submitted to the Director of Public Services. The Director of Public Services shall forward appropriate applications to the Planning and Zoning Commission and City Council for review. All site plan review applications shall include a site plan skillfully drawn to scale, which shall include the following:

- Property line dimensions and bearings, or angles;
- All existing buildings and improvements;
- Existing zoning setback lines and proposed setback lines;
- New buildings or additions located with all dimensions to property lines;
- Parking layout and driveways, including parking stall size, aisle and driveway widths, entrance approach details, and the number of stalls in each row of parking spaces;
- Site topography showing existing and proposed contours at intervals of two (2) feet or less;
- Landscaping and/or buffering which meet the submittal requirements of Chapter 25, Article VIII and the requirements of the applicable zoning district;
- When a site plan includes a significant tree(s), a tree study prepared and endorsed by an arborist certified by the International Society of Arboriculture, a landscape architect licensed in the State of Missouri, or a horticulturist shall be required. The study shall provide the City with a professional opinion regarding the survivability of significant trees existing on the site, proposed tree replacement, and the appropriateness of the proposed landscaping. This study shall include tree protection methods for each tree and the dollar value of each tree designated to be saved. The dollar value of the tree(s) shall be based on data contained in the International Society of Arboriculture's "Guide for Tree Appraisal." If the petitioner fails to provide such study or it is inadequate or deficient, the City may conduct an internal study or hire an external professional to conduct a study under the provisions of the code.



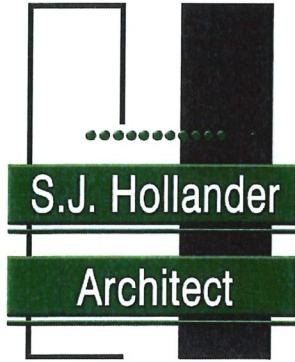
- Utilities. Indicate provisions for access to major utilities including water, storm sewers, sanitary sewers, gas and electricity;
- Storm water management and erosion control. Indicate provisions to be made to direct and detain storm water on-site in accordance with any applicable agencies (i.e. Metropolitan Sewer District) and applicable City regulations and to mitigate erosion both during and following completion of construction. Indicate location of any sinkholes, spring silt beams, ponds, and other silt control facilities;
- Outdoor Lighting Plan per Section 25-52;
- Existing Easements (provide book and page number); and,
- Existing and proposed right-of-way, streets, and entrances.

The site plan shall be drawn accurately to scale.

The Planning and Development Services Director may waive any of the items required in accordance with Section 25-16(c) where it is deemed appropriate. However, such a waiver shall not prohibit the Planning and Zoning Commission or City Council from requesting items previously waived by the Director of Public Services or any other additional information as deemed appropriate by such body.

  
\_\_\_\_\_  
Petitioner/Engineer

5/11/2022  
\_\_\_\_\_  
Date



## S. J. HOLLANDER ARCHITECT, PC

519 First Capitol Drive St. Charles, Missouri 63301  
Phone: 636-947-4140 FAX: 636-947-7195  
Email: [Steve-SJHArchitect@SBCGlobal.net](mailto:Steve-SJHArchitect@SBCGlobal.net)  
[www.SJHollanderArchitect.com](http://www.SJHollanderArchitect.com)

DATE: May 11, 2021

PROJECT: Lou Fusz Toyota  
10725 Manchester Road  
Kirkwood, MO 63122

Lou Fusz Toyota would like to enclose the area under the open canopy for additional showroom/office use and enclose the rear area north of service reception and west of the service shop so vehicles can go between each without going outside. These modifications do not change existing landscaping or site lighting.

Sincerely,

A handwritten signature in blue ink, appearing to read "S.J. Hollander", is written over the typed name.

Stephen J. Hollander, AIA  
President



THIS DRAWING CONTAINS PROPRIETARY INFORMATION AND IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

S.J. HOLLANDER ARCHITECT

PROJECT NO. 2180472

Remodel for Lou Fusz Toyota 10725 Manchester Road Kirkwood, MO 63122

REVISIONS

NO.	DATE	ITEM

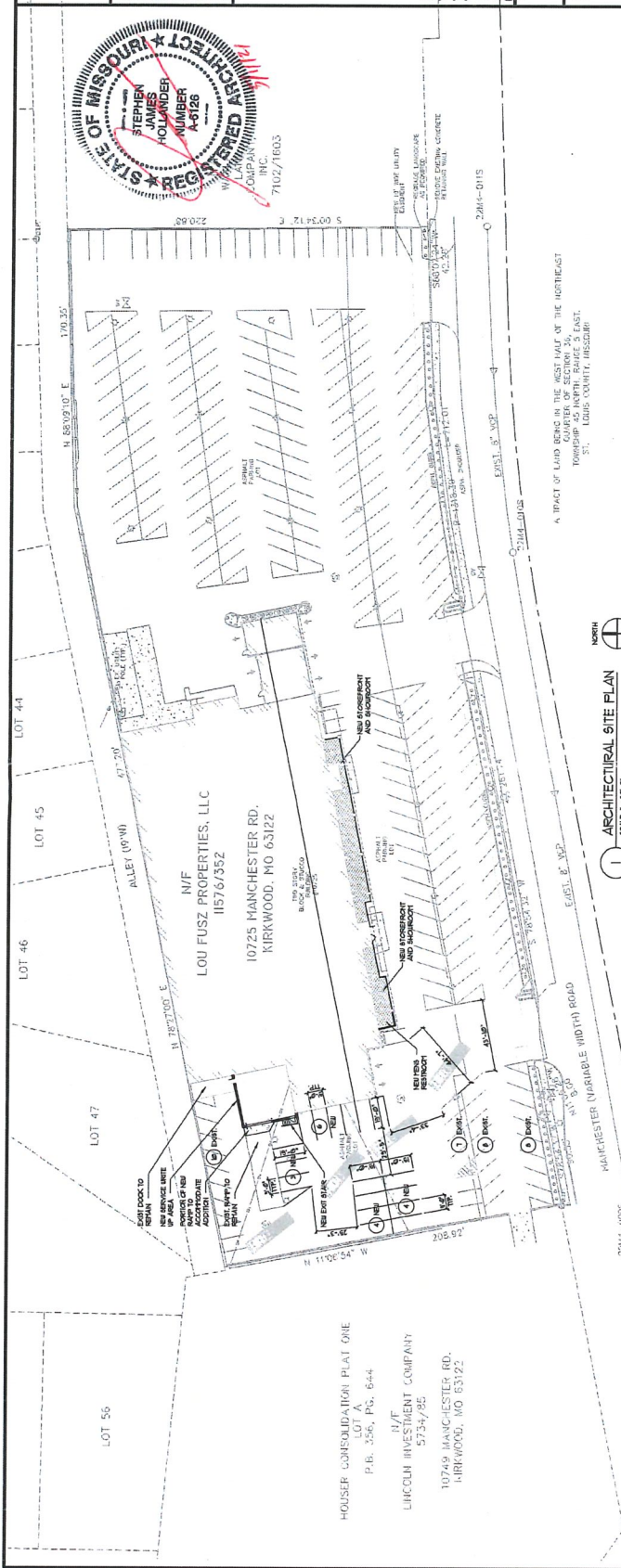
S.J. Hollander Architect  
599 E. Caledon Drive  
Kirkwood, MO 63122  
(636) 447-4100

DATE: April 21, 2021

SHEET TITLE: General Site Plan

SHEET NO.: A0.1

Progress Set 4-21-2021 - NOT FOR CONSTRUCTION



HOUSEHOLD CONSOLIDATION PLAT ONE  
P.B. 356, PG. 644

LOT A

LINCOLN INVESTMENT COMPANY  
5734/25  
10749 MANCHESTER RD.  
KIRKWOOD, MO 63122

N/F  
LOU FUSZ PROPERTIES, LLC  
11576/352  
10725 MANCHESTER RD.  
KIRKWOOD, MO 63122

MANCHESTER (VARIOUS WIDTH) ROAD

22M4-0095

EAST, 8' W/P

22M4-0096

EAST, 5' W/P

22M4-0115

22M4-0098

EAST, 8' W/P

22M4-0099

EAST, 8' W/P

22M4-0100

EAST, 8' W/P

22M4-0101

EAST, 8' W/P

22M4-0102

EAST, 8' W/P

22M4-0103

EAST, 8' W/P

22M4-0104

EAST, 8' W/P

22M4-0105

EAST, 8' W/P

22M4-0106

EAST, 8' W/P

22M4-0107

EAST, 8' W/P

22M4-0108

EAST, 8' W/P

22M4-0109

EAST, 8' W/P

22M4-0110

EAST, 8' W/P

22M4-0111

EAST, 8' W/P

22M4-0112

EAST, 8' W/P

22M4-0113

EAST, 8' W/P

22M4-0114

EAST, 8' W/P

22M4-0115

EAST, 8' W/P

22M4-0116

EAST, 8' W/P

22M4-0117

EAST, 8' W/P

22M4-0118

EAST, 8' W/P

22M4-0119

EAST, 8' W/P

22M4-0120

EAST, 8' W/P

A TRACT OF LAND BEING IN THE WEST HALF OF THE NORTHEAST  
TOWNSHIP 45 NORTH, RANGE 5 EAST,  
S1, LOUIS COUNTY, MISSOURI

RECEIVED  
MAY 11 2021  
CITY OF KIRKWOOD  
PUBLIC SERVICES DEPARTMENT

LAND DESCRIPTION

1. 1/2 AC. OF LAND BEING IN THE WEST HALF OF THE NORTHEAST  
TOWNSHIP 45 NORTH, RANGE 5 EAST,  
S1, LOUIS COUNTY, MISSOURI

2. LAND DESCRIPTION  
ACCORD TO TITLE

GENERAL NOTE:  
SITE PLAN AREA DEVELOPED FROM A RECONCILE MEMORY PREPARED BY S.J. HOLLANDER  
ENGINEERING AND ARCHITECTURE, INC. IN THE TOWN OF JUNE, 2019

ARCHITECTURAL SITE PLAN  
SCALE: 1/8" = 1'-0"

LAND DESCRIPTION

1. 1/2 AC. OF LAND BEING IN THE WEST HALF OF THE NORTHEAST  
TOWNSHIP 45 NORTH, RANGE 5 EAST,  
S1, LOUIS COUNTY, MISSOURI

2. LAND DESCRIPTION  
ACCORD TO TITLE

BILL 10095

ORDINANCE 9967

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR THE EXPANSION OF AN AUTOMOBILE DEALERSHIP AT 10725 MANCHESTER ROAD FOR LOU FUSZ TOYOTA SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, Steven Hollandar of S.J. Hollander Architects made application (PZ-06-11) for a special use permit and site plan review for a building addition on the east side of the existing showroom for vehicle delivery at Lou Fusz Toyota at 10725 Manchester Road; and

WHEREAS, the Planning and Zoning Commission did on the 15th day of September, 2010, by adopting the subcommittee report dated September 15, 2010, (attached hereto and incorporated by reference herein), recommend the granting of said Special Use Permit and site plan approval subject to certain conditions 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 21st day of October, 2010, hold a public hearing with respect to the special use permit 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 and site plan approval 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 and Site Plan Approval are hereby granted for a building addition to the existing showroom for Lou Fusz Toyota on the property known as 10725 Manchester Road subject to the following conditions:

1. The project shall be constructed in accordance with the site plan stamped "Received August 13, 2010, City of Kirkwood Public Works", except as noted herein.
2. A performance guarantee in the amount of \$10,000 shall be submitted to the City of Kirkwood within six months of approval and prior to the issuance of any permits. The performance guarantee in the form of a cash deposit or letter of credit and approved by the Public Works Director shall be submitted to insure the completion of the proposed improvements, utilities, and landscaping and to replace public improvements damaged by construction activities (sidewalks, curbs, etc.). This ordinance shall become null and void in the event the performance guarantee is not submitted within six months of the date of this ordinance.

