

AGENDA  
Regular Session of the City Council of the City of Saint Charles, Missouri  
Council Chambers – 4<sup>th</sup> Floor – City Hall – 200 North Second Street  
Tuesday, June 3, 2025  
7:00 p.m.

**All persons who desire to provide public comment  
Must complete a Speaker's Card in its entirety and present it to the City Clerk  
Prior to the 7:00 p.m. start of the City Council meeting to be eligible to speak**

1. ROLL CALL

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Pledge of Allegiance led by City of Saint Charles Leader of Tomorrow Elena Krupich,  
St. Cletus School

3. PRESENTATIONS/AWARDS/PROCLAMATIONS

A. Presentation by Melinda McAliney with Community and Children’s Resource  
Board of St. Charles County (CCRB)

4. PUBLIC COMMENTS - 3 Minute Limit Per Person

The Public Comment portion of the meeting is an opportunity for the City Council to listen to comments from the public. It is not a question and answer session and the Mayor and City Council will not respond to comments or answer questions during this period. The Mayor or the City Council may refer any matter brought up to the Director of Administration or City Clerk if action is needed. A buzzer or notification will sound when three minutes has elapsed. All persons who desire to provide Public Comment shall complete a Speaker’s Card in its entirety and present it to the City Clerk prior to the scheduled start of the City Council Meeting.

5. REPORT OF THE MAYOR

A. Appointments to Boards/Commissions/Committees

6. ANNOUNCEMENTS FROM COUNCILMEMBERS/MISCELLANEOUS

7. PUBLIC HEARING – 5 Minute Limit per Person

Public Hearings are an opportunity for the City Council to listen to input about a particular topic or item being considered by the Council. It is not a question and answer session and the City Council will not respond to comments or answer questions during this period. A buzzer or notification will sound when five minutes has elapsed. All persons speaking at a Public Hearing shall complete a Speaker’s Card in its entirety and present it to the City Clerk prior to the scheduled start of the City Council meeting.

A. Case No. CU-2025-08 (Eric Peters – Upshot Coffee) An application for a Conditional Use Permit per §400.210(C)(1)(a) for Liquor Sales associated with a coffee shop/restaurant use within “C-1/EHP” Neighborhood Business District within the Extended Historic Preservation District located at 816 N. Kingshighway Street. The subject property is located in Ward 1. (*RCA Attached*)

B. Case No. LL-2025-8 Approval of Liquor License Application for Eric Peters d/b/a Upshot Coffee located at 816 N. Kingshighway. (*Ward 1*) (*RCA Attached*)

- C. Case No. CU-2025-09 (Cory King and Bill Barnes – Side Project Brewing) An application for a Conditional Use Permit per §400.210(C)(1)(a) for Liquor License Sales and §400.290(C)(6) and a Microbrewery use with the “FD/FPD” Frenchtown District within the Frenchtown Preservation District located at 1001 and 1005 N. Second Street. The subject property is located in Ward 1. (***RCA Attached***)
- D. Case No. LL-2025-9 Approval of Liquor License Application for Cory King d/b/a Side Project Brewing located at 1001-1005 N. Second St. (***Ward 1***) (***RCA Attached***)
- E. Case No. CU-2024-13 (Hung Ung – Viet Pho) An application to amend a Conditional Use Permit per §400.220(C)(1)(a) for Liquor Sales associated with the expansion of a restaurant use within “C-3/WHPD” Highway Business District within the Wellhead Protection District located at 3128 Elm Point Industrial Dr. The subject property is located in Ward 7. (***RCA Attached***)
- F. Case No. CU-2023-64 (Gwen Keen – QuikTrip Corporation) An application for a Conditional Use Permit per §400.220(C)(1)(a) for in-vehicle service, more specifically for the redevelopment of an existing automobile service station. The property is zoned C-2/EHP General Business District within the Extended Historic Preservation District located at 225 N. Kingshighway Street. The subject property is located in Ward 9. (***RCA Attached***)
- G. Case No. Z-2025-04 (CRG Cumulus, LLC) An application to establish zoning for an overall 144.25-acres (more or less) from St. Charles County “A” Agricultural District & “I1” Light Industrial to the City of St. Charles “I-1” Light Industrial District & “I-1/WHP” Light Industrial District, within the Wellhead Protection District. Subject properties are generally located on the north and south sides of Hwy 370, between Huster Rd & Harry S Truman Blvd (***Council Bill 13987***)

8. CONSENT AGENDA

- A. Approval of Council Minutes and Reports
  - 1. Council Work Session Meeting of May 13, 2025
  - 2. Council Work Session Meeting of May 20, 2025
- B. Receipt of Reports from Boards, Commissions and Committees
  - 1. Landmarks Board Meeting of April 21, 2025
  - 2. Planning and Zoning Commission Meeting of April 14, 2025
  - 3. Saint Charles Parks & Recreation Board Meeting of March 19, 2025
  - 4. Saint Charles Parks & Recreation Board Meeting of April 2, 2025
  - 5. Greater Saint Charles Convention & Visitors Commission Meeting of April 24, 2025
- C. Receipt of Director of Administration Reports
  - 1. FITS Report – April 2025
  - 2. Notice of Emergency Purchase – SweenCo LLC
- D. Approval of Contracts and Easements
  - 1. Contract with L Keeley Construction Group, Inc. for the Edinburgh Storm Water Improvements Project in an Amount not to Exceed \$297,650.00
- E. Preliminary Plats

F. Miscellaneous

9. ITEMS REMOVED FROM THE CONSENT AGENDA

10. RESOLUTIONS

11. BILLS FOR FINAL PASSAGE

**BILL 13982** (*Amended-Supplemental RCA Attached*)

AN ORDINANCE AUTHORIZING THE CITY OF ST. CHARLES, MISSOURI, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (SOUTHPOINTE DEVELOPMENT PROJECT), SERIES 2025, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH (*SPONSOR: MARY WEST*)

**BILL 13984**

AN ORDINANCE AUTHORIZING A COOPERATIVE AGREEMENT BETWEEN BOONE COUNTY, MISSOURI, AND THE CITY OF ST. CHARLES, MISSOURI FOR ASSISTANCE WITH SELECTION AND PROCUREMENT OF A DOG (K-9) AND FOR TRAINING OF THE K-9 AND HANDLER IN AN AMOUNT NOT TO EXCEED \$2,000.00 (*SPONSORS: MARY WEST, MARK HOLLANDER, DENSIE MITCHELL, BILL OTTO, VINCE RATCHFORD AND MICHAEL GALBA*)

**BILL 13985**

AN ORDINANCE AMENDING ORDINANCE NUMBER 24-154 BY AMENDING CERTAIN REVENUE, EXPENDITURE, AND FUND BALANCE ACCOUNTS FOR THE BUDGET FOR THE FISCAL YEAR 2025 (BUDGET AMENDMENT #7) (*SPONSOR: BART HABERSTROH*)

12. BILLS FOR INTRODUCTION

**BILL 13986**

AN ORDINANCE ANNEXING CERTAIN ADJACENT CONTIGUOUS LAND INTO THE CITY OF SAINT CHARLES, MISSOURI, AND ASSIGNING THE LAND TO DESIGNATED WARDS OF THE CITY BEING PETITIONED FOR ANNEXATION BY CRG CUMULUS, LLC, APPROXIMATELY 144.25 ACRES OF LAND OVERALL ON EHLMANN ROAD AND HAYFORD ROAD, GENERALLY LOCATED ON THE NORTH AND SOUTH SIDES OF STATE HIGHWAY 370 AND BETWEEN HUSTER ROAD AND HARRY S. TRUMAN BOULEVARD (*SPONSORS: JUSTIN FOUST AND MICHAEL GALBA*)

**BILL 13987**

AN ORDINANCE REZONING TO ST. CHARLES CITY ZONING DISTRICTS “I-1” LIGHT INDUSTRIAL DISTRICT AND “I-1/WHP” LIGHT INDUSTRIAL DISTRICT WITHIN THE WELLHEAD PROTECTION DISTRICT FROM ST. CHARLES COUNTY ZONING DISTRICTS “A” AGRICULTURAL DISTRICT AND “I1” LIGHT INDUSTRIAL DISTRICT, AN APPROXIMATE 144.25 ACRES OVERALL OF LAND ON EHLMANN ROAD AND HAYFORD ROAD, GENERALLY LOCATED ON THE NORTH AND SOUTH SIDES OF STATE HIGHWAY 370 AND BETWEEN HUSTER

ROAD AND HARRY S. TRUMAN BOULEVARD (*SPONSORS: JUSTIN FOUST AND MICHAEL GALBA*)

13. EMERGENCY ORDINANCES
14. TABLED BILLS
15. ITEMS FOR COUNCIL ACTION
  - A. Announcement of Council Line of Succession (*RCA Attached*)
16. CLOSED SESSION
  - A. Legal actions, causes of action, or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body and its attorneys (RSMo 610.021 (1))
  - B. Leasing, purchase or sale of real estate where public knowledge of the transaction might adversely affect the legal consideration therefor (RSMo 610.021 (2))
  - C. Hiring, firing, disciplining or promoting of particular employees when information relating to the performance or merit of individual employees is discussed or recorded (RSMo 610.021 (3))
  - D. Preparation, including any discussions or work product, on behalf of the Council or its representatives for negotiations with employee groups (RSMo 610.021 (9))
  - E. Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected (RSMo 610.021 (12))
  - F. Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment (RSMo 610.021 (13))
17. ADJOURNMENT

*The City of St. Charles offers all interested citizens the opportunity to attend public meetings and comment on public matters. If you wish to attend this public meeting and require an accommodation due to a disability, please contact the Office of the City Clerk to coordinate an accommodation at least two (2) business days in advance of the scheduled meeting at 636-949-3282.*

*The City of St. Charles, Missouri, fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, please call the City Clerk's Office at (636)949-3282 or visit City Hall located at 200 North Second Street, St. Charles, Missouri, 63301.*

*Posted: Thursday, May 29, 2025 – 5:00 p.m.*



**TO:** City Council  
**FROM:** Office of the Mayor  
**DATE:** May 23, 2025  
**SUBJECT:** Appointment Memorandum for the June 3, 2025 City Council Meeting

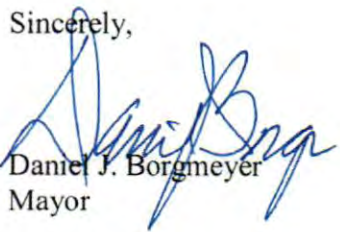
I ask for the City Council's confirmation of the following appointments:

**Parks and Recreation Board**

- The appointment of *Joshua Kortney Allen*, to replace *Anne Zerr*, whose term expires in *May 2025*, for a term expiring *May, 2028*.

Please contact me if you have any questions regarding these proposed appointments.

Sincerely,

  
Daniel J. Borgmeyer  
Mayor

**RCA FORM (OFFICE USE ONLY)**

Bill # N/A

MEETING/DATE: 6/3/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): 1

Sponsor(s): N/A

**Description:**

Case No. CU-2025-08. (Eric Peters – Upshot Coffee) An application for Conditional Use Permit per §400.210(C)(1)(a) for Liquor Sales associated with a coffee shop/restaurant use within "C-1/EHP" Neighborhood Business District within the Extended Historic Preservation District located at 816 N Kingshighway Street. The subject property is located in Ward 1.

Contract Extension/Renewal: Yes  No

Information Paper Attached: Yes  No

Staff Recommendation: Approve  Disapprove

Board/Committee/Commission Recommendation: Approve  Disapprove

**Summary:**

This request is for a new Conditional Use Permit for Liquor Sales associated with an existing coffee shop/restaurant use for Upshot Coffee located at 816 N Kingshighway Street. The property is located within the C-1/EHP Neighborhood Business District within the Extended Historic Preservation District, and City Ordinance requires approval of a Conditional Use Permit for the sale of liquor.

The Planning and Zoning Commission considered this item at their May 12, 2025 meeting where the applicant was present. There were 4 speakers from the public with concerns related to the hours of operation and parking. In response to the concerns, the Commission added a condition to limit the hours of operation to a closing time of 8:00 p.m. as opposed to the originally proposed 10:00 p.m. The Commission forwarded a recommendation for approval to the City Council (6 in favor, 1 opposed) subject to the attached conditions.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: MPB Dept. Dir. [Signature] Finance Dir. N/A Dir. of Admin. [Signature]

**CU-2025-08: 816 N Kingshighway Street– Recommended Conditions**

1. This conditional use permit for a liquor sales associated with a restaurant use is issued to the applicant (Eric Peters) and business (Upshot Coffee) only for the property located at 816 N Kingshighway Street and is not transferable to another location and/or tenant/business.
2. Approval of this Conditional Use is not approval of a liquor license. A liquor license shall be approved by the City Council prior to any liquor sales.
3. Liquor sales shall not occur independent of the primary business use and shall only be accessory to the submitted coffee shop/restaurant use.
4. Non-compliance with any building codes, property maintenance codes, fire codes, noise control codes, ordinances concerning disturbances or conditions of this approval is grounds for revocation of the conditional use approval.
5. Violations of Chapter 600 dealing with Liquor/Alcoholic Beverages may be grounds for revocation of this Conditional Use.
6. The business shall cease operations no later than 8:00 p.m. daily.



**AGENDA ITEM #4**

**STAFF REPORT  
CONDITIONAL USE NO. CU-2025-08  
LIQUOR SALES  
816 N KINGSHIGHWAY STREET**

**MAY 12, 2025  
BY MADELYN EVERS MAN**

---

**APPLICANT:** Eric Peters  
Upshot Coffee  
15 River Bluff Drive  
St. Peters, MO 63376

**OWNER:** Bret Staehling  
2132 Oak Crest Manor Lane  
Wildwood, MO 63011

**ADDRESS/LOCATION:** 816 N Kingshighway Street  
Ward 1

**LOT SIZE:** Approx. 9,700 sq. ft. (overall)

**CURRENT ZONING:** C-1/EHP Neighborhood Business District within the  
Extended Historic Preservation District

**PROPOSED USE:** Liquor Sales associated with a permitted coffee  
shop/restaurant use

**SUMMARY/ANALYSIS**

This request is for liquor sales specifically associated with an existing restaurant/coffee shop (Upshot Coffee Brake Shop) located at 816 N Kingshighway Street. The property is zoned C-1/EHP Neighborhood Business District within the Extended Historic Preservation District. City Ordinance requires approval of a Conditional Use Permit within this zoning district for establishments that apply for a Liquor License. This request is specific to the liquor sales only and is not applicable to the other uses permitted by right within the referenced zoning district.

Liquor sales for Upshot Coffee Brake Shop will consist of alcoholic beverages for a restaurant use in addition to coffee sales. The applicant is expanding their menu to include additional food options in conjunction with the proposed liquor sales. Per the applicant, the alcoholic beverages will include beer, wine, and “brunch cocktails”. The applicant is also proposing to expand their hours of operation. Currently, the hours of operation are 7:00 a.m. to 4:00 p.m. daily. The new hours will be 7:00 a.m. to 10:00 p.m. Staff believes the proposed hours remain compatible with the surrounding neighborhood and that the use maintains the spirit and intent of the district. As proposed the business will operate in a manner that respects nearby residential uses and aligns with

the character of the neighborhood. The applicant has provided a copy of the new menus and photos of the property with this application and are included with this report.

**Consistency with Comprehensive Plan**

The St. Charles Comprehensive Plan adopted in 2002, and updated in 2012, recommends that land use decisions be based on a project's location and compatibility with surrounding development. The Comprehensive Plan identifies 15 activity centers in the city, locations characterized by elevated levels of development, density and activity. The activity centers are the most prominent, visible and intensely developed locations in the city. The plan recommends that development should gradually decrease in density as distance from an activity center increases. The activity centers should be surrounded by land uses that gradually decrease in levels of activity, traffic and density. Proposed new uses should be judged based upon its distance from the nearest activity center, its compatibility with what surrounds it, and whether the level of development it will generate contributes to a gradual decline in density or acts counter to that goal. This property is located in-between Activity Centers #3 (Lindenwood University) and #6 (Historic Downtown). The proposed liquor license at this location associated with a permitted use can be compatible with its commercial/residential surroundings along N Kingshighway Street.

**Consistency with Conditional Use standards**

Section 400.980 of the City Code outlines standards of review for the conditional use application. The standards are as follows:

- a) How the proposed conditional use (the use in general) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.
- b) Whether the proposed conditional use (in its proposed location) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.

*Regarding a) and b), Conditional Uses are not allowed by-right as they can be problematic if not located and/or conditioned properly. In this case, the proposal is located at 816 N Kingshighway St, in-between the Activity Centers #3 and #6. This intensity pattern is consistent with the goals of the Comprehensive Plan, and the proposed use at this location could operate in conformance with the density, intensity, and activity guidelines provided above.*

- c) Whether the proposed conditional use, in its proposed location and as depicted on the required site plan, results in a substantial or undue adverse impact on the adjacent property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the Zoning Ordinance, Comprehensive Plan, or any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city.

*Based upon a review of the proposed land uses, if conditioned properly and operated in compliance with the Zoning Ordinance, the proposal should not have an adverse impact on the character of the neighborhood, public safety and general welfare of the city.*

- d) Whether the proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property as directed by the Comprehensive Plan.

*Staff believes the restaurant/coffee shop with liquor sales/use as proposed can be compatible within its commercial/residential surroundings and should not produce negative effects to adjacent properties or the neighborhood. Staff believes this use will operate in a manner that is consistent with the area.*

- e) Whether the proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

*Staff believes the proposed conditional use in this location will not have an undue burden on public services as this proposal has been reviewed by Community Development, Finance, and Fire Departments with no outstanding comments.*

- f) Whether the public benefits of the proposed conditional use outweigh the potential adverse impacts of the proposed conditional use as identified above, after taking into consideration any proposal by the petitioner and any requirements recommended by the petitioner and/or City Staff to ameliorate such impacts.

*After review of the proposal, and the above standards for evaluating Conditional Uses, staff believes the proposed uses if conditioned properly would prevent any potential adverse impacts and the public benefits would outweigh any potential adverse impacts.*

Furthermore, the City Code allows the Planning and Zoning Commission to recommend conditions of approval to protect surrounding properties, as well as to give consideration with respect to location in the recommendations. The proposed use complies with the above standards.

### **STAFF RECOMMENDATION**

This conditional use can operate in conformance with City requirements, is compatible with surrounding land uses and complies with the Comprehensive Plan of the City of St. Charles. Staff recommends **approval** of the proposed conditional use for a liquor sales associated with a permitted restaurant/coffee shop use subject to the following conditions:

1. This conditional use permit for a liquor sales associated with a restaurant use is issued to the applicant (Eric Peters) and business (Upshot Coffee) only for the property located at 816 N Kingshighway Street and is not transferable to another location and/or tenant/business.
2. Approval of this Conditional Use is not approval of a liquor license. A liquor license shall

be approved by the City Council prior to any liquor sales.

3. Liquor sales shall not occur independent of the primary business use and shall only be accessory to the submitted coffee shop/restaurant use.
4. Non-compliance with any building codes, property maintenance codes, fire codes, noise control codes, ordinances concerning disturbances or conditions of this approval is grounds for revocation of the conditional use approval.
5. Violations of Chapter 600 dealing with Liquor/Alcoholic Beverages may be grounds for revocation of this Conditional Use.

**Recommended Motion:**

*Motion to forward the Conditional Use Permit application for a Liquor Sales associated with a permitted restaurant use at 816 N Kingshighway Street to the City Council with a favorable recommendation, subject to the conditions recommended by staff.*



Figure 1: Aerial photo of the subject site.



*Figure 2: Street view of the subject site.*



## Beer Fridge

|  |      |
|--|------|
| <b>Garage Beer</b> Light Lager (12oz can).....     | 4.75 |
| <b>High Life</b> Light Lager (12oz bottle).....    | 4.00 |
| <b>City Wide</b> American Pale Ale (12oz can)..... | 6.00 |
| <b>City Wide Light</b> Lager (12oz can).....       | 6.00 |
| <b>City Wide N/A</b> Hoppy Pale (12oz can).....    | 6.00 |
| <b>Yuengling</b> Amber Ale (12oz can).....         | 4.25 |
| <b>Montucky</b> American Lager (16oz can).....     | 4.00 |
| <b>Dale's</b> Pale Ale (12oz bottle).....          | 5.50 |
| <b>Cloud City</b> Hazy IPA (16oz can).....         | 7.50 |
| <b>OJ Run</b> IPA (16oz can).....                  | 8.00 |

## Wine

Glass/Bottle

### Red

|  |       |
|--|-------|
| <b>From the Tank</b> Bezouze, France.....      | 8/30  |
| <b>Folk Machine</b> Mendocino County, CA.....  | 13/46 |
| <b>Fallen Grape</b> 50/50, Santa Ynez, CA..... | 12/43 |

### White

|  |       |
|--|-------|
| <b>Arca Nova</b> Vinho Verde, Minho, Portugal.....     | 8/30  |
| <b>Laura Lardy</b> Chardonnay, Beaujolais, France..... | 14/49 |
| <b>Iruai</b> Chenin Blanc, Applegate Valley, OR.....   | 12/43 |

### Orange

|  |       |
|--|-------|
| <b>Villa Job</b> Risic Blanc III, Fruili, Italy..... | 14/49 |
| <b>Swick</b> The Flood, Willamette Valley, OR.....   | 13/46 |

### Rose

|   |       |
|---|-------|
| <b>Zillnger</b> Numen, Weinland, Austria..... | 13/46 |
|---|-------|

## Brunch Cocktails

|                                     |       |
|-------------------------------------|-------|
| <b>Brake Shop Bloody Mary</b> ..... | 10.00 |
| <b>Motor Mimosa</b> .....           | 8.00  |
| <b>Beermosa</b> .....               | 6.00  |
| <b>Aperol Spritz</b> .....          | 12.00 |



**WEAREUPSHOTCOFFEE**

**\*\*Valid ID Required for Purchase\*\***

We card anyone appearing to be under 40 years of age

# Espresso and Brewed Coffee

## Mystic Series - Felipe Trujillo, Colombia, Natural

Filter (12oz) 6.00  
Espresso 6.00

Latte (12oz) 4.75  
Cappuccino (6oz) 4.25  
Cortado (4oz) 4.25  
Doubleshot Espresso 3.50  
    Featured Espresso +1.00  
Americano 3.50  
Filter coffee of the day (12oz) 4.00  
Rotating Single Origin 4.50  
    Hanging out? (20oz) +1.50  
Cold Brew 5.00  
Kyoto Cold Brew 5.50

## Not Coffee

Matcha Latte 5.75  
*Ceremonial matcha powder, whole milk*  
London Fog 6.00  
*Earl Grey tea with steamed milk and our brown sugar vanilla*  
Chai Latte 5.75  
*Brandywine Tali Masala house-made concentrate, whole milk, cinnamon*  
Golden Latte 5.75  
*Honey, turmeric powder, oat milk (no espresso added!)*  
Drinking Chocolate 5.25  
*Housemade mocha, housemade caramel, whole milk, whip cream \*no espresso*  
Fresh Lemonade 4.50  
*Simple and refreshing, Better than yer Gramma!*

## Milk options

Whole Milk  
Oat Milk 1.00  
Almond Milk 1.00

## Specialty Menu

Lavender Matcha Lemonade 6.25  
*A floral twist on a classic, featuring Spirit Matcha, lavender syrup and fresh lemonade for the ultimate spring refresher*  
Lemon Cream Tonic 7.00  
*Bright and bubbly tonic with our specialty espresso, topped with a lemon-honey cold foam and lemon zest*  
Kyoto Pom 6.50  
*A bold and refreshing blend of japanese kyoto-style cold brew, pomegranate juice, brown sugar vanilla syrup and a splash of oat milk*  
Fresh Lemonade 4.50

## Teas by BRANDYWINE Tea

Jasmine Green 4.75  
*Honey, sweet corn, pepper*  
Mango Magic 4.75  
*Ginger, mango, lemongrass*  
Earl Grey 4.75  
*Black tea, bergamot, rose*  
Breakfast Black 4.75  
*Medium bodied, honey and malt, long lasting finish*  
Berry Hibiscus 4.75  
*A Lively rooibos, bright hibiscus with the sweetness of blueberry*

## Flavors & Additions

Brown Sugar Vanilla\* Honey\*  
Caramel\* Extra Shot\*  
Honey Lavender\* Cinnamon\*  
Mocha\* Decaf  
\*upcharge of 0.25-1.75 Half-Caf

# Breakfast 7am-4pm

**CROWD FAVORITE**

## Brake Shop Burrito 13.00

2 Scrambled Eggs, Chopped Bacon, Crispy Tater Tots, Avo Mash, Pico De Gallo, Chipotle Crema, Griddled Jack Cheese

## Avocado and Stuff Toast 10.00

Companion Seeded Sourdough, House Garlic Aioli, Avocado Mash, Baby Arugula, Roasted Roma Tomatoes, Scallions Chili Crunch, Olive Oil  
 On gluten free bread +0.50  
 Add sunny egg +2.00  
 Add bacon +2.50

## Bagel Toast? 10.00

Companion Seeded Sourdough, Scallion and Chive Schmeat, Avocado Mash, Everything Bagel Seasoning, Olive Oil  
 On gluten free bread +0.50  
 Add sunny egg +2.00  
 Add bacon +2.50

## The Classic 8.50

English Muffin, Over hard Egg, Canadian Bacon, Melted Cheddar Cheese, Maple Aioli  
 On gluten free bread +0.50  
 Add Avocado +2.00

## The Everything 12.00

Companion Everything Bagel, Two over medium eggs, chive and scallion schmear, pepper jack cheese, bacon and sliced Better Boy tomatoes

## Bagel + Schmear 4.00

Companion Plain or Everything Sub Scallion and Chive Schmear +0.50

## Toast and Jam 4.00

Two Sliced of Companion Seeded Sourdough served with our housemade Honey Butter and Blackberry Jam

## Quiche 8.50

Loaded Potato and Bacon Creamy Caprese +4.00  
 Add Side Salad

# Croffles

## World Famous Original Croffle 6.00

flaky butter croissant waffle topped with Honey Butter and Maple Syrup

## Ham and Cheese 8.00

flaky butter croissant filled with smoked ham and Swiss cheese, topped with crispy Parmesan, maple aioli and sweet petite pickles

## Nutellaaaa 6.50

flaky butter croissant waffle topped with creamy Nutella, chocolate and caramel drizzle.

# From the bakery

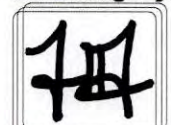
Cinnamon Roll 6.00  
 Carrot Cake Muffin 4.50  
 Blueberry Muffin 4.50  
 \*gf Choco Banana Bread 5.00  
 White Choco-Straw Scone 4.50

V: Vegan / GF: Gluten free

# Sides

Eggs (2) 4.00  
 Bacon (4) 5.00  
 Arugula Side Salad 4.00  
 Baby Arugula with a house red wine vinaigrette, green onion and tomato

Menu Design By:



CHEF TRAVIS GARCIA

**COME ALONG FOR THE RIDE**

WEAREUPSHOTCOFFEE

# Specialty Menu

## Lavender Matcha Lemonade

6.25

A floral twist on a classic, featuring Spirit Matcha, lavender syrup and fresh lemonade for the ultimate spring refresher

## Lemon Cream Tonic

7.00

Bright and bubbly tonic with our specialty espresso, topped with a lemon-honey cold foam and lemon zest

## Kyoto Pom

6.50

A bold and refreshing blend of japanese kyoto-style cold brew, pomegranate juice, brown sugar vanilla syrup and a splash of oat milk

## Fresh Lemonade

4.50

Simple and refreshing, fresh lemon juice, sugar and water. Better than yer gramma's!