3. An administrative fee in the amount of \$1,000 shall be submitted before acceptance of the letter of credit by the City. The fee supports site inspection and project administration costs.
4. 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.
5. Storm water management plans shall be submitted to Metropolitan Sewer District (MSD) and City for review and approval prior to issuance of any permits. Storm water greater than one c.f.s. shall not be directed across the public sidewalk or driveway entrances. Storm water detention is at the discretion of MSD.
6. Construction along Manchester Road (Highway 100) shall be approved by the Missouri Department of Transportation prior to the issuance of any permits.
7. A ten-foot wide utility easement shall be granted to the City for public utilities along the Manchester Road right-of-way of.
8. A consolidation plat approved by the City and recorded in the St. Louis County Office of the Recorder of Deeds shall be filed in the Public Works Director's office prior to issuance of any permits for the project. All required city easements and dedication strips shall be shown on the consolidation plat.
9. Prior to the issuance of a permit, three copies of a revised site plan set signed and sealed by a professional engineer shall be submitted to the Public Works Department that fully incorporates the conditions of approval. When these plans are approved, the petitioner shall file the approved site plan with the building permit application and the site plan shall become a part of the building permit application.
10. If applicable, a grading permit shall be obtained from the Public Works Department in accordance with the Kirkwood Code of Ordinances prior to any grading on the site. The grading permit shall include a grading plan in accordance with the Code of Ordinances.
11. All existing easements on the site that conflict with the proposed construction shall be vacated prior to the issuance of any permits.
12. The Architectural Review Board shall approve all signs prior to issuance of a sign permit.
13. All rooftop equipment, air-conditioning units, and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way.
14. No parking of construction trailers, material storage, equipment storage, nor construction equipment is authorized on the public streets at any time.

SECTION 2. The approval of this special use permit and site plan 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. 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 Works Department prior to issuance of a building permit. These devices shall be maintained during the construction activities. Failure to maintain these devices authorizes the Public Works Department to issue a Stop Work Order for the building permit until such devices are restored.

SECTION 4. The premises and improvements as approved by this Special Use Permit and Site Plan Approval 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 Permit and Site Plan Approval 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.

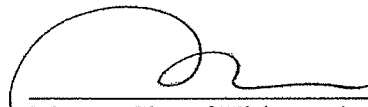
SECTION 6. The applicant further agrees by accepting and acting under this Special Use Permit and Site Plan Approval herein granted that this Ordinance does not grant applicant any special rights, privileges, or immunities

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

SECTION 8. 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 Works 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 4<sup>TH</sup> DAY OF NOVEMBER 2010.

  
\_\_\_\_\_  
Mayor, City of Kirkwood

ATTEST:

  
\_\_\_\_\_  
City Clerk

Public Hearing: October 21, 2010

1<sup>st</sup> Reading: October 21, 2010

2<sup>nd</sup> Reading: November 4, 2010

CITY OF KIRKWOOD  
PLANNING AND ZONING COMMISSION  
SUBCOMMITTEE REPORT  
SEPTEMBER 15, 2010

*PETITION NUMBER:* PZ-06-11

*ACTION REQUESTED:* SPECIAL USE EXCEPTION EXPANSION (AUTOMOBILE SALES) AND SITE PLAN REVIEW

*PETITIONER:* LOU FUSZ TOYOTA

*PETITIONER'S AGENT:* STEVEN J HOLLANDER

*PROPERTY LOCATION:* 10725 MANCHESTER ROAD

*DRAWINGS SUBMITTED:* SITE PLAN AND LANDSCAPE PLAN PREPARED BY S.J. HOLLANDER ARCHITECT STAMPED "RECEIVED AUGUST 13, 2010, CITY OF KIRKWOOD PUBLIC WORKS"

*ZONING:* B-3, HIGHWAY BUSINESS

*DESCRIPTION OF PROJECT:*

The petitioner is requesting to construct a 941 square foot building addition on the east side of the existing showroom for vehicle delivery. Concurrent with the addition but outside of the Planning and Zoning Commissions purview, the existing façade, showroom, and offices will also be updated as being requested by the Toyota Motor Company of their dealerships. The existing landscaping along the Manchester Road frontage will not be disturbed.

*COMPREHENSIVE PLAN & LAND USE:*

The property neighbors to the west, a commercially zoned (B-3) auto dealership, and east, a commercially zoned (B-3) furniture store. Across Manchester Road to the south is a multi-tenant, commercially zoned (B-3), retail and office building. To the north the property abuts residentially zoned (R-4) single family residences.

This existing site and the neighboring area are designated for General Commercial Use by the Vision 2015 Comprehensive Plan. The proposed development is considered a general commercial use and is consistent to the development policies presented by the Plan.



**DISCUSSION:**

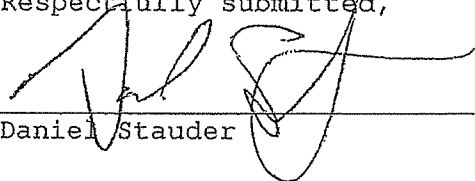
Zoning Matters signs were posted on the property on August 27, 2010. The petitioner's agent presented his plan at the September 1, 2010, Planning and Zoning Commission meeting; discussion was held and a subcommittee was appointed. The Subcommittee met on the site on September 3, 2010 with Phillip Fusz and Michael Hecht of Lou Fusz Toyota, the petitioner's agent Steve Hollander, Doug Diestelkamp of Diestelkamp Construction and Zoning Administrator Jeremy Knapp. Notice of the meeting had been properly posted.

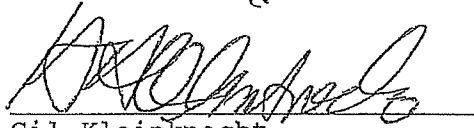
**RECOMMENDATION:**

The Subcommittee recommends this petition be approved with the following conditions:

1. The project shall be constructed in accordance with the site plan stamped "Received August 13, 2010, City of Kirkwood Public Works", except as noted herein.
2. A performance guarantee in the amount of \$10,000.00 shall be submitted to the City of Kirkwood within six months of approval and prior to the issuance of any permits.
3. An administrative fee in the amount of \$1,000.00 shall be submitted before acceptance of the performance guarantee by the City. The fee supports site inspection and project administration costs.
4. Construction along Manchester Road (Highway 100) shall be approved by the Missouri Department of Transportation prior to the issuance of any permits.
5. A ten-foot wide utility easement shall be granted to the City for public utilities along the Manchester Road right-of-way.
6. A consolidation plat approved by the City and recorded in the St. Louis County Office of the Recorder of Deeds shall be filed in the Public Works Director's office prior to issuance of any permits for the project. All required city easements and dedication strips shall be shown on the consolidation plat.
7. The Architectural Review Board shall approve all signs prior to issuance of a sign permit.
8. The applicant shall comply with all standard conditions as listed on Exhibit A.

Respectfully submitted,

  
\_\_\_\_\_  
Daniel Stauder

  
\_\_\_\_\_  
Gil Kleinknecht

STANDARD CONDITIONS  
EXHIBIT A

1. The performance guarantee in a form approved by the Public Works Director shall be submitted within six months of approval and prior to the issuance of any permits to insure the completion of the proposed improvements, utilities, and landscaping and to replace public improvements damaged by construction activities (sidewalks, curbs, etc.). 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 Works. The Letter of Credit shall be drawn from a St. Louis area bank.
2. 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 the petitioner shall install the necessary mains and accessories, in accordance with City policy.
3. Storm water management plans shall be submitted to Metropolitan Sewer District (MSD) and City for review and approval prior to the issuance of any permits. Storm water greater than one c.f.s. shall not be directed across the public sidewalk or driveway entrances. Storm water detention is at the discretion of MSD.
4. The approval of this Special Use Exception and Site Plan Review 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.
5. All rooftop equipment, air-conditioning units, and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way.
6. The premises and improvements as approved by this Special Use Exception Amendment and Site Plan Review shall be in good working order and maintained in good repair at all times.
7. If the Special Use Exception and Site Plan Review are approved by the City Council, the ordinance granting approval is valid for one year. If a building permit is not obtained within the one-year period, the Special Use Exception and Site Plan Review are invalid.
8. No parking of construction trailers, material storage, equipment storage, nor construction equipment is authorized on the public streets at any time.
9. Prior to the issuance of a permit, three copies of a revised site plan signed and sealed by a professional engineer and a revised landscape plan shall be submitted to the Public Works Department

that fully incorporates the conditions of approval. When these plans are approved, the petitioner shall file the approved site plan with the building permit application and the site plan shall become a part of the building permit application.

10. If applicable, a grading permit shall be obtained from the Public Works Department in accordance with the Kirkwood Code of Ordinances prior to any grading on the site. The grading permit shall include a grading plan in accordance with the Code of Ordinances.
11. All existing easements on the site that conflict with the proposed construction shall be vacated prior to the issuance of any permits.
12. 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 Works Department prior to issuance of a building permit. These devices shall be maintained during the construction activities.
13. The applicant, by accepting and acting under the Special Use Exception and Site Plan Review approval granted, accepts the approval subject to the reservations, restrictions, and conditions set forth in the Code of Ordinances and in the report 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 approval in the event such provisions are not complied with.
14. 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 Works 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.

PERFORMANCE GUARANTEE  
10725 MANCHESTER ROAD  
PZ-06-11  
SEPTEMBER 15, 2010

1.	Conformity to approved development plans and approval conditions, standard City specifications, and restoration of City improvements	\$ 10,000
	TOTAL	\$10,000

NOTE: Itemized costs are general estimates solely to establish amount of guarantee and determine intermediate reductions in the performance guarantee as the project progresses. All conditions listed in the approval ordinance are guaranteed individually and independently by the full amount of the guaranteed amount.

Before acceptance of the letter of credit by the City, the developer shall pay to the City of Kirkwood a fee equal to ten percent (10%) of the performance guarantee for the first \$10,000 plus two percent (2%) for any performance guarantee amount exceeding \$10,000. The fee supports site inspections and project administration costs.



BILL 10493

ORDINANCE 10341

AN ORDINANCE GRANTING A SPECIAL USE PERMIT AMENDMENT FOR A CAR WASH (LOU FUSZ TOYOTA) ON THE PROPERTY KNOWN AS 10725 MANCHESTER ROAD SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, Lou Fusz Toyota made application (PZ-21-16) for a special use permit amendment for an automatic, indoor car wash (Lou Fusz Toyota) on the property known as 10725 Manchester Road; and

WHEREAS, the Planning and Zoning Commission did on the 6<sup>th</sup> day of April, 2016, by adopting the subcommittee report dated April 6, 2016, (attached hereto and incorporated by reference herein), recommend the granting of said special use permit amendment subject to certain conditions 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 5<sup>th</sup> day of May, 2016, hold a public hearing with respect to the special use permit amendment 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 amendment for a car wash is hereby granted on the property known as 10725 Manchester Road subject to the following conditions:

1. This special use permit amendment (car wash) is limited to the car wash bay addition on the property known as 10725 Manchester Road.
2. The project shall be consistent with the landscaping/site plan stamped "Received March 21, 2016, City of Kirkwood Public Services".
3. A performance guarantee in an amount approved by the Public Services Director shall be submitted to the City of Kirkwood prior to the issuance of any building permits.
4. An administrative fee in the amount of 10% of the first \$10,000 of performance guarantee plus 2% exceeding \$10,000 shall be submitted before acceptance of the performance guarantee by the City. The fee supports site inspection and project administration costs.
5. Construction along Manchester Road (Highway 100) shall be approved by the Missouri Department of Transportation prior to the issuance of any permits.

6. Any new lighting used to illuminate the site or building shall be designed in accordance with Zoning Code Section A-1040 and fixture cut sheets shall be submitted.
7. All rooftop equipment, air-conditioning units, and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way. Equipment associated with the operation of the car wash shall be enclosed and not permitted outdoors.
8. The Architectural Review Board shall approve all exterior architecture and signage prior to the issuance of a building permit.
9. No parking of construction trailers, vehicles, material storage, equipment storage, nor construction equipment is authorized on the public streets at any time.
10. 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 the petitioner shall install the necessary mains and accessories, in accordance with City policy.
11. Storm water management plans shall be submitted to Metropolitan Sewer District (MSD) and City for review and approval prior to the issuance of any permits. Storm water greater than one c.f.s. shall not be directed across the public sidewalk or driveway entrances. Storm water detention is at the discretion of MSD.
12. Prior to the issuance of a permit, three copies of a revised site/landscape plan shall be submitted to the Public Services Department that fully incorporates the conditions of approval. When these plans are approved, the petitioner shall file the approved site plan with the building permit application and the site plan shall become a part of the building permit application.
13. If applicable, a grading permit shall be obtained from the Public Services Department in accordance with the Kirkwood Code of Ordinances prior to any grading on the site. The grading permit shall include a grading plan in accordance with the Code of Ordinances.
14. All existing easements on the site that conflict with the proposed construction shall be vacated prior to the issuance of any permits.
15. 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 Works Department prior to issuance of a building permit. These devices shall be maintained during the construction activities.

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 approval 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.

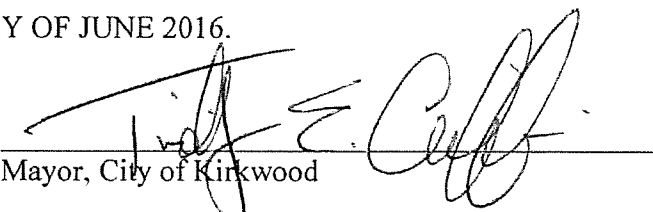
SECTION 5. The applicant further agrees by accepting and acting under this special use permit herein granted that this Ordinance does not grant applicant any special rights, privileges, or immunities

SECTION 6. This Ordinance shall become null and void in the event the petitioner does not obtain a building permit for the construction approved by this Ordinance within one year of the passage of this ordinance.


SECTION 7. 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 8. This ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS 16<sup>TH</sup> DAY OF JUNE 2016.

  
\_\_\_\_\_  
Mayor, City of Kirkwood

ATTEST:

  
\_\_\_\_\_  
City Clerk

1<sup>st</sup> Reading: June 2, 2016

2<sup>nd</sup> Reading: June 16, 2016



CITY OF KIRKWOOD  
PLANNING AND ZONING COMMISSION  
SUBCOMMITTEE REPORT  
April 6, 2016

PETITION NUMBER: PZ-21-16

ACTION REQUESTED: SPECIAL USE PERMIT AMDEMENT (CAR WASH)

PETITIONER: PHILIP FUSZ, LOU FUSZ TOYOTA

PETITIONER'S AGENT: STEPHEN HOLLANDER - ARCHITECT

PROPERTY LOCATION: 10725 MANCHESTER ROAD

ZONING: B-3 HIGHWAY BUSINESS DISTRICT

DRAWINGS SUBMITTED: SITE/LANDSCAPE PLAN STAMPED "RECEIVED MARCH 21, 2016, CITY OF KIRKWOOD PUBLIC SERVICES"

DESCRIPTION OF PROJECT:

The petitioner is requesting a Special Use Permit Amendment to permit the installation of an automatic car wash bay. The car wash bay (752 square feet) will be constructed adjacent to the east side of the existing show room. It will not be for public use and will operate during the same business hours as the existing operations.

A Special Permit Amendment was previously granted on November 4, 2010 to allow for the expansion of the existing automobile dealership (vehicle delivery).

COMPREHENSIVE PLAN:

This site is designated for General Commercial use by the Vision 2015 Comprehensive Plan. The proposed use is consistent with the policies presented by the Plan.

LAND USE AND ZONING:

The subject property is currently zoned B-3 Highway Business District and is developed with Lou Fusz Toyota Dealership. Surrounding land uses and zoning include the following:

To the south: Across Manchester Rd. is vacant commercial building and a funeral home, zoned B-3 Highway Business District.

To the north: Directly abutting the site are single-family residences zoned R-4 Single-Family District.

To the east: Adjacent to the site is a furniture store zoned B-3 Highway Business District.

To the west: Adjacent to the site is a major motor vehicle repair use zoned B-3 Highway Business District.

**DEPARTMENTAL/AGENCY COMMENTS:**

Electric: Kirkwood Electric requests a load sheet on the projected load changes. - Per petitioner this will be provided by the applicant upon final selection of equipment.

Engineering: No Comments

Building: No Comments

Fire: No Comments

Water: No Comments per email sent 3/24/16

MoDOT: No Comments per email sent 3/29/16

**DISCUSSION:**

A Zoning Matters sign was posted on the property March 30, 2016. A subcommittee was appointed prior to the initial presentation and met on site on March 30, 2016. Please see Exhibit B for a list of those in attendance. General discussion concerned the nature of the addition as it relates to the existing building, whether or not chemicals are utilized during the car wash process and if outdoor equipment is necessary.

The petitioner presented the plan at the April 6, 2016, Planning and Zoning Commission meeting. Notice of the meetings had been properly posted.

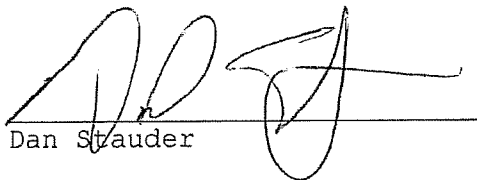
**RECOMMENDATION:**

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

1. This Special Use Permit Amendment (Car Wash) is limited to the car wash bay addition on property known as 10725 Manchester Road.
2. The project shall be consistent with the landscaping plan/site plan stamped "Received March 21, 2016, City of Kirkwood Public Services Department", Prior to proceeding to City Council, revised plans that incorporate all conditions of approval herein shall be submitted to the Public Services Department.

3. A performance guarantee in an amount approved by the Public Services Director shall be submitted to the City of Kirkwood prior to the issuance of any building permits.
4. An administrative fee in the amount of 10% of the first \$10,000 of performance guarantee plus 2% exceeding \$10,000 shall be submitted before acceptance of the performance guarantee by the City. The fee supports site inspection and project administration costs.
5. Construction along Manchester Road (Highway 100) shall be approved by the Missouri Department of Transportation prior to the issuance of any permits.
6. Any new lighting used to illuminate the site or building shall be designed in accordance with Zoning Code Section A-1040 and fixture cut sheets shall be submitted.
7. All rooftop equipment, air-conditioning units, and mechanical equipment shall be completely screened from view of adjoining properties and public right-of-way. Equipment associated with the operation of the car wash shall be enclosed and not permitted outdoors.
8. The Architectural Review Board shall approve all exterior architecture and signage prior to the issuance of a building permit.
9. The petitioner shall comply with all standard conditions as listed in Exhibit A.

Respectfully submitted,

  
\_\_\_\_\_  
Dan Stauder

  
\_\_\_\_\_  
Jim O'Donnell

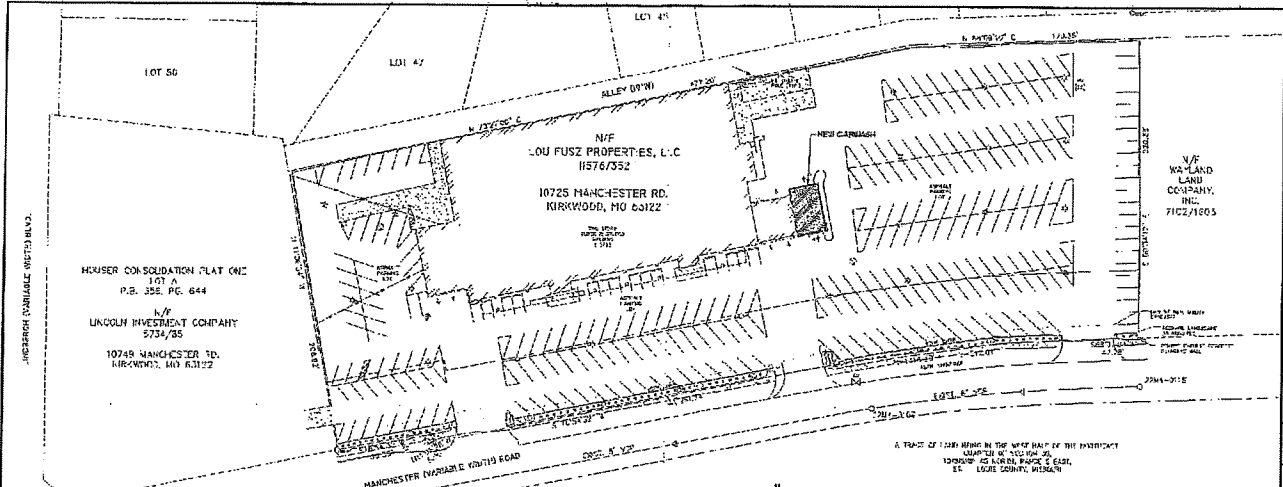
**EXHIBIT A**  
**STANDARD CONDITIONS**

1. 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.
2. No parking of construction trailers, vehicles, material storage, equipment storage, nor construction equipment is authorized on the public streets at any time.
3. If a building permit is not obtained within one-year of City Council approval, this Special Use Permit approval is invalid.
4. The applicant, by accepting and acting under the Special Use Permit approval granted, accepts the approval subject to the reservations, restrictions, and conditions set forth in the Code of Ordinances and in the report 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 approval in the event such provisions are not complied with.
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 Works 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.
6. The performance guarantee in a form approved by the Public Works Director shall be submitted prior to the issuance of any permits to insure the completion of the proposed improvements, utilities, and landscaping and to replace public improvements damaged by construction activities (sidewalks, curbs, etc.). 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.
7. 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 the petitioner shall install the necessary mains and accessories, in accordance with City policy.

8. Storm water management plans shall be submitted to Metropolitan Sewer District (MSD) and City for review and approval prior to the issuance of any permits. Storm water greater than one c.f.s. shall not be directed across the public sidewalk or driveway entrances. Storm water detention is at the discretion of MSD.
9. 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.
10. Prior to the issuance of a permit, three copies of a revised site/landscape plan shall be submitted to the Public Services Department that fully incorporates the conditions of approval. When these plans are approved, the petitioner shall file the approved site plan with the building permit application and the site plan shall become a part of the building permit application.
11. If applicable, a grading permit shall be obtained from the Public Services Department in accordance with the Kirkwood Code of Ordinances prior to any grading on the site. The grading permit shall include a grading plan in accordance with the Code of Ordinances.
12. All existing easements on the site that conflict with the proposed construction shall be vacated prior to the issuance of any permits.
13. 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 Works Department prior to issuance of a building permit. These devices shall be maintained during the construction activities.

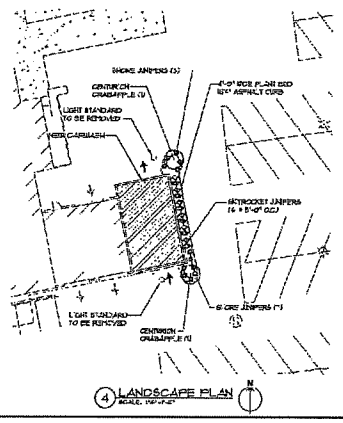
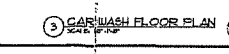
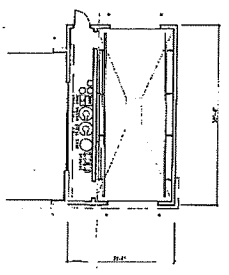
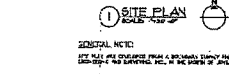
EXHIBIT B  
SUBCOMMITTEE MEETING  
ATTENDANCE LIST  
March 30, 2016

Jim O'Donnell	Planning and Zoning
Dan Stauder	Planning and Zoning
Stephen Hollander	Petitioner
Jeff Venetis	Petitioner
Ryan Spencer	City Planner
Chris Pflasterer	Asst. City Engineer

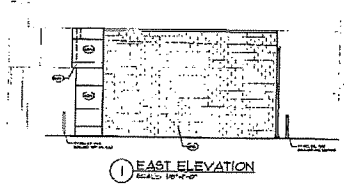


**RECEIVED**  
 FEB 24 2010  
 CITY OF KIRKWOOD  
 PUBLIC WORKS DEPARTMENT

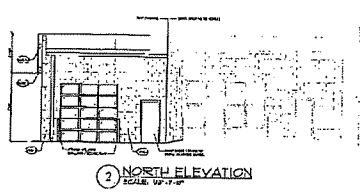
**LAND DESCRIPTION**  
 A tract of land being in the west half of the northeast quarter of Section 36, Township 45 North, Range 5 East, St. Louis County, Missouri and being more particularly described as follows:  
 Beginning at the southeast corner of Lot A of "Houser Consolidation Plat One", a subdivision recorded in Plat Book 354, Pg. 134 of the St. Louis County records. Thence along the east line of said subdivision 72.11 degrees 00 minutes 00 seconds West a distance of 208.33 feet to a point in the center line of a 18' wide alley established by instrument recorded in Book 7620, Page 179 of said county records. Thence along said center line of said alley 72.11 degrees 00 minutes 00 seconds East a distance of 477.23 feet and thence 08 degrees 30 minutes 10 seconds East a distance of 372.53 feet. Thence along the east line of the western line of a parcel bounded by the same Land Company, Inc. in Book 7119, Page 1023 of said county records. Thence 00 degrees 34 minutes 32 seconds East a distance of 208.33 feet to a point in the center line of the same 18' wide alley. Thence along said center line of said alley 72.11 degrees 00 minutes 00 seconds West a distance of 428.28 feet to a point of curve to the left having a radius of 1,318.32 feet and a central angle of 08 degrees 30 minutes 00 seconds. Thence along the curve to the left a distance of 212.01 feet. Thence 78 degrees 34 minutes 32 seconds West a distance of 208.33 feet. Thence 11 degrees 00 minutes 00 seconds East a distance of 208.33 feet to a distance of 800 feet and thence 78 degrees 34 minutes 32 seconds West a distance of 308.74 feet to the Point of Beginning.