# Lunch 11am-Close

# Later 4pm-Close

## Sandwiches

**THE BEST ONE**

**The Bada Bing 14.00**  
 Volpi Capicola, Pepperoni and Mortadella, Provolone, Feather Shredded Lettuce, Tomato, Onion, Calabrian Chili Mayo, Spicy Giardiniera and Red Wine Vin/Oregano Dressing on Companion Hoagie Roll

**Turkey Club 12.00**  
 Thinly Sliced Turkey Breast, Feather Shredded Lettuce, Tomato, Onion, Provolone and Kewpie Mayo on Companion Hoagie Roll  
 Add Avocado +2.00  
 Add Bacon +2.50

**Prosciutto Panini 13.00**  
 Prosciutto, Burrata, Arugula, Roasted Tomatoes, Olive oil and a Balsamic Reduction on Companion Seeded Sourdough

**BLTE 12.00**  
 Thick Cut Bacon, Feather Shredded Lettuce, Tomato, Over Easy Egg on Companion Seeded Sourdough  
 Add Avocado +2.00

## Salads

**The Chop Shop 13.00**  
 Chopped Romaine, Salami, Tomato, Red Onion, Garbanzo Beans, Spicy Giardiniera, Provolone Cheese, Champagne Vinagrete

**Hail Caesar 11.00**  
 Chopped Romaine, House-Made Garlic Croutons, Parmesan Cheese

## Chips

Zapps Kettle Potato 3.50  
 Zapps Kettle Jalapeno 3.50  
 Zapps Voodoo 3.50  
 Old Vienna Red Hot Riplets 3.50

## Flatbreads

**Prosciutto and Burrata 16.00**  
 House-made Sauce, Cheese Blend, Prosciutto, Burrata Cheese, Arugula, Calabrian Chili, Olive Oil

**Pepperoni 14.00**  
 House-made Sauce, Cheese Blend, Volpi Pepperoni

**Cheese + Basil 13.00**  
 House-made Sauce, Cheese Blend, Fresh Basil

## Charcuterie

**For Two 12.00**  
**For Four 16.00**

|                             |                     |
|-----------------------------|---------------------|
| Meat                        | Cheese              |
| Volpi Pepperoni             | Aged Smoked Cheddar |
| Prosciutto                  | Humbolt Fog         |
| Volpi Salami                | Red Dragon          |
| More                        | Bellavitano Gold    |
| Truffle Marcona Almonds     |                     |
| Dried Dates                 |                     |
| Sweet Gerkin Pickle         |                     |
| Toasted Seseme Water Crisps |                     |



**COME ALONG  
 FOR THE RIDE**

WEAREUPSHOTCOFFEE

Menu Design By:

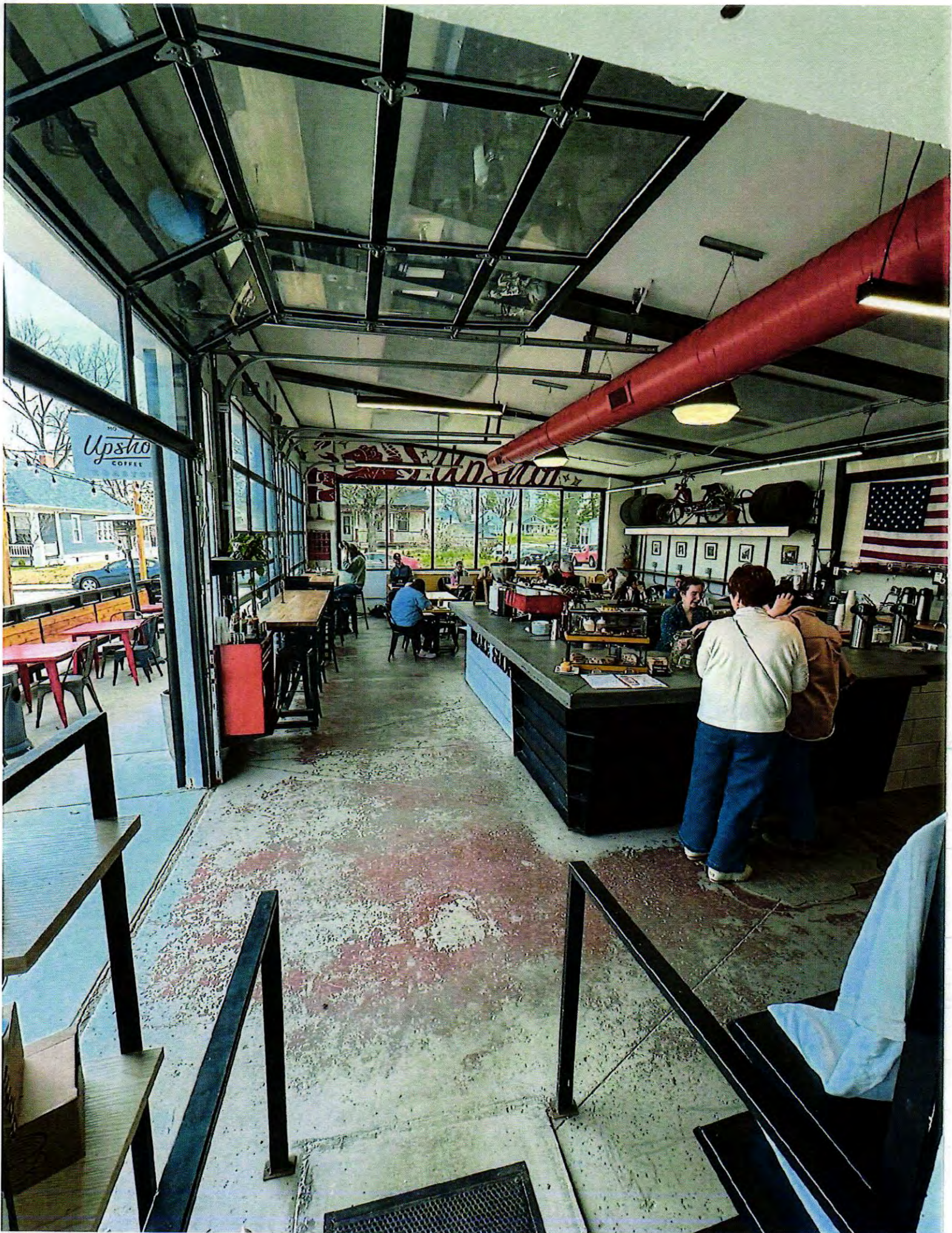


CHEF TRAVIS GARCIA



Upstet





**RCA FORM (OFFICE USE ONLY)**

Bill # N/A

MEETING/DATE: 6/3/2025  
Regular  Special  Work Session   
ATTACHMENT: YES  NO   
Report  Resolution  Ordinance



Ward(s): 1 - OTTO Sponsor(s): N/A

**Description:**

LIQUOR LICENSE APPLICATION PUBLIC HEARING NOTICE  
Case No. LL-2025-8  
Applicant: Eric Peters d/b/a Upshot Coffee located at 816 N Kingshighway  
License Type: Full By The Drink & Sunday

**Contract Extension/Renewal:** Yes  No   
**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove   
**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

Attached is a request from Eric Peters for the grant of a liquor license for Upshot Coffee located at 816 N Kingshighway St. The license applied for is the sale of alcoholic beverages at retail by the drink for consumption on the premises where sold, of all kinds of alcoholic beverages, including the sale of alcoholic beverages in the original package. This is a new liquor license application. There is no liquor license currently issued for the premises.

Staff Recommendation: Approved.

Form of Motion: I move to close the Public Hearing and to grant the liquor license as presented.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: NAC Dept. Dir. Jaw Finance Dir. Jaw Dir. of Admin. JP for 20  
*with B 5.28.25*

05/09/2025

**Liquor License Application Departmental Approval Form**

**Please Return to Nancy Chumbley / Collection Dept. A.S.A.P.**

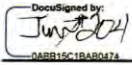
*Before the attached liquor license application submitted by:*

**Applicant name:** Eric Peters  
**d/b/a:** Upshot Coffee  
**Location:** 816 N Kingshighway

*Will be submitted to the City Council for approval, the Department Head or his authorized Assistant or Deputy from each of the below listed departments must sign off indicating either that all inspections, fees, taxes, permits and record checks, zoning or any other City requirements have been met or the fees paid or that it be known that the issuance of any City requirements not met prior to the Liquor License Application being submitted to the City Council.*

*A signature below indicates compliance with any or contingency on all City requirements being met.*

**Police Department:**

Approved      Signature:  \_\_\_\_\_ Date: 5/9/2025

Not Approved      Reason(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

05/09/2025

**Liquor License Application Departmental Approval Form**

**Please Return to Nancy Chumbley / Collection Dept. A.S.A.P.**

*Before the attached liquor license application submitted by:*

**Applicant name:** Eric Peters  
**d/b/a:** Upshot Coffee  
**Location:** 816 N Kingshighway

*Will be submitted to the City Council for approval, the Department Head or his authorized Assistant or Deputy from each of the below listed departments must sign off indicating either that all inspections, fees, taxes, permits and record checks, zoning or any other City requirements have been met or the fees paid or that it be known that the issuance of any City requirements not met prior to the Liquor License Application being submitted to the City Council.*

*A signature below indicates compliance with any or contingency on all City requirements being met.*

**Fire Department**

**Approved**                       **Approved with Conditions**                       **Not Approved**

Conditions of Approval: \_\_\_\_\_

Reason(s) for denial: \_\_\_\_\_

Signature:  \_\_\_\_\_ Date: 5/9/2025

05/09/2025

**Liquor License Application Departmental Approval Form**

**Please Return to Nancy Chumbley / Collection Dept. A.S.A.P.**

Before the attached liquor license application submitted by:

**Applicant name:** Eric Peters  
**d/b/a:** Upshot Coffee  
**Location:** 816 N Kingshighway

Will be submitted to the City Council for approval, the Department Head or his authorized Assistant or Deputy from each of the below listed departments must sign off indicating either that all inspections, fees, taxes, permits and record checks, zoning or any other City requirements have been met or the fees paid or that it be known that the issuance of any City requirements not met prior to the Liquor License Application being submitted to the City Council.

A signature below indicates compliance with any or contingency on all City requirements being met.

**Community Development**

Zoning District C-1 Historic Preservation District EHP Occupancy Permit Yes

**Approved**       **Approved with Conditions**       **Not Approved**

Conditions of Approval \_\_\_\_\_

Reason(s) for denial: \_\_\_\_\_

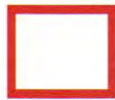
Signature: DocuSigned by: Zachary Twinger Date: 5/20/2025

**Finance Department**

**Approved**      Signature: DocuSigned by: Jennifer O'Connor Date: 5/20/2025

**Not Approved**      Reason(s): \_\_\_\_\_

816 N Kingshighway St



= Project Area



Department of Finance

05/28/2025

**RCA FORM (OFFICE USE ONLY)**

Bill # N/A

MEETING/DATE: 6/3/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): 1

Sponsor(s): N/A

**Description:**

Case No. CU-2025-09. (Cory King & Bill Barnes – Side Project Brewing) An application for Conditional Use Permit per §400.210(C)(1)(a) for Liquor Sales and §400.290(C)(6) and Microbrewery use within the “FD/FPD” Frenchtown District within the Frenchtown Preservation District located at 1001 and 1005 N 2nd Street. The subject property is located in Ward 1.

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

This request is for a new Conditional Use Permit for Liquor Sales and a Microbrewery use for the proposed business, Side Project Brewing. This request is located at 1001 and 1005 N 2nd Street and within the FD/FPD Frenchtown District within the Frenchtown Preservation District. City Ordinance requires approval of a Conditional Use Permit for the sale of liquor and a Microbrewery use. The site plan for the project has been approved by the Landmarks Board (May 19, 2025).

The Planning and Zoning Commission considered this item at their May 12, 2025 meeting where the the applicant was present. There was 1 speaker from the public who spoke in favor of the application. The Commission forwarded a recommendation for approval to the City Council (7 in favor, 0 opposed) subject to the attached conditions.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: MPB Dept. Dir. [Signature] Finance Dir. N/A Dir. of Admin. [Signature]

**CU-2025-09: 1001 and 1005 N 2nd Street– Recommended Conditions**

1. This conditional use permit for a liquor sales associated with a restaurant use is issued to the applicant (Cory King and Bill Barnes) and business (Side Project Brewing) only for the property located at 1001 and 1005 N 2nd Street and is not transferable to another location and/or tenant/business.
2. Approval of this Conditional Use Permit is not approval of a liquor license. A liquor license shall be approved by the City Council prior to any liquor sales.
3. This establishment shall maintain the occupancy limitation as established by the Fire Marshal.
4. Any change to the submitted proposal, including but not limited to hours of operation, expansion of use, etc. may require additional City approval.
5. Non-compliance with any of the building codes, property maintenance codes, fire codes, noise control regulations or conditions of this approval is grounds for revocation of the conditional use approval.
6. Violations of Chapter 600 dealing with Liquor/Alcoholic Beverages may be grounds for revocation of this Conditional Use.



**AGENDA ITEM #5**

**STAFF REPORT  
CASE NO. CU-2025-09  
LIQUOR SALES & MICROBREWERY  
1001 AND 1005 N 2<sup>ND</sup> STREET**

**BY MADELYN EVERS MAN**

---

***APPLICANT:*** Cory King and Bill Barnes  
Side Project Brewing  
7379 Marietta Ave  
Maplewood, MO 63143

***PROPERTY OWNER:*** Robert Lawrence  
Hot Iron LLC  
1003 N 2<sup>nd</sup> Street  
St. Charles, Missouri 63301

***ADDRESS/LOCATION:*** 1001 and 1005 N 2<sup>nd</sup> Street  
Ward 1

***ACREAGE:*** 0.89 Acres (overall)

***EXISTING ZONING:*** FD/FPD Frenchtown District within the Frenchtown  
Preservation District

***PROPOSED USE:*** Liquor Sales and Microbrewery

**SUMMARY/ANALYSIS**

This Conditional Use request is for liquor sales and a microbrewery use for a new business, Side Project Brewing, located at 1001 and 1005 N 2<sup>nd</sup> Street. The property is zoned FD/FPD Frenchtown District within the Frenchtown Preservation District, which requires a conditional use approval for a craft distillery and liquor sales use. The applicant has provided a business plan which details the operations of the proposed business. Side Project Brewing will brew beer on site, which will be sold on site in addition to a limited selection of wine and cocktails. Also associated with the microbrewery is a restaurant use, providing food items including pizza, sandwiches, salad, etc. The proposed hours of operations are 11:00 a.m. to 11:00 p.m. daily.

The site will include a renovation of the existing building to include the brewery, tap room, and beer garden. Two additional tenant spaces will also be available within the refurbished building. Because this property is located within the Landmarks Preservation District, the review of the Site Plan falls under the purview of the Landmarks Board and not the Planning and Zoning Commission. This item is slated for Site Plan review at the Landmarks May 19, 2025 meeting. The site plan has been included as an attachment for reference.

**Consistency with Comprehensive Plan**

The St. Charles Comprehensive Plan adopted in 2002, and updated in 2012, recommends that land use decisions be based on a project's location and compatibility with surrounding development. The Comprehensive Plan identifies 15 activity centers in the city, locations characterized by elevated levels of development, density and activity. The activity centers are the most prominent, visible and intensely developed locations in the city. The plan recommends that development should gradually decrease in density as distance from an activity center increases. The activity centers should be surrounded by land uses that gradually decrease in levels of activity, traffic and density. Proposed new uses should be judged based upon its distance from the nearest activity center, its compatibility with what surrounds it, and whether the level of development it will generate contributes to a gradual decline in density or acts counter to that goal. This property is located within Activity Center #6 (Historic Downtown). The proposed uses at this location can be compatible with its broader surroundings and neighboring uses along the corridor.

**Consistency with Conditional Use standards**

Section 400.980 of the City Code outlines standards of review for the conditional use application. The standards are as follows:

- a) How the proposed conditional use (the use in general) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.
- b) Whether the proposed conditional use (in its proposed location) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.

*Regarding a) and b), Conditional Uses are not allowed by-right as they can be problematic if not located and/or conditioned properly. In this case, the proposals are located on N 2<sup>nd</sup> Street nearest to Activity Center #6. This intensity pattern is consistent with the goals of the Comprehensive Plan, and the proposed use at this location could operate in conformance with the density, intensity, and activity guidelines provided above.*

- c) Whether the proposed conditional use, in its proposed location and as depicted on the required site plan, results in a substantial or undue adverse impact on the adjacent property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the Zoning Ordinance, Comprehensive Plan, or any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city.

*Based upon a review of the proposed land uses, if conditioned properly and operated in compliance with the Zoning Ordinance, the proposal should not have an adverse impact*

*on the character of the neighborhood, public safety and general welfare of the city.*

- d) Whether the proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property as directed by the Comprehensive Plan.

*Staff believes the proposed uses can be compatible within its commercial/residential surroundings. Staff believes this use, if conditioned properly, can operate in a manner that is consistent with the area and as directed by the Comprehensive Plan*

- e) Whether the proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

*Staff believes the proposed conditional uses in this location will not have an undue burden on public services as this proposal has been reviewed by Community Development, Finance, Engineering and Fire Departments with no outstanding comments.*

- f) Whether the public benefits of the proposed conditional use outweigh the potential adverse impacts of the proposed conditional use as identified above, after taking into consideration any proposal by the petitioner and any requirements recommended by the petitioner and/or City Staff to ameliorate such impacts.

*After review of the proposal, and the above standards for evaluating Conditional Uses, staff believes the proposed uses if conditioned properly would prevent any potential adverse impacts and the public benefits would outweigh any potential adverse impacts.*

Furthermore, the City Code allows the Planning and Zoning Commission to recommend conditions of approval to protect surrounding properties, as well as to give consideration with respect to location in the recommendations. The proposed use complies with the above standards.

### **STAFF RECOMMENDATION**

Staff believes the amended operations for an existing Microbrewery maintains conformance with City standards. After review of this application against the City's Zoning Code, the Department of Community Development recommends approval of the amended conditional use permit for a microbrewery, subject to the following conditions:

1. This conditional use permit for a liquor sales associated with a restaurant use is issued to the applicant (Cory King and Bill Barnes) and business (Side Project Brewing) only for the property located at 1001 and 1005 N 2nd Street and is not transferable to another location and/or tenant/business.
2. Approval of this Conditional Use Permit is not approval of a liquor license. A liquor license shall be approved by the City Council prior to any liquor sales.

3. This establishment shall maintain the occupancy limitation as established by the Fire Marshal.
4. Any change to the submitted proposal, including but not limited to hours of operation, expansion of use, etc. may require additional City approval.
5. Non-compliance with any of the building codes, property maintenance codes, fire codes, noise control regulations or conditions of this approval is grounds for revocation of the conditional use approval.
6. Violations of Chapter 600 dealing with Liquor/Alcoholic Beverages may be grounds for revocation of this Conditional Use.

**Recommended Motion:**

*Motion to forward the Conditional Use Permit application for a Liquor Sales and a Microbrewery use at 1001 and 1005 N 2nd Street to the City Council with a favorable recommendation, subject to the conditions recommended by staff.*



Figure 1: Aerial View of Subject Property.



Figure 2: Street View Photo of Subject Property.



Figure 3: Rendering of Site Plan.



Figure 4: Rendering of Site Plan (2).



Figure 5: Rendering of Site Plan (3).



Figure 6: Rendering of Site Plan (4).

Madelyn Eversman  
City of St. Charles  
Department of Community Development  
200 N. 2<sup>nd</sup> St.  
St. Charles MO 63301

Sent Via Electronic Mail Only to: [madelyn.eversman@stcharlescitemo.gov](mailto:madelyn.eversman@stcharlescitemo.gov)

**RE: CU-2025-09: 1001 and 1005 N. 2<sup>nd</sup> St.  
Applicant's response to City Comment Letter**

Hello Madelyn- In response to the City's Comment Letter dated April 25, 2025 and attached hereto, please see below addressing the City's two questions.

Please Provide the hours of operation and basic business plan describing the operations of the business:

Our plan for the location at 1001-1003 N. 2<sup>nd</sup> Street in St. Charles will be for a small brewery operation with food, beer, and limited wine and cocktails. Our operations will be that of a restaurant which is both family and adult friendly with seating areas which will appeal to adults, families and kids as well as some outdoor seating to engage the entire neighborhood. There will be 2,088 SF tasting room that will serve food and be more catered to adults. There will also be inside seating in the brewery area that will be an area for games such as cornhole and other adult/kids activities. Our hours of operations plan will mimic those of most restaurants – 7 Days a week, 11am to 11pm.

Please provide a menu of the alcohol and food to be served.

1. Our menu will be very similar to that of our current Side Project Brewery and Side Project Pizza locations in Maplewood. Although the entire plan of our St. Charles location is not finalized, it would resemble:
  - a. 15 to 20 beers on tap.
  - b. Bottles and Cans (which we produce) available for onsite consumption and to-go.
  - c. 5 to 7 wines by the glass.
  - d. A full bar for cocktails.
  - e. Our food menu will be that of pizzas, sandwiches, salads, kid items.
  - f. Please visit our websites if you would like to see what we currently offer at: <https://www.sideprojectbrewing.com/pages/the-brewery> and <https://order.toasttab.com/online/sharedbrewing>
  - g. Beverage and food menu examples also on the following pages.

Thank you for all your help.

Cheers,

*Cory King*

Side Project Brewing  
7458 Manchester Rd.  
Maplewood MO 63143

## **Example Food Menu from Side Project Brewing**

### Chips & Dip

House made sour cream and onion, fresh chives & lemon

\$7

### French Fries

Lemon aioli, fresh grated parmesan

\$7

### Hot Fried Cheese Curds

Fried cheese curds, dusted with Nashville hot spice, drizzled with ranch and topped with chives

\$11

### Fried Green Tomatoes

Served with house-made paprika aioli

\$10

### Arugula Salad

Red onions, chili flake, shaved parmesan, lemon vinaigrette

\$12

### Chili Garlic Cauliflower Sandwich

Roasted miso cilantro slaw with chili peanut cauliflower patty & French fries

\$15

### Slow Roasted Pork Shoulder Sandwich

Salsa verde & French fries

\$15

### Side Project Burger

Two 4oz patties, American cheese, caramelized onions,  
apple cider dijon aioli & French fries

\$15

### Side Project Spicy Chicken Sandwich

Crispy Nashville hot & spicy chicken, lettuce, tomato, ranch aioli & French fries

\$15

### Side Project Crispy Chicken Sandwich

Crispy fried chicken, pickles, lettuce, tomato, black pepper mayo & French fries

\$15

Hand-Breaded Chicken Tenders  
Crispy fried chicken tenders and your choice of sauce  
\$12

Kids Burger  
One 4oz patty, American cheese & French fries  
\$10

Kids Grilled Cheese  
Potato bun with American cheese and French fries  
\$7.50

**Example Menu from Side Project Pizza:**

Chopped Salad  
Romaine and radicchio lettuce, pepperoni, artichoke, chickpea, red onion, red bell pepper  
& parmesan cheese with Cerasus cherry vinaigrette

Kale Salad  
Toasted bread, pecorino, white bean, red onion & chili flake with lemon garlic dressing

Spinach Salad  
Candied pecan, bacon, sun-dried tomato, goat cheese & red onion with balsamic  
vinaigrette

**Pizzas**

14" hand crafted sourdough crust pizzas, made with our own yeast strain pulled from our  
Saison du Fermier foedre

BBQ Pork Pizza  
Slow-roasted pork shoulder, pickled red onion, roasted cauliflower, cilantro, St. Louis-style  
bbq sauce

Classic Cheese Pizza  
Red sauce, mozzarella

Marinara Pizza  
Fresh thyme and oregano, red chili flake, red onion, parmesan, pecorino, olive oil

Side Project Cheese Pizza  
Fresh herbs, red onion, garlic confit, chili flake

Side Project Sausage Pizza

House-made pork sausage, oregano, red bell pepper, red onion, mozzarella

Taco Pizza Pizza

Mozzarella & cheddar blend, taco seasoned beef, house-made taco sauce, lettuce, tomato, red onion, crema drizzle

Buffalo Chicken Pizza

Red sauce, mozzarella, fried buffalo chicken, bleu cheese crumble, fresh shaved celery

Margherita Pizza

Red sauce, fresh mozzarella, torn basil, olive oil

Pepperoni Pizza

Ezzo pepperoni, fresh thyme, mozzarella

Side Project Hawaiian Pizza

Spicy chorizo, pineapple, red onion, oregano, jalapeño, crema

Supreme Pizza

Grilled kale, black olives, bacon, red onion, bell pepper

The SPB

Red sauce, house-made pork sausage, pepperoncini, parmesan, bacon

Draft Beer

M.J.K. 2024

Double & Triple Barrel-Aged Barleywine finished for 31 to 32 mos in Willett Family Estate Bourbon & Brazilian Amburana Barrels

Beer: Barrel: Time 2020

A blend of our Stout recipes: O.W.K. (aged in Willett, Eagle Rare & Weller 12 Bourbon barrels), our Derivation Blend #2 recipe (aged in Woodford Reserve Bourbon barrels for 36 months) and our Vibes recipe (aged in Knob Creek Bourbon barrels for 28 months)

Längst Blend #1 (2017)

Barrel-aged Adambier (malty German ale) aged for 15 months in bourbon barrels

NITRO Vertical Ascent

Robust Porter

à la Table Blend #4  
Oak Aged Missouri Farmhouse Ale

Ambrosia  
Saison with Soursop and Madagascar Vanilla

Bière Blanche-10 Year  
Wine Barrel Aged Tart Witbier with Orange Peel & Coriander

LOAM Vidal Blanc 2023  
Missouri Wheat Saison aged with Missouri Vidal Blanc Grapes from Noboleis Vineyards  
Augusta AVA

Saison du Fermier from Pinot Noir Puncheons Blend #4  
Pinot Noir Puncheon Fermented Missouri Saison

Saison du Blé Blend #14  
Oak Aged Missouri Wheat Saison

Verdant  
Missouri Wheat Saison with Cucumbers, Watermelon, and Spearmint

Maplewood's Best  
American Lager

Pocket Pivo  
- Collab with Balkan Treat Box  
Lunch Lager

♥ Simpatico  
Hoppy Lager

Entropy  
IPA with Galaxy, Nectarone Cryo, Citra Cryo and Motueka Cryo

Juice Grove IPA  
Double Dry-Hopped IPA with Nelson, Galaxy & Citra Cryo Hops  
7.0% | 14oz | \$8

♥ Please, Carl  
- Collab with The Veil  
Dry-hopped Triple IPA brewed with Meadowfoam Honey

Sodas and Such

Mexican Coca-Cola  
Diet Coke  
Dr. Pepper  
Fitz's Roog Beer  
Excel Original Ski  
Excel Cherry Ski  
Excel Premium Black Tea  
Calypso Strawberry Lemonade  
Topo Chico Mineral Water  
Apple Juice  
Blueprint Cold Brew Draft

Can/Bottle Beer

Ambiente 2024  
Imperial Stout with Cocoa Nibs, Vanilla Beans, Cinnamon Sticks & Ancho Chilis

Coffee Shop Vibes 2024  
Russian Imperial Stout (Vibes Recipe) finished on our custom roasted Fjords of Shadows coffee from Sump.

Entropy IPA  
IPA with Galaxy, Nectarone Cryo, Citra Cryo and Motueka Cryo

Go Guff  
Czech Pils

Maplewood's Best  
American Lager

Simpatico  
Hoppy Lager

Please, Carl  
Dry-hopped Triple IPA brewed with Meadowfoam Honey

Vertical Ascent  
Robust Porter

Vertical Ascent Cocoa & Vanilla  
Robust Porter with Cocoa and Vanilla Beans

Pocket Pivo- Collab with Balkan Treat Box  
Lunch Lager

Cider, Cocktails, Wine & Non Alcoholic

Nigh Noon Pineapple

Mule 2.0 Moscow Mule

Brick River Sweet Lou's Cider

Stem Pear Apple Cider

Waves Dry Cider

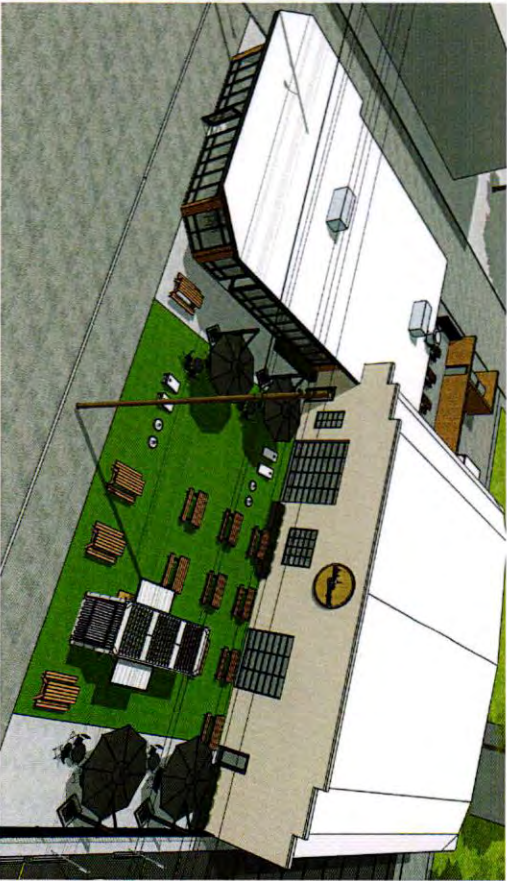
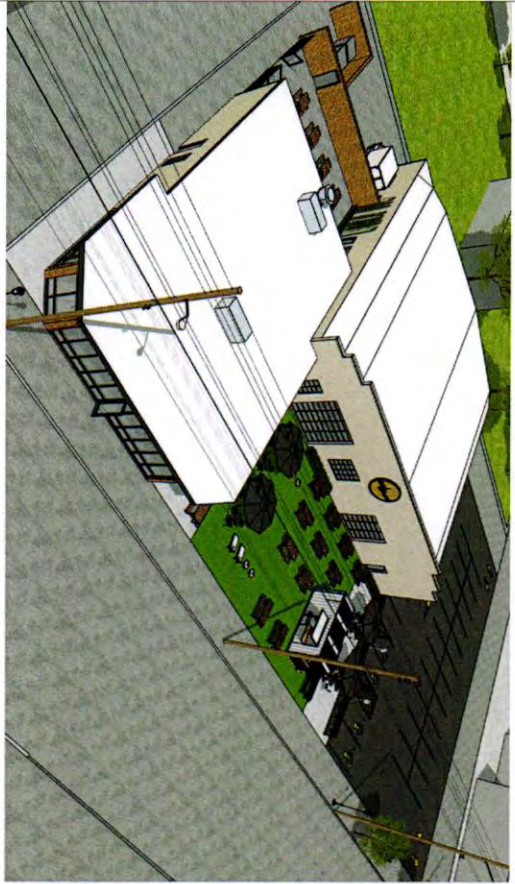
Archer Roose Bubbly

Archer Roose Malbec

Archer Roose Pinot Grigio

Athletic Run Wild Non-Alcoholic IPA

Golden Road Mango Cart Non-Alcoholic



General Contractor

Civil Engineer

Structural Engineer

MEPE Engineer

This Preliminary Architectural rendering is for informational purposes only. It is not intended to be used for construction or any other purpose. The rendering is subject to change without notice. The rendering is not a contract. The rendering is not a representation of any kind. The rendering is not a warranty. The rendering is not a guarantee. The rendering is not a promise. The rendering is not a statement of fact. The rendering is not a statement of opinion. The rendering is not a statement of belief. The rendering is not a statement of value. The rendering is not a statement of price. The rendering is not a statement of cost. The rendering is not a statement of time. The rendering is not a statement of effort. The rendering is not a statement of result. The rendering is not a statement of anything. The rendering is not a statement of nothing.