THE LANDSCAPE CONSULTANT FREDERICK BOWEN 1514 W. LAND COMPANY, INC. 7122/1605	J. J. HOLLANDER ARCHITECT, P.C.
NEW CONCRETE FOR <b>LOU FUSZ Toyota</b> 10725 Manchester Road Kirkwood, MO 63122	PROJECT NO. <b>216006</b>
REVISION NO.   DATE	DATE <b>March 23, 2010</b>
S.J. Hollander Architect P.C. 1514 W. Land Company, Inc. 7122/1605	SHEET TITLE <b>Site Floor and Landscape Plans</b>
SHEET NO. <b>A-1</b>	



1 EAST ELEVATION  
SCALE: 1/4" = 1'-0"

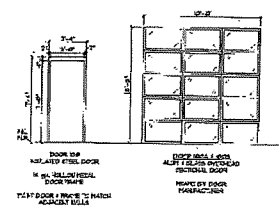


2 NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

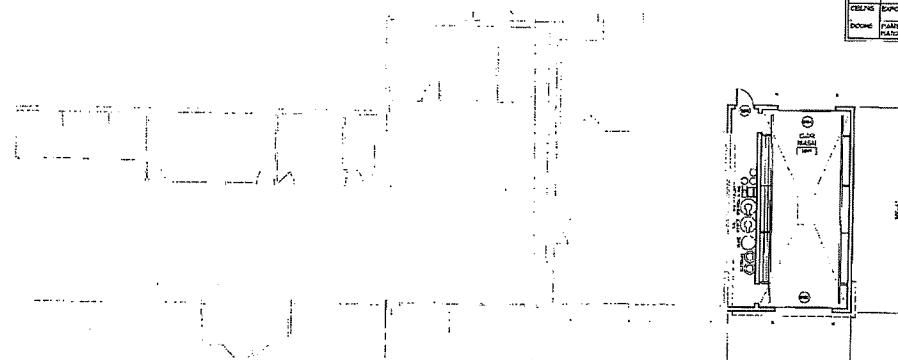


3 SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"

EXT. FINISH & COLOR LEGEND		
DESCRIPTION	COLOR / MATERIAL	MANUFACTURER / SUPPLIER
ACTH-1 ALUMINUM COMPOSITE MATERIAL	WHITE SILVER	MANUFACTURED BY ALCOA
ACTH-2 ALUMINUM COMPOSITE MATERIAL	WHITE COLORED PEARL PANEL	APPLIED BY PRISMAR
ACTH-3 ALUMINUM COMPOSITE MATERIAL	WHITE AND	MANUFACTURED BY ALCOA
ACTH-4 ALUMINUM COMPOSITE MATERIAL	WHITE COLORED PEARL PANEL	APPLIED BY PRISMAR
ACTH-5 ALUMINUM COMPOSITE MATERIAL	WHITE BLACK	MANUFACTURED BY ALCOA
ACTH-6 ALUMINUM COMPOSITE MATERIAL	WHITE COLORED PEARL PANEL	APPLIED BY PRISMAR
ACTH-7 SPLIT FACE BLOCK	PROJECT	



CAR WASH INT. FINISH & COLOR LEGEND			
FLOOR	DESCRIPTION	COLOR / MATERIAL	MANUFACTURER / SUPPLIER
FLOOR	SEALANT GROUTLINE		
WALLS	PAINT	SPRINK GRAFT MATTERS	SEMPER-BELMONT
CEILING	SPRINK GRAFT MATTERS	SEMPER-BELMONT	
DOORS	PAINT		
	PAINT AND GILL		



THIS DESIGN REPRESENTS THE PRELIMINARY DESIGN TO BE USED FOR PERMITS AND CONTRACTS. IT IS NOT TO BE USED FOR CONSTRUCTION EXCEPT WITH THE PRIOR WRITTEN CONSENT OF ARCHITECT.

S.J. HOLLANDER ARCHITECT P.C.  
216008

New Carwash for:  
**Lou Fusz Toyota**  
10725 Manchester Road  
PROJECT NO. 216008

REVISIONS  
NO. DATE BY

S.J. Hollander Architect P.C.  
Stephen A. Hollander, AIA  
10725 Manchester Road  
Columbia, Maryland 21044  
Tel: (410) 947-7781  
Fax: (410) 947-7781

DATE: March 21, 2010  
SHEET TITLE: Floor Plan and Elevations



# ***THE CONSENT AGENDA IS ATTACHED***

- a) Approval of the June 17, 2021 Council Meeting Minutes
- b) Resolution 69-2021, accepting the proposal of Professional Environmental Engineers, Inc. for Professional Environmental Services for use by various City departments, for 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 memo)
- c) Resolution 70-2021, accepting the bid of Graybar Electric Co. for the purchase street lighting equipment for the Argonne Alley Project and authorizing and directing the Director of Procurement to issue a Purchase Order (\$21,623)
- d) Resolution 71-2021, accepting the bid of Raineri Building Materials for Ready Mix Concrete for use by various City departments for 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 memo)



WHERE COMMUNITY AND SPIRIT MEET\*

# DRAFT

## Kirkwood City Council Meeting Minutes Via Zoom Thursday, June 17, 2021, 7:00 p.m.

Pursuant to notice of meeting duly given by the Mayor, the City Council convened on Thursday, June 17, 2021, at 7:00 p.m. via Zoom Virtual meeting. Present were Mayor Griffin, Council Member Duwe, Gibbons, Sears, Ward, Wurtz, and Zimmer. Also in attendance were Assistant Chief Administrative Officer David Weidler, City Clerk Laurie Ashe, Planning and Development Services Director Jonathan Raiche, Public Services Director Bill Bensing, Public Information Officer Freddy Doss, and City Attorney John Hessel.

### **ANNOUNCEMENTS FROM CITY ATTORNEY**

City Attorney John Hessel stated for the record that under Section 610.015 of the Mo. Sunshine Law provides that members of the City Council who are not physically in the Council Chambers can participate and vote on all matters when an emergency exists and the nature of the emergency is stated in the minutes.

So, let the minutes reflect that the U.S., and the world, is in a state of emergency due to the Coronavirus—Covid 19. Therefore, members of the City Council have elected to participate in this meeting electronically for the public health and safety of each other and the general public.

### **INTRODUCTIONS AND RECOGNITIONS**

NONE

### **PRESENTATIONS**

NONE

### **PUBLIC HEARINGS**

NONE

### **PUBLIC COMMENTS**

NONE

### **CONSENT AGENDA**

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

- a) Approval of the June 3, 2021 Council Meeting Minutes



WHERE COMMUNITY AND SPIRIT MEET\*

# DRAFT

## UNFINISHED BUSINESS

NONE

## NEW BUSINESS

Bill 10882, an ordinance amending the provisions of the Municipal Code, Chapter 25 – Zoning and Subdivision, regarding revisions to the review procedures for Special Use Permits and revisions to the minimum standards for Row Dwellings and Two-Family Dwellings in the B-2, Central Business District was brought before the council. Motion was made by Council Member Duwe and seconded by Council Member Wurtz to accept the bill for first reading approval.

The bill received first reading approval and was held over.

Bill 10883, an ordinance authorizing and directing the Mayor to enter into a Missouri Highways and Transportation Commission Transportation Alternatives Funds Program Agreement for the awarded Surface Transportation Program (STP) 5502(613) Historic Kirkwood Amtrak Station Restoration Project was brought before the council. Motion was made by Council Member Zimmer and seconded by Council Member Gibbons to accept the bill for first reading approval.

The bill received first reading approval and was held over.

Resolution 67-2021, a resolution amending the contract with Lamke Trenching and Excavation by increasing the contract amount by \$12,426.10 for a not to exceed amount of \$266,891.10 for Marshall Road High Pressure Reduction and authorizing and directing the Mayor to enter into an amended contract was brought before the council. Motion was made by Council Member Sears and seconded by Council Member Ward to accept the resolution as read. A discussion took place.

### Roll Call:

Mayor Griffin	“Yes”
Council Member Sears	“Yes”
Council Member Duwe	“Yes”
Council Member Zimmer	“Yes”
Council Member Ward	“Yes”
Council Member Wurtz	“Yes”
Council Member Gibbons	“Yes”



WHERE COMMUNITY AND SPIRIT MEET\*

# DRAFT

Resolution 68-2021, a resolution accepting the bid of Simpson Materials at the rates provided in the bid tab sheet (a copy of which is attached hereto and incorporated by reference herein), amount not to exceed budgeted funds, for Limestone Rock for the Street and Water departments and authorizing and directing the Mayor to enter into a contract was brought before the council. Motion was made by Council Member Ward and seconded by Council Member Duwe to accept the resolution as read.

## Roll Call:

Mayor Griffin	"Yes"
Council Member Sears	"Yes"
Council Member Duwe	"Yes"
Council Member Zimmer	"Yes"
Council Member Ward	"Yes"
Council Member Wurtz	"Yes"
Council Member Gibbons	"Yes"

## CONSENT AGENDA ITEMS FOR DISCUSSION

NONE

## CITY COUNCIL REPORTS

Mayor Griffin reported that the July 1, 2021 City Council meeting will be in person in City Hall, City Council Chambers and will be open to the public. The City Council meetings will be live streamed and information on how to view the meetings via livestream will be located on the City's website.

Mayor Griffin announced that the 4<sup>th</sup> of July Fireworks will take place in Kirkwood Park with music starting at 7:00 p.m. There will be food trucks on site.

## CHIEF ADMINISTRATIVE OFFICER REPORT

Mr. Weidler has nothing to report.

## CITY ATTORNEY REPORT

Mr. Hessel had nothing to report.

## CITY CLERK REPORT

Ms. Asche reported on the scheduled upcoming public hearing:

July 1, 2021

A request for a Special Use Permit Amendment and Site Plan Amendment to enclose the canopy for additional showroom/office use and enclose the rear area north of the service reception area at 10725 Manchester Road (Lou Fusz Toyota)



WHERE COMMUNITY AND SPIRIT MEET\*

# DRAFT

## ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 7:10 p.m. The next regular council meeting is scheduled for July 1, 2021 at 7:00 p.m.

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Laurie Asche, CMC/MRCC  
City Clerk

***Approved:***

RESOLUTION 69-2021

A RESOLUTION ACCEPTING THE PROPOSAL OF PROFESSIONAL ENVIRONMENTAL ENGINEERS, INC. AT THE RATES PROVIDED IN THE MEMO (A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN) FOR PROFESSIONAL ENVIRONMENTAL SERVICES FOR USE BY VARIOUS CITY DEPARTMENTS, FOR 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.

WHEREAS, a Request for Proposals was developed and proposals were received for Professional Environmental Services for use by various City departments, and

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

WHEREAS, the Selection Committee recommends Professional Environmental Engineers, Inc. as the most qualified to provide Professional Environmental Services for use by various City department at the rates provided in the memo (a copy of which is attached hereto and incorporated by reference herein) for an initial term of 12 months with the option to renew for up to four additional 12 month terms pending budgetary approval, and

WHEREAS, funds are available in various department accounts.

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

SECTION 1. The proposal of Professional Environmental Engineers, Inc. at the rates provided in the memo (a copy of which is attached hereto and incorporated by reference herein) for Professional Environmental Services for use by various City departments, for an initial term of 12 months with the option to renew for up to four additional 12 month terms pending budgetary approval, is hereby accepted and approved.

SECTION 2. The Mayor is hereby authorized and directed to enter into a contract with Professional Environmental Engineers, Inc. at the rates provided in the memo (a copy of which is attached hereto and incorporated by reference herein) for Professional Environmental Services for use by various City departments, for an initial term of 12 months with the option to renew for up to four additional 12 month terms pending budgetary approval.