TENANT BUILD-OUT

SIDE PROJECT BREWING

|     |            |
|-----|------------|
| No. | DATE       |
| 1   | 10/15/2024 |
| 2   | 11/15/2024 |
| 3   | 12/15/2024 |
| 4   | 1/15/2025  |
| 5   | 2/15/2025  |
| 6   | 3/15/2025  |
| 7   | 4/15/2025  |
| 8   | 5/15/2025  |
| 9   | 6/15/2025  |
| 10  | 7/15/2025  |
| 11  | 8/15/2025  |
| 12  | 9/15/2025  |
| 13  | 10/15/2025 |
| 14  | 11/15/2025 |
| 15  | 12/15/2025 |
| 16  | 1/15/2026  |
| 17  | 2/15/2026  |
| 18  | 3/15/2026  |
| 19  | 4/15/2026  |
| 20  | 5/15/2026  |
| 21  | 6/15/2026  |
| 22  | 7/15/2026  |
| 23  | 8/15/2026  |
| 24  | 9/15/2026  |
| 25  | 10/15/2026 |
| 26  | 11/15/2026 |
| 27  | 12/15/2026 |
| 28  | 1/15/2027  |
| 29  | 2/15/2027  |
| 30  | 3/15/2027  |

RENDERINGS

Project Number: **A901**  
 Sheet Number: **A901**  
 Date: 10/15/2024  
 Scale: 1/8" = 1'-0"  
 Drawing No: 000-000-001

## Madelyn Eversman

---

**From:** Tammy Lawing <tammylawing@sbcglobal.net>  
**Sent:** Tuesday, April 29, 2025 5:00 PM  
**To:** Madelyn Eversman  
**Cc:** Bill Otto; Mark Hollander  
**Subject:** Case No CUP-2025-09, Side Project Brewery

Madelyn,

Thank you for returning my call and answering my few questions regarding the proposed new business at 1001 and 1005 N 2nd St. I own the property next door at 927 N 2nd St. with both my business and residence at that location.

While I am very excited about new development in Frenchtown and especially on that property, I am terribly concerned that the proposed business hours of 11am to 11pm, 7 days a weeks will, of course, affect both my personal and professional life in a negative way especially with late hours and outdoor activities being part of their business plan.

Looking at the hours for their Manchester location, the current proposed hours are nearly 3 times as long. Is it possible that they are asking for as much as possible and then will trim them later? If so, let's discuss a more realistic time of operation now.

The way my second floor residence is configured, all the bedrooms are on the north side of the building along Montgomery St. This is immediately adjacent to the property for the proposed brewery. Current pedestrian and vehicle traffic are very minimal after about 8pm causing little to no impact on home life.

With operational hours of 12 hours a day, 7 days a week, this will have a terrible effect on my life both personally and professionally. As a small business owner, I need to balance my life properly to provide the best possible care for, first and foremost, myself and then for my customers and staff. I go to bed early at night and rise normally before the sun 6 days a week, every week. I take 1 day a week off and am content with that but can't begin to imagine a life where going to bed means waiting until after 11pm every single night. My business requires me to begin my day by 7am, with shop hours of 8:30 to 5:00 daily and until noon on Saturday with wedding work on most Saturday afternoons. So finding balance and peace within my home life is essential.

What will life would be like if I am deprived of a private, personal life and reasonable quiet time to sleep each night? Just doesn't seem fair that after being in Frenchtown for 25 years with a business that has been in St. Charles since 1961 that my entire life could be so negatively impacted by the operating hours of a new business.

So the question is, what can be done to ensure the quality of life for those of us already here while supporting a new business in our amazing neighborhood?

Again, thank you for your time and I look forward to finding an answer that works for all of us.

**Tammy Lawing, Proprietor**

**Lawrence Florist**

927 North Second St.

St. Charles, MO 63301

636-724-9050 \* 800-924-2589

[www.lawrenceflorist.net](http://www.lawrenceflorist.net)

[www.lawrenceflorist.biz](http://www.lawrenceflorist.biz)

**RCA FORM (OFFICE USE ONLY)**

Bill # N/A

MEETING/DATE: 6/3/2025  
Regular  Special  Work Session   
ATTACHMENT: YES  NO   
Report  Resolution  Ordinance



Ward(s): 1 - OTTO Sponsor(s): N/A

**Description:**

LIQUOR LICENSE APPLICATION PUBLIC HEARING NOTICE

Case No. LL-2025-9

Applicant: Cory King d/b/a Side Project Brewing located at 1001-1005 N Second St.

License Type: Full By The Drink & Sunday & Manufacturer

**Contract Extension/Renewal:** Yes  No   
**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove   
**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

Attached is a request from Cory King for the grant of a liquor license for Side Project Brewing located at 1001-1005 N Second St. The license applied for is the sale of alcoholic beverages at retail by the drink for consumption on the premises where sold, of all kinds of alcoholic beverages, including the sale of alcoholic beverages in the original package. Also, for the manufacture and sale by the manufacturer of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight. Also, sell same on Sunday. This is a new liquor license application. There is no liquor license currently issued for the premises.

Staff Recommendation: Approved.

Form of Motion: I move to close the Public Hearing and to grant the liquor license as presented.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: NAC Dept. Dir. Gao Finance Dir. Gao Dir. of Admin. 7/8/25

*lol  
C  
7/25/25*

05/23/2025

**Liquor License Application Departmental Approval Form**

**Please Return to Nancy Chumbley / Collection Dept. A.S.A.P.**

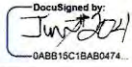
*Before the attached liquor license application submitted by:*

**Applicant name:** Cory King  
**d/b/a:** Side Project Brewing  
**Location:** 1001 N Second Street

*Will be submitted to the City Council for approval, the Department Head or his authorized Assistant or Deputy from each of the below listed departments must sign off indicating either that all inspections, fees, taxes, permits and record checks, zoning or any other City requirements have been met or the fees paid or that it be known that the issuance of any City requirements not met prior to the Liquor License Application being submitted to the City Council.*

*A signature below indicates compliance with any or contingency on all City requirements being met.*

**Police Department:**

Approved      Signature:  \_\_\_\_\_ Date: 5/23/2025

Not Approved      Reason(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

05/23/2025

**Liquor License Application Departmental Approval Form**

**Please Return to Nancy Chumbley / Collection Dept. A.S.A.P.**

*Before the attached liquor license application submitted by:*

**Applicant name:** Cory King  
**d/b/a:** Side Project Brewing  
**Location:** 1001 N Second Street

*Will be submitted to the City Council for approval, the Department Head or his authorized Assistant or Deputy from each of the below listed departments must sign off indicating either that all inspections, fees, taxes, permits and record checks, zoning or any other City requirements have been met or the fees paid or that it be known that the issuance of any City requirements not met prior to the Liquor License Application being submitted to the City Council.*

*A signature below indicates compliance with any or contingency on all City requirements being met.*

**Fire Department**

**Approved**       **Approved with Conditions**       **Not Approved**

Conditions of Approval: \_\_\_\_\_

Reason(s) for denial: \_\_\_\_\_

Signature:  Date: 5/23/2025

05/23/2025

**Liquor License Application Departmental Approval Form**  
**Please Return to Nancy Chumbley / Collection Dept. A.S.A.P.**

Before the attached liquor license application submitted by:

**Applicant name:** Cory King  
**d/b/a:** Side Project Brewing  
**Location:** 1001 N Second Street

Will be submitted to the City Council for approval, the Department Head or his authorized Assistant or Deputy from each of the below listed departments must sign off indicating either that all inspections, fees, taxes, permits and record checks, zoning or any other City requirements have been met or the fees paid or that it be known that the issuance of any City requirements not met prior to the Liquor License Application being submitted to the City Council.

A signature below indicates compliance with any or contingency on all City requirements being met.

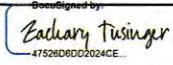
**Community Development**

Zoning District FD Historic Preservation District FHPD Occupancy Permit No

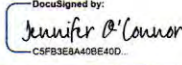
**Approved**       **Approved with Conditions**       **Not Approved**

Conditions of Approval \_\_\_\_\_

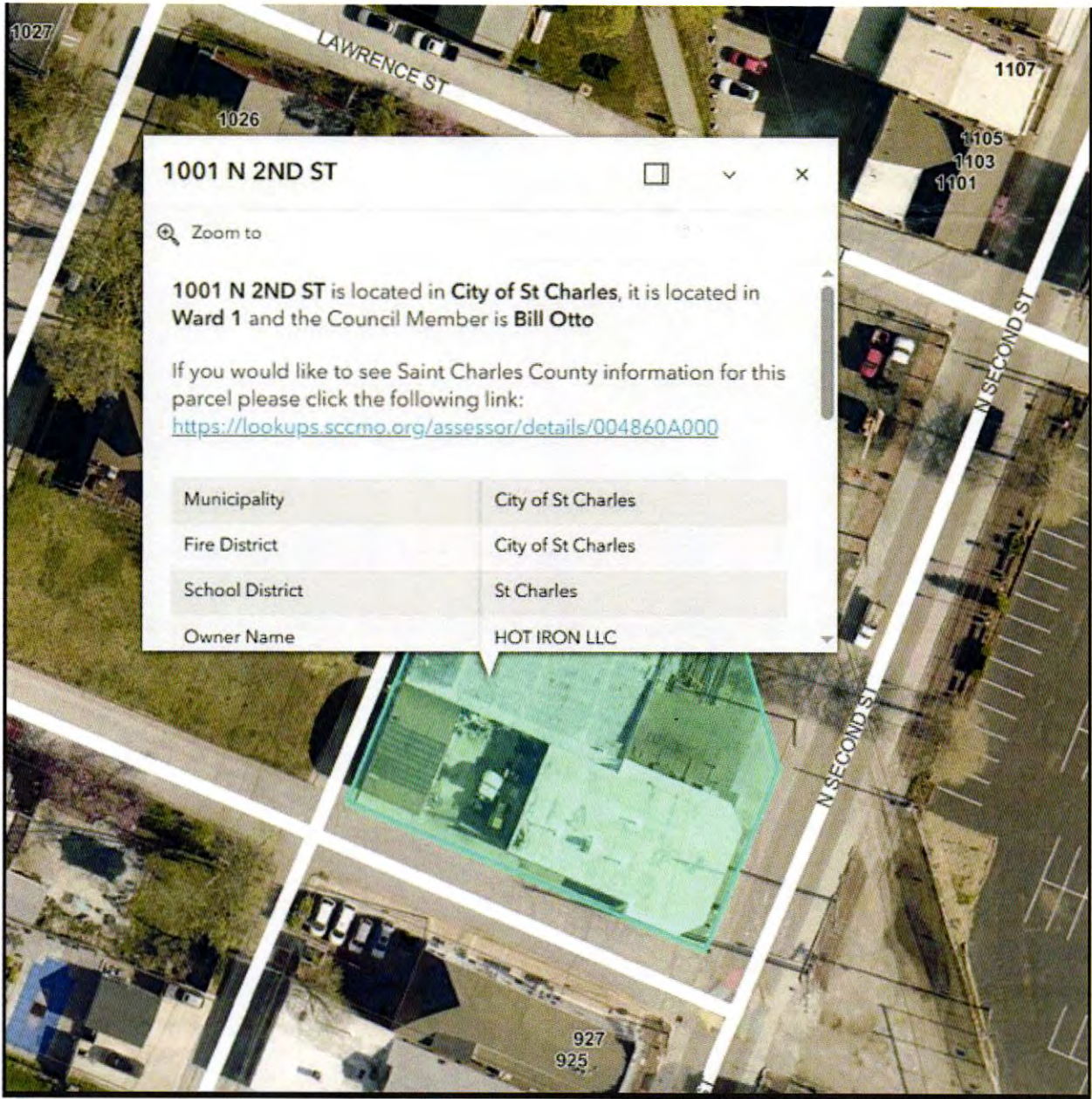
Reason(s) for denial: \_\_\_\_\_

Signature:  Date: 5/23/2025

**Finance Department**

**Approved**      Signature:  Date: 5/23/2025

**Not Approved**      Reason(s): \_\_\_\_\_



1001 N 2ND ST

Zoom to

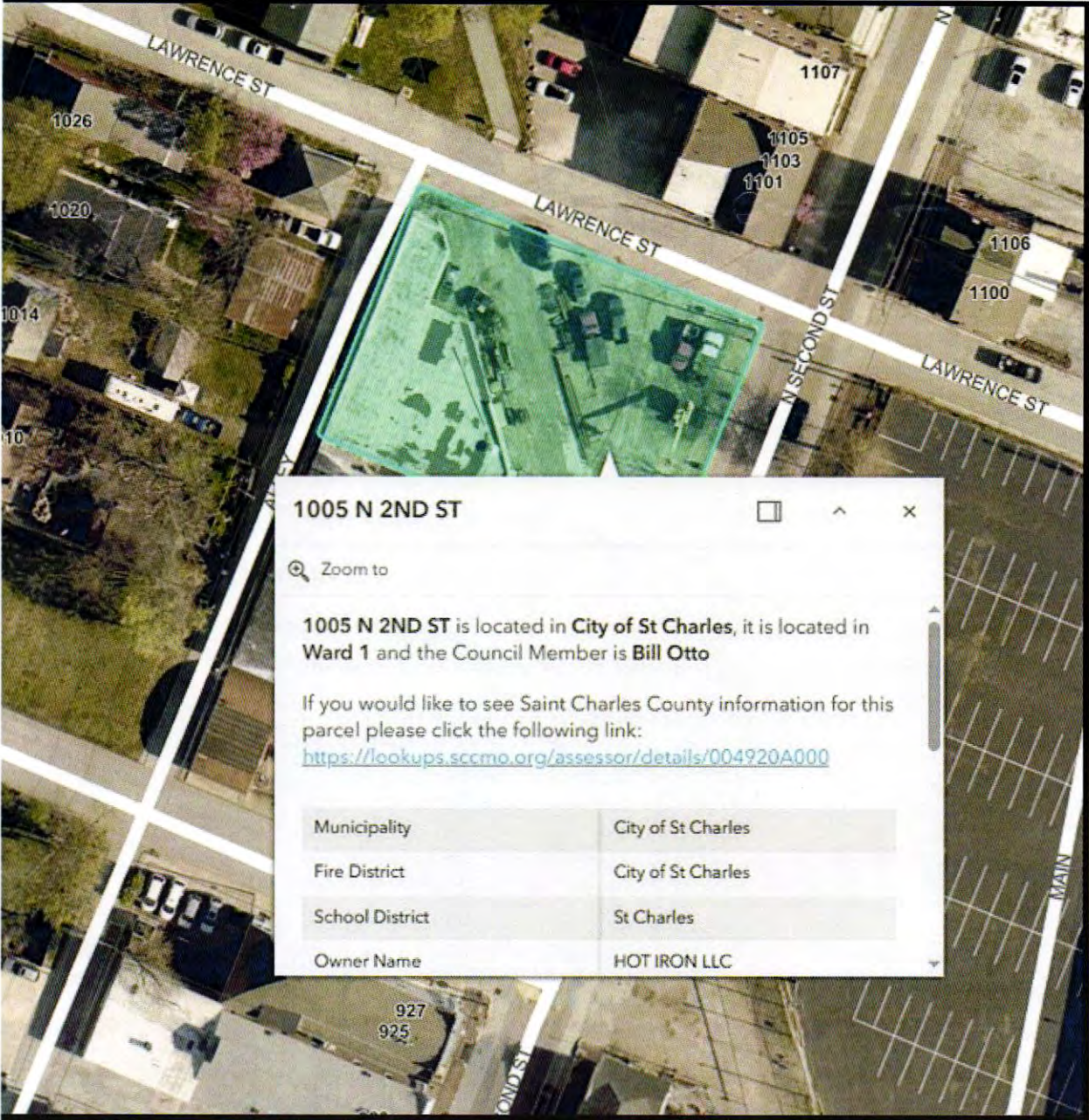
1001 N 2ND ST is located in City of St Charles, it is located in Ward 1 and the Council Member is Bill Otto

If you would like to see Saint Charles County information for this parcel please click the following link:

<https://lookups.sccmo.org/assessor/details/004860A000>

|                 |                    |
|-----------------|--------------------|
| Municipality    | City of St Charles |
| Fire District   | City of St Charles |
| School District | St Charles         |
| Owner Name      | HOT IRON LLC       |





1005 N 2ND ST

Zoom to

1005 N 2ND ST is located in City of St Charles, it is located in Ward 1 and the Council Member is Bill Otto

If you would like to see Saint Charles County information for this parcel please click the following link:

<https://lookups.sccmo.org/assessor/details/004920A000>

|                 |                    |
|-----------------|--------------------|
| Municipality    | City of St Charles |
| Fire District   | City of St Charles |
| School District | St Charles         |
| Owner Name      | HOT IRON LLC       |

**RCA FORM (OFFICE USE ONLY)**

Bill # N/A

MEETING/DATE: 6/3/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): 7

Sponsor(s): N/A

**Description:**

Case No. CU-2024-13. (Hung Ung – Viet Pho) An application to amend a Conditional Use Permit per §400.220(C)(1)(a) for liquor sales associated with the expansion of a restaurant use within "C-3/WHPD" Highway Business District within the Wellhead Protection District located at 3128 Elm Point Industrial Dr. The subject property is located in Ward 7.

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

The applicant is requesting an amendment to their existing Conditional Use Permit for liquor sales at Viet Pho, a Vietnamese restaurant located at 3132 Elm Point Industrial Drive. The restaurant plans to expand into an adjacent 1,800 square feet of tenant space (3128 Elm Point Industrial Dr) to accommodate a private dining area for larger parties and provide overflow seating. This expansion will effectively double the size of the restaurant. Although Viet Pho has been operating at its current location since November 2024, the proposed expansion requires an amendment to the Conditional Use Permit to include the additional area within the scope of the approved use.



The Planning and Zoning Commission held a public hearing on this item at their May 12, 2025 meeting where the applicant spoke and there were no speakers from the public on this application. The application was forwarded with a recommendation for approval (7 in favor, 0 opposed) with the attached list of conditions.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: LB Dept. Dir.  Finance Dir. N/A Dir. of Admin. 

**CU-2024-13 (Amendment): 3128-3132 Elm Point Industrial Drive – Recommended Conditions**

1. This conditional use permit for liquor sales and expanded restaurant space is issued to the applicant (Hung Ung) and business (Viet Pho) only for the property located at 3132 Elm Point Industrial Drive only and is not transferable to another location and/or tenant/business.
2. Approval of this Conditional Use Permit is not approval of a liquor license. A liquor license is required prior to any liquor sales.
3. Liquor sales shall not occur independent of the primary business use and shall only be accessory to the submitted restaurant use.
4. Non-compliance with any building codes, property maintenance codes, fire codes or conditions of this approval is grounds for revocation of the conditional use approval.
5. Violations of Chapter 600 dealing with Liquor/Alcoholic Beverages may be grounds for revocation of this Conditional Use.
6. The business shall comply with all provisions of the City's Sign Code, including regulations for temporary signage. Non-compliance may be grounds for revocation of this Conditional Use.



**AGENDA ITEM #6**

**STAFF REPORT  
CASE NO. CU-2024-13  
LIQUOR SALES (EXPANSION)**

**MAY 12, 2025  
BY LARA BERRY**

---

**APPLICANT:** Hung Ung  
3212 Stowe Landing  
St. Charles, Missouri 63301

**PROPERTY OWNER:** Rose Bui / Hung Ung  
3212 Stowe Landing  
St. Charles, Missouri 63301

**ADDRESS/LOCATION:** 3132 Elm Point Industrial Drive  
Ward 7

**SIZE/ACREAGE:** 3,600 Sq. Ft tenant space within 1.304 acre lot (overall)

**CURRENT ZONING:** C-3/WHP Highway Business District and within the Wellhead Protection District

**PROPOSED USE:** Restaurant Liquor Sales (Expansion)

**SUMMARY/ANALYSIS**

The applicant is requesting to amend their existing Conditional Use Permit for liquor sales within their Vietnamese restaurant, *Viet Pho*, located at 3132 Elm Point Industrial Drive. This property is zoned C-3/WHP Highway Business District, within the Wellhead Protection District, and the restaurant is expanding into an additional 1,800 square feet to accommodate a private dining area for larger parties and overflow seating, effectively doubling the size of the existing space. The business is located in a newly constructed multi-tenant retail building, also owned by the applicant. The existing restaurant has been open since November 2024 in a 1,800 square foot space. This request supports the restaurant's operational growth and ability to accommodate larger groups and increased customer demand. Hours of operation will remain Monday through Saturday from 10:00 a.m. to 9:00 p.m., and Sunday from 12:00 p.m. to 8:00 p.m.

Upon review of City records, there have been no violations or incidents associated with the liquor sales use since the business opened; however, there have been code enforcement violations relating to temporary signage. Those violations have since been resolved and an additional condition has been added to this recommendation to help ensure further compliance with the City's Sign Code.

**Consistency with Comprehensive Plan**

The St. Charles Comprehensive Plan adopted in 2002, and updated in 2012, recommends that land use decisions be based on a project's location and compatibility with surrounding development. The Comprehensive Plan identifies 15 activity centers in the city, locations characterized by

elevated levels of development, density and activity. The activity centers are the most prominent, visible and intensely developed locations in the city. The plan recommends that development should gradually decrease in density as distance from an activity center increases. The activity centers should be surrounded by land uses that gradually decrease in levels of activity, traffic and density. Proposed new uses should be judged based upon its distance from the nearest activity center, its compatibility with what surrounds it, and whether the level of development it will generate contributes to a gradual decline in density or acts counter to that goal. This property is located nearest to Activity Center #14 (370 Corridor – East). The proposed restaurant, expanded seating area, and liquor sales at this location are in conformance with the density and activity guidelines provided above.

**Consistency with Conditional Use standards**

Section 400.980 of the City Code outlines standards of review for the conditional use application. The standards are as follows:

- a) How the proposed conditional use (the use in general) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.
- b) Whether the proposed conditional use (in its proposed location) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.

*Regarding a) and b), Conditional Uses are not allowed by-right as they can be problematic if not located and/or conditioned properly. In this case, the proposal is located at 3132 Elm Point Industrial Drive nearest to Activity Center #14. This intensity pattern is consistent with the goals of the Comprehensive Plan, and the expanded restaurant space with private and overflow seating at this location could operate in conformance with the density, intensity, and activity guidelines provided above.*

- c) Whether the proposed conditional use, in its proposed location and as depicted on the required site plan, results in a substantial or undue adverse impact on the adjacent property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the Zoning Ordinance, Comprehensive Plan, or any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city.

*Based upon a review of the proposed land uses, if conditioned properly and operated in compliance with the Zoning Ordinance, the expansion to include a private dining area and additional square footage should not have an adverse impact on the character of the neighborhood, public safety and general welfare of the city.*

- d) Whether the proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property as

directed by the Comprehensive Plan.

*Staff believes the proposed liquor sales use and expanded restaurant space can be compatible within its commercial surroundings and, if conditioned properly, can operate in a manner that is consistent with the area and as directed by the Comprehensive Plan*

- e) Whether the proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

*Staff believes the proposed conditional use at this location including the expanded area will not have an undue burden on public services as this proposal has been reviewed by Community Development, Finance, Engineering and Fire Departments with no outstanding comments.*

- f) Whether the public benefits of the proposed conditional use outweigh the potential adverse impacts of the proposed conditional use as identified above, after taking into consideration any proposal by the petitioner and any requirements recommended by the petitioner and/or City Staff to ameliorate such impacts.

*After review of the proposal, and the above standards for evaluating Conditional Uses, staff believes the proposed use if conditioned properly would prevent any potential adverse impacts and the public benefits of expanded dining services and support for gatherings and events would outweigh any potential adverse impacts.*

### **STAFF RECOMMENDATION**

After review of this proposed use against the Zoning Ordinance, the Comprehensive Plan and area development patterns/land uses, staff recommends approval of this conditional use with the following conditions:

1. This conditional use permit for liquor sales and expanded restaurant space is issued to the applicant (Hung Ung) and business (Viet Pho) only for the property located at 3132 Elm Point Industrial Drive only and is not transferable to another location and/or tenant/business.
2. Approval of this Conditional Use Permit is not approval of a liquor license. A liquor license is required prior to any liquor sales.
3. Liquor sales shall not occur independent of the primary business use and shall only be accessory to the submitted restaurant use.
4. Non-compliance with any building codes, property maintenance codes, fire codes or conditions of this approval is grounds for revocation of the conditional use approval.
5. Violations of Chapter 600 dealing with Liquor/Alcoholic Beverages may be grounds for revocation of this Conditional Use.
6. The business shall comply with all provisions of the City's Sign Code, including regulations for temporary signage. Non-compliance may be grounds for revocation of this Conditional Use.

**Recommended Motion:**

Motion to forward the amended application CU-2024-13 to the City Council with a favorable recommendation, subject to the conditions recommended by staff.

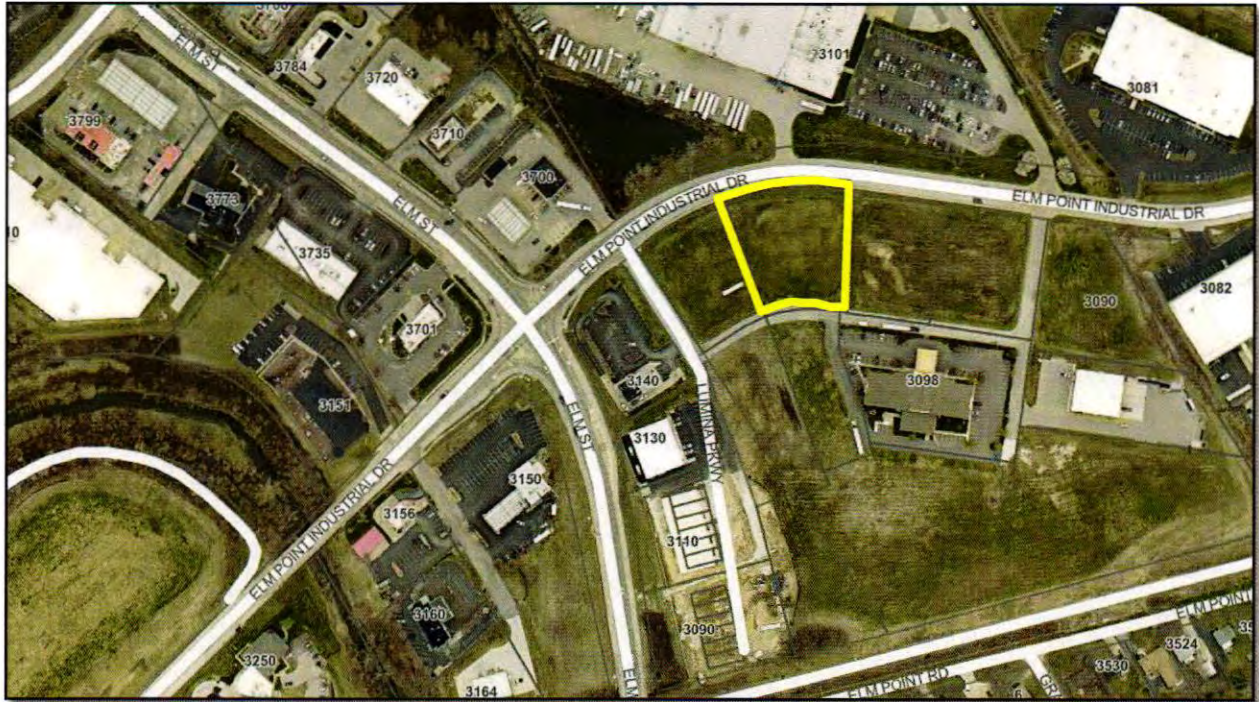


Figure 1: Aerial of subject property.



Figure 2: Street view of the building and tenant space.



**GENERAL NOTES**

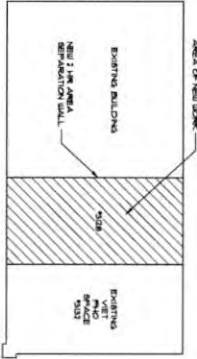
1. DO NOT SCALE DRAWINGS FOLLOW WRITTEN DIMENSIONS ONLY. GENERAL CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND NOTIFY ARCHITECT OF ANY DISCREPANCIES BEFORE PROCEEDING WITH CONSTRUCTION. DIMENSIONS SHALL BE TAKEN FROM THE CENTERLINE OF WALLS UNLESS OTHERWISE NOTED. BUILDING PERMITS, PLANS, TAPES, SEALS, TAPES AND ETC. OBTAINED AND PAID FOR BY ALL WORKERS.
2. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL GOVERNING CODES, ORDINANCES, REGULATIONS AND STATUTES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
3. THE CONTRACTOR SHALL MAINTAIN A NEARBY RECORD OF WORK OF EACH CONTRACTOR AND QUALITY AS IS DESCRIBED IN AN APPROPRIATE MANNER. THE CONTRACTOR SHALL MAINTAIN A NEARBY RECORD OF WORK OF EACH CONTRACTOR AND QUALITY AS IS DESCRIBED IN AN APPROPRIATE MANNER.
4. THE DOCUMENT PREPARED BY THE ARCHITECT FOR THIS PROJECT ARE INSTRUMENTS OF SERVICE. THE ARCHITECT'S INSTRUMENTS OF SERVICE SHALL BE THE BASIS FOR THE CONTRACTOR'S OBLIGATION TO CONSTRUCT THE PROJECT. THE ARCHITECT'S INSTRUMENTS OF SERVICE SHALL BE THE BASIS FOR THE CONTRACTOR'S OBLIGATION TO CONSTRUCT THE PROJECT.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
6. ALL DOCUMENTS SHALL BE THE LATEST EDITION OF THE GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION.
7. EACH CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
8. EACH CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
11. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
13. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
14. EXISTING HVAC AND PLUMBING TO REMAIN AS IS.

**BUILDING INFORMATION**

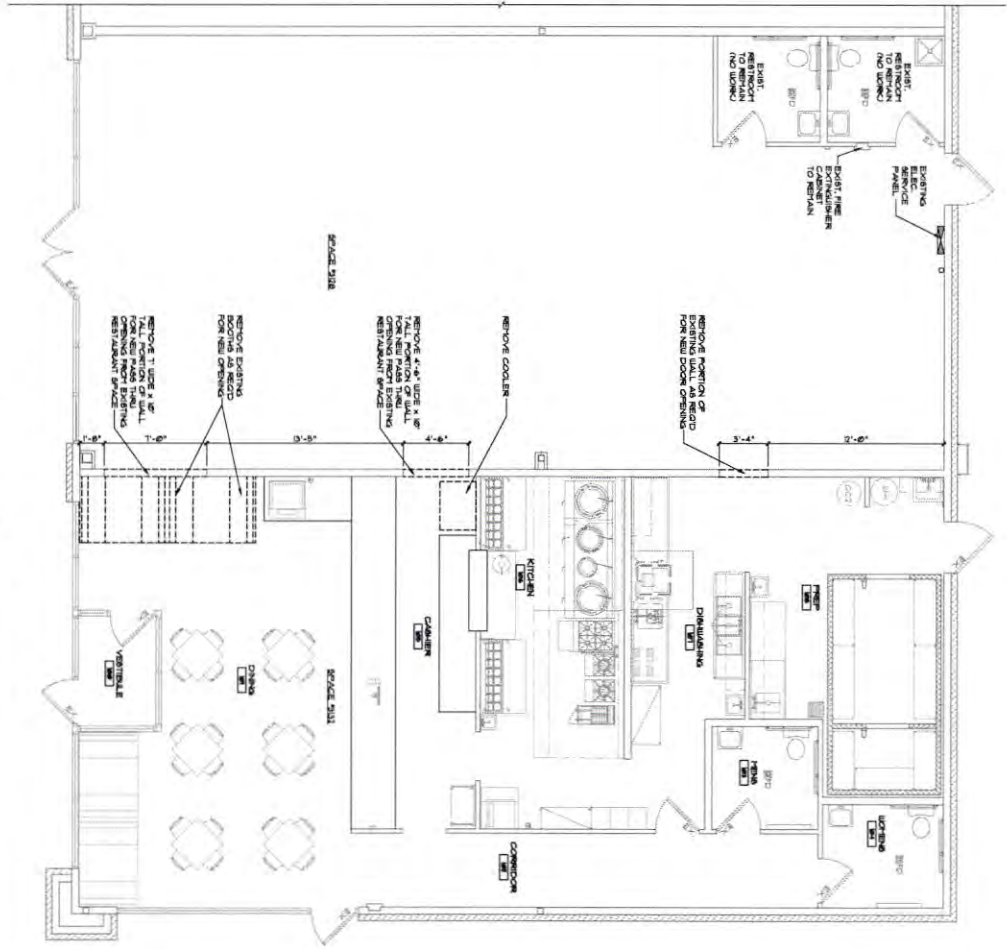
BUILDING CODES IN USE: INTERNATIONAL BUILDING CODE - 2021  
INTERNATIONAL FIRE CODE - 2021  
INTERNATIONAL PLUMBING CODE - 2021  
INTERNATIONAL MECHANICAL CODE - 2021  
INTERNATIONAL ENERGY CODE - 2021

CONSTRUCTION TYPE: V-V-B  
USE GROUP: 1A-1 RESTAURANT  
ADJACENT USE GROUP: 1A-1 RESTAURANT

SEISMIC DESIGN CATEGORY: II  
SEISMIC DESIGN SPECTRA: ASCE 7-16  
SEISMIC DESIGN CATEGORY: II  
SEISMIC DESIGN SPECTRA: ASCE 7-16



1 KEY PLAN  
SCALE: 1/8" = 1'-0"  
N

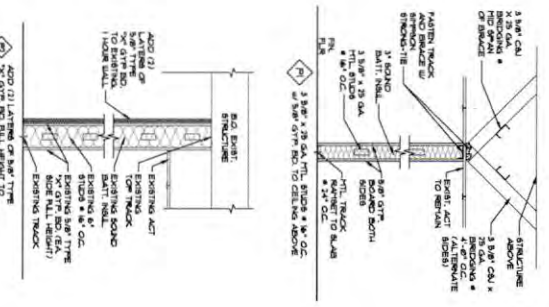


2 DEMO PLAN  
SCALE: 1/8" = 1'-0"  
N

**WALL LEGEND**

--- EXISTING WALL  
--- WALL TO BE REMOVED

3 PARTITION TYPES  
SCALE: 3/4" = 1'-0"



**STRUCTURAL PARTITION TYPE NOTES**

1. ALL GYPSUM BOARD AND STUDS ARE TO BE INSTALLED PER LOCAL CODES AND OTHER WRITTEN REQUIREMENTS.

|   |  |   |  |   |
|---|--|---|--|---|
| <p>DATE: February 5, 2025</p> <p>SHEET TITLE: Floor Plan</p> <p>SECTION: A1.0</p> | <p>S.J. Hollander Architect</p> <p>Stephen J. Hollander, AIA<br/>810 First Capital Drive<br/>St. Charles, Missouri 63301<br/>Phone: (636) 947-4140</p> <p>Missouri Architectural Corporation 8000601</p> | <p>PROJECT NO: 225006</p> <p>NO. DATE TITLE</p> | <p>Expansion for:<br/><b>Viet Pho</b><br/>3132 and 3128 Elm Point Industrial Drive<br/>St. Charles, MO 63301</p> | <p>STEPHEN J. HOLLANDER<br/>ARCHITECT<br/>NO. 44-29<br/>MISSOURI ARCHITECTURAL BOARD<br/>EXPIRES 12/31/2025</p> |
|   |  |   |  |   |



**RCA FORM (OFFICE USE ONLY)**

Bill # N/A

MEETING/DATE: 6-3-2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): 9

Sponsor(s): N/A

**Description:**

Case No. CU-2023-64. Address: 225 N. Kingshighway Street (Gween Keen – QuikTrip Corporation) An application for a Conditional Use Permit per §400.220(C)(1)(a) for in-vehicle service, more specifically for the redevelopment of an existing automobile service station. The property is zoned C-2/EHPD General Business District within the Extended Historic Preservation District in Ward 9.

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

This request is a Conditional Use Permit for in-vehicle sales for the expansion/redevelopment of an existing automobile service station (QuikTrip) located at 225 N. Kingshighway Street. The property is located within the C-2/EHPD General Business District within the Extended Historic Preservation District, and City Ordinance requires approval of a Conditional Use Permit for establishments to have in-vehicle service. The site plan for the redevelopment has been approved by the Landmarks Board.


The Planning and Zoning Commission considered this item at their January 29, 2024 meeting where the applicant spoke and there were no speakers from the public. The Commission forwarded a recommendation for approval to the City Council (8 in favor, 0 opposed) subject to the attached conditions.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: MPE Dept. Dir.  Finance Dir. N/A Dir. of Admin. 4

**CU-2023-64: 225 N Kingshighway Street – Recommended Conditions**

1. This Conditional Use Permit for in-vehicle service is issued to the QuikTrip Corporation only for 225 S Kingshighway St and is not transferable to another location and/or applicant/tenant/business.



**AGENDA ITEM #11**

**STAFF REPORT  
CONDITIONAL USE NO. CU-2023-64  
IN-VEHICLE SERVICE  
(GAS STATION)  
225 N KINGSHIGHWAY STREET  
JANUARY 29, 2024  
BY MADELYN EVERS MAN**

---

**APPLICANT/OWNER:** Gwen Keen  
QuikTrip Corporation  
2255 Bluestone  
St. Charles, MO 63303

**ADDRESS/LOCATION:** 225 N Kingshighway St  
Ward 9

**ACREAGE:** 1.04 acres

**CURRENT ZONING:** C-2/EHP General Business District within the Extended  
Historic Preservation District

**PROPOSED USE:** In-Vehicle Service (Gas Station)

**SUMMARY/ANALYSIS**

This application is for a conditional use for in-vehicle service, more specifically for the expansion/redevelopment of an existing automobile service station. The property is located within the C-2/EHP General Business District within the Extended Historic Preservation District, on the southwestern corner of N Kingshighway and Elm Street. The subject property is an existing QuikTrip convenience store and fuel canopy, originally constructed in 1986. The applicant is seeking to renovate the existing site to incorporate an adjacent lot to the south for a new building and gas canopy locations.

The applicant requested three (3) variances in association with this project. The variances requested were for a reduction in the minimum front yard setback for parking in a required front yard from twenty-five (25) feet to six (6) feet, a reduction of the minimum landscaping perimeter adjacent to a public right-of-way from fifteen (15) feet to zero (0) feet, and a reduction of the landscaping perimeter not adjacent to a public right-of-way from five (5) feet to zero (0) feet. All three (3) variances were granted at the January 2024 Board of Adjustment meeting. Because this property is located within the Landmarks Preservation District, the review of the Site Plan falls under the purview of the Landmarks Board and not the Planning and Zoning Commission. This item was on for review by the Landmarks Board at their January 22, 2024; however, the meeting had to be rescheduled due to inclement weather. This is now slated for Site Plan review at Landmarks February 12, 2024 meeting. The site plan has been included as an attachment for reference.

**Consistency with Comprehensive Plan**

The St. Charles Comprehensive Plan adopted in 2002, and updated in 2012, recommends that land use decisions be based on a project's location and compatibility with surrounding development. The Comprehensive Plan identifies 15 activity centers in the city, locations characterized by elevated levels of development, density and activity. The activity centers are the most prominent, visible and intensely developed locations in the city. The plan recommends that development should gradually decrease in density as distance from an activity center increases. The activity centers should be surrounded by land uses that gradually decrease in levels of activity, traffic and density. Proposed new uses should be judged based upon its distance from the nearest activity center, its compatibility with what surrounds it, and whether the level of development it will generate contributes to a gradual decline in density or acts counter to that goal. This property is located nearest to Activity Center #3 (Lindenwood University). The redevelopment of the existing automobile service station at this location has been compatible with its broader surroundings and neighboring uses along N Kingshighway Street and its redevelopment should not cause any additional issues.

**Consistency with Conditional Use standards**

Section 400.980 of the City Code outlines standards of review for the conditional use application. The standards are as follows:

- a) How the proposed conditional use (the use in general) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.
- b) Whether the proposed conditional use (in its proposed location) is in harmony with the purposes, goals, objectives, policies and standards of the Comprehensive Plan, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city.

*Regarding a) and b), Conditional Uses are not allowed by-right as they can be problematic if not located and/or conditioned properly. In this case, the proposal is located at 225 N Kingshighway nearest to Activity Center #3. This intensity pattern is consistent with the goals of the Comprehensive Plan, and the proposed use at this location could operate in conformance with the density, intensity, and activity guidelines provided above.*

- c) Whether the proposed conditional use, in its proposed location and as depicted on the required site plan, results in a substantial or undue adverse impact on the adjacent property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of the Zoning Ordinance, Comprehensive Plan, or any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city.

*This is an existing use with a proposed minor expansion for better navigation of vehicles and customers within the site. Based on these factors, this business, should not have an adverse impact on the character of the neighborhood, public safety and general welfare of*

*the city and instead would be an improvement to existing use.*

- d) Whether the proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property as directed by the Comprehensive Plan.

*Staff believes in-vehicle service/automobile service station can be compatible within its commercial and residential surroundings and should not produce negative effects to neighboring properties or the neighborhood. As stated above, this is an existing use with proposed improvements to the site to better customer and vehicle navigation. Based on this, Staff believes this use can continue to operate in a manner that is consistent with the area.*

- e) Whether the proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

*Staff believes the expanded conditional uses in this location will not have an undue burden on public services as this proposal is an expansion of an existing gas station/convenience store and the expansion has been reviewed by Community Development, Finance, Engineering and Fire Departments with no outstanding comments.*

- f) Whether the public benefits of the proposed conditional use outweigh the potential adverse impacts of the proposed conditional use as identified above, after taking into consideration any proposal by the petitioner and any requirements recommended by the petitioner and/or City Staff to ameliorate such impacts.

*After review of the proposal as submitted, and the above standards for evaluating Conditional Uses, staff believes the proposed use and conditions proposed would prevent any potential adverse impacts and the public benefits would outweigh any potential adverse impacts. Additionally, the subject property has an existing in-vehicle service use.*

Furthermore, the City Code allows the Planning and Zoning Commission to recommend conditions of approval to protect surrounding properties, as well as to give consideration with respect to location in the recommendations. The proposed use complies with the above standards.

### **STAFF RECOMMENDATION**

This conditional use can operate in conformance with City requirements, is compatible with surrounding land uses and complies with the Comprehensive Plan of the City of St. Charles. Staff recommends **approval** of the proposed in-vehicle service/automobile service station subject to the following conditions:

1. This Conditional Use Permit for in-vehicle service is issued to the QuikTrip Corporation only for 225 S Kingshighway St and is not transferable to another location and/or applicant/tenant/business.

### **Recommended Motion:**

*Motion to forward the Conditional Use Permit application for in-vehicle service at 225 S Kingshighway St to the City Council with a favorable recommendation, subject to the conditions recommended by staff.*



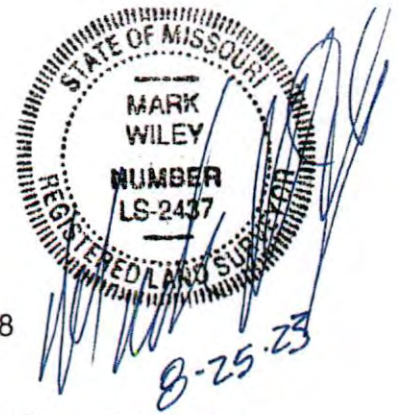
Figure 1: Aerial Photo of the Subject Site.



*Figure 2: Street view of the Subject Property.*



*Figure 3: Rendering of proposed site and construction.*

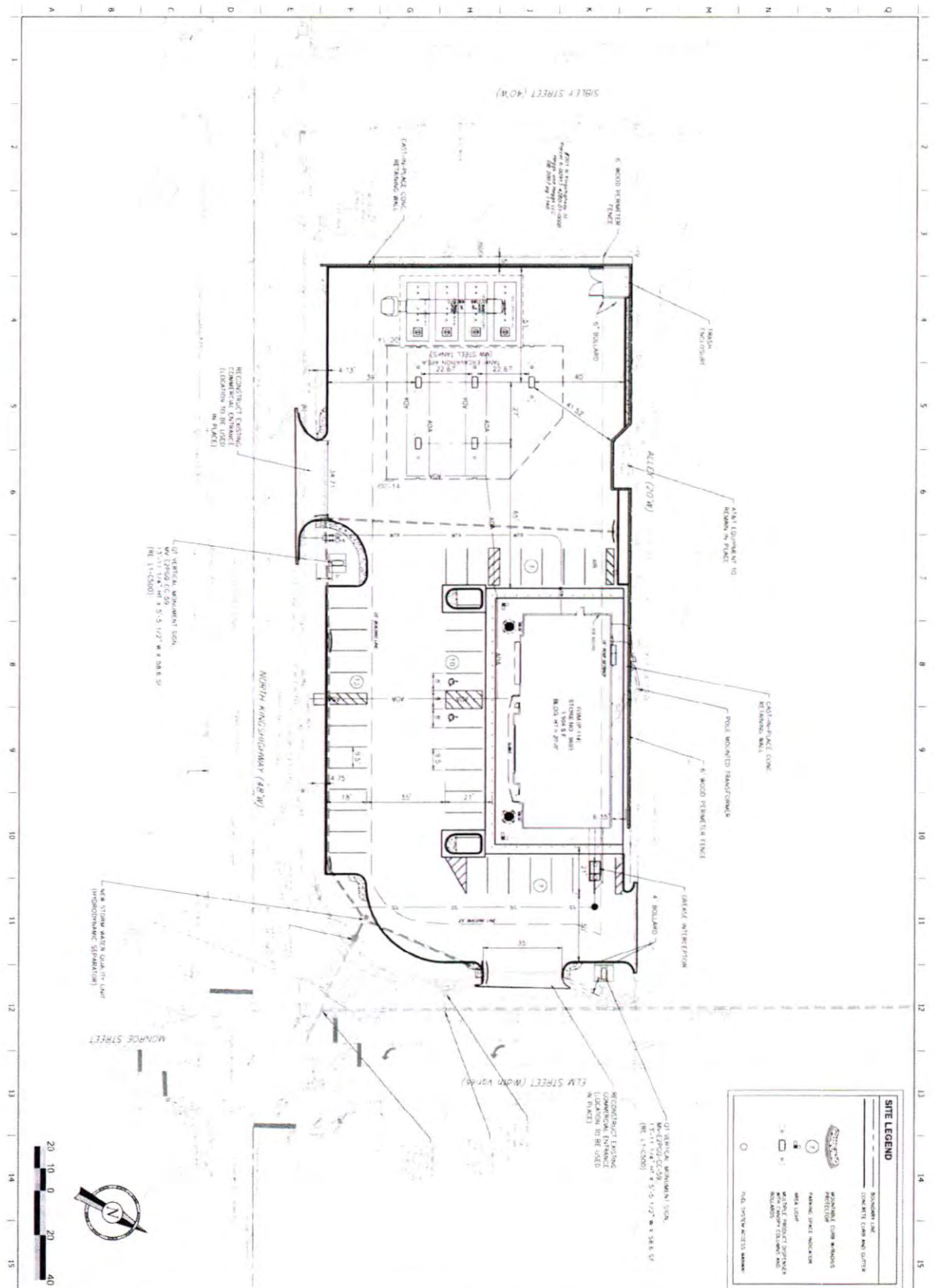


QuikTrip #603  
 Boundary Description  
 Glosier's Subdivision, St. Charles Block 278  
 St. Charles Missouri

A tract of land being part of Lots 1, 2 and all of Lots 3 through 7 of Glosier's Subdivision as filed for record in Plat Book 3 page 2 of the St. Charles County Land Records and being the same land conveyed to QuikTrip Corporation by Deed Book 4011 page 0909 and Eula M Stierholz Trust by Deed Book 3919 page 0907 of the said Land Records of St. Charles County Missouri and being described as follows:

Beginning at the Southern corner of said Lot 7 said corner being on the Northern Right of Way line of North Kingshighway (48 feet wide); thence leaving said North Right of Way North 32 degrees 19 minutes 56 seconds West along the lot line common to Lots 7 and 8 a distance of 142.37 feet to the Southern line of a 20 foot wide alley; thence leaving said common lot line North 57 degrees 39 minutes 34 seconds East along the Southern line of said alley a distance of 333.43 feet to a point on the Southwest line of Elm Street (width varies); thence leaving the Southern line of said alley South 25 degrees 54 minutes 51 seconds East along the Southwest line of a tract conveyed to the City of St. Charles by a Deed Recorded in Book 4557 page 1076 a distance of 8.31 feet to a point of curve; thence along a curve to the Right having a Radius of 16.50 feet an Arc Length of 4.70 feet the Chord bearing and distance being South 17 degrees 45 minutes 11 seconds East, 4.68 feet to a point of tangency; thence South 09 degrees 35 minutes 31 seconds East a distance of 19.89 feet to a point; thence South 32 degrees 20 minutes 56 seconds East a distance of 46.92 feet to a point of curve; thence along a curve to the Right having a Radius of 146.00 feet an Arc Length of 28.24 feet the Chord bearing and distance being South 26 degrees 48 minutes 27 seconds East, 28.20 feet; thence on a non-tangent compound curve to the Right having a Radius of 48.74 feet an Arc Length of 18.92 feet the Chord bearing and distance being South 04 degrees 50 minutes 15 seconds East, 18.80 feet to a point of non-tangent compound curve; thence on a curve to the Right having a Radius of 44.50 feet an Arc Length of 12.34 feet the Chord bearing and distance being South 10 degrees 34 minutes 50 seconds West, 12.30 feet to a point of tangency; thence South 23 degrees 19 minutes 53 seconds West a distance of 9.80 feet to a point of non-radial curve; thence along a curve to the Right having a Radius of 70.00 feet an Arc distance of 14.52 feet the Chord bearing and distance being South 37 degrees 10 minutes 12 seconds West, 14.50 feet to a point on the Northern line of North Kingshighway as previously mentioned; thence South 57 degrees 40 minutes 02 seconds West along said North Kingshighway right of way a distance of 282.20 feet to the point of beginning and containing 45,697 square feet more or less.

Subject to Easements, Restrictions and Covenants of Record if any



**SITE LEGEND**

|  |                          |
|--|--------------------------|
|  | PROPOSED LOT             |
|  | PROPOSED DRIVEWAY        |
|  | PROPOSED SIDEWALK        |
|  | PROPOSED CURB            |
|  | PROPOSED UTILITY         |
|  | PROPOSED ACCESS DRIVEWAY |
|  | EXISTING BUILDING        |
|  | EXISTING DRIVEWAY        |
|  | EXISTING SIDEWALK        |
|  | EXISTING CURB            |
|  | EXISTING UTILITY         |
|  | EXISTING ACCESS DRIVEWAY |

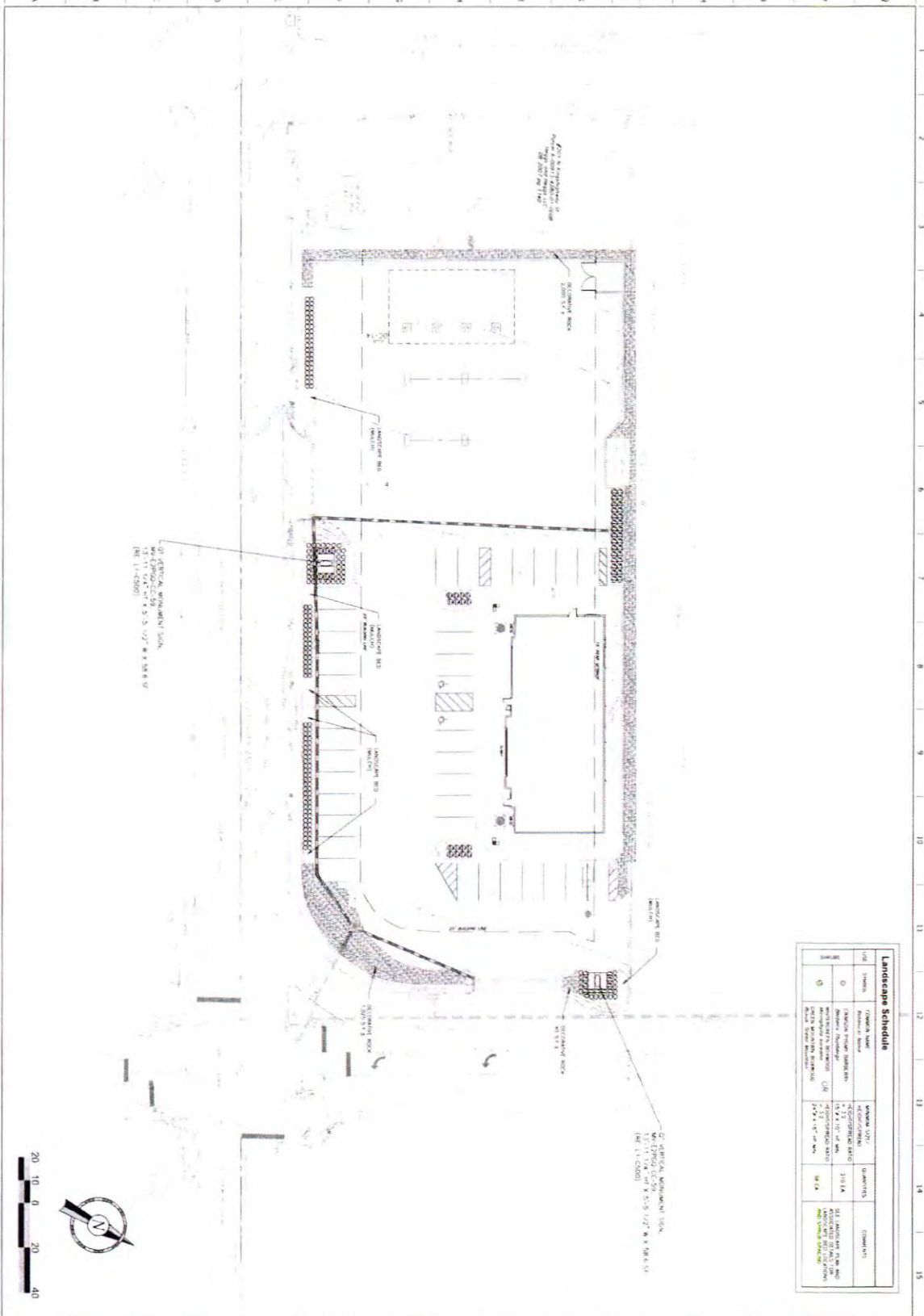
**QuikTrip No. 0603**  
 225 NORTH KINGSHIGHWAY STREET  
 ST. CHARLES, MISSOURI




| REV. | DATE | DESCRIPTION |
|------|------|-------------|
|      |      |             |
|      |      |             |
|      |      |             |
|      |      |             |