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

PASSED AND APPROVED THIS 1<sup>ST</sup> DAY OF JULY 2021.

---

Mayor, City of Kirkwood

ATTEST:

---

City Clerk

# Legislation Request

## Resolution

Place On The Agenda Of: 7/1/2021

Step #1:

Strategic Plan NO Goal # & Title

Background To Issue:

The City, on occasions needs specialized engineering and environmental testing services within various departments. These services typically range from asbestos inspections prior to building demolitions, Phase I and II environmental audits, indoor air quality monitoring and at times soil analysis for possible contamination. These services as in the past have been used as an on call contract. Based on required services, and cost, staff is recommending Professional Environmental Engineers, Inc.

Recommendations and Action Requested:

It is recommended that the City Council accept the proposal from Professional Environmental Engineers, Inc. to provide various environmental services at the cost provide in their proposal.

Alternatives Available:

Does this project have a public information component?  Yes  No

Cost: \$15,000.00 Account #: Various Project #: Budgeted: YES

If YES, Budgeted Amount: \$15,000.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Bill Bensing

Date: 6/21/2021

Authenticated: bensinwe

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

 File Attachment

 File Attachment

 File Attachment

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

Approve

Purchasing Director's Comments:

BY: Brian Mullady

Date: 6/22/2021

Authenticated: mulladbd

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



13826 Resolution Letter-  
signed.pdf  
Microsoft Edge PDF Document  
877 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:

Budgetary appropriations is available and sufficient in various General Ledger accounts in various department and funds to approve \$15,000 contract with Professional Environmental Engineers as requested above.

BY: Sandra Stephens

Date: 6/23/2021

Authenticated: Stephesf

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

Approve  Disapprove

Chief Administrative Officer's Comments:

BY: 

Date: 6-25-21



June 21, 2021

**To:** Russell Hawes, Chief Administrative Officer

**For Your Consideration:** Selection Committee's Recommendation for City of Kirkwood Professional Environmental Services, RFP #13826.

Per Article VI. Purchasing, Division 7. Section 2-486, 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 company to provide Professional Environmental Services.

On June 2, 2021, a Request for Proposal, RFP #13826, was sent to a total of (190) one-hundred ninety consultants by means of the e-Procurement platform, Ionwave.

Proposals were received from Environmental Operations, Inc., Geotechnology, Inc., Professional Environmental Engineers, Inc., and St. John Environmental Consulting.

The Selection Committee which consisted of Brian Mullady, Director of Procurement, Bill Bensing, Director of Public Services, Chris Krueger, City Engineer, Cassandra James, Sr. Procurement Officer/Analyst, and Sara Foan-Oliver, Assistant Director of Procurement, reviewed the proposals.

The scope of services requested professional environmental services, including, but not limited to inspections, sampling, investigation, and report preparation to ensure compliance with all applicable rules and regulations on the federal, state, and local level, governing environmental aspects such as asbestos, lead, indoor air quality and real estate property environmental liability issues for various City projects on an as needed basis as further detailed as follows:

#### On-Site Inspections and Collection

- A. Response time to initial request for inspection services shall be within three (3) business days, or less. Performance of inspections and submittal of summary reports shall be within ten (10) business days.
- B. Firm will perform a physical inspection of the identified property in accordance with the appropriate inspection technique, checklist, sampling protocol and methods for asbestos inspection, lead inspections, and environmental site assessments per industry standards.
- C. Sampling methods and analysis protocols will follow the most current accepted industry standard.
- D. Access to all building areas will be provided by the City of Kirkwood staff.
- E. The scope of a given project may require a multiplicity of services under the environmental umbrella; such as asbestos and lead inspection, environmental site assessments and mold sampling. For this reason, it is important that the Firm is able to provide a multiplicity of services requested therein.
- F. Following contracted work, Firm will provide a draft summary report of the findings or completion documentation for each project to the City for comment, edit and final approval before the City will accept a final report and submit payment for completion of the job.

Reports will include written descriptions which easily identify the locations of environmental concerns detailed in the report.

The Selection Committee reviewed and evaluated each proposal based on:

- Specialized experience and technical competence of the Firm with respect to the type of services required.
- Capacity and capability of the Firm to perform the work in a timely manner.
- Past record of performance of the Firm with respect to such factors as control of costs, quality of work, and ability to meet schedules.
- The Firm's proximity to and familiarity with the area in which the projects are located.
- Proposed schedule of fees.

After review of the qualified company's proposal to perform these types of services, the Selection Committee is recommending Professional Environmental Engineers, Inc. to provide the Professional Environmental Services based on the criteria for the scope listed above. This selected qualified company will provide the Professional Environmental Services on an as needed basis at the rates attached hereto.

The anticipated contract term will be twelve (12) months with an option to renew annually thereafter one term at a time, up to four consecutive twelve (12) month terms. Funding for future years will be contingent upon budgetary approval. The initial term is firm fixed and subsequent terms may be adjusted by up to five percent (5%) per term.

Funding is available in various account numbers pending budgetary approval.

Attached is a request from Bill Bensing, Director of Public Services, for a resolution authorizing a contract to be issued to Professional Environmental Engineers, Inc. at the rates attached hereto for Professional Environmental Services for an initial term of one year and for up to four (4) additional twelve (12) month terms contingent upon budgetary approval.

Respectfully,



Brian Mullady  
Director of Procurement

RESOLUTION 70-2021

A RESOLUTION ACCEPTING THE BID OF GRAYBAR ELECTRIC CO. IN THE AMOUNT OF \$21,623 FOR THE PURCHASE STREET LIGHTING EQUIPMENT FOR THE ARGONNE ALLEY PROJECT AND AUTHORIZING AND DIRECTING THE DIRECTOR OF PROCUREMENT TO ISSUE A PURCHASE ORDER.

WHEREAS, pursuant to law, the City solicited bids for the purchase of street lighting equipment for Argonne Alley project, and

WHEREAS, the most responsible bid received was that of Graybar Electric Co. in the amount of \$21,623 which bid acceptance is approved by the Chief Administrative Officer and recommended by the Director of Procurement and the Director of Electric, and

WHEREAS, funds are available in Account #501-2115-480.75.15, Project #EL2104.

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

SECTION 1. The bid of Graybar Electric Co. in the amount of \$21,623 for the purchase of street lighting equipment for the Argonne Alley Project is hereby accepted and approved.

SECTION 2. The Director of Procurement is hereby authorized and directed to issue a Purchase Order in the amount of \$21,623 to Graybar Electric Co. for the purchase of street lighting equipment for the Argonne Alley Project.

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

PASSED AND APPROVED THIS 1<sup>ST</sup> DAY OF JULY 2021.

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Mayor, City of Kirkwood

ATTEST:

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City Clerk

# Legislation Request

## Resolution

Place On The Agenda Of: 7/1/2021

Step #1:

Strategic Plan YES

Goal # & Title Goal #1 - Enhance the Quality of Life for the citizens of Kirkwood

Background To Issue:

The Procurement Department performed a solicitation for the purchase of decorative street lights for the Argonne Alley walkway.

Recommendations and Action Requested:

The Electric Department recommends approval of a resolution authorizing the Procurement Director to enter into an agreement with Graybar for the purchase of decorative street lighting for the Argonne Alley project in the amount of \$21,623.

Alternatives Available:

These decorative lights will match the lights on Kirkwood Rd. and will provide lighting for the walkway between the buildings. The department is also interested in using some of the lights purchased to upgrade the pedestrian lighting on the south side of E. Jefferson and in Ken Conner Park.

Does this project have a public information component?  Yes  No

Cost: \$21,623.00 Account #: 50121154807515 Project #: EL2104 Budgeted: YES

If YES, Budgeted Amount: \$362,398.00 If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

The Public Services Department is currently managing a project to upgrade the sidewalk along the alley walkway. Kirkwood Electric is coordinating with the Public Services Department to get the repair and upgrade of the underground lighting in the walkway while the sidewalk is removed. The new lights will contain LED fixtures and match the lighting along Kirkwood Rd. Funding is available in the reappropriated account set up for installing new LED lights, especially since that work was suspended during emergency COVID-19 operations. The Electric Department recommends approval of the resolution.

BY: Mark Petty

Date: 6/22/2021

Authenticated: mulladdb

*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: Brian Mullady

Date: 6/22/2021

Authenticated: mulladbd

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

  
13827 Resolution Letter-  
signed.pdf  
Microsoft Edge PDF Document  
752 KB

 File Attachment

 File Attachment

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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:

Budgetary appropriation is sufficient and available for \$21,623 in account 501-2115-480-75-15, Distribution System Improvements, Project EL2104, LED Street Lights to approve the above request.

BY: Sandra Stephens

Date: 6/23/2021

Authenticated: Stephesf

---

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

Approve     Disapprove

Chief Administrative Officer's Comments:

BY: 

Date: 6-25-21

June 21, 2021

**To:** Russell Hawes, Chief Administrative Officer

**For Your Consideration:** Argonne Alley Street Lighting Equipment, Bid #13827

Sealed bids were publicly opened on June 17, 2021. The bid tabulation is as follows:

<u>Graybar Electric Co.:</u>	<u>Unit Cost:</u>	<u>Total Cost:</u>
MINI-Lot Assembly	\$2,162.27 ea	\$21,622.70
McGraw GAR-080-Led-E1-5-CCA-Bk Fixture		
McGraw GL/GHSS Shield		
Valmont aluminum 5D01AS-E-100040404UW-PD-DBL Pole		

Bid requests were also sent to Cape Electric, Centrex Electric, and Villa Lighting; however, they did not submit bids.

The bids were provided to Mark Petty, Electric Director, and Brian Mullady, Procurement Director, for evaluation. It is recommended that the bid be awarded to Graybar Electric Co. as they are the lowest responsive and responsible bidder meeting specifications.

Funds are available in account number 501-2115-480.75-15, Project Number EL2104, in the amount of \$362,398.00.

Attached is a request from Mark Petty, Electric Director, for a resolution authorizing a purchase order to be issued to Graybar Electric Co. in the total cost amount of \$21,622.70 for (10) ten - MINI-Lot Assemblies.

Respectfully,



Brian Mullady  
Director of Procurement

RESOLUTION 71-2021

A RESOLUTION ACCEPTING THE BID OF RAINERI BUILDING MATERIALS AT THE RATES PROVIDED IN THE MEMO (A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN) FOR READY MIX CONCRETE FOR USE BY VARIOUS CITY DEPARTMENTS FOR 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.

WHEREAS, pursuant to law, the City solicited bids for Ready Mix Concrete for use by various City departments, and

WHEREAS, the most responsible bid received was that of Raineri Building Materials at the rates provided in the memo (a copy of which is attached hereto and incorporated by reference herein) for an initial term of 12 months with the option to renew for up to four additional 12 month terms pending budgetary approval, which bid acceptance is approved by the Chief Administrative Officer and recommended by the Director of Procurement and the Director of Public Services, and

WHEREAS, funds are available in various department accounts.

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

SECTION 1. The bid of Raineri Building Materials at the rates provided in the memo (a copy of which is attached hereto and incorporated by reference herein) for Ready Mix Concrete for various City departments, for an initial term of 12 months with the option to renew for up to four additional 12 month terms pending budgetary approval, is hereby accepted and approved.

SECTION 2. The Mayor is hereby authorized and directed to enter into a contract with Raineri Building Materials at the rates provided in the memo (a copy of which is attached hereto and incorporated by reference herein) for Ready Mix Concrete for various City departments, for an initial term of 12 months with the option to renew for up to four additional 12 month terms pending budgetary approval.

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

PASSED AND APPROVED THIS 1<sup>ST</sup> DAY OF JULY 2021.

---

Mayor, City of Kirkwood

ATTEST:

---

City Clerk

# Legislation Request

## Resolution

Place On The Agenda Of: 7/1/2021

Step #1:

Strategic Plan NO      Goal # & Title

Background To Issue:

The City annually utilizes ready mix concrete in the daily operations of various departments for the repair of streets, sidewalks and other concrete related uses pending budgetary availability.

Recommendations and Action Requested:

It is recommended that the City Council accept the proposal from Raineri Building Materials at the rates provided in their proposal as the most responsible bid.

Alternatives Available:

Does this project have a public information component?  Yes  No

Cost: \$15,000.00      Account #: Various      Project #:      Budgeted: YES

If YES, Budgeted Amount: \$15,000.00      If NO, or if insufficient funding (Complete Step #3).

Department Head Comments:

BY: Bill Bensing

Date: 6/21/2021

Authenticated: bensinwe

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

 File Attachment

 File Attachment

 File Attachment

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

Approve

Purchasing Director's Comments:

Raineri Building Materials is the lower total cost when delivery charges are factored in.



BY: Brian Mullady

Date: 6/22/2021

Authenticated: mulladbd

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



13828 Resolution Letter-  
signed.pdf  
Microsoft Edge PDF Document  
855 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:

Budgetary appropriations is available and sufficient in various General Ledger accounts in various department and funds to approve \$15,000 contract with Raineri Building Materials as requested above.

BY: Sandra Stephens

Date: 6/23/2021

Authenticated: Stephesf

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

Approve  Disapprove

Chief Administrative Officer's Comments:

BY: 

Date: 6-25-21

June 21, 2021

To: Russell Hawes, Chief Administrative Officer

**For Your Consideration:** Ready Mix Concrete, Bid # 13828

Sealed bids were publicly opened on June 17, 2021. The bid tabulation is as follows:

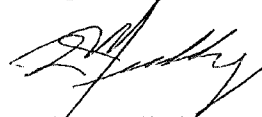
<b>Vendor</b>	<b>Item</b>	<b>Unit Price per CY</b>
<u>Raineri Building Materials</u>		
	Delivery – PCCP-01	\$120.00
	Delivery – PCCP-02-WR	\$120.00
	Delivery – PPCCPHE-033	\$128.00
	Delivery – PCCPHE-034-WR	\$128.00
	Minimum Load Charge for Delivery less than 2CY	\$0
	Minimum Load Charge for Delivery 2CY – 10CY	\$37.50
 <u>Ozark Building Materials</u>		
	Delivery – PCCP-01	\$115.00
	Delivery – PCCP-02-WR	\$118.00
	Delivery – PPCCPHE-033	\$123.00
	Delivery – PCCPHE-034-WR	\$126.00
	Minimum Load Charge for Delivery less than 2CY	\$125.00
	Minimum Load Charge for Delivery 2CY – 10CY	\$125.00

Bid requests were sent to a total of (121) one-hundred twenty-one suppliers through the e-Procurement platform, IonWave.; however only two submitted.

The bids were provided to Bill Bensing, Director of Public Services and Jeremy Collier, Street Superintendent, for evaluation. It is recommended that the bid be awarded to Raineri Building Materials, as their bid is the lowest responsible bid meeting specifications.

Attached is a request from Bill Bensing, Director of Public Services, for a resolution authorizing a unit price contract at the rates provided for Ready Mix Concrete for use by City Departments pending budgetary availability to be issue to Raineri Building Materials. The unit price contract will have an initial term of twelve (12) months, with the option to renew annually for a maximum of four additional one year terms.

Respectfully,



Brian Mullady  
Director of Procurement

BILL 10882

ORDINANCE

AN ORDINANCE AMENDING THE PROVISIONS OF THE MUNICIPAL CODE, CHAPTER 25 – ZONING AND SUBDIVISION, REGARDING REVISIONS TO THE REVIEW PROCEDURES FOR SPECIAL USE PERMITS AND REVISIONS TO THE MINIMUM STANDARDS FOR ROW DWELLINGS AND TWO-FAMILY DWELLINGS IN THE B-2, CENTRAL BUSINESS DISTRICT.

WHEREAS, on the 18<sup>th</sup> day of February 2021, the City Council adopted Ordinance 10702 which replaced Appendices A and B with a newly revised and combined Zoning & Subdivision Code in Chapter 25; and

WHEREAS, City Staff has identified various items within Chapter 25 that are recommended for revision; and

WHEREAS, the Planning and Zoning Commission did on the 5<sup>th</sup> day of May, 2021, by referencing the Staff Memo dated May 5, 2021 (attached hereto and incorporated by reference herein), recommend the approval of said Zoning Code text amendment; and

WHEREAS, on the 3<sup>rd</sup> day of June, 2021, the City Council did hold a public hearing with respect to such amendments to the Zoning Code after duly advertising and giving proper notice of such hearing.

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

SECTION 1. That the City of Kirkwood Municipal Code of Ordinances, Chapter 25 – Zoning and Subdivision, is hereby amended by replacing the language in Section 25-20(d)(1) with the following language:

- (1) A special use permit application shall be reviewed in the same manner as a major site plan review, as set forth in §25-19(e), except that the City Council may approve, approve with modifications or supplementary conditions, or deny the application by ordinance.

SECTION 2. That the City of Kirkwood Municipal Code of Ordinances, Chapter 25 – Zoning and Subdivision, is hereby amended by adding a new subsection (3) in Section 25-36(f) with the following language:

- (3) In the B-2 District, unless otherwise approved as part of a mixed-use development, row dwellings cannot be constructed on properties that are designated as Mandatory Commercial in the Downtown Master Plan & Parking Study's Framework Plan. See Figure 36-A.

SECTION 3. That the City of Kirkwood Municipal Code of Ordinances, Chapter 25 – Zoning and Subdivision, is hereby amended by adding a new subsection (2) in Section 25-36(g) with the following language:

- (2) In the B-2 District, unless otherwise approved as part of a mixed-use development, two-family dwellings cannot be constructed on properties that are designated as Mandatory Commercial in the Downtown Master Plan & Parking Study’s Framework Plan. See Figure 36-A.

SECTION 4. This ordinance shall be in full force and effect after its passage and approval, as provided by law.

PASSED AND APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor, City of Kirkwood

ATTEST:

\_\_\_\_\_  
City Clerk

Public Hearing: June 3, 2021

1<sup>ST</sup> Reading:

2<sup>nd</sup> Reading:

# Legislation Request

## Ordinance

Place On The Agenda Of: 6/3/2021

### Step #1:

Strategic Plan NO Goal # & Title

### Background To Issue:

Staff has identified two items in the newly adopted Zoning & Subdivision Code that are recommended to be addressed via text amendments. These two items include clarifying the legislative mechanism required for special use permits and providing consistency to all forms of multi-family within the downtown district. Further detail is provided in the Staff memo dated May 5, 2021.

### Recommendations and Action Requested:

The P&Z Commission recommended approval of the text amendments by a vote of 5-0 with 4 Commissioners being absent. A public hearing is requested followed by City Council consideration of the recommended text amendments.

### 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: 5/26/2021 Authenticated: raichejd

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



2021-05-05 Chapter25 Amend  
Memo.pdf  
Microsoft Edge PDF Document  
79.0 KB



2021-06-03 PZ-1-22  
Ordinance.doc  
Microsoft Word 97 - 2003  
Document  
31.0 KB

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     Disapprove

Chief Administrative Officer's Comments:

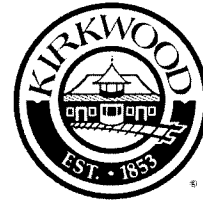
BY: 

Date:

5-27-21

# MEMORANDUM

**TO:** P&Z COMMISSION  
**FROM:** JONATHAN D. RAICHE, PLANNING & DEVELOPMENT SERVICES DIRECTOR *JDR*  
**SUBJECT:** STAFF-INITIATED TEXT AMENDMENTS  
**DATE:** MAY 5, 2021  
**CC:** AMY LOWRY, PLANNER II  
ANDI YANCEY, PLANNER I  
PATTI DODEL, ENGINEERING ADMIN. ASSISTANT



WHERE COMMUNITY AND SPIRIT MEET<sup>®</sup>

On February 18, 2021 the City adopted its new combined Zoning and Subdivision Code after going through a comprehensive review of the previous Codes. During the first couple months of implementation, Staff has identified two items that are recommended to be corrected and/or clarified. Staff will continue to review and monitor the effectiveness of the new Code and bring periodic recommendations to the Planning & Zoning Commission and City Council as needed. A summary of the first recommended text amendments is provided below.

## **Item #1 – Special Use Permit Approval Mechanism [Section 25-20 (d)]**

The newly adopted code uses cross-references for review procedures in an effort to help standardize the City's review processes for development-related applications. Section 25-20(d) of the new Code provides the review procedures for an application for a Special Use Permit and references the procedures for a Major Site Plan review. The Major Site Plan review procedures specifically mention that the City Council would approve a Major Site Plan by resolution. Historically, the City Council has approved Special Use Permits by ordinance rather than resolution which requires one additional vote by the City Council. This slightly more rigorous review has been utilized for Special Uses due to the nature of those uses.

After consulting with the City Attorney, Staff prepared an ordinance for the consideration of the City Council in regard to the one Special Use Permit application received under our new Code thus far. In an effort to clarify this legislative mechanism, Staff recommends that Section 25-20(d)(1) be revised to reference the fact that City Council would approve a Special Use Permit by ordinance. The revised language is provided in Exhibit 1.

## **Item #2 – Downtown Multifamily Options [25-36(f) and (g)]**

In response to a recommendation from the Downtown Master Plan, the City previously revised the Zoning Code to allow multi-family development on B-2 properties in certain areas of Downtown. In this previous version, the Code was only amended to specifically allow "Dwelling, Multi-family" and did not include "Dwelling, Row" or "Dwelling, Two-family". The new Code now lists all three multi-family style buildings as "Permitted with Standards" in the B-2 District; however, the standard that references Mandatory Commercial Streets on the Downtown Master Plan's Framework Plan was not carried through in the standards that apply specifically to "Dwelling, Row" or "Dwelling, Two-family". Without providing this text amendment, a case could be made that these specific types of multi-family buildings would be permissible on any B-2 property. The revised language for these sections is provided in Exhibit 1.

## **Recommendation**

Staff recommends the following motion: "I move to recommend approval of the Zoning Code Text Amendments found in Exhibit 1 of the Staff memo dated May 5, 2021."

**Exhibit 1**

**Revised language is indicated in red-colored font.**

**Revise Section 25-20(d)(1) to read:**

- (1) A special use permit application shall be reviewed in the same manner as a major site plan review, as set forth in §25-19(e), except that the City Council may approve, approve with modifications or supplementary conditions, or deny the application by ordinance.

**Add the following new subsection (3) to Section 25-36(f):**

- (3) In the B-2 District, unless otherwise approved as part of a mixed-use development, row dwellings cannot be constructed on properties that are designated as Mandatory Commercial in the Downtown Master Plan & Parking Study's Framework Plan. See Figure 36-A.

**Add the following new subsection (2) to Section 25-36(g) and numbering the existing subsection as needed:**

- (2) In the B-2 District, unless otherwise approved as part of a mixed-use development, two-family dwellings cannot be constructed on properties that are designated as Mandatory Commercial in the Downtown Master Plan & Parking Study's Framework Plan. See Figure 36-A.



# PROCEDURE FOR PUBLIC HEARING

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

**A request for amendments to the Zoning and Subdivision Code regarding Special Use Permit procedures and multi-family in the B-2 Zoning District**

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?

**Planning & Development Services Director Jonathan Raiche**

Mayor: Is there anyone from the public wishing to speak regarding this proposal?

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.

Before the undersigned Notary Public personally appeared **Stephen Pope** 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 13, 2021** edition and ending with the **May 13, 2021** edition, for a total of 1 publications:

05/13/2021

**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 via Zoom at the hour of 7:00 p.m., Thursday, June 3, 2021 to consider the following:

***A request for amendments to the Zoning and Subdivision Code regarding Special Use Permit procedures and multi-family in the B-2 Zoning District.***

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.  
12000076 County May 13, 2021

*Stephen Pope*

Stephen Pope

Subscribed & sworn before me this 13<sup>th</sup> day of May, 2021  
(SEAL)

*Chanel Jones*

Notary Public

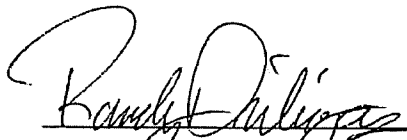
CHANEL JONES  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for St Louis County  
My Commission Expires: August 08, 2022  
Commission Number: 14397721

## AFFIDAVIT OF PUBLICATION

Date: 05/14/21

City of Kirkwood  
139 S. Kirkwood Rd.  
Kirkwood, MO 63122

I, Randy Drilingas, being duly sworn, both depose and say that I am an authorized representative of the WKTimes LLC, publishers of the Webster-Kirkwood Times Newspaper in the county of St. Louis, MO, and that the advertisement shown below was published in the Webster-Kirkwood Times May 14, 2021 edition.