ORIGINAL ISSUE DATE: \_\_\_\_\_


|              |   |
|--------------|---|
| PROJECT NO.  |   |
| DATE         |   |
| DESIGNED BY  |   |
| CHECKED BY   |   |
| APPROVED BY  |   |
| SCALE        |   |
| PROJECT NAME |   |
| SHEET NUMBER | 3 |



| Landscape Schedule |                            |          |  |
|--------------------|----------------------------|----------|--|
| SYMBOL             | DESCRIPTION                | QUANTITY | REMARKS                                  |
| ○                  | 20' CIRCULAR CONCRETE TANK | 1        | SEE LANDSCAPE PLAN AND NOTES FOR DETAILS |
| ○                  | LANDSCAPE TREE             | 3114     | SEE LANDSCAPE PLAN AND NOTES FOR DETAILS |
| ○                  | LANDSCAPE ROCK             | 1874     | SEE LANDSCAPE PLAN AND NOTES FOR DETAILS |
| ○                  | LANDSCAPE BED              | 1874     | SEE LANDSCAPE PLAN AND NOTES FOR DETAILS |



**QuikTrip No. 0603**  
225 NORTH KINGSHIGHWAY STREET  
ST. CHARLES, MISSOURI



CDI  
CONCRETE DESIGN INC.  
1111 N. W. 111th St.  
Miami, FL 33157  
Phone: (305) 888-1111  
www.cdi-concrete.com

| REV | DATE | DESCRIPTION |
|-----|------|-------------|
|     |      |             |
|     |      |             |

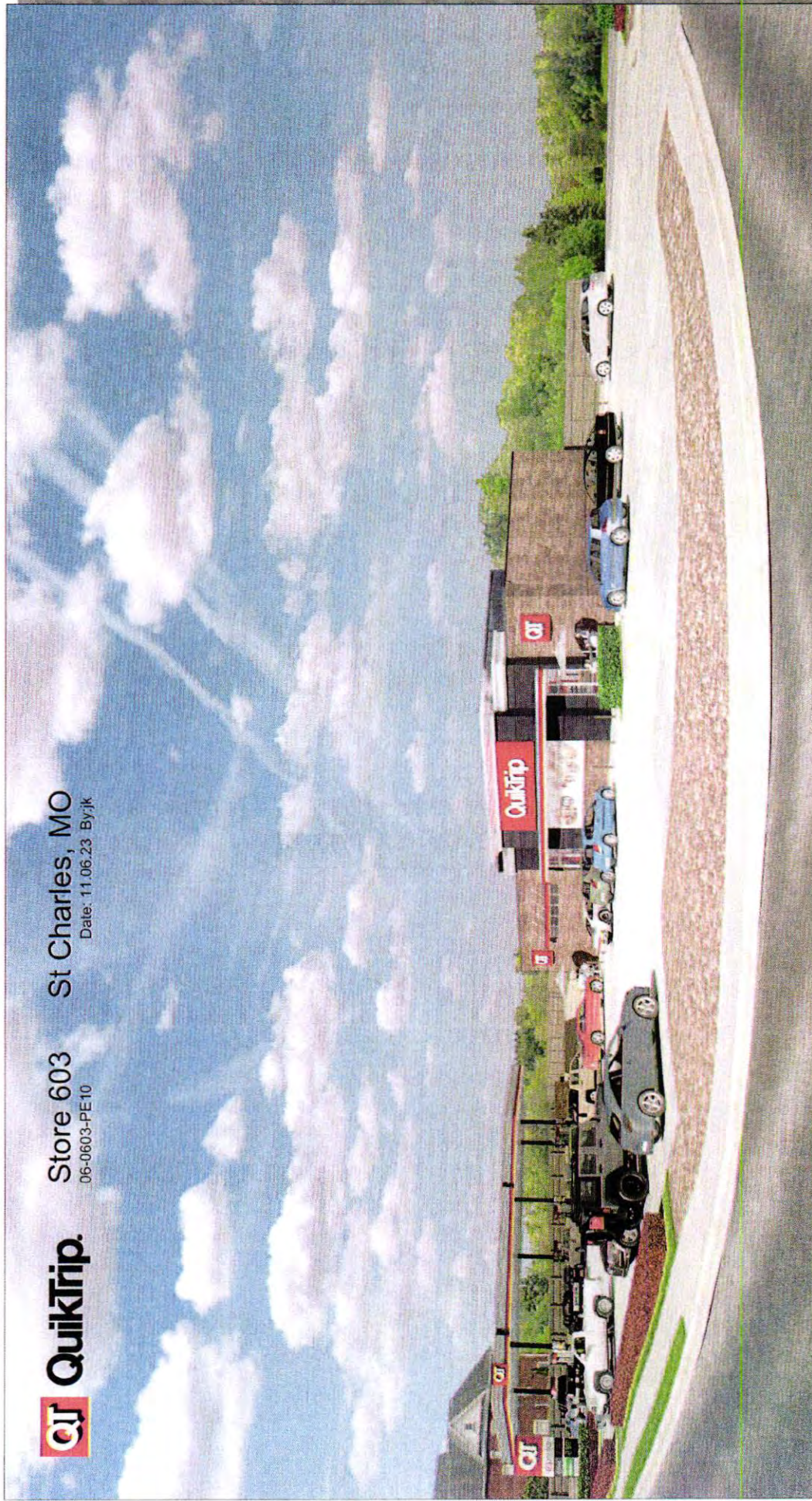
ORIGINAL ISSUE DATE: \_\_\_\_\_

SHEET TITLE: L100



Store 603  
06-0603-PE10

St Charles, MO  
Date: 11.06.23 By:jk



**RCA FORM (OFFICE USE ONLY)**

Bill # 13987

MEETING/DATE: 6/3/2025  
Regular  Special  Work Session   
ATTACHMENT: YES  NO   
Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): 6 & 8 upon annex Sponsor(s): Justin Foust & Michael Galba

**Description:**

Case No. Z-2025-04. (CRG Cumulus, LLC) An application to establish zoning for an overall 144.25-acres (more or less) from St. Charles County "A" Agricultural District & "I1" Light Industrial to the City of St. Charles "I-1" Light Industrial District & "I-1/WHP" Light Industrial District, within the Wellhead Protection District. Subject properties are generally located on the north and south sides of Hwy 370, between Huster Rd & Harry S Truman Blvd.

Contract Extension/Renewal: Yes  No   
Information Paper Attached: Yes  No

Staff Recommendation: Approve  Disapprove   
Board/Committee/Commission Recommendation: Approve  Disapprove

**Summary:**

The City has received an application to establish zoning for an overall 144-acre (more or less), upon annexation from St. Charles County "A" Agricultural District and "I1" Light Industrial to the City of St. Charles "I-1" Light Industrial District and "I-1/WHP" Light Industrial District, within the Wellhead Protection District. The annexation of this tract will help to further incorporate remaining areas of property within Unincorporated County. The applicant intends to align the zoning of these parcels with adjacent properties as a preliminary step toward consolidating the area for a future industrial development. If the requested zoning is approved, the property would be required to operate in compliance with the zoning regulations of the I-1 Light Industrial District and the Wellhead Protection District, to include additional review by City staff, P&Z (Site Plan & Conditional Use) and City Council (Conditional Use) for Wellhead compliance. The Planning and Zoning Commission held a public hearing on this item at their May 12, 2025 meeting where representatives of the applicant addressed the Commission and there was one (1) speaker from the public on this application. The speaker's questions were not applicable under this proposal (development standards & not the proposed zoning). The application was forwarded with a recommendation for approval (7 in favor, 0 opposed).

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** \_\_\_\_\_ N/A \_\_\_\_\_

**Account #:** N/A

**Project #:** N/A

RCA prepared by: LAB Dept. Dir. [Signature] Finance Dir. [Signature] Dir. of Admin. [Signature]



**AGENDA ITEM #7**

**STAFF REPORT  
 CASE NO. Z-2025-04  
 ANNEXATION & ESTABLISHMENT OF ZONING  
 APPROX. 144 ACRES  
 EHLMANN ROAD & HAYFORD ROAD**

**MAY 12, 2025  
 BY LARA BERRY**

**APPLICANT:** CRG Cumulus, LLC  
 8640 Evans Avenue  
 St. Louis, Missouri 63134

**OWNERS:** Ehlmann Road: RLG Industries LLC  
 16 Windcastle Drive  
 St. Charles, Missouri 63304

Hayford Road: Ostmann Family Partnership LP  
 8025 Maryland Avenue, Unit 5C  
 Clayton, Missouri 63105

**ADDRESS/LOCATION:** Ehlmann Road & Hayford Road  
 (Generally located on the north and south sides of Highway 370  
 and between Huster Road and Harry S Truman Boulevard)  
 Wards 6, 7 & 8

**LOT SIZE:** Overall 144.25-acres (more or less)

**EXISTING ZONING:** Ehlmann Road: St. Charles County "A" Agricultural District  
Hayford Road: St. Charles County "I1" Light Industrial District

**REQUESTED ZONING:** Ehlmann Road: "I-1" Light Industrial District  
Hayford Road: "I-1/WHP" Light Industrial District and within the Wellhead Protection District

**SURROUNDING ZONING:**

**Ehlmann Road**

| Direction | Zoning | Use                |
|-----------|--------|--------------------|
| North     | I-1    | Vacant/Undeveloped |
| South     | I-1    | Vacant/Agriculture |
| West      | I-1    | Outdoor Storage    |
| East      | I-1    | Vacant/Agriculture |

**Hayford Road**

| Direction | Zoning                      | Use                                  |
|-----------|-----------------------------|--------------------------------------|
| North     | I-1/WHP                     | Soccer Fields & Agriculture          |
| South     | I-2/WHP (City & County)     | Vacant/Undeveloped                   |
| West      | I-1/WHP                     | Vacant/Agriculture                   |
| East      | I-1/I-2/WHP (City & County) | Outdoor Storage & Vacant/Undeveloped |

### **REQUEST**

The applicant has submitted petitions for annexation and establishment of initial zoning for approximately 144.25 acres, more or less, comprising two areas located along the north and south sides of Highway 370. The first area, identified as Ehlmann Road (Parcel ID: 6-0003-S022-00-0001.0000000), lies just east of Sandfort Creek. The second area consists of three contiguous tracts commonly known as Hayford Road (Parcel IDs: 6-0002-S023-00-0006.1000000, 6-0002-S023-00-0006.0000000, and 5-0079-S023-00-0006.0000000), located on the east side of Hayford Road.

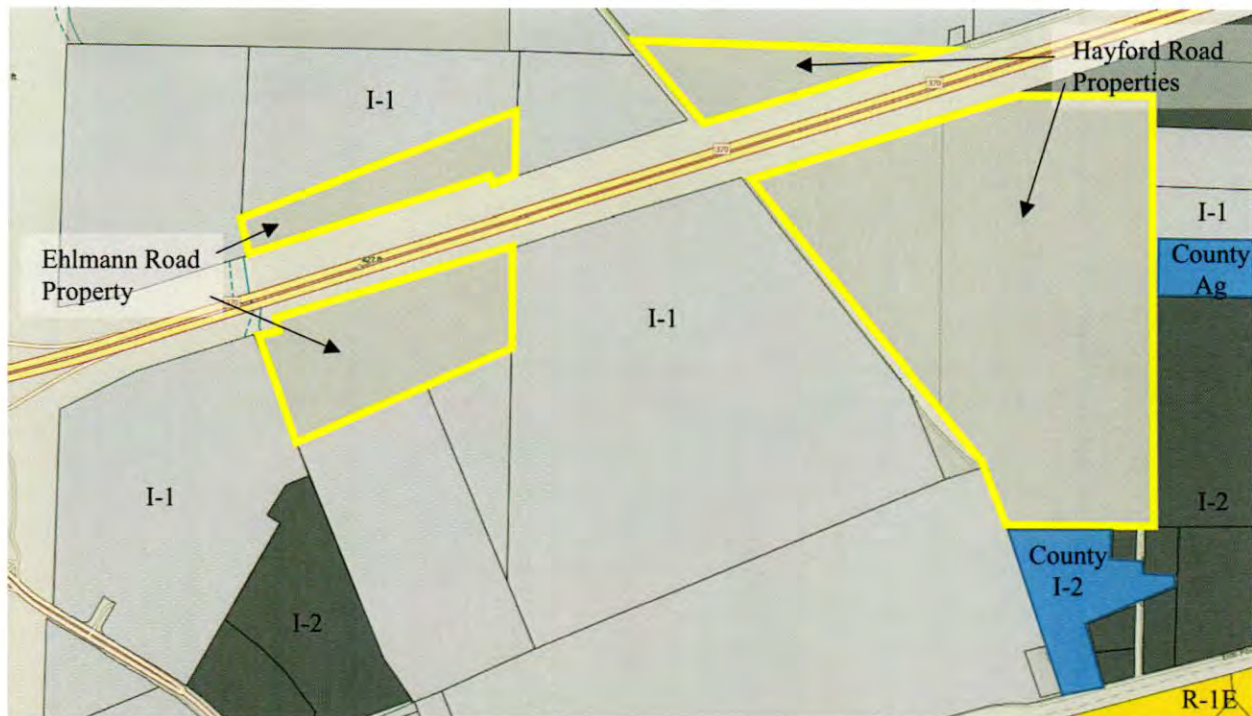
The applicant intends to align the zoning of these parcels with adjacent properties, to I-1 Light Industrial, as a preliminary step toward consolidating the area for a future industrial development.

### **SUMMARY/ANALYSIS**

Figure 1 on the following page illustrates the zoning designations in and around the subject area. Along the length of Highway 370, the predominant zoning classifications are I-1 Light Industrial and I-2 Heavy Industrial. This reflects the corridor's continued evolution toward employment-based uses near major transportation infrastructure. Residential uses begin to appear south of Elm Point Industrial Road and the railroad tracks create a natural buffer between uses.

The proposed zoning is consistent with surrounding land use patterns and the City's long-range vision for the 370 Corridor – West (Activity Center 15), which can support higher-intensity development in this location. The applicant's approach to matching the zoning of nearby industrial parcels is also aligned with broader plans for regional consolidation and coordinated development.

While annexation and zoning are the focus of this request, future development will require additional City staff review. Oversight by the Planning & Zoning Commission (site Plan and Conditional Use) and City Council (Conditional Use) for Wellhead compliance to ensure adequate protection of public water sources and compliance with environmental standards.



**Figure 1: Area Zoning of the Subject Properties.**

### **COMPLIANCE WITH THE COMPREHENSIVE PLAN**

The City of St. Charles Comprehensive Plan, originally adopted in 2002 and updated in 2012, emphasizes that land use decisions should be guided by a project’s location and compatibility with surrounding development. This revision to the Comprehensive Plan was approved by the City Council and developed in collaboration with residents, elected officials, and City staff.

The Plan identifies fifteen (15) activity centers throughout the city—areas defined by higher levels of development intensity, visibility, and activity. These centers are intended to support the City’s most prominent and active land uses, while surrounding areas should reflect a gradual reduction in density, traffic, and activity levels. New development should be evaluated based on its proximity to these centers, how well it integrates with adjacent uses, and whether it supports the goal of transitioning intensity away from activity nodes.

The subject property is located near Activity Center 15 – 370 Corridor (West), a location designated for higher-intensity development, especially those suited for regional access and highway visibility. In this context, the proposed I-1 Light Industrial zoning is consistent with the Comprehensive Plan’s guidance. The applicant’s intent to align zoning with adjacent industrial properties supports the long-term land use vision for the corridor and reflects the area's evolving development pattern.

### **COMPLIANCE WITH WELLHEAD PROTECTION ORDINANCE**

Although uses permitted by right in the I-1 District are also permitted by right within the Wellhead Protection District, certain activities may be classified as Conditional or Prohibited Uses under Section 400.320 (Wellhead Protection Ordinance) of the City Code. As such, while this zoning

request aligns with the Comprehensive Plan, any future development will be subject to further review to evaluate environmental impacts and ensure compliance with applicable protection standards. These reviews will occur as site-specific proposals are brought forward for consideration.

**STAFF RECOMMENDATION**

After review of the proposed annexation and zoning, anticipated land uses permitted under the City's Zoning Ordinance, applicable sections of the Comprehensive Plan, and surrounding development patterns and zoning designations, staff finds the request to be appropriate. The Department of Community Development recommends that the application be forwarded to the City Council with a **favorable** recommendation, as submitted.

**Recommended Motions:**

*Motion to forward a recommendation of approval to the City Council for annexation of the subject properties and establishment of zoning via Z-2025-04.*

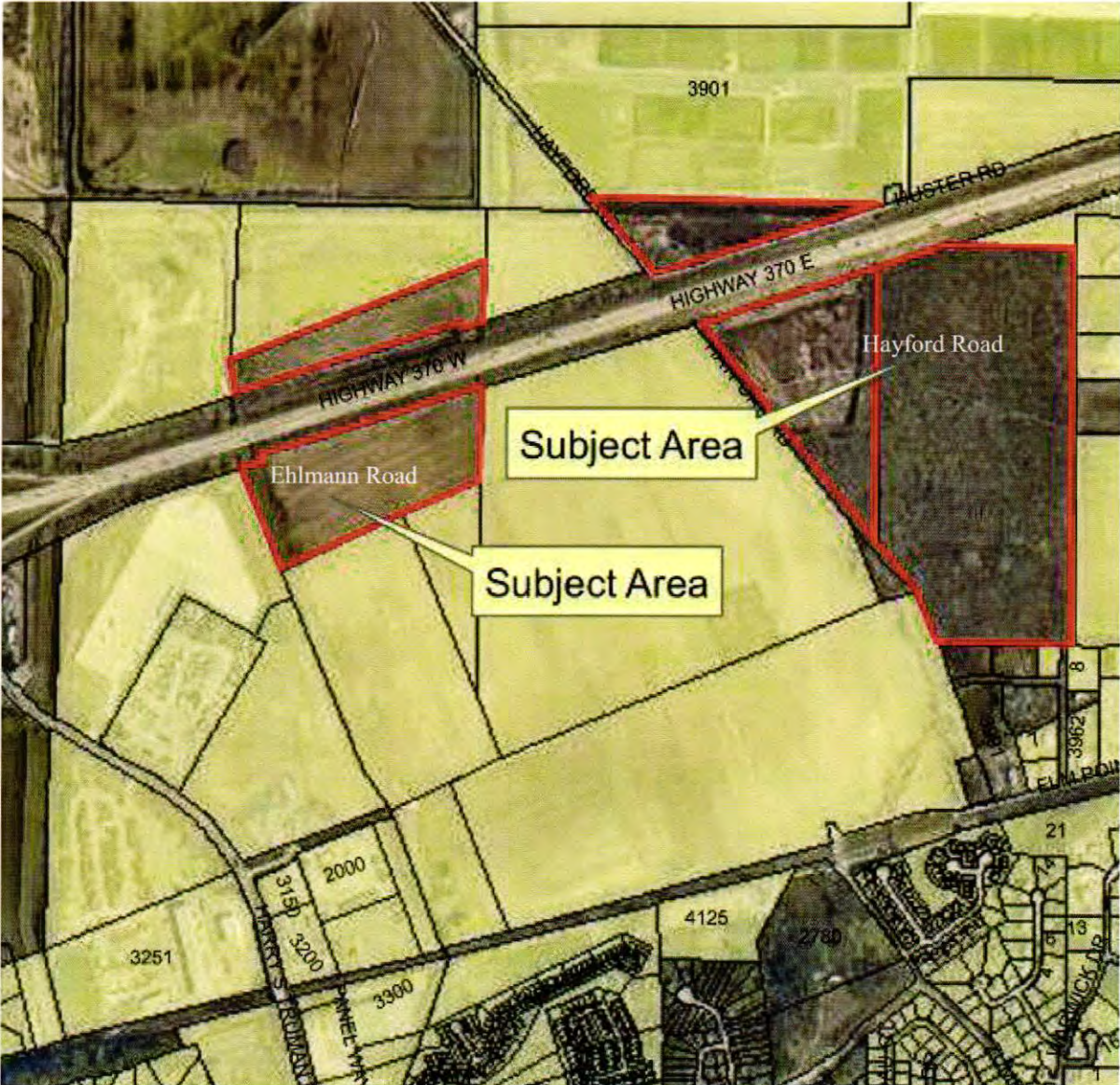


Figure 2: Map of Subject Properties.



*Figure 3: General Area of the Subject Properties.*

## Property Description

Part of a tract of land as conveyed to the Ostmann Family Partnership by instrument recorded in Book 2637, page 786 of the St. Charles County Records, being part West Fractional Half of the Northeast Fractional Quarter of Section 23, Township 47 North, Range 4 East, located in St. Charles County, Missouri, being more particularly described as follows:

Beginning at the Northeast corner of the West Fractional Half of the Northeast Fractional Quarter of Section 23; thence along the east line of said Fractional Quarter; South 00 degrees 14 minutes 01 seconds West, 2,790.77 feet to the north line of Gardnerville Industrial Park, a subdivision according to the plat thereof as recorded in Plat Book 8, Page 17; thence along said north line and its direct northwesterly prolongation thereof, North 88 degrees 43 minutes 28 seconds West, 968.10 feet to its intersection with the northeastern line of US Survey 291; thence along the northeastern and northern lines of said US Survey, the following: North 22 degrees 26 minutes 29 seconds West, 345.23 feet and South 67 degrees 15 minutes 11 seconds West, 0.98 feet; thence North 42 degrees 55 minutes 32 seconds West, 333.22 feet to its intersection with the west line of above said West Fractional Half Northeast Fractional Quarter of Section 23; thence along said west line, North 01 degree 10 minutes 26 seconds East, 1,894.46 feet to its intersection with the southern right-of-way line of State highway 370, variable width; thence along said right-of-way line, North 72 degrees 48 minutes 02 seconds East, 1,080.48 feet to its intersection with the North line of said Section 23; thence along said north line, South 88 degrees 29 minutes 20 seconds East, 267.99 feet to the POINT OF BEGINNING.

Containing 3,375,553 square feet or 77.492 acres, more or less.

Basis of Bearings: Missouri State Plane Grid North; East Zone

PARCEL 2:

ALL THAT PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 23, TOWNSHIP 47 NORTH, RANGE 4 EAST, SITUATED IN ST. CHARLES COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 89 DEGREES 30' WEST 27.79 CHAINS TO THE MIDDLE OF THE PUBLIC ROAD; THENCE ALONG THE MIDDLE LINE OF SAID ROAD SOUTH 39 DEGREES EAST FOLLOWING THE CURVES OF SAID ROAD 43.96 CHAINS TO THE WEST LINE OF FRACTIONAL NORTHEAST QUARTER OF SAID SECTION 23; THENCE NORTH WITH SAID WEST LINE 33.70 CHAINS TO THE PLACE OF BEGINNING CONTAINING 45.85 ACRES; EXCEPTING THEREFROM THAT PART CONVEYED TO THE STATE OF MISSOURI BY DEED RECORDED IN BOOK 1542 PAGE 450 OF THE ST. CHARLES COUNTY, MISSOURI, RECORDS.

GRIGGS PROPERTY

PARCEL 1:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 SOUTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF LOT 3A AND NOTED AS CORNER NUMBER 14 OF THE ESTATE OF J.D. HOLLRAH, PER PLAT RECORDED IN SURVEY RECORD BOOK 3, PAGE 157, OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING NORTH 67 DEGREES 14 MINUTES 56 SECONDS EAST 231.00 FEET FROM THE INTERSECTION OF THE NORTHWESTERLY LINE OF U.S. SURVEY 291 AND THE EASTERLY LINE OF THE ABOVE SAID SECTION 22; THENCE NORTH 22 DEGREES 01 MINUTES 17 SECONDS WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT 3A, A DISTANCE OF 1732.50 FEET TO A SET 1/2 INCH IRON ROD, SET FOR THE NORTHEAST CORNER OF SAID LOT 3A, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREON DESCRIBED TRACT OF LAND; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG THE NORTHWESTERLY LINE OF SAID LOT 3A, A DISTANCE OF 853.36 FEET TO THE EASTERLY LINE OF TRUMAN BUSINESS CENTER PLAT TWO, A SUBDIVISION RECORDED IN PLAT BOOK 47, PAGE 225 OF THE ST. CHARLES COUNTY RECORDS; THENCE NORTH 22 DEGREES 18 MINUTES 10 SECONDS WEST ALONG THE EASTERLY LINE OF SAID TRUMAN BUSINESS CENTER PLAT TWO, A DISTANCE OF 710.41 FEET TO THE SOUTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 159.41 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 30.00 FEET; THENCE NORTH 73 DEGREES 01 MINUTES 41 SECONDS EAST 1350.01 FEET; THENCE NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 106.18 FEET TO THE EAST LINE OF AFOREMENTIONED SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 637.76 FEET TO THE NORTHWESTERLY LINE OF LOT 2A OF THE AFOREMENTIONED J.D. HOLLRAH ESTATE; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG LAST SAID NORTHWESTERLY LINE A DISTANCE OF 506.31 FEET TO THE POINT OF BEGINNING.

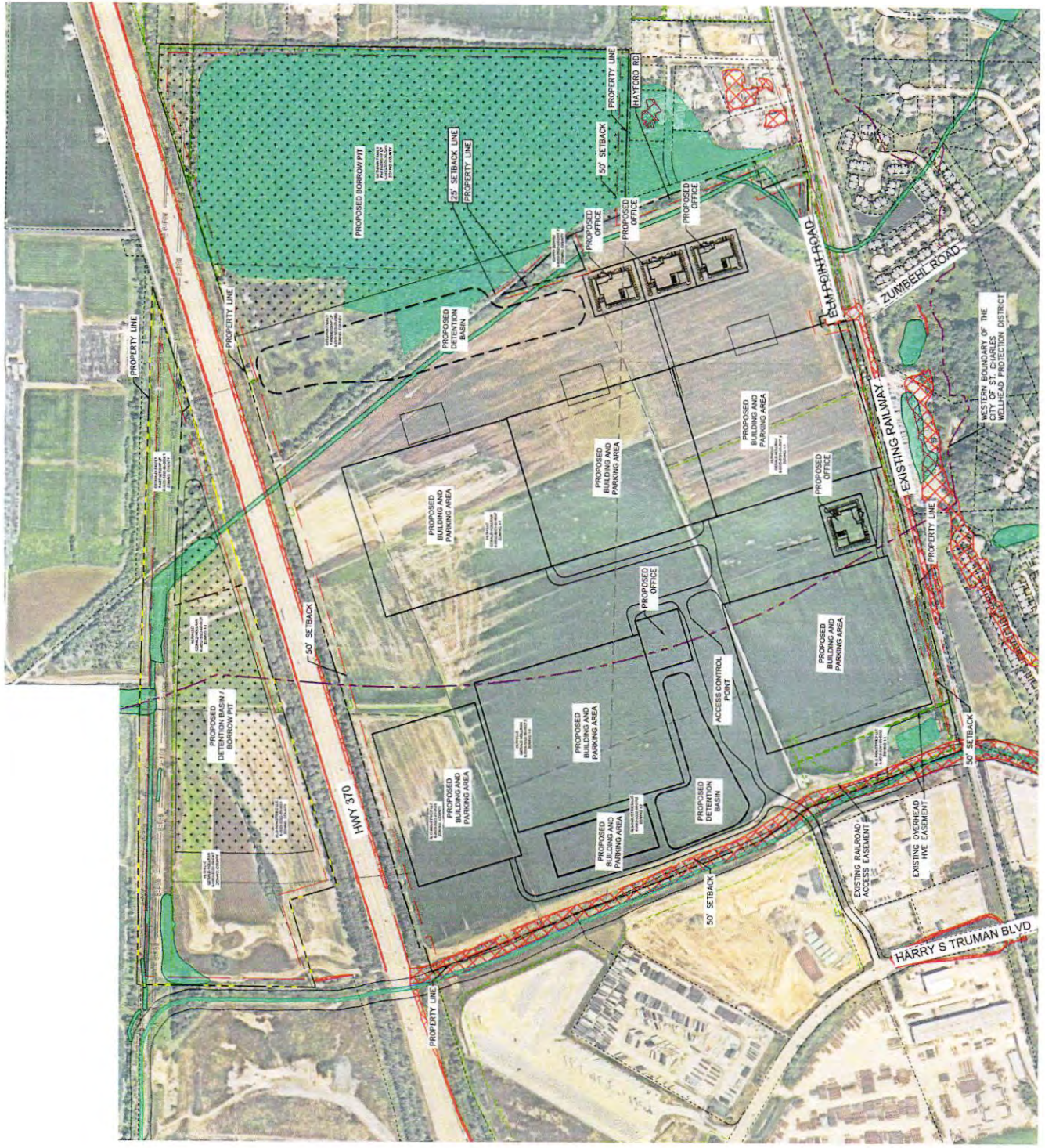
PARCEL 2:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 NORTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF A TRACT OF LAND NOW OR FORMERLY OWNED BY HLRH LLC BY DEED RECORDED IN BOOK 7023, PAGE 613 (PARCEL 1) OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING ON THE EASTERLY LINE OF ABOVE SAID SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 495.66 FEET TO THE NORTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH, AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 1075.68 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 300.00 FEET; THENCE SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 549.60 FEET TO THE EASTERLY LINE OF A TRACT OF LAND NOW OR FORMERLY OWNED BY TEMPEST PROPERTIES, LLC BY DEED RECORDED IN BOOK 6716, PAGE 2338 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE EASTERLY LINE OF SAID TEMPEST PROPERTIES TRACT THE FOLLOWING COURSES AND DISTANCES: NORTH 07 DEGREES 03 MINUTES 07 SECONDS WEST 17.96 FEET; THENCE NORTH 00 DEGREES 48 MINUTES 04 SECONDS EAST 1.69 FEET TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED HLRH LLC TRACT; THENCE NORTH 67 DEGREES 55 MINUTES 50 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID HLRH LLC TRACT A DISTANCE OF 1782.30 FEET TO THE POINT OF BEGINNING.

| SITE LEGEND |  |
|-------------|--|
|             | PROPERTY BOUNDARY                            |
|             | PROPERTY SETBACKS                            |
|             | EXISTING WETLAND PER PUBLICLY AVAILABLE DATA |
|             | EXISTING LOR CONTOURS                        |
|             | EXISTING OVERHEAD POWER LINES                |
|             | EXISTING FEMA ZONE A                         |
|             | PROPOSED STORMWATER POND                     |
|             | EXISTING EASEMENT                            |
|             | EXISTING WETLAND PROTECTION BOUNDARY         |

\*NOTE:  
 FEMA FLOOD ZONE INFORMATION SHOWN PER FEMA FLOOD MAP #2707800108  
 WETLAND AND WATERWAY INFORMATION SHOWN PER U.S. FISH & WILDLIFE SERVICE NATIONAL WETLANDS INVENTORY

VICINITY MAP: NOT TO SCALE



Sponsor: Justin Foust, Michael Galba

AN ORDINANCE REZONING TO ST. CHARLES CITY ZONING DISTRICTS “I-1” LIGHT INDUSTRIAL DISTRICT AND “I-1/WHP” LIGHT INDUSTRIAL DISTRICT WITHIN THE WELLHEAD PROTECTION DISTRICT FROM ST. CHARLES COUNTY ZONING DISTRICTS “A” AGRICULTURAL DISTRICT AND “I1” LIGHT INDUSTRIAL DISTRICT, AN APPROXIMATE 144.25 ACRES OVERALL OF LAND ON EHLMANN ROAD AND HAYFORD ROAD, GENERALLY LOCATED ON THE NORTH AND SOUTH SIDES OF STATE HIGHWAY 370 AND BETWEEN HUSTER ROAD AND HARRY S. TRUMAN BOULEVARD.