  
Authorized Agent, Randy Drilingas  
Webster-Kirkwood Times



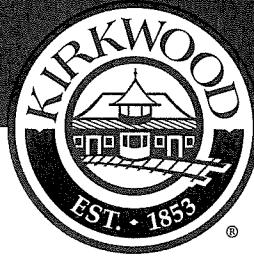
**NOTICE OF PUBLIC HEARING**  
before the City Council of  
City of Kirkwood, MO

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WHERE COMMUNITY AND SPIRIT MEET

May 6, 2021

Russell B. Hawes  
Chief Administrative Officer

At the May 5, 2021, meeting of the Planning and Zoning Commission, the following action was taken:

1. The Commission unanimously recommended approval of amendments to the Zoning and Subdivision Code as recommended by Staff's memo dated May 5, 2021, regarding Special Use Permit procedures and multi-family in the B-2 Zoning District.

The next meeting will be held on May 19, 2021, at 7 p.m. via Zoom.

Respectfully submitted,

Jim Adkins, Chair  
Planning and Zoning Commission

# MEMORANDUM

**TO:** P&Z COMMISSION  
**FROM:** JONATHAN D. RAICHE, PLANNING & DEVELOPMENT SERVICES DIRECTOR *JDR*  
**SUBJECT:** STAFF-INITIATED TEXT AMENDMENTS  
**DATE:** MAY 5, 2021  
**CC:** AMY LOWRY, PLANNER II  
ANDI YANCEY, PLANNER I  
PATTI DODEL, ENGINEERING ADMIN. ASSISTANT



WHERE COMMUNITY AND SPIRIT MEET®

On February 18, 2021 the City adopted its new combined Zoning and Subdivision Code after going through a comprehensive review of the previous Codes. During the first couple months of implementation, Staff has identified two items that are recommended to be corrected and/or clarified. Staff will continue to review and monitor the effectiveness of the new Code and bring periodic recommendations to the Planning & Zoning Commission and City Council as needed. A summary of the first recommended text amendments is provided below.

## **Item #1 – Special Use Permit Approval Mechanism [Section 25-20 (d)]**

The newly adopted code uses cross-references for review procedures in an effort to help standardize the City’s review processes for development-related applications. Section 25-20(d) of the new Code provides the review procedures for an application for a Special Use Permit and references the procedures for a Major Site Plan review. The Major Site Plan review procedures specifically mention that the City Council would approve a Major Site Plan by resolution. Historically, the City Council has approved Special Use Permits by ordinance rather than resolution which requires one additional vote by the City Council. This slightly more rigorous review has been utilized for Special Uses due to the nature of those uses.

After consulting with the City Attorney, Staff prepared an ordinance for the consideration of the City Council in regard to the one Special Use Permit application received under our new Code thus far. In an effort to clarify this legislative mechanism, Staff recommends that Section 25-20(d)(1) be revised to reference the fact that City Council would approve a Special Use Permit by ordinance. The revised language is provided in Exhibit 1.

## **Item #2 – Downtown Multifamily Options [25-36(f) and (g)]**

In response to a recommendation from the Downtown Master Plan, the City previously revised the Zoning Code to allow multi-family development on B-2 properties in certain areas of Downtown. In this previous version, the Code was only amended to specifically allow “Dwelling, Multi-family” and did not include “Dwelling, Row” or “Dwelling, Two-family”. The new Code now lists all three multi-family style buildings as “Permitted with Standards” in the B-2 District; however, the standard that references Mandatory Commercial Streets on the Downtown Master Plan’s Framework Plan was not carried through in the standards that apply specifically to “Dwelling, Row” or “Dwelling, Two-family”. Without providing this text amendment, a case could be made that these specific types of multi-family buildings would be permissible on any B-2 property. The revised language for these sections is provided in Exhibit 1.

## **Recommendation**

Staff recommends the following motion: “I move to recommend approval of the Zoning Code Text Amendments found in Exhibit 1 of the Staff memo dated May 5, 2021.”

**Exhibit 1**

**Revised language is indicated in red-colored font.**

**Revise Section 25-20(d)(1) to read:**

- (1) A special use permit application shall be reviewed in the same manner as a major site plan review, as set forth in §25-19(e), **except that the City Council may approve, approve with modifications or supplementary conditions, or deny the application by ordinance.**

**Add the following new subsection (3) to Section 25-36(f):**

- (3) **In the B-2 District, unless otherwise approved as part of a mixed-use development, row dwellings cannot be constructed on properties that are designated as Mandatory Commercial in the Downtown Master Plan & Parking Study's Framework Plan. See Figure 36-A.**

**Add the following new subsection (2) to Section 25-36(g) and numbering the existing subsection as needed:**

- (2) **In the B-2 District, unless otherwise approved as part of a mixed-use development, two-family dwellings cannot be constructed on properties that are designated as Mandatory Commercial in the Downtown Master Plan & Parking Study's Framework Plan. See Figure 36-A.**

BILL 10883

ORDINANCE

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION TRANSPORTATION ALTERNATIVES FUNDS PROGRAM AGREEMENT FOR THE AWARDED SURFACE TRANSPORTATION PROGRAM (STP) 5502(613) HISTORIC KIRKWOOD AMTRAK STATION RESTORATION PROJECT.

WHEREAS, City Council authorized for the submittal of a Transportation Alternatives Program (TAP) Application under to East-West Gateway Council of Governments for federal funds for the Historic Kirkwood Amtrak Station Restoration Project, and

WHEREAS, the Missouri Highways and Transportation Commission has determined that the Historic Kirkwood Amtrak Station Restoration Project is consistent with the goals of the Transportation Alternatives Program (TAP) and has awarded grant funding for the project, and

WHEREAS, the Engineering Department recommends the City enter into a Missouri Highways and Transportation Commission Transportation Alternatives Funds Program Agreement for the awarded STP-5502(613) Historic Kirkwood Amtrak Station Restoration Project for 32.6% of the project costs not to exceed \$1,500,000.

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 a Missouri Highways and Transportation Commission Transportation Alternatives Funds Program Agreement for the awarded STP-5502(613) Historic Kirkwood Amtrak Station Restoration Project for 32.6% of the project costs not to exceed \$1,500,000.

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  
1<sup>st</sup> Reading:  
2<sup>nd</sup> Reading:

# Legislation Request

## Ordinance

Place On The Agenda Of: 6/17/2021

### Step #1:

Strategic Plan YES

Goal # & Title Goal 5. Invest for the future through infrastructure

### Background To Issue:

East West Gateway Council of Governments has determined that the Historic Kirkwood Amtrak Station Restoration Project is consistent with the goals of the Transportation Alternatives Program (TAP) and has awarded funding for the project. This project includes the restoration of the train station construction in 1893, including roof, tuckpointing, HVAC, interior, and ADA improvements, window restoration, and a new passenger platform cover.

### 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 project, STP-5502 (613) Historic Kirkwood Amtrak Station Restoration Project to fund 32.6% of the project costs, not to exceed \$1,500,000 which is the grant amount. The total estimated project cost is \$4,607,498.

### 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: Christopher Krueger

Date: 6/8/2021

Authenticated: kruegeca

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



TAP-5502(613) Cover  
Letter.pdf  
Microsoft Edge PDF Document  
120 KB



TAP-5502(613) Agreement.pdf  
Microsoft Edge PDF Document  
498 KB



FFATAForm1590SubRecipient  
InformationForm.xlsx  
Microsoft Excel Worksheet  
33.7 KB

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



Approve

Purchasing Director's Comments:

BY: Brian Mullady

Date: 6/8/2021

Authenticated: mulladbd

*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     Disapprove

Chief Administrative Officer's Comments:

BY: 

Date: 6/9/2021

June 1, 2021

Mr. Chris Krueger  
City Engineer  
City of Kirkwood  
139 S. Kirkwood Road  
Kirkwood, MO 63122

RE: City of Kirkwood  
Historic Amtrak Station Restoration  
Federal Project No. TAP-5502(613)  
TIP# 7158-22  
Draft Program Agreement and Programming Comments

Dear Mr. Krueger:

This federal aid project is shown in the regional Transportation Improvement Program (TIP) and has been assigned a federal project number of TAP-5502(613). 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 process the agreement through the DocuSign process and attach one 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 agreement. A fully executed program agreement will be returned 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.

#### **Consultant Contracts/Preliminary Engineering/Construction Engineering Costs**

Federal funds for Preliminary Engineering (PE) have been programmed in FY 2022. If the City is seeking federal funds for consultant engineering services, the City must use a Qualification Based Selection (QBS) process for the procurement of engineering services, see LPA section 136.4 for details. As the City is developing the RFQ, please submit an estimate of cost for the



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[www.modot.org](http://www.modot.org)

consultant contract and a list of anticipated activities that will take place during the design process. This information will be used to determine a DBE goal for the contract, which will need to be included in the RFQ. LPA Figure 136.4.7 is a sample RFQ solicitation form. When the approved RFQ process is completed, please submit a .pdf copy of the Engineering Services Contract (ESC) using the ESC sample cover letter, LPA Fig. 136.4.9, to this office for review and approval. The standardized contract format in LPA Fig. 136.4.1 is required. A .pdf of the consultant's E-Verify MOU, Affidavit of Compliance, and Consultant Rating Sheets are also required.

If the consultant contract is estimated to be less than \$100,000, the City may select a firm from the LPA On-Call Consultant List for consideration without advertisement. For further information regarding using the LPA ON-Call Consultant List, please see section 136.4.2.4.3 of the LPA Manual. Please be aware that MoDOT's Division of External Civil Rights will now make DBE determinations for the PE phase on projects where consultants are selected from the ON-Call list. An estimate of cost for the consultant contract and a list of anticipated activities that will take place during the design process will now need to be submitted in order to establish DBE participation on the PE phase of the project.

#### **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).

During the environmental review process, the City will need to provide information about the type of public involvement. Depending on the impacts to the public, the public involvement will vary. Examples of public involvement include adding project information to the City's website, using press releases to notify the public, contacting nearby property owners to inform them about the project, and having a public hearing.

If a public hearing is required for this project, please provide this office with a copy of the public hearing advertisement that is to be published. Please refer to EPG Section 136.7.6 for further information.

#### **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](mailto: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 long, sweeping tail on the letter "y".

Tom McCloskey  
District Design Liaison  
MoDOT

Copy: Jason Lange – East West Gateway  
Brad Williams – East West Gateway

CCO Form: FS25  
Approved: 04/95 (MGB)  
Revised: 03/17 (MWH)  
Modified:

CFDA Number: 20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: TAP-5502(613)  
Award Year: 2022  
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
TRANSPORTATION ALTERNATIVES FUNDS  
PROGRAM AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and City of Kirkwood (hereinafter, "City").

WITNESSETH:

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

(1) PURPOSE: The United States Congress has authorized, in Fixing America's Surface Transportation Act (FAST); 23 U.S.C. §101, §106 and §213; SAFETEA-LU §1404 funds to be used for transportation alternatives activities. The purpose of this Agreement is to grant the use of such transportation enhancement funds to the City.

(2) LOCATION: The transportation alternatives funds which are the subject of this Agreement are for the project at the following location: Amtrak Train Station in Kirkwood. The scope of the project included the interior and exterior restoration of the Kirkwood Missouri Pacific Depot (Amtrak Train Station).

The general location of the project is shown on attachment marked "Exhibit A" and incorporated herein by reference.

(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. The City may not be eligible for future Transportation Alternatives Funds if the City does not meet the reasonable progress policy.

(4) 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.

(5) 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.

(6) COMMISSION REPRESENTATIVE: The Commission's St. Louis 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.

(7) 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, creed, 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, creed, 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 (7) 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.

(8) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(9) 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.

(10) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

(11) 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 Federal Highway Administration (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.

(12) 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.

(13) ACQUISITION OF RIGHT OF WAY: No acquisition of additional right of way is anticipated in connection with Project TAP-5502(613) or contemplated by this Agreement.