- Whereas, an application for rezoning property was received from the owners of this land; and
- Whereas, the Planning and Zoning Commission of the City of Saint Charles, Missouri, considered this application at its May 12, 2025 meeting and made a favorable recommendation (7 in favor, 0 opposed) to the City Council; and
- Whereas, the Council of the City of Saint Charles, Missouri, held a Public Hearing on this proposed zoning; and
- Whereas, citizens were provided an opportunity to speak on this proposed zoning at the Public Hearing.

Now, Therefore, Be It Ordained by the Council of the City of Saint Charles, Missouri, as Follows:

SECTION 1. Chapter 400 of the Code of Ordinances of the City of Saint Charles, Missouri, is hereby amended by making the following changes in the District Zoning map which is on file in the Office of the City Clerk:

An approximate 20.908 acres of land on Ehlmann Road and more particularly described in the attached Exhibit A and Exhibit B, and incorporated by this reference, is rezoned from St. Charles County Zoning District “A” Agricultural District to St. Charles City Zoning District “I-1” Light Industrial District.

An approximate 123.342 acres of land on Hayford Road and more particularly described in the attached Exhibit C and Exhibit D, and incorporated by this reference, is rezoned from St. Charles County Zoning District “I1” Light Industrial District to St. Charles City Zoning District “I-1/WHP” Light Industrial District within the Wellhead Protection Dis.

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

Bill No. 13987

\_\_\_\_\_  
Date Passed

\_\_\_\_\_  
Michael Galba, Presiding Officer

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

Approved as to Form:

Attest:

Holly Magdziarz 5/27/2025  
Holly Magdziarz, City Attorney Date

\_\_\_\_\_  
Kimberly Hudson, City Clerk



**TABLE OF EXHIBITS**

|           |                                       |
|-----------|---------------------------------------|
| Exhibit A | RLG Industries LLC – Parcel 1         |
| Exhibit B | RLG Industries LLC – Parcel 2         |
| Exhibit C | Ostmann Family Partnership – Parcel 1 |
| Exhibit D | Ostmann Family Partnership – Parcel 2 |

GRIGGS PROPERTY

PARCEL 1:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 SOUTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF LOT 3A AND NOTED AS CORNER NUMBER 14 OF THE ESTATE OF J.D. HOLLRAH, PER PLAT RECORDED IN SURVEY RECORD BOOK 3, PAGE 157, OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING NORTH 67 DEGREES 14 MINUTES 56 SECONDS EAST 231.00 FEET FROM THE INTERSECTION OF THE NORTHWESTERLY LINE OF U.S. SURVEY 291 AND THE EASTERLY LINE OF THE ABOVE SAID SECTION 22; THENCE NORTH 22 DEGREES 01 MINUTES 17 SECONDS WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT 3A, A DISTANCE OF 1732.50 FEET TO A SET 1/2 INCH IRON ROD, SET FOR HE NORTHEAST CORNER OF SAID LOT 3A, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREON DESCRIBED TRACT OF LAND; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG THE NORTHWESTERLY LINE OF SAID LOT 3A, A DISTANCE OF 853.36 FEET TO THE EASTERLY LINE OF TRUMAN BUSINESS CENTER PLAT TWO, A SUBDIVISION RECORDED IN PLAT BOOK 47, PAGE 225 OF THE ST. CHARLES COUNTY RECORDS; THENCE NORTH 22 DEGREES 18 MINUTES 10 SECONDS WEST ALONG THE EASTERLY LINE OF SAID TRUMAN BUSINESS CENTER PLAT TWO, A DISTANCE OF 710.41 FEET TO THE SOUTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 159.41 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 30.00 FEET; THENCE NORTH 73 DEGREES 01 MINUTES 41 SECONDS EAST 1350.01 FEET; THENCE NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 106.18 FEET TO THE EAST LINE OF AFOREMENTIONED SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 637.76 FEET TO THE NORTHWESTERLY LINE OF LOT 2A OF THE AFOREMENTIONED J.D. HOLLRAH ESTATE; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG LAST SAID NORTHWESTERLY LINE A DISTANCE OF 506.31 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 NORTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF A TRACT OF LAND NOW OR FORMERLY OWNED BY HLRH LLC BY DEED RECORDED IN BOOK 7023, PAGE 613 (PARCEL 1) OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING ON THE EASTERLY LINE OF ABOVE SAID SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 495.66 FEET TO THE NORTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH, AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 1075.68 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 300.00 FEET; THENCE SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 549.60 FEET TO THE EASTERLY LINE OF A TRACT OF LAND NOW OR FORMERLY OWNED BY TEMPEST PROPERTIES, LLC BY DEED RECORDED IN BOOK 6716, PAGE 2338 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE EASTERLY LINE OF SAID TEMPEST PROPERTIES TRACT THE FOLLOWING COURSES AND DISTANCES: NORTH 07 DEGREES 03 MINUTES 07 SECONDS WEST 17.96 FEET; THENCE NORTH 00 DEGREES 48 MINUTES 04 SECONDS EAST 1.69 FEET TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED HLRH LLC TRACT; THENCE NORTH 67 DEGREES 55 MINUTES 50 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID HLRH LLC TRACT A DISTANCE OF 1782.30 FEET TO THE POINT OF BEGINNING.

## Property Description

Part of a tract of land as conveyed to the Ostmann Family Partnership by instrument recorded in Book 2637, page 786 of the St. Charles County Records, being part West Fractional Half of the Northeast Fractional Quarter of Section 23, Township 47 North, Range 4 East, located in St. Charles County, Missouri, being more particularly described as follows:

Beginning at the Northeast corner of the West Fractional Half of the Northeast Fractional Quarter of Section 23; thence along the east line of said Fractional Quarter; South 00 degrees 14 minutes 01 seconds West, 2,790.77 feet to the north line of Gardnerville Industrial Park, a subdivision according to the plat thereof as recorded in Plat Book 8, Page 17; thence along said north line and its direct northwesterly prolongation thereof, North 88 degrees 43 minutes 28 seconds West, 968.10 feet to its intersection with the northeastern line of US Survey 291; thence along the northeastern and northern lines of said US Survey, the following: North 22 degrees 26 minutes 29 seconds West, 345.23 feet and South 67 degrees 15 minutes 11 seconds West, 0.98 feet; thence North 42 degrees 55 minutes 32 seconds West, 333.22 feet to its intersection with the west line of above said West Fractional Half Northeast Fractional Quarter of Section 23; thence along said west line, North 01 degree 10 minutes 26 seconds East, 1,894.46 feet to its intersection with the southern right-of-way line of State highway 370, variable width; thence along said right-of-way line, North 72 degrees 48 minutes 02 seconds East, 1,080.48 feet to its intersection with the North line of said Section 23; thence along said north line, South 88 degrees 29 minutes 20 seconds East, 267.99 feet to the POINT OF BEGINNING.

Containing 3,375,553 square feet or 77.492 acres, more or less.

Basis of Bearings: Missouri State Plane Grid North; East Zone

PARCEL 2:

ALL THAT PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 23, TOWNSHIP 47 NORTH, RANGE 4 EAST, SITUATED IN ST. CHARLES COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 89 DEGREES 30' WEST 27.79 CHAINS TO THE MIDDLE OF THE PUBLIC ROAD; THENCE ALONG THE MIDDLE LINE OF SAID ROAD SOUTH 39 DEGREES EAST FOLLOWING THE CURVES OF SAID ROAD 43.96 CHAINS TO THE WEST LINE OF FRACTIONAL NORTHEAST QUARTER OF SAID SECTION 23; THENCE NORTH WITH SAID WEST LINE 33.70 CHAINS TO THE PLACE OF BEGINNING CONTAINING 45.85 ACRES; EXCEPTING THEREFROM THAT PART CONVEYED TO THE STATE OF MISSOURI BY DEED RECORDED IN BOOK 1542 PAGE 450 OF THE ST. CHARLES COUNTY, MISSOURI, RECORDS.

**Council Work Session of the City Council  
Of the City of Saint Charles, Missouri  
May 13, 2025**

---

The City Council of the City of Saint Charles, Missouri convened in a Work Session at 6:00 p.m. on Tuesday, May 13, 2025, in the Council Chambers of City Hall, 200 North Second Street, Saint Charles, Missouri, with President of the Council Michael Galba presiding and the Members of the Council present as follows: Justin Foust, Brian Gould, Bart Haberstroh, Mark Hollander, Steve Hollander, Denise Mitchell, Bill Otto, Vince Ratchford, and Mary West. Absent: None. City Clerk Kimberly Hudson was present and performed the duties of that Office.

Community Development: Planning Division Projects Update Presentation

Director of Community Development Zach Tusinger reported the Comprehensive Plan project is currently in progress. A task force appointed by the Mayor has been meeting monthly to advise on the project. Assistant Director of Community Development and Planning Manager John Boyer delivered a presentation outlining the project's status. Mr. Boyer's presentation covered the definition of a Comprehensive Plan, a review of the existing 2012 Plan, the formation of the Mayor-appointed task force, land use review and the project timeline. Mr. Boyer noted that this entire project has been done by city staff with no outside expenditures. He anticipates presenting the final Comprehensive Plan to the City Council in the third quarter of 2025.

Mr. Boyer continued his presentation with an update to the Sign Code Rewrite project. He reported that staff engaged an industry expert to assist in reviewing and revising the current sign code. The project involves a comprehensive rewrite of the current code, incorporating updates based on recent case law (e.g., content neutrality). The revised code aims to increase flexibility for businesses and developers, address recurring variance issues and modernize and streamline the overall process. Mr. Boyer also reviewed key proposed changes and provided an update on the project timeline.

Sunshine Law Presentation

Acting City Attorney Holly Magdziarz provided a brief training presentation to Councilmembers on the Missouri Sunshine Law. The presentation covered public and closed meetings, records requirements under Chapter 610, RSMo., and included an overview of rules and policies related to City Council ethics, including conflicts of interest and recusals.

**Council Work Session of the City Council  
Of the City of Saint Charles, Missouri  
May 13, 2025**

---

City Centre Complex (C3) Update Presentation

Assistant Director of Administration Brad Temme delivered a presentation relative to the C3 project progress and budget. He provided an overview of key components of the project: Proposition C, City Hall/Parking Garage, Senior Center, Recreation Center and the Farmer's Market. The presentation concluded with an update relative to the budget of the project and project schedule.

Councilmember Mitchell voiced concerns relative to the parking garage layout, specifically the ability for vehicles to turn around if no spaces are available. Mr. Temme indicated staff would explore reconfiguring the spaces to accommodate turnarounds.

Councilmember Ratchford suggested placing a commemorative plaque on the completed City Centre Complex listing all Councilmembers who served from the passage of Proposition P in April 2024 through project completion.

Councilmember Steve Hollander expressed concerns regarding the number of windows and their impact on lighting for media purposes, and also recommended incorporating more curvature into dais design.

Councilmember Mitchell voiced additional concerns regarding the proposed sign color for the Recreation Center, suggesting it should reflect the historic character of the area. She also recommended exploring grant opportunities if the indoor track is constructed using recycled rubber tires.

Councilmember Otto requested clarification on budget numbers and Councilmember Mitchell inquired about space for the St. Charles County Historical Society. Mayor Borgmeyer reported he is working on acquiring space for the Historical Society and is seeking support from other municipalities, noting it serves the entire County.

**Council Work Session of the City Council  
Of the City of Saint Charles, Missouri  
May 13, 2025**

---

Closed Session

At 7:40 p.m. a motion was made by MICHAEL GALBA to adjourn into closed session pursuant to RSMo 610.021(1), RSMo 610.021(2), RSMo 610.021(3) and RSMo 610.021(12), as amended. MARK HOLLANDER seconded the motion. A roll call vote was taken with the following results: "Aye": Galba, Gould, Haberstroh, M. Hollander, S. Hollander, Mitchell, Otto, Ratchford and West. "Nay": None. Absent: None. Motion passed.

The closed portion of the Council Work Session Meeting adjourned at 9:20 p.m.

A motion was made by VINCE RATCHFORD to adjourn the open portion of the Council Work Session. BILL OTTO seconded the motion. All voted in favor. Motion passed.

---

Date Approved

---

Kimberly Hudson, City Clerk

---

Michael Galba, Presiding Officer

**Council Work Session of the City Council  
Of the City of Saint Charles, Missouri  
May 20, 2025**

---

The City Council of the City of Saint Charles, Missouri convened in an open work session at 6:15 p.m. on Tuesday, May 20, 2025, at City Hall, Conference Room A, Fourth Floor, Saint Charles, Missouri. Councilmembers in attendance were: Justin Foust, Michael Galba, Brian Gould, Bart Haberstroh, Mark Hollander, Steve Hollander, Denise Mitchell, Bill Otto, Vince Ratchford and Mary West. Absent: None. City Clerk Kimberly Hudson was present and performed the duties of that office.

Closed Session

A roll call vote was taken to adjourn into closed session pursuant to RSMo 610.021(1), RSMo 610.021(2), RSMo 610.021(3), RSMo 610.021(12) and RSMo 610.021(13); as amended with the following results: “Aye”: Foust, Galba, Haberstroh, Hollander, Mitchell, Otto, Ratchford and Flandermeyer. “Nay”: None. Absent: Ohmes and West. Motion passed.

The closed portion of the Council Work Session adjourned at 7:10 p.m.

DENISE MITCHELL made a motion to adjourn the open portion of the Council Work Session. VINCE RATCHFORD seconded the motion. All voted in favor. Motion passed.

---

Date Approved

---

Kimberly Hudson, City Clerk

---

Michael Galba, Presiding Officer

**LANDMARKS BOARD - MINUTES**  
**April 21, 2025**  
**City Council Chambers, Fourth Floor City Hall**  
**200 North Second Street**  
**St. Charles, MO 63301**

**MEMBERS PRESENT**

Jill Ryan, Vice Chair  
Michelle Beucke  
Dave Settle  
Tom Smith  
John Donnelly  
Denise Mitchell, Council Liaison

**STAFF PRESENT**

Taylor Moore, Preservation Planner

Absent: Steve Martin, Chair

On Monday, April 21, 2025, at 6:00 p.m., the City of St. Charles Landmarks Board held its regular monthly meeting in the Council Chambers on the fourth floor of City Hall.

**1. Call to order and the roll.**

*The meeting was called to order by Jill Ryan at 6p.m. Taylor Moore called the roll.*

**2. Pledge of Allegiance.**

**3. Consent Agenda**

(A) Case No. EC-2025-010 201 Perry Street. Renewal by Anderson. The applicant is requesting approval to replace the rear doors on the dwelling [Extended Historic Preservation District, Ward 2].

(B) Case No. EC-2025-011 311 Pike Street. Amy Mixen. The applicant is requesting approval to install new siding on the dwelling [Extended Historic Preservation District, Ward 2].

(C) Case No. EC-2025-017 1100 North 5<sup>th</sup> Street. M & M Custom Fence and Deck. The applicant is requesting approval to install a new privacy fence on the property [Frenchtown Preservation District, Ward 1].

(D) Case No. EC-2025-018 213 North Main Street. Bruce Schwerdt. The applicant is requesting approval to install two new windows on the structure [Historic Downtown District, Ward 1].

*This item was removed.*

(E) Case No. EC-2025-019 211 Reservoir Street. Fredrick Lauer. The applicant is requesting approval to construct a new front porch on the dwelling [Extended Historic Preservation District, Ward 2].

*This item was removed.*

*Denise Mitchell made a motion to approve the remaining balance of the consent agenda, Michelle Beucke seconded the motion. All were in favor (6-0).*

**4. Removed Consent Items**

(A) Case No. EC-2025-018 213 North Main Street. Bruce Schwerdt. The applicant is requesting approval to install two new windows on the structure [Historic Downtown District, Ward 1].

*Bruce Schwerdt was present to answer questions for the Board. Michelle Beucke made a motion to approve the application, Tom Smith seconded the motion. All were in favor (6-0).*

- (B) Case No. EC-2025-019 211 Reservoir Street. Fredrick Lauer. The applicant is requesting approval to construct a new front porch on the dwelling [Extended Historic Preservation District, Ward 2].

***Fredrick Lauer was present to answer questions for the Board. Michelle Beucke made motion to approve the application, John Donnelly seconded the motion. All were in favor (6-0).***

## 5. Sign Permit Applications

- (A) Sign Permit No. 2025-944 901 1<sup>st</sup> Capitol Drive. Reach St. Charles. The applicant is requesting approval to install a new wall mounted sign for the business “Reach St. Charles” [Extended Historic Preservation District, Ward 2].

***Representatives from Reach St. Charles were present to answer questions for the Board. Michelle Beucke made motion to approve the sign application, Denise Mitchell seconded the motion. All were in favor (6-0).***

- (B) Sign Permit No. 2025-1029 1106 North 2<sup>nd</sup> Street. Marcia Randoll. The applicant is requesting approval to install new window signs for the business “La Riviere Events” [Frenchtown Preservation District, Ward 1].

***Russ Randoll present to answer questions for the Board. Michelle Beucke made a motion to approve the sign application. Tom Smith seconded the motion. All were in favor (6-0).***

- (C) Sign Permit No. 2025-1481 143 North Main Street. Rhonda Hollingsworth. The applicant is requesting approval to install a new awning sign for the business “Sage & Pine Home Co.” [Historic Downtown District, Ward 1].

***Rhonda Hollingsworth was present to answer questions for the Board. Tom Smith made a motion to approve the sign application. Michelle Beucke seconded the motion. All were in favor (6-0).***

- (D) Sign Permit No. 2025-1705 1312 North 2nd Street. Maurice Robinson. The applicant is requesting approval to install a new wall-mounted sign for the business “Big Mo’s BBQ” [Frenchtown Preservation District, Ward 1].

***Maurice Robinson was present to answer questions for the Board. Denise Mitchell made a motion to approve the sign application. Tom Smith seconded. All were in favor (6-0).***

- (E) Sign Permit No. 2025-1717 911 North 2nd Street. Derek Heidorn. The applicant is requesting approval to install a new wall-mounted sign for the business “Ink-Remedy” [Frenchtown Preservation District, Ward 1].

***Derek Heidorn was present to answer questions for the Board. Michelle Beucke made a motion to approve the sign application. Tom Smith seconded. All were in favor (6-0).***

## 6. Structure Review

- (A) Case No. EC-2025-012 550 Morgan Street. Scott Doughman. The applicant is requesting approval install three new windows on the dwelling [Commons Preservation District, Ward 1].

***The homeowner Madeline Young was present to answer questions for the Board. Michelle Beucke made a motion to approve the new windows on the dwelling. Denise Mitchell seconded the motion. All were in favor (6-0).***

- (B) Case No. EC-2025-008 409 Clark Street. Chris Carver. The applicant is requesting approval to install new windows and doors on the property, and to remove an existing chimney [Extended Historic Preservation District, Ward 1].

**Chris Carver was present to answer questions for the Board. Tom Smith made a motion to approve the exterior alterations. John Donnelley seconded the motion. All were in favor (6-0).**

- (C) Case No. EC-2025-014 401 Houston Street. Karen Dunman. The applicant is requesting approval to install new siding on the dwelling [Extended Historic Preservation District, Ward 1].

**Goat Construction was present to answer questions for the Board. Denise Mitchell made a motion to approve the new siding. Michelle Beucke seconded the motion. All were in favor (6-0).**

- (D) Case No. SP-2025-002 410 Houston Street. David Deep. The applicant is requesting approval to construct a carport off an existing garage in the rear of the property [Extended Historic Preservation District, Ward 1].

**David Deep was present to answer questions for the Board. Michelle Beucke made a motion to approve the carport. Tom Smith seconded the motion. All were in favor (6-0).**

- (E) Case No. EC-2025-013 922 South 3rd Street. Renewal by Anderson. The applicant is requesting approval to install a new front door and transom on the dwelling [Extended Historic Preservation District, Ward 2].

**Tony with Renewal by Anderson was present to answer questions for the Board. Michelle Beucke made a motion to approve the application subject to door option 3 (3/4 glass panel) door be installed. Denise Mitchell seconded the motion. All were in favor (6-0).**

- (F) Case No. D-2025-003 1901 North 2<sup>nd</sup> Street. SLT Demolition LLC. The applicant is requesting approval to demolish the fast food restaurant structure on the property [Frenchtown Preservation District, Ward 1].

**Steve Milles the property owner was present to answer questions for the Board. Denise Mitchell made a motion to find the structure historically significant. Michelle Beucke seconded the motion. None were in favor, all were opposed (0-6). The structure was found not-historically significant and permitted to be removed.**

- (G) Case No. EC-2025-015 701-703 Clark Street. Brighter Homes Investments. The applicant is requesting after-the-fact approval to install new windows and doors on the dwelling [Extended Historic Preservation District, Ward 1].

**Felina Higby, the homeowner, was present to answer questions for the Board. Tom Smith made a motion to approve the after-the-fact alterations. Michelle Beucke seconded the motion. All were in favor (6-0).**

- (H) Case No. EC-2025-016 800 Washington Street. Tom Hutchinson. The applicant is requesting approval to install low-rise steps off the dwelling. [Extended Historic Preservation District, Ward 1].

**Tom Hutchinson with Restore St. Charles was present to answer questions for the Board. Denise Mitchell made a motion to approve the proposed steps. Dave Settle seconded the motion. All were in favor (6-0).**

- (I) Case No. EC-2025-020 1010 North 3<sup>rd</sup> Street. Gerard C. Johns. The applicant is requesting approval to construct an addition off the rear garage [Frenchtown Preservation District, Ward 1].

**Gerard C. Johns was present to answer questions for the Board. Michelle Beucke made a motion to approve the addition to the rear garage. Denise Mitchell seconded the motion. All were in favor (6-0).**

7. Announcements/Reports from Officers –

- Taylor Moore discussed with the Board the Missouri Main Street Conference that will be July 23-24, 2025 hosted in St. Charles. A Resolution was presented that was required for the Grant the City applied to in order to send Staff and Board Members to the Conference.
- Denise Mitchell mentioned during a City Council work session it was discussed to showcase Façade Grant award-winners with a sign in a yard.
- Denise Mitchell informed the Board the Landmarks Awards will be received at the May 20, 2025 City Council Meeting.


8. Staff Report – Christi Tennyson introduced as a candidate for the Lindenwood Neighborhood Chair Position

9. Approval of February 24, 2025 Meeting Minutes - Michelle Beucke made a motion to approve the minutes, Denise Mitchell seconded the motion. Five were in favor, 0 opposed, 1 abstained (6-0-1).

10. Approval of February 27, 2025 Subcommittee Minutes – Denise Mitchell made a motion to approve the minutes with the amendment to add Gene Wood’s Memorial award to be added to be on the May 20, 2025 City Council award ceremony. Michelle Beucke seconded the motion. All were in favor (6-0).

11. Adjournment

Michelle Beucke made a motion to adjourn, Tom Smith seconded. All were in favor (6-0). The meeting was adjourned at 6:36p.m.

  
\_\_\_\_\_  
SECRETARY

05/19/2025  
\_\_\_\_\_  
DATE

**PLANNING AND ZONING COMMISSION - MINUTES**

**April 14, 2025**

**City Hall – Council Chambers  
200 N Second Street, 4<sup>th</sup> Floor  
St. Charles, MO 63301**

**MEMBERS PRESENT:**

Steve Hollander, Chair  
Julie Bartch, Vice-Chair  
Missy Palitzsch, Secretary  
Adriana Perrone  
Mayor Dan Borgmeyer  
Michael Galba, City Council Liaison  
Tyson King  
Lindsey Devereux  
Keith Liston

**MEMBERS ABSENT**

Shawn Luesse

**STAFF PRESENT:**

John Boyer, Assist. Director of C.D./Planning Manager  
Lara Berry, Planner  
Madelyn Eversman, Planner

A regular meeting of the St. Charles Planning and Zoning Commission was held on **Monday, April 14, 2025**, beginning at 6:00 p.m. on the fourth floor of City Hall Chambers, 200 North Second Street, St. Charles, Missouri.

*The meeting was called to order by Chairperson, Steve Hollander at 6:00 p.m. Secretary, Missy Palitzsch took roll. Those in attendance are noted above.*

1. Call to order and the roll.
2. The Pledge of Allegiance.
3. Approve the minutes of the March 10, 2025 Planning and Zoning Commission meeting.

*Mayor Borgmeyer made a motion to approve the minutes. Missy Palitzsch seconded the motion. All were in favor. The minutes were approved.*

---

**SITE PLAN**

4. Case No. SP-2025-03. (Clement Management Services) A site plan application for a new office and vehicle maintenance building within the C-2 General Business district located at 3707 Veterans Memorial Parkway Drive. The subject property is located in Ward 6.

*Planner Madelyn Eversman provided the Commission with an overview of the Site Plan request. The applicant's architect addressed the Commission. Lindsey Devereux made a motion to approve the Site Plan application, with the following conditions:*

1. **If an incentive package is approved by the City, additional landscaping shall be provided as a part of the incentive program negotiated with the City of St. Charles.**

*Julie Bartch seconded the motion. All were in favor. Motion carried.*

**PUBLIC HEARING: Conditional Use**

5. Case No. CU-2025-04. (Susan Rhodes) An application for a Conditional Use Permit per §400.280(B)(2) for a philanthropic meeting facility use within the CRD-II/EHP Central Residential District Two within the Extended Historic Preservation District at 601 S 4<sup>th</sup> Street. The subject property is located in Ward 2.

*Planner Eversman provided the Commission with an overview of the Conditional Use Permit request. The applicant addressed the Commission. The public hearing for the application opened with no speakers from the public. Julie Bartch made a motion to close the public hearing. Lindsey Devereux seconded the motion. All were*

in favor and the public hearing closed. Missy Palitzsch made a motion to forward the Conditional Use application, with the following conditions:

1. **This conditional use permit for a meeting facility use is issued to the applicant (Susan Rhoads) and business (The Space for Her LLC) only for the property located at 601 S 4<sup>th</sup> Street and is not transferable to another location and/or tenant/business.**
2. **Any change to the submitted proposal, including but not limited to hours of operation, expansion of use, etc. may require additional City approval.**
3. **The accessory meeting facility use for private events shall remain secondary, and not supersede the primary Philanthropic Meeting Facility Use.**
4. **This establishment shall maintain the occupancy limitation as established by the Fire Marshal.**
5. **Non-compliance with any building codes, property maintenance codes, fire codes or conditions of this approval is grounds for revocation of the conditional use approval.**

Lindsey Devereux seconded the motion. The Conditional Use application will be forwarded to the City Council with a favorable recommendation (9 In Favor, 0 Opposed) at their May 6, 2025 meeting.

Chairperson Hollander turned the meeting over to Vice-Chairperson Bartch for the next item on the agenda.

**PUBLIC HEARING: Conditional Use**

6. Case No. CU-2025-03. (Classic Car Studio LLC) An application for a Conditional Use Permit per §400.220(C)(1)(c) for Motor Vehicle Sales within the C-2 General Business District at 101 Arco Drive. The subject property is located in Ward 6.

Planner Eversman provided the Commission with an overview of the Conditional Use Permit request. The applicant addressed the Commission. The public hearing for the application opened with no speakers from the public. Mayor Borgmeyer made a motion to close the public hearing. Councilmember Galba seconded the motion. All were in favor and the public hearing closed. Missy Palitzsch made a motion to forward the Conditional Use application, with the following conditions:

1. **This conditional use permit for a Motor Vehicle Sales use is issued to the property/business owner (Classic Car Studio LLC) only for the property at 101 Arco Drive and is not transferable to another tenant or location.**
2. **No balloons, pennants, streamers, flags, inflatable figures, or banners may be used on the property unless specifically permitted by the City's Sign Code.**
3. **Non-compliance with any building code, property maintenance codes, fire codes, or conditions of this approval is grounds for revocation of the conditional use approval.**

Lindsey Devereux seconded the motion. The Conditional Use application will be forwarded to the City Council with a favorable recommendation (8 In Favor, 0 Opposed, 1 Abstention) at their May 6, 2025 meeting.

Vice-Chairperson Bartch turned the meeting over to Chairperson Hollander for the remainder of the agenda.

**PUBLIC HEARING: Conditional Use**

7. Case No. CU-2025-05. (PM Design Group – Justin Coffman) An application for a Conditional Use Permit per §400.220(C)(1)(f) for Secondhand Sales (thrift store) within the C-2 General Business District located at 1690 Country Club Plaza Drive. The subject property is located in Ward 4.

Planner Lara Berry provided the Commission with an overview of the Conditional Use Permit and Site Plan (Agenda Item #8) requests. A representative of the proposed tenant addressed the Commission. The public

hearing for the application opened with no speakers from the public. Missy Palitzsch made a motion to close the public hearing. Julie Bartch seconded the motion. All were in favor and the public hearing closed. Missy Palitzsch made a motion to forward the Conditional Use application, with the following conditions:

1. **This Conditional Use Permit for secondhand sales (thrift store) is issued to Savers, only for the property located at 1690 Country Club Plaza Drive and is not transferable to another location and/or tenant/business.**
2. **The hours of operation are listed as 10:00 am to 9:00 pm Monday through Saturday and 10:00 am to 7:00 pm on Sunday. Upon sufficient cause, the Department of Community Development may adjust these hours at the request of the applicant.**
3. **For ease of Noise Control enforcement, the trash compactor schedule should follow the operations schedule listed within the applicant's Justification Letter.**
4. **No outdoor display of merchandise is permitted, unless otherwise permitted by the Zoning Code.**
5. **The Donation Center shall be posted with signage clearly identifying permitted hours for drop-off, in addition to "No Dumping" and video surveillance signage.**
6. **All unauthorized donation drop-offs shall be removed from the exterior of the property immediately upon opening. Failure to comply with this condition is grounds for revocation of the conditional use approval.**
7. **All donation carts shall be stored within a cart corral during regular business hours and stored inside during non-donation drop-off hours.**
8. **No temporary tents are permitted, unless otherwise permitted by the Zoning Code.**
9. **Non-compliance with any building codes, property maintenance codes, fire codes, noise control codes, ordinances concerning disturbances or conditions of this approval is grounds for revocation of the conditional use approval.**

*Julie Bartch seconded the motion. The Conditional Use application will be forwarded to the City Council with a favorable recommendation (9 In Favor, 0 Opposed) at their May 6, 2025 meeting.*

#### **SITE PLAN**

8. Case No. SP-2025-04. (PM Design Group – Justin Coffman) A site plan application for the proposed site improvements associated with a Secondhand Sales (thrift store) use within the C-2 General Business District located at 1690 Country Club Plaza Drive. The subject property is located in Ward 4.

*Planner Berry provided the Commission with an overview of the Site Plan request with Agenda Item #7. Councilmember Glaba made a motion to approve the Site Plan application, with the following conditions:*

1. **This Site Plan shall be null and void if the Conditional Use Permit (CU-2025-05) is not approved by the City Council.**
2. **A cart corral shall be provided in the staging area to organize and secure the donation carts.**

*Missy Palitzsch seconded the motion. All were in favor. Motion carried.*

**PUBLIC HEARING: Text Amendment**

9. Case No. TA-2025-03. (The City of St. Charles) An application to amend Chapter 400 Zoning Code of the Code of Ordinances, to remove/repeal the Residential Parking Permit District (RPPD) from the Zoning Code.

*Planner Eversman provided the Commission with an overview of the Text Amendment request. The public hearing opened with no speakers from the public. Julie Bartch made a motion to close the public hearing. Missy Palitzsch seconded the motion. All were in favor and the public hearing closed. Missy Palitzsch made a motion to forward the application. Julie Bartch seconded the motion. The Text Amendment application will be forwarded to the City Council with a favorable recommendation (9 In Favor, 0 Opposed) at their May 6, 2025 meeting.*

**PUBLIC HEARING: Text Amendment**

10. Case No. TA-2025-04. (The City of St. Charles) An application to amend Chapter 400 Zoning Code of the Code of Ordinances, specifically to allow for more than one (1) building per lot within Industrial Zoning Districts.

*Planner Berry provided the Commission with an overview of the Text Amendment request. The public hearing opened with no speakers from the public. Missy Palitzsch made a motion to close the public hearing. Julie Bartch seconded the motion. All were in favor and the public hearing closed. Missy Palitzsch made a motion to forward the application. Julie Bartch seconded the motion. The Text Amendment application will be forwarded to the City Council with a favorable recommendation (9 In Favor, 0 Opposed) at their May 6, 2025 meeting.*

**ADMINISTRATIVE ITEMS:**

11. Comprehensive Plan Updates

*Assistant Director & Planning Manager John Boyer provided an update regarding the Goals and Actions of the Comprehensive Plan Update. Discussions with the Planning & Zoning Commission followed.*


*Chairperson Hollander announced that this would be his last meeting with the Planning & Zoning Commission, as he will be taking on a new role as a City Councilmember.*

**Adjournment**

*The next regular meeting of the Planning and Zoning Commission is scheduled for **May 12, 2025.***

*Mayor Borgmeyer made a motion to adjourn the meeting. Lindsey Devereux seconded the motion. All were in favor. The meeting adjourned at 6:55 p.m.*

  
SECRETARY

  
DATE

**SAINT CHARLES PARKS & RECREATION BOARD MINUTES  
MEETING HELD  
MARCH 19, 2025**

The meeting was **Called to Order** by President Bichel at 6:00pm in the American Legion Room in Memorial Hall. **Roll Call** noted the following present for the meeting:

**Board** Sandy Bichel, Kathy Mudrovic, Larry Muench, Anne Zerr, Mike Ryan, Brian Scheidegger, Tim Glosier, and Anna Shy were present. TJ Slattery and Council Liaison Mary West were absent.

**Staff** Maralee Britton - Director, Chris Atkinson – Assistant Director.  
Mike Wilkins – Chief Park Ranger, Don Borgmeyer – Enterprise Superintendent,  
Peter VanLinn – Maintenance Superintendent.

**Others** Holly Magdziarz - Acting City Attorney, D. Todd Reineke, Dan Foust, Justin Foust.

**3. Pledge of Allegiance**

**4. Verbal Petitions/Public Comments and Response:**

Mr. Reineke referred to the documents that he had provided to the Park Board in their packet. He talked about a meeting that took place at the Library where it was discussed about the possibility of doing an initiative that would require voters approve any sales of park land in St. Charles in the future.

Mr. Reineke's concern about the sale of the soccer complex is that the people who used the fields at the complex in the past have the ability to still use fields in the system. Atkinson and Borgmeyer explained that they have been working with several groups that will be playing games and practices out at the fields in McNair Day Camp and/or Wapelhorst Park.

The Board thanked Mr. Reineke for his comments.

**5. Staff Reports/Presentations: None**

**6. Items for Discussion and/or Action-**

**A. Discussion and Consideration of a Maibaum Pole Community Project in Frontier Park\***

Dan Foust and Justin Foust presented the concept of adding a “Maibaum Pole” to the triangle grass area that is in Frontier Park at the end of First Capital Road next to the Jaycee Stage. The was originally an idea by Joe Daus who is part of the Sister Cities Group. The approx. 30 foot tall pole would be a visual representation of the history of St. Charles and planning for the project would involve multiple representatives from the City, Sister Cities, Parks Foundation, Parks Board, Oktoberfest and Jaycees. The pole is estimated to cost \$100,000 with the goal of raising the funds privately to purchase and install the pole. Currently the Parks Foundation has pledged \$20,000 to the project. The request was made for Department staff to be involved in the construction of the pole base area. The goal is to get this accomplished by the 2025 Oktoberfest event.

Muench volunteered to take part in the meetings.

Muench made a motion to support the addition of the Maibaum Pole Project in Frontier Park; seconded by Mudrovic. Motion Passed.

**B. Contract with Dedicated Turf & Landscaping LLC. to complete the 2025 contracted mowing services in an amount not to exceed \$41,000\***

**C. Contract with Spectrum Lawn Care to complete the 2025 contracted mowing services in an amount not to exceed \$22,000\***

**D. Contract with Contemporary Landscape to complete the 2025 contracted mowing services in an amount not to exceed \$27,000\***

Ryan made a motion to approve the contracts in Agenda Item 6B, 6C & 6D; seconded by Scheidegger. Motion Passed.

**E. Contract with Kimberly J. Mathis, Esq., LLC for legal services not to exceed \$20,000\***

Bichel requested that this item be discussed later in Closed Session.

**F. Request City Council President Galba Reassign a Parks and Recreation Board Council Liaison Due to Conflict of Interest by Council Member West\***

Muench made a motion to make the request; seconded by Shy. Roll Call Vote.

Roll Call: Sandy Bichel – Yes, Tim Glosier - Yes,– Kathy Mudrovic - Yes, Larry Muench - Yes, Mike Ryan – Yes, Brian Scheidegger - Yes, Anna Shy – Yes, TJ Slattery - Absent, Anne Zerr – Yes. Motion passed.

**G. Consideration for Approval of Revisions to the Recreation Trip Policy\***

Zerr made a motion to approve the revised trip policy; seconded by Ryan. Motion Passed.

**7. Meeting Minutes:**

**A. Parks & Recreation Board Work Session Meeting Minutes March 5, 2025\***

Muench made a motion to approve the meeting minutes; seconded by Mudrovic. The motion passed.

**8. Consent Agenda (Items to be received):**

The Consent Agenda was then addressed, which included the following:

- A. Calendar
- B. Financial Worksheets and Project Report
- C. Accounts Receivable Report
- D. Financial Transactions from \$10,000 to \$15,000- None
- E. Oak Grove Cemetery Report

Zerr made a motion to approve the consent agenda; Seconded by Glosier. The motion passed.

**9. Items Removed from the Consent Agenda: None**

**10. Presidents Announcements and Reminders:**

Bichel reminded the Board Members that there was a May 1, 2025 deadline to return the Ethics form to Director Britton.

11. **Directors Report:**

A. **Thank You's (As Available)**

B. **General Department Update**

Britton updated the Board that hiring was going well for all the summer seasonal positions. Also stated that at the April 2<sup>nd</sup>, 2025 Work Session staff would be prepared to present and discuss recommendations for the Wapelhorst Athletic Complex Improvements and for a Phasing Approach to the 97 Acre Park Recreational Site.

12. **Board Member Announcements and Reminders:** None

13. **Council Liaison Announcements and Reminders:** None

14. **Park Board Liaisons Comments**

A. **Foundation Report:**

Mudrovic provided an update about the Foundation. Mark Knoblauch is the new President and they are looking into increasing their visibility through an increased presence on social media, restarting the Friends of the Parks Program with the long term goal of potentially bringing a paid staff member on board to assist/run the Foundation's business.

B. **Legislative Report:**

Britton updated the Board on several bills at the State that could potentially impact local Parks & Recreation Departments. One was in relation to the Sunshine Law and Records and the other was about the Minimum Wage Proposition passed by the votes in 2024.

At 7:11 pm Zerr Made a Motion to go into Closed Session to discuss;

A. Legal actions, causes of action, or litigation. (RSMo 610.021.1)

Seconded by Mudrovic.

Roll Call: Sandy Bichel – Yes, Tim Glosier - Yes,– Kathy Mudrovic - Yes, Larry Muench - Yes, Mike Ryan – Yes, Brian Scheidegger - Yes, Anna Shy – Yes, TJ Slattery - Absent, Anne Zerr – Yes. Motion passed.

At 7:48 pm Mudrovic Made A Motion to come out of Closed Session. Seconded by Shy.

Roll Call: Sandy Bichel – Yes, Tim Glosier - Yes,– Kathy Mudrovic - Yes, Larry Muench - Yes, Mike Ryan – Yes, Brian Scheidegger - Yes, Anna Shy – Yes, TJ Slattery - Absent, Anne Zerr – Yes. Motion passed.

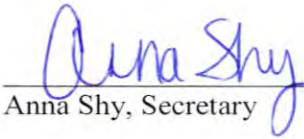
Muench Made a Motion to Table Item 6.E. Seconded by Glosier. Motion Passed.

As there was no further business to discuss Mudrovic moved for **Adjournment** at 7:50 pm; Seconded by Scheidegger. The motion passed.

Meeting: March 19, 2025

Respectfully Submitted,

  
Sandy Biche, President

  
Anna Shy, Secretary

**SAINT CHARLES PARKS & RECREATION BOARD MINUTES**  
**MEETING HELD**  
**April 2nd, 2025**

The meeting was **Called to Order** by President Bichel at 6:00pm in the American Legion Room in Memorial Hall. **Roll Call** noted the following present for the meeting:

**Board** Sandy Bichel, Tim Glosier, Kathy Mudrovic, Larry Muench, Mike Ryan, Anna Shy, TJ Slattery, Brian Scheidegger, Anne Zerr and Council Liaison Mary West were present.

**Staff** Maralee Britton – Director, Chris Atkinson- Assistant Director, Peter VanLinn – Maintenance Superintendent, Don Borgmeyer -Enterprise Superintendent, Chan Smoot – Concessions Coordinator

**Other** Holly Magdziarz – Interim City Attorney  
Mayor Dan Borgmeyer  
Larry Dobrosky – Director of Administration  
Denise Mitchell – Councilperson Ward 5  
Michael Galba – Councilperson Ward 8

**3. Pledge of Allegiance**

**4. Discussion and Review of Wapelhorst Athletic Complex Project Recommendation\***

Britton presented to the Board. Following Park Board consensus at the March 19<sup>th</sup>, 2025 meeting with moving forward with Option A. (Infield Turf Only with supporting amenities). Staff presented a recommendation on the project and the ability to pay for the project utilizing existing funding sources.

\$780,425 would be allocated from completed projects with remaining funding and \$1,200,000 would be transferred from the Departments cash balance to create the \$2,000,000 project.

Pending Park Board approval of construction contracts at upcoming meetings the timeline is for construction to begin August 1, 2025 and be completed by December 31, 2025. The entire complex would be ready for use by the public for the Spring season in 2026.

Muench made a motion to complete the budget transfers recommended by staff; seconded by Mudrovic. Motion Passed.

**5. Presentation and Discussion of the Phasing Approach to the 97 Acre Park Recreational Site Development Recommendation\***

Britton presented the phasing approach to the 97 acre park development. Navigate Building Solutions in early 2025 completed the phasing option study that outlined four different options with different price points ranging between \$3,000,000 and \$10,000,000. Staff recommended moving forward with Option 2 with an expected cost of \$5,500,000.

This option is the play and nature education activity area (Approx. 20 acres) of the park closest to Highway B and the Orchard Farm School site. Option 2 includes a large signature playground, roads and trails, shelters and pavilion's, disc golf course and natural areas. This phase would require bringing forward a budget amendment for \$2,000,000 to be allocated to the project from Prop P Sales Tax Cash Fund account.

Discussion took place discussing pros and cons of the different options.

During the discussion Director of Administration Dobrosky outlined some other possible funding sources (State grants and loans for storm water) that could possibly increase the project budget and allow further phases to be completed in the short term or long term.

Staff explained the first step in this process is retaining an Owners Representative/Project Manager who would assist the Department in creating an RFQ that would be used to hire an engineering consultant to create the construction documents to bid out the construction portion of the project.

The Park Board took no formal action but directed staff to continue working with City Administration and Finance staff on possible other funding sources and to continue working on a contract with the Project Manager to keep the project moving forward.

**6. Adopt a Park (Board Member observations pertinent to facilities, programs and services within the System)**

Slattery – Good. Was impressed by staff speed in removing a downed tree at the pickleball courts in Booneslick Park.

Muench – Good. Jaycee Park was busy earlier this week with the nice weather.

Shy –Good.

Ryan – Good

Glosier – Good.

Mudrovic – Good. Asked about the grass at Berthold Square Park. Staff have seeded

and strawed the area. Grass should begin to grow soon.

Bichel – Good.

Zerr – Good.

Scheidegger – Good.

Councilperson West – Asked about adding signs off on McClay Road to alert the public about how to get to Schaefer Park. Staff will investigate.

Updated Board that she had talked to Jim Wright (Public Works Director) about Bangert Island. There is a meeting coming up between the City Administration, Public Works and the Parks & Recreation Department on April 16<sup>th</sup> about the possible turnover of the operation and maintenance to the Parks & Recreation Department.

7. **Closed Session**

At 6:55 pm Shy Made a Motion to go into Closed Session to discuss;

A. Legal actions, causes of action, or litigation. (RSMo 610.021.1)\*\*

Seconded by Zerr.

Roll Call: Sandy Bichel – Yes, Tim Glosier - Yes,– Kathy Mudrovic - Yes, Larry Muench - Yes, Mike Ryan – Yes, Brian Scheidegger - Yes, Anna Shy – Yes, TJ Slattery - Yes, Anne Zerr – Yes. Motion passed.


At 8:11 pm Shy Made a Motion to come out of Closed Session. Seconded by Muench.

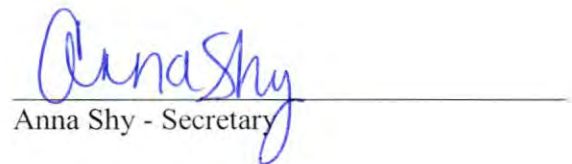
Roll Call: Sandy Bichel – Yes, Tim Glosier - Yes,– Kathy Mudrovic - Yes, Larry Muench - Yes, Mike Ryan – Yes, Brian Scheidegger - Yes, Anna Shy – Yes, TJ Slattery - Yes, Anne Zerr – Yes. Motion passed.

As there was no further business to discuss Slattery moved for **Adjournment** at 8:12 pm; Seconded by Scheidegger. Motion passed.

Meeting: April 2nd, 2025

Respectfully Submitted,

  
Sandy Bichel - President

  
Anna Shy - Secretary

## MEETING MINUTES - April 24, 2025



### THE GREATER SAINT CHARLES CONVENTION & VISITORS COMMISSION

#### Tourism Commissioners:

|                                    |                  |                                    |
|------------------------------------|------------------|------------------------------------|
| Mayor Dan Borgmeyer                | Ms. Ashley Gaddy | Mr. Bill Willbrand                 |
| Council Liaison Mr. Mark Hollander | Mr. Dan Tripp    | Ms. Trudy Pagano                   |
| Chairperson Mr. Scott Tate         | Ms. April Moxley | Alt. Council Liaison Bridget Ohmes |
| Ms. Marsha Adams                   | Ms. Lydia Crespo |                                    |

**Call to Order & Introductions:** The Tourism Commission Meeting was called to order at 4:00pm by Chair, Mr. Scott Tate. Other Commissioners present were: Mayor Dan Borgmeyer, Ms. April Moxley, Ms. Marsha Adams, Mr. Bill Willbrand, Ms. Lydia Crespo and Ms. Ashley Gaddy. Staff members present were: Director, Dan Krankeola, Director of Sales, Joanie Ohlms, and Staff Liaison, Pamela Castellano. Also present: Marketing Manager, Ed Akers.

- 1. Approval of Minutes:** A motion was made by Ms. Lydia Crespo to approve the October meeting minutes. The motion was seconded by Ms. Ashley Gaddy and was approved unanimously.
- 2. Questions relative to reports provided in Agenda Packet:** There were no questions relative to the reports provided.
  - STR
  - Convention Center
  - CVB Financial
- 3. CVB and Foundry updates:** Mr. Krankeola presented each member with the new Spring/Summer 2025 Main Street Merchant Map, and reported that the CVB is expecting the new edition of Discover Saint Charles Magazine in May or June. A new Bite Size Magazine will soon follow. Historic Missouri Wine Country will be featured on KMOV's Great Day Live on April 25, broadcasting live from the Mount Pleasant Estates in Augusta. The St. Charles Trolley resumes operations on April 25, and the new Riverpointe Rover, the Streets of St. Charles golf cart service, begins on Friday, May 2. The CVB's brand new Macabre Main Street Tours are scheduled to begin on Friday evenings in May. Mr. Krankeola reported that this summer's **Foundry** Art Camp is sold out. May's First Friday event on May 2 will feature a May Makers Market, and we're beginning preparations for the Foundry's big summer party on June 14, The Block Party.

Ms. Joanie Ohlms provided the Sales Division update, and advised members of the upcoming NTTW,

## MEETING MINUTES - April 24, 2025

National Travel and Tourism Week, May 4-10. We are celebrating NTTW by having our hotel partners join us on a destination trolley tour on the 7<sup>th</sup>.

**4. Public Comments:** None

**5. Announcements | Updates:**

- Mayor: Mayor Borgmeyer recapped the April 22 Ground Breaking event, celebrating the City's new City Centre Complex. The ceremony was well attended and provided an official beginning to the project, making this development a reality. A brief discussion was held relative to the project.
- Council Liaison: None.
- Commissioners: Ms. Adams announced that Good News Frenchtown's May Happy Hour will feature musician, Bryan Drilling. Ms. Moxley announced that the Main Street in Bloom event dates have been changed to Mother's Day weekend, May 10-11, 2025. Ms. Moxley also advised of the first Music on Main event on May 21.

**6. Adjournment:** The April meeting of The Greater St. Charles Convention and Visitors Commission adjourned at 4:55pm.

Approved: \_\_\_\_\_



May 22, 2025

**RCA FORM (OFFICE USE ONLY)**

Bill # NA

MEETING/DATE: 6/3/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): ALL

Sponsor(s): N/A

**Description:**

Monthly Finance FITS Report for the month ended April 2025.

**Contract Extension/Renewal:** Yes  No   
**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove   
**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

Page 1-2, Financial Overview for April 2025.  
Page 3-5, Presentation of monthly investment report for the month of April 2025.  
Page 6, Pursuant to Ordinance #11-09; requests for Intra-Departmental Transfer of Appropriations > \$10,000 for April 2025.  
Page 7, Monthly report detailing approved property to be disposed of as surplus and/or abandoned property during the month of April 2025.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: JS Dept. Dir. gaw Finance Dir. gaw Dir. of Admin. g

CITY OF ST. CHARLES, MO  
 FINANCIAL UPDATE  
 YTD 04/30/2025

| General Fund                    | Amended Budget 2024 |             |                     | Unaudited Actual 2024 |                     |                     | Amended Budget 2025 |                       |        | Unaudited Actual 2025 |             |        | Difference | Notes |
|---------------------------------|---------------------|-------------|---------------------|-----------------------|---------------------|---------------------|---------------------|-----------------------|--------|-----------------------|-------------|--------|------------|-------|
|                                 | Budget              | % of Budget | Actual              | Budget                | % of Budget         | Actual              | Budget              | % of Budget           | Actual | Budget                | % of Budget | Actual |            |       |
| Revenue:                        |                     |             |                     |                       |                     |                     |                     |                       |        |                       |             |        |            |       |
| Property Taxes                  | \$10,109,066        | 102%        | \$10,327,386        | 102%                  | \$10,595,886        | \$4,447,341         | 42%                 | \$6,148,545)          |        |                       |             |        |            |       |
| Utility Taxes                   | \$9,984,018         | 85%         | \$8,505,387         | 85%                   | \$8,438,857         | \$3,014,990         | 36%                 | (\$5,423,867)         |        |                       |             |        |            |       |
| Sales Taxes                     | \$12,668,921        | 97%         | \$12,279,031        | 97%                   | \$13,175,678        | \$4,026,928         | 16%                 | (\$9,148,750)         |        |                       |             |        |            |       |
| Use Tax                         | \$4,000,000         | 0%          | \$6,785,124         | 0%                    | \$7,744,331         | \$2,460,727         | 32%                 | (\$5,283,604)         |        |                       |             |        |            |       |
| Other Tax Revenue               | \$1,059,232         | 70%         | \$741,585           | 70%                   | \$980,875           | \$209,984           | 21%                 | (\$770,891)           |        |                       |             |        |            |       |
| Gaming Tax                      | \$7,246,085         | 100%        | \$7,246,086         | 100%                  | \$7,068,546         | \$2,226,155         | 31%                 | (\$4,842,391)         |        |                       |             |        |            |       |
| Licenses and Permits            | \$2,625,727         | 89%         | \$2,328,705         | 89%                   | \$2,326,320         | \$1,023,477         | 44%                 | (\$1,302,843)         |        |                       |             |        |            |       |
| Fines and Fees                  | \$3,712,140         | 74%         | \$2,758,142         | 74%                   | \$2,951,689         | \$1,034,567         | 35%                 | (\$1,917,122)         |        |                       |             |        |            |       |
| Charges for Services            | \$11,219,890        | 98%         | \$11,035,114        | 98%                   | \$12,474,454        | \$4,008,080         | 32%                 | (\$8,466,374)         |        |                       |             |        |            |       |
| Miscellaneous Revenue           | \$765,671           | 95%         | \$727,345           | 95%                   | \$890,069           | \$251,466           | 28%                 | (\$638,603)           |        |                       |             |        |            |       |
| Interest                        | \$180,000           | 97%         | \$174,921           | 97%                   | \$380,000           | \$1,631,566         | 429%                | \$1,251,566           |        |                       |             |        |            |       |
| Transfers In From Other Funds   | \$1,000             | 100%        | \$1,000             | 100%                  | \$1,000             | \$0                 | 0%                  | (\$1,000)             |        |                       |             |        |            |       |
| Sales of Fixed Assets           | \$100,000           | 0%          | \$82                | 0%                    | \$100,000           | \$0                 | 0%                  | (\$100,000)           |        |                       |             |        |            |       |
| Grants                          | \$19,105            | 542%        | \$103,470           | 542%                  | \$912,330           | \$64,358            | 7%                  | (\$847,972)           |        |                       |             |        |            |       |
| <b>Total Revenue</b>            | <b>\$63,690,855</b> |             | <b>\$63,013,378</b> |                       | <b>\$68,040,035</b> | <b>\$24,399,630</b> |                     | <b>(\$43,640,405)</b> |        |                       |             |        |            |       |
| Expenditures:                   |                     |             |                     |                       |                     |                     |                     |                       |        |                       |             |        |            |       |
| Personnel Services              | \$46,459,307        | 99%         | \$45,833,329        | 99%                   | \$51,316,712        | \$17,190,904        | 33%                 | (\$34,125,808)        |        |                       |             |        |            |       |
| Professional/Purchased Services | \$12,011,051        | 90%         | \$10,843,087        | 90%                   | \$13,456,019        | \$3,913,762         | 29%                 | (\$9,542,257)         |        |                       |             |        |            |       |
| General/Operating Supplies      | \$2,814,634         | 73%         | \$2,049,746         | 73%                   | \$2,441,782         | \$627,810           | 26%                 | (\$1,813,972)         |        |                       |             |        |            |       |
| Capital                         | \$4,479,035         | 45%         | \$2,022,458         | 45%                   | \$2,510,764         | \$1,083,265         | 43%                 | (\$1,427,499)         |        |                       |             |        |            |       |
| Transfers To Other Funds        | \$0                 | 0%          | \$1,668             | 0%                    | \$0                 | \$0                 | 0%                  | \$0                   |        |                       |             |        |            |       |
| <b>Total Expenditures</b>       | <b>\$65,764,027</b> |             | <b>\$60,750,288</b> |                       | <b>\$69,725,277</b> | <b>\$22,815,741</b> |                     | <b>(\$46,909,536)</b> |        |                       |             |        |            |       |
| Difference in Rev and Exp       | (\$2,073,171)       |             | \$2,263,091         |                       | (\$1,685,242)       | \$1,583,889         |                     |                       |        |                       |             |        |            |       |
| Fund Balance - beginning        | \$19,710,306        |             | \$19,710,306        |                       | \$21,973,397        | \$21,973,397        |                     |                       |        |                       |             |        |            |       |
| Fund Balance - ending           | \$21,973,397        |             | \$21,973,397        |                       | \$23,557,286        | \$23,557,286        |                     |                       |        |                       |             |        |            |       |
| <b>Street Maintenance</b>       |                     |             |                     |                       |                     |                     |                     |                       |        |                       |             |        |            |       |
| Revenue                         | \$10,163,973        | 106%        | \$10,764,011        | 106%                  | \$10,823,884        | \$2,759,784         | 25%                 | (\$8,064,100)         |        |                       |             |        |            |       |
| Expenses                        | \$14,737,133        | 74%         | \$10,905,622        | 74%                   | \$15,163,819        | \$3,860,839         | 25%                 | (\$11,302,980)        |        |                       |             |        |            |       |
| Difference in Rev and Exp       | (\$4,573,160)       |             | (\$141,611)         |                       | (\$4,339,935)       | (\$1,101,056)       |                     | \$3,238,879           |        |                       |             |        |            |       |
| Fund Balance - beginning        | \$5,270,318         |             | \$5,270,318         |                       | \$5,128,707         | \$5,128,707         |                     |                       |        |                       |             |        |            |       |
| Fund Balance - ending           | \$5,128,707         |             | \$5,128,707         |                       | \$4,027,651         | \$4,027,651         |                     |                       |        |                       |             |        |            |       |