(14) MAINTENANCE OF DEVELOPMENT: The City shall maintain the herein contemplated improvements without any cost or expense to the Commission. All maintenance by the City shall be done for the safety of the general public and the esthetics of the area. In addition, if any sidewalk or bike trails are constructed on the Commission's right-of-way pursuant to this Agreement, the City shall inspect and maintain the sidewalk or bike trails constructed by this project in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalk or bike trails. If the City fails to maintain the herein contemplated improvements, the Commission or its representatives, at the Commission's sole discretion shall notify the City in writing of the City's failure to maintain the improvement. If the City continues to fail in maintaining the improvement, the Commission may remove the herein contemplated improvement whether or not the improvement is located on the Commission's right of way. Any removal by the Commission shall be at the sole cost and expense of the City. Maintenance includes but is not limited to mowing and trimming between shrubs and other plantings that are part of the improvement.

(15) PLANS: The City shall prepare preliminary and final plans and specifications for the herein improvements. The plans and specifications shall be submitted to the Commission for the Commission's review and approval. The Commission has the discretion to require changes to any plans and specification prior to any approval by the Commission.

(16) 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. The federal share for this project will be 32.6 percent not to exceed \$1,500,000. 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.

(17) 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. The City shall repay any progress payments which involve ineligible costs.

(18) 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.

(19) PERMITS: The City shall secure any necessary approvals or permits from any federal or state agency as required for the completion of the herein improvements. If this improvement is on the right of way of the Commission, the City must secure a permit from the Commission prior to the start of any work on the right of way. The permits which may be required include, but are not limited to, environmental, architectural, historical or cultural requirements of federal or state law or regulation.

(20) INSPECTION OF IMPROVEMENTS AND RECORDS: The City shall assure that representatives of the Commission and FHWA shall have the privilege of inspecting and reviewing the work being done by the City's contractor and subcontractor on the herein project. The City shall also assure that its contractor, and all subcontractors, if any, maintain all books, documents, papers and other evidence pertaining to costs incurred in connection with the Transportation Enhancement Program Agreement, and make such materials available at such contractor's office at all reasonable times at no charge during this Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection by the Commission, FHWA or any authorized representatives of the Federal Government and the State of Missouri, and copies shall be furnished, upon request, to authorized representatives of the Commission, State, FHWA, or other Federal agencies.

(21) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES: A person may offer to donate funds, materials or services in connection with this project. Any donated funds, or the fair market value of any donated materials or services that are accepted and incorporated into this project shall be credited according to 23 U.S.C. §323.

(22) DISADVANTAGED BUSINESS ENTERPRISES (DBE): The Commission will advise the City of any required goals for participation by disadvantaged business

enterprises (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.

(23) 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.

(24) 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.

(25) FINAL AUDIT: The Commission may, in its sole discretion, 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.

(26) OMB AUDIT: 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.

(27) 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.

*[Remainder of Page Intentionally Left Blank]*

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

Executed by the City on \_\_\_\_\_(DATE).

Executed by the Commission on \_\_\_\_\_(DATE).

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF KIRKWOOD

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Secretary to the Commission

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

\_\_\_\_\_

Title \_\_\_\_\_

Ordinance No \_\_\_\_\_

Exhibit A - Location of Project



**Location Map:** Historic Kirkwood Train Station at the Southwest corner of Kirkwood Road and West Argonne Drive

## Exhibit B – Project Schedule

Project Description: TAP-5502(613) Restoration of Kirkwood Amtrak Train Station

<b>PROJECT DEVELOPMENT SCHEDULE</b>			
<i>Note: many stages can occur concurrently.</i>			
<b>Activity Description</b>	<b>Start Date (MM/YYYY)</b>	<b>Finish Date (MM/YYYY)</b>	<b>Time Frame (Months)</b>
Receive notification letter	04/2021	04/2021	1
Execute agreement (project sponsor and DOT)	04/2021	08/2021	4
<b>Engineering services contract submitted and approved*</b>	09/2021	04/2022	7
Obtain environmental clearances (106, CE2, T&E, etc.)	04/2022	08/2022	4
Public meeting/hearing	09/2022	09/2022	1
Develop and submit preliminary plans	10/2022	10/2022	1
Preliminary plans approved	10/2022	02/2023	4
Develop and submit right-of-way plans	02/2023	03/2023	1
Review and approval of right-of-way plans	03/2023	04/2023	1
<b>Submit and receive approval for notice to proceed for right-of-way acquisition (A-Date)*</b>	04/2023	06/2023	2
Right-of-way acquisition	06/2023	12/2023	6
Utility coordination	10/2022	10/2023	12
Develop and submit PS&E	10/2023	02/2024	4
<b>District approval of PS&amp;E/advertise for bids*</b>	02/2024	04/2024	2
Submit and receive bids for review and approval	04/2024	06/2024	2
Project implementation/construction	06/2024	08/2025	14
* 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 a Supplemental Agreement is required to modify this date.

## 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 \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

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

## 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 contractwork.

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:** TAP-5502(613)

**Project Dollar Amount (Federal only):** \$1,500,000.00

**Sub-Recipient (Project Sponsor) Information**

Name and Address

**Name:**

**Address:**

**City:**

**State:**

**Zip:**

**Project Sponsor DUNS Number:**

**Date of Central Contractor Registry (CCR) registration:**

Project Sponsor Annual Gross Revenues Exceed 80% or more in Federal Awards

**Yes**

**No**

Sub-Recipients Annual Gross Revenues Equal or Exceed \$25,000,000

**Yes**

**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

<b>PREPARED BY:</b>	<b>DATE:</b>
Name and Title:	
Phone number:	
Email:	

RESOLUTION 72-2021

A RESOLUTION ACCEPTING THE PROPOSAL OF THE BARN FOR CONCESSION SERVICES FOR THE KIRKWOOD PERFORMING ARTS CENTER FOR AN INITIAL TERM OF 12 MONTHS WITH THE OPTION TO RENEW FOR FOUR ADDITIONAL 12 MONTH TERMS AND AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A CONTRACT.

WHEREAS, a Request for Proposals was developed and proposals were received for Concession Services for the Kirkwood Performing Arts Center, and

WHEREAS, a Selection Committee consisting of the Director of Procurement, Assistant Director of Procurement, Director of Parks and Recreation, Kirkwood Performing Arts Center General Manager, and Procurement Officer/Analyst reviewed the proposals, and

WHEREAS, the Selection Committee recommends The Barn as the most qualified to provide Concession Services for the Kirkwood Performing Arts Center for an initial term of 12 months with the option to renew for four additional 12 month terms, and

WHEREAS, the contract will be a revenue generated contract and funds will go into the Kirkwood Performing Arts Center Account #101-0000-378.20.00

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

SECTION 1. The proposal of The Barn for Concession Services for the Kirkwood Performing Arts Center for an initial term of 12 months with the option to renew for up to four additional 12 month terms is hereby accepted and approved.

SECTION 2. The Mayor is hereby authorized and directed to enter into a contract with The Barn for Concession Services for the Kirkwood Performing Arts Center for an initial term of 12 months with the option to renew for up to four additional 12 month terms.

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

PASSED AND APPROVED THIS 1<sup>ST</sup> DAY OF JULY 2021.

\_\_\_\_\_  
Mayor, City of Kirkwood

ATTEST:

\_\_\_\_\_  
City Clerk

# Legislation Request

## Resolution

Place On The Agenda Of: 7/1/2021

Step #1:

Strategic Plan NO Goal # & Title

Background To Issue:

The Kirkwood Performing Art Center (KPAC) is preparing to open as a full service theater for resident art organization Stages, KTG and many other professional and amateur performance companies, private rentals and users. A portion of the budgeted operating revenue is dependent upon a partnership with a concessionaire. The Concessionaire is expected to provide material and services for operating multiple concession stands at KPAC.

Recommendations and Action Requested:

The specific legislative request is to enter into a contract to provide concession services with Ginny Dear's LLC. (The Barn) at the Kirkwood Performing Arts Center.

Alternatives Available:

No alternative at this time.

Does this project have a public information component?  Yes  No

Cost: \$0.00 Account #: 10100003782000 Project #: Budgeted: YES

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

Department Head Comments:

No costs involved, revenue generating contract only. Funds will go into KPAC revenue account: 101-0000-378-20-00.

BY: Kyle Henke

Date: 6/25/2021

Authenticated: henkek

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



KPAC Concessionaire  
2021.docx  
Microsoft Word Document  
21.0 KB

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: Brian Mullady

Date: 6/25/2021

Authenticated: mulladbd

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



 File Attachment

 File Attachment

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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:

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

Approve

Disapprove

Chief Administrative Officer's Comments:

BY:



Date:

6-28-21

# Memo

**To:** Russ Hawes  
**From:** Kyle Henke  
**CC:** Brian Mullady, Rick Duplissie  
**Date:** 6/28/2021  
**Re:** Kirkwood Performing Arts Center Concession Services

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The Kirkwood Performing Art Center (KPAC) is preparing to open as a full service theater for resident art organization Stages, KTG and many other professional and amateur performance companies, private rentals and users. A portion of the budgeted operating revenue is dependent upon a partnership with a concessionaire. The Concessionaire is expected to provide material and services for operating multiple concession stands at KPAC.

A Request for Proposal was issued on 5/19/21 for Kirkwood Performing Arts Center Concession Services. Local Organizations such as Hendri's Events, The Barn, Llywelyn's, and Looking Meadow Coffee Co. were solicited. Two Proposals were received from, The Barn and Looking Meadow Coffee Co.

A selection committee which consisted of Brian Mullady - Director of Procurement, Sara Foan-Oliver – Asst. Dir. of Procurement, Kyle Henke - Director of Parks and Recreation, Rick Duplissie – KPAC G.M., and Dan Gatti, Procurement Officer/Analyst reviewed the proposals.

After review of the qualified company's proposals to perform these types of services, the Selection Committee is recommending, "The Barn" to provide the Kirkwood Performing Arts Center Concession Services based on specific selection criteria. The contract will be for one year, and the agreement allows for four additional one year extensions.

The specific legislative request is to enter into a contract to provide concession services with Ginny Dear's LLC. (The Barn) at the Kirkwood Performing Arts Center.

June 22, 2021

**To:** Russell B. Hawes, Chief Administrative Officer

**For Your Consideration:** Selection Committee's Recommendation for Kirkwood Performing Arts Center – Concession Services, RFP # 13823

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 company to provide Kirkwood Performing Arts Center – Concession Services.

A Request for Proposal was issued on 5/19/21 for Kirkwood Performing Arts Center – Concession Services to Hendri's Events, The Barn, Llywelyn's, and Looking Meadow Coffee Co.

Proposals were received on 6/15/21 from The Barn and Looking Meadow Coffee Co.

A selection committee which consisted of Brian Mullady - Director of Procurement, Sara Foan-Oliver – Asst. Dir. of Procurement, Kyle Henke - Director of Parks and Recreation, Rick Duplissie – KPAC G.M., and Dan Gatti, Procurement Officer/Analyst reviewed the proposals.

The Selection Committee reviewed and evaluated the proposal response on:

- (a) The specialized experience and qualifications of the proposing firm.
- (b) The experience of the Concessionaire and the key management members in managing of facilities of similar scope and magnitude. This includes use of formal training and development programs for non-management employees.
- (c) The past record of performance of the proposing firm with respect to control of costs, quality of work and ability to meet schedules.
- (d) The capacity and capability of the proposing firm to perform the work within the established schedule.
- (e) The proposing firm's proximity to and familiarity with the City of Kirkwood.
- (f) The Concessionaire's proposed Percentage of Gross Sales payment.
- (g) Demonstrated ability to respond to Theme or Seasonal menu preferences, changing customer expectations, and to be innovative with specialized menu and food items. A sample menu and anticipated prices of the items to be sold at the Concession Stands must be submitted.




- (h) Formalized methods of measuring customer satisfaction on a continuing basis.
- (i) Demonstrated success in providing catered services in a variety of situations. Use of promotional techniques to encourage customer interest. Use of detailed cleaning schedules to assure health and sanitation standards are met.
- (j) Evaluation of Concessionaire's most recent income/balance sheet.
- (k) Amount of Concessionaire "upfront" investment in equipment for concession areas.
- (l) Concessionaire's additional information pertinent to the evaluation of its Proposal.

After review of the qualified company's proposals to perform these types of services, the Selection Committee is recommending The Barn to provide the Kirkwood Performing Arts Center – Concession Services based on the criteria listed above.

Attached is a request from Kyle Henke - Director of Parks & Recreation, requesting a contract be issued to The Barn (Ginnydears, LLC) to provide the Kirkwood Performing Arts Center – Concession Services

Respectfully,



Brian Mullady  
Director of Procurement