CITY OF ST. CHARLES, MO  
 FINANCIAL UPDATE  
 YTD 04/30/2025

|   | Amended Budget 2024 | Unaudited Actual 2024 | % of Budget | Amended Budget 2025 | Unaudited Actual 2025 | % of Budget | Difference     | Notes             |
|---|---------------------|-----------------------|-------------|---------------------|-----------------------|-------------|----------------|-------------------|
| <b>Park</b>                             |                     |                       |             |                     |                       |             |                |                   |
| Revenue                                 | \$9,458,121         | \$12,496,242          | 132%        | \$8,879,641         | \$3,067,987           | 35%         | (\$5,811,654)  |                   |
| Expenses                                | \$9,649,185         | \$8,883,897           | 92%         | \$9,737,014         | \$2,646,795           | 27%         | (\$7,090,219)  |                   |
| Difference in Rev and Exp               | (\$191,064)         | \$3,612,345           |             | (\$857,373)         | \$421,192             |             | \$1,278,565    |                   |
| Fund Balance - beginning                |                     | \$2,874,773           |             |                     | \$6,487,118           |             |                |                   |
| Fund Balance - ending                   |                     | \$6,487,118           |             |                     | \$6,908,309           |             |                |                   |
| <b>Tourism</b>                          |                     |                       |             |                     |                       |             |                |                   |
| Revenue                                 | \$5,721,671         | \$5,957,581           | 104%        | \$6,223,019         | \$2,068,983           | 33%         | (\$4,154,036)  |                   |
| Expenses                                | \$6,044,900         | \$5,632,259           | 93%         | \$7,198,522         | \$2,199,713           | 31%         | (\$4,998,809)  |                   |
| Difference in Rev and Exp               | (\$323,229)         | \$325,322             |             | (\$975,503)         | (\$130,730)           |             | \$844,772      |                   |
| Fund Balance - beginning                |                     | \$4,157,036           |             |                     | \$4,482,358           |             |                |                   |
| Fund Balance - ending                   |                     | \$4,482,358           |             |                     | \$4,351,628           |             |                |                   |
| <b>Waterworks</b>                       |                     |                       |             |                     |                       |             |                |                   |
| Revenue: Operating                      | \$13,061,879        | \$15,583,946          | 119%        | \$16,330,070        | \$4,341,347           | 27%         | (\$11,988,723) |                   |
| Expenses: Operating                     | \$13,083,400        | \$9,508,876           | 73%         | \$14,008,964        | \$3,327,850           | 24%         | (\$10,681,113) |                   |
| Difference in Rev and Exp               | (\$21,521)          | \$6,075,070           |             | \$2,321,106         | \$1,013,497           |             | (\$1,307,609)  |                   |
| Fund Balance - beginning - unrestricted |                     | \$5,806,586           |             |                     | \$11,881,656          |             |                |                   |
| Fund Balance - ending - unrestricted    |                     | \$11,881,656          |             |                     | \$12,895,153          |             |                |                   |
| <b>Sanitary Sewer</b>                   |                     |                       |             |                     |                       |             |                |                   |
| Revenue                                 | \$24,083,808        | \$18,291,068          | 76%         | \$18,356,000        | \$6,176,855           | 34%         | (\$12,179,145) |                   |
| Expenses                                | \$22,979,908        | \$17,181,275          | 75%         | \$15,757,272        | \$3,407,011           | 22%         | (\$12,350,261) |                   |
| Difference in Rev and Exp               | \$1,103,900         | \$1,109,793           |             | \$2,598,728         | \$2,769,844           |             | \$171,116      |                   |
| Fund Balance - beginning - unrestricted |                     | \$7,209,554           |             |                     | \$8,319,347           |             |                |                   |
| Fund Balance - ending - unrestricted    |                     | \$8,319,347           |             |                     | \$11,089,191          |             |                |                   |
| <b>Gaming Revenue - All Funds:</b>      |                     |                       |             |                     |                       |             |                |                   |
|   |                     |                       |             |                     |                       |             |                | <b>Allocation</b> |
| General                                 | \$7,246,085         | \$7,247,086           | 67%         | \$7,068,546         | \$2,226,155           | 67%         | (\$4,842,391)  |                   |
| Redevelopment                           | \$0                 | \$0                   | 0%          | \$0                 | \$0                   | 0%          | \$0            |                   |
| Street Construction                     | \$0                 | \$0                   | 0%          | \$0                 | \$0                   | 0%          | \$0            |                   |
| Major Facilities                        | \$0                 | \$0                   | 0%          | \$0                 | \$0                   | 0%          | \$0            |                   |
| Capital Improvement                     | \$3,261,450         | \$2,758,207           | 33%         | \$3,544,064         | \$1,116,161           | 33%         | (\$2,427,903)  |                   |
| Total Gaming Revenue                    | \$10,507,535        | \$10,005,293          | 95%         | \$10,612,610        | \$3,342,316           | 31%         | (\$7,270,294)  |                   |

**CITY OF ST. CHARLES  
OUTSTANDING POOLED INVESTMENTS  
4/30/2025**

| Investment                       | Purchase Date | Maturity   | Par Value            | (a)<br>Coupon | Price        | Yield (b) | Original<br>Purch. Price | Purchased<br>Interest (c) | Market<br>Basis | Market<br>Value      | Unrecorded<br>Gain/(Loss) | Net                         |                        |
|----------------------------------|---------------|------------|----------------------|---------------|--------------|-----------|--------------------------|---------------------------|-----------------|----------------------|---------------------------|-----------------------------|------------------------|
|                                  |               |            |                      |               |              |           |                          |                           |                 |                      |                           | Curr. Mo.<br>Accr. Int. (d) | Curr. Mo.<br>Paid Int. |
| <b>Cash and Cash Equivalents</b> |               |            |                      |               |              |           |                          |                           |                 |                      |                           |                             |                        |
| FSTGD                            | 12/01/2024    | 11/28/2025 | 1,000,000.00         | 2.2500%       | 96.15        | 0.183%    | 14,305,848.26            |                           | 96.25           | 14,305,848.26        | 1,015.24                  | 44,886.86                   |                        |
| USTB                             | 10/03/2024    | 10/02/2025 | 1,000,000.00         | 1.2500%       | 96.11        | 0.181%    | 961,528.06               |                           | 96.08           | 962,543.30           | (338.87)                  | 14,596.70                   |                        |
| USTB                             |               |            | <b>2,000,000.00</b>  |               | <b>96.13</b> |           | <b>16,228,487.43</b>     | <b>-</b>                  | <b>192.33</b>   | <b>16,229,163.80</b> | <b>676.37</b>             | <b>81,261.32</b>            |                        |
| <b>Fixed Income Investments</b>  |               |            |                      |               |              |           |                          |                           |                 |                      |                           |                             |                        |
| USTN - 91282C-LY-5               | 12/01/2024    | 11/30/2026 | 1,000,000.00         | 1.4500%       | 99.94        | 1.450%    | 999,375.00               |                           | 100.842000      | 1,008,420.00         | 9,045.00                  | 17,747.25                   |                        |
| USTN - 91282C-DL-2               | 12/23/2024    | 11/30/2028 | 1,000,000.00         | 1.4500%       | 89.81        | 1.450%    | 888,085.94               |                           | 92.905000       | 929,050.00           | 30,964.06                 | 6,263.73                    |                        |
| USTN - 91282C-MB-5               | 12/15/2024    | 12/15/2027 | 1,000,000.00         | 1.4500%       | 99.20        | 1.450%    | 992,031.25               |                           | 101.080000      | 1,010,800.00         | 18,768.75                 | 15,054.94                   |                        |
| USTN - 91282C-MA-6               | 12/01/2024    | 11/30/2029 | 1,000,000.00         | 1.4500%       | 99.00        | 1.450%    | 990,039.07               |                           | 101.836000      | 1,018,360.00         | 28,320.93                 | 17,225.27                   |                        |
| USTN - 91282C-FZ-9               | 11/06/2023    | 11/30/2027 | 1,000,000.00         | 1.3875%       | 97.39        | 1.390%    | 973,906.25               |                           | 100.700000      | 1,007,000.00         | 33,093.75                 | 16,181.31                   |                        |
| USTN - 91282C-HD-6               | 11/06/2023    | 05/31/2025 | 1,000,000.00         | 1.4250%       | 98.68        | 1.425%    | 986,796.88               |                           | 99.978000       | 999,780.00           | 12,983.12                 | 17,747.25                   |                        |
| USTN - 91282C-HV-6               | 11/06/2023    | 08/31/2025 | 1,000,000.00         | 1.5000%       | 100.16       | 1.500%    | 1,001,640.63             |                           | 100.200000      | 1,002,000.00         | 359.37                    | 8,423.91                    |                        |
| USTN - 91282C-JE-2               | 11/06/2023    | 10/31/2025 | 1,000,000.00         | 1.5000%       | 100.16       | 1.500%    | 1,001,562.50             |                           | 100.407000      | 1,004,070.00         | 2,507.50                  | 135.86                      |                        |
| USTN - 91282C-JF-9               | 11/06/2023    | 10/31/2028 | 1,000,000.00         | 1.4875%       | 101.51       | 1.470%    | 1,015,117.19             |                           | 104.063000      | 1,040,630.00         | 25,512.81                 | 132.47                      |                        |
| USTN - 91282C-JK-8               | 11/06/2023    | 11/15/2026 | 1,000,000.00         | 1.4625%       | 99.49        | 1.460%    | 994,882.81               |                           | 101.358000      | 1,013,580.00         | 18,697.19                 | 21,336.32                   |                        |
| USTN - 91282C-JS-1               | 01/01/2024    | 12/31/2025 | 1,000,000.00         | 1.4250%       | 99.83        | 1.460%    | 998,281.25               |                           | 100.127000      | 1,001,270.00         | 2,988.75                  | 14,205.80                   |                        |
| USTN - 91282C-GT-2               | 03/31/2024    | 03/31/2028 | 1,000,000.00         | 1.5000%       | 96.05        | 1.500%    | 960,468.75               |                           | 100.147000      | 1,001,470.00         | 41,001.25                 | 3,070.35                    |                        |
| USTN - 91282C-KG-5               | 03/31/2024    | 03/31/2029 | 1,000,000.00         | 1.5000%       | 97.66        | 1.500%    | 976,601.56               |                           | 101.700000      | 1,017,000.00         | 40,398.44                 | 3,381.14                    |                        |
| USTN - 91282C-KH-3               | 04/01/2024    | 03/31/2026 | 1,000,000.00         | 1.5000%       | 99.14        | 1.500%    | 991,406.25               |                           | 100.511000      | 1,005,110.00         | 13,703.75                 | 3,811.47                    |                        |
| USTN - 91282C-KJ-9               | 04/15/2024    | 04/15/2027 | 1,000,000.00         | 1.5000%       | 99.16        | 1.500%    | 991,640.63               |                           | 101.666000      | 1,016,660.00         | 25,019.37                 | 1,967.21                    |                        |
| USTN - 91282C-LN-9               | 09/30/2024    | 09/30/2029 | 1,000,000.00         | 3.6000%       | 98.48        | 3.600%    | 984,804.69               |                           | 99.251000       | 992,510.00           | 7,705.31                  | 2,964.48                    |                        |
| USTN - 91282C-LP-4               | 09/30/2024    | 09/30/2026 | 1,000,000.00         | 3.5400%       | 99.20        | 3.540%    | 991,992.19               |                           | 99.682000       | 996,820.00           | 4,827.81                  | 2,964.48                    |                        |
| USTN - 91282C-LQ-2               | 10/15/2024    | 10/15/2027 | 1,000,000.00         | 3.9000%       | 100.10       | 3.900%    | 1,001,015.63             |                           | 100.674000      | 1,006,740.00         | 5,724.37                  | 1,693.98                    |                        |
| USTN - 91282C-JA-0               | 09/30/2023    | 09/30/2028 | 1,000,000.00         | 3.9000%       | 102.80       | 3.900%    | 1,027,968.75             |                           | 102.800000      | 1,032,290.00         | 4,321.25                  | 3,917.34                    |                        |
|                                  |               |            | <b>19,000,000.00</b> |               | <b>98.83</b> |           | <b>18,777,617.22</b>     | <b>-</b>                  | <b>1,909.93</b> | <b>19,103,560.00</b> | <b>325,942.78</b>         | <b>158,224.56</b>           |                        |
| REPOS                            | 04/30/2025    | 05/01/2025 | 0.00                 | 0.000%        | 100.000000   | 0.000%    | 0.00                     |                           | 100.000000      | 0.00                 | 0.00                      | 0.00                        |                        |
| OTHER (e)                        | 04/01/2025    | 04/30/2025 | 0.00                 |               | 100.000000   |           |                          |                           |                 |                      |                           |                             |                        |
| <b>Total</b>                     |               |            | <b>21,000,000.00</b> |               |              |           | <b>35,006,104.65</b>     | <b>-</b>                  |                 | <b>35,332,723.80</b> | <b>326,619.15</b>         | <b>239,485.88</b>           | <b>-</b>               |

**Notes:**  
a Coupon on the overnight repurchase agreement varies; the purchase price of discount notes imputes a yield, and therefore a coupon is not applicable.  
b The lower of YTC or YTM is used if a call date is applicable; the yield on REPOs is based on total interest earned on the average daily balance.  
c Purchased Interest is the imputed interest covering the period between the previous interest payment date and the date of purchase.  
d Net Current Month Accrued Interest consists of gross coupon interest +/- amortization of premium/discount for the month.  
e "OTHER" represents activity for REPOs & other investments that were sold or matured during the month.

**CITY OF ST. CHARLES  
 POOLED INVESTMENTS REPORT  
 EXECUTIVE SUMMARY  
 4/30/2025**

|   | <u>Amount</u> | <u>Pct.</u> | <u>Max.<br/>Pct.</u> |
|---|---------------|-------------|----------------------|
| <b><u>Investment Portfolio(Book Value):</u></b> |               |             |                      |
| Diversification Summary:                        |               |             |                      |
| U.S. Treasury Obligations                       | 16,228,487.43 | 46%         | 100%                 |
| U.S. Government Agency Securities               | 18,777,617.22 | 54%         | 100%                 |
| Certificates of Deposit                         | 0.00          | 0%          | 10%                  |
| Overnight Repurchase Agreements                 | 0.00          | 0%          | 25%                  |
|   | 35,006,104.65 | 100%        |                      |
| Maturity Benchmarks:                            |               |             |                      |
| 0 to 6 months                                   | 15,267,376.32 | 44%         |                      |
| 6 to 12 months                                  | 0.00          | 0%          |                      |
| 1 to 2 years                                    | 3,951,111.12  | 11%         |                      |
| 2 to 5 years                                    | 15,787,617.21 | 45%         |                      |
| over 5 years                                    | 0.00          | 0%          |                      |
| Maximum   | 10,647,000.00 |             |                      |
|   | 35,006,104.65 | 100%        |                      |
| U.S. Treasury & Overnight Repurchase Agreements | 16,228,487.43 | 46%         | min 5%               |

**Interest Earnings Recap:**

|                                  |       | <u>Current Year</u> | <u>Prior Year</u> |
|----------------------------------|-------|---------------------|-------------------|
| Interest Income:                 |       |                     |                   |
| Earned - Year-to-Date            |       | 715,501.09          | 252,235.53        |
| Realized - Year-to-Date          |       | 878,080.32          | -                 |
| Total Outstanding Portfolio at:  | 04/30 | 35,006,104.65       | -                 |
| Weighted Average Rate of Return: |       |                     |                   |
| Current Month                    |       |                     |                   |
| Year-to-Date                     |       | 0.0000%             | 0.0000%           |

**Budget to Actual**

|                                | <u>Current Year</u> | <u>Prior Year</u> |
|--------------------------------|---------------------|-------------------|
| Budgeted                       | 300,000             | 100,000           |
| Actual - Realized              | -                   | 386,869           |
| Actual - Repos                 | -                   | -                 |
| Projected                      | -                   | -                 |
|                                | 0                   | 386,869           |
| Variance - Over (Under) Budget | (300,000)           | 286,869           |

**Collateral Coverage:**

|   |                 |      |
|---|-----------------|------|
| Total Commerce Deposits   | \$30,000,000.00 |      |
| FDIC Coverage   | (250,000.00)    |      |
| Deposit Amount Requiring Collateralization                            | \$29,750,000.00 |      |
| Collateralization Ratio   | 1.10            |      |
| Collateral Required   | \$32,725,000.00 |      |
| Market Value of Collateral at: 04/30                                  | 33,567,615.09   |      |
| Total Collateral Coverage: FDIC Coverage + Market Value of Collateral | 33,817,615.09   |      |
| Excess of Collateral over Deposits - Aggregate                        | \$3,817,615.09  | 113% |

**Investment Activity for the Month:**

| Investment                 | Date of:   |            | Coupon  | Yield  | Par Value       | Purch. Price  |
|----------------------------|------------|------------|---------|--------|-----------------|---------------|
|                            | Purchase   | Sale/Mat.  |         |        |                 |               |
| <b><u>Purchases:</u></b>   |            |            |         |        |                 |               |
| NONE                       |            |            |         |        |                 |               |
| <b><u>Maturities:</u></b>  |            |            |         |        |                 |               |
| USTB                       | 04/18/2024 | 04/17/2025 | 2.2500% | 0.183% | \$ 1,000,000.00 | \$ 951,061.32 |
| <b><u>Sales/Calls:</u></b> |            |            |         |        |                 |               |
| NONE                       |            |            |         |        |                 |               |



## *Memorandum*

**To:** Members of City Council

**From:** Finance

**Date:** June 3, 2025

**Subject:** April 2025 Over \$10K Transfers Report

---

The following budget transfers took place in April 2025:

- The Human Resources Department transferred \$30,000.00 to Other Professional Services Secretarial to cover contracted employee wages.
- The Police Department transferred \$55,000.00 to Other Professional Services Medical for medical testing physicals SSM contract.
- The Police Department transferred \$25,000.00 to Other Professional Services Other for the Gamble & Schlemeier contract.
- The Fire Department transferred \$19,000.00 to Other Professional Services Medical for Fire Department physicals with SSM.
- The Public Works Department transferred \$11,307.00 to Cleaning Services Snow Removal for 2025 snow removal invoices.
- The Police Department transferred \$40,000.00 to Travel, Conference, & Training Training for firearms training forfeitures.
- The Parks Department transferred \$166,718.00 to Other Improvements Park Improvements to fund the Wapelhorst Complex project.
- The Tourism Department transferred \$16,000.00 to Advertising Other to cover the remaining advertising costs for the State Tourism Grant.



## *Memorandum*

**To:** Members of City Council

**From:** Finance

**Date:** June 3, 2025

**Subject:** April 2025 Surplus Report

---

The following items were approved to be disposed of in April 2025 as surplus and/or abandoned property:

| <u>Department</u>      | <u>Items</u>   | <u>Reason</u>   |
|------------------------|--|---|
| Information Technology | Surface Pro (1) Microsoft Surface Pro 7, Iphone12 ProMax (1) Apple MG913LL/A | Employee Electronic Device Purchase                                       |
| Public Works           | Flatbed Truck (3) Ford F-550   | Obsolete and not compatible with newer equipment. Sell at public auction. |

**RCA FORM (OFFICE USE ONLY)**

Bill # N/A

MEETING/DATE: 6/3/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): All

Sponsor(s): All

**Description:**

Notice of Emergency Purchase

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

Attached is a copy of an Emergency Purchase that has occurred.

**Sweenco, LLC - \$164,052.85**

**For emergency repairs at the Missouri River Wastewater Treatment Facility.**

The City Council is being notified of this purchase according to City Code of Ordinances, Chapter 145, Section 130(A) - "In the case of an unexpected emergency wherein any delay in purchasing would possibly result in the interruption of or detriment to the public service, the requirements for competitive bidding and awarding contracts may, upon consent of the Mayor, be waived. However, the City Council or Board, as appropriate, shall be notified of the situation at its next regular meeting."

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** \$ 164,052.85 **Change PO #:** 2025-00000471

**Account #:** 515-502-535-873-107

**Project #:** 24PWSS16

RCA prepared by: C. Bray Dept. Dir. 9 Finance Dir. N/A Dir. of Admin. 9



Contract # C25-153  
(City Clerk will Assign)

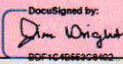
**CONTRACT ROUTING SLIP  
(PINK PAPER)  
EMERGENCY PURCHASE  
(SECTION 145.130.A)**

|  |   |                                      |                |
|--|---|--------------------------------------|----------------|
| <b>Requesting Department:</b>  | Public Works  | <b>Department Contact:</b>           | Maura Zackavec |
| <b>Vendor Name &amp; NWS#:</b>   | #15100 - SWEENCO LLC.   |                                      |                |
| <b>Description/Purpose:</b>  | EMERGENCY REPAIRS AT MISSOURI RIVER WASTEWATER TREATMENT PLANT    |                                      |                |
| <b>Account #:</b>  | 515-502-535-873-107   |                                      |                |
| <b>Project #:</b>  | 24PWSS16  |                                      |                |
| <b>Requesting Waiver of*:</b>  | Both - Requirements for Competitive Bidding and Awarding Contract |                                      |                |
| *Attach Emergency Purchase Approval Form explaining how the delay in purchasing would possibly result in the interruption of, or detriment to the public service, and how purchase will be made. |   |                                      |                |
| <b>Amount of this Routing:</b>   | \$ 164,052.85   | <b>Requisition #:</b>                | 2025-0471      |
| <b>Contract Type:</b>  | New Contract  | <b>N/A</b>                           | <b>Coop#:</b>  |
| <b>Contract Term:</b>  | 04/07/2025 - 12/31/2025   | <b>Renewal Options:</b>              | NA             |
| <b>If Renewal or Amendment: C#</b>   | <b>Amendment #</b>  | <b>Renewal #</b>                     |                |
| <b>Original Contract Value:</b>  | \$ 0.00   | <b>Total of Previous Amendments:</b> | \$ 0.00        |
| <b>Total Contract Value:</b>   | \$ 164,052.85   |                                      |                |

**Certifications: to be completed by Originating Department Director**

|  |     |
|--|-----|
| All obligations and/or payment amounts of both parties, and reimbursable expenses (if any), are included in the contract | Yes |
| All required forms are current and attached  | Yes |
| Vendor executed contract attached  | Yes |

As the responsible **DEPARTMENT DIRECTOR**, for the contract's originating department, I certify that I have reviewed the terms and conditions of the agreement and I am satisfied with the business terms and the description of goods, services, payment amounts, and terms to be provided. By signing below, I certify that this agreement complies with City policies, any rules, terms and conditions relating to any funding source, and that the Department can and will comply with the terms of the Agreement.

|                                    |   |           |
|------------------------------------|---|-----------|
| <b>Printed Name:</b><br>JIM WRIGHT | <b>Signature:</b><br><br>DocuSigned by:<br>Jim Wright<br>BDF1C4D662C8402 | 5/14/2025 |
|------------------------------------|---|-----------|

| ROUTING   | Signature/Date   |
|---|--|
| Purchasing Review (Compliant with Chapter 145 and City Terms) | Signed by: <i>Paul Feldmann</i> 5/14/2025<br>CA25391B773142A                 |
| Department of Law (for Legality only)                         | DocuSigned by: <i>Holly Magdjan</i> 5/14/2025<br>25D5684357942C              |
| Director of Finance (Funds Available)                         | DocuSigned by: <i>Jennifer O'Connor</i> 5/14/2025<br>C5FB3E8A40BE40D         |
| Director of Administration (Recommend Approval)               | DocuSigned by: <i>Lawrence S. Dobrosky, Jr.</i> 5/14/2025<br>3E05AB1A58094AA |
| Mayor (Signature Indicating Approval)                         | DocuSigned by: <i>Daniel J. Borgmeyer</i> 5/14/2025<br>8D3MAFB1A18D43B       |
| City Clerk (Signature, Seal and Contract # Assigned)          | DocuSigned by: <i>Kimberly Hudson</i> 5/14/2025<br>70E399B7A7AF428           |



# City of Saint Charles, Missouri Emergency Purchase Approval Form

Requesting Department: Public Works

For the Purchase of: Construction services to repair concrete channel at Missouri Wastewater

Treatment Facility headworks building (including subcontracted bypass pumping)

From: SweenCo LLC

Basis for Emergency Purchase: The concrete walls of the influent channel at the Missouri WWTF

headworks are severely corroded to where rebar is exposed. The channel makes up a portion of the

exterior building wall and further deterioration could compromise the building's structural integrity. The

headworks channel is where the wastewater enters the plant, the first step in the treatment process.



Submitted by: DocuSigned by:  
*Jim Wright*  
8DF1C4B55C2C6192 4/29/2025  
Department Director Date

Reviewed by: Signed by:  
*Paul Feldmann*  
0A26319777312A2A 4/29/2025  
Purchasing Manager Date

Recommend by: DocuSigned by:  
*Lawrence S. Dobrosky, Jr.*  
2E20987C3B09494A 4/30/2025  
Director of Administration Date

Approved by: DocuSigned by:  
*Daniel J. Borgmeyer*  
8C36AF87A7B1D438 5/1/2025  
Mayor Date

City Code of Ordinances, Chapter 145, Section 145.130 (A) – “In the case of an unexpected emergency wherein any delay in purchasing would possibly result in the interruption of or detriment to the public service, the requirements for competitive bidding and awarding contracts may, upon consent of the Mayor, be waived. However, the City Council or Board, as appropriate, shall be notified of the situation at its next regular meeting.”

FP:004

CONTRACT AGREEMENT

This Contract Agreement, by and between **SweenCo LLC**, Party of the First Part, hereinafter called the "Contractor", and City of Saint Charles Party of the Second Part, hereinafter called the "Owner", shall be effective on the final date of signature set forth below.

WITNESSETH: That the Owner and the Contractor for the consideration hereinafter named agree as follows:

ARTICLE 1. Scope of Work: Contractor shall furnish and provide for all of the labor, materials, machinery, and equipment, and perform all of the work for **Emergency Repairs at Missouri River Wastewater Treatment Plant.**, as outlined in Contractor's response to Bid #4664 and Contractor's Estimate #1864 dated 04/07/2025, copies of which are attached as Exhibit A.

The work to be done under this Contract consists of constructing and completing all work described in the proposal, attached as Exhibit A.

ARTICLE 2. Time of Completion: All work shall be substantially complete within thirty (30) days of Notice to Proceed, in accordance with Contractor's proposal.

It is mutually understood and agreed that time is the essence of this Agreement and in the event said work is not completed on or before the date included in the project timeline for its completion, the party of the first part, the Contractor, shall pay damages to the Owner of One Hundred Dollars (\$100.00) per day. Those damages shall be used to pay the expenses of the inspectors and the services of the City Representative for the extra time required for the completion of the work. Extra time shall in all cases be construed as the time required for completion after the date herein named. Extensions of time granted by the party of the second part, the Owner, for completion of the Contract on account of fire, strikes or acts of Providence shall not be construed as extra time. The amount of such expenses and services shall be determined by the City Representative, shall be reported by the City Representative in writing to the Owner, and shall be withheld from any money due the Contractor and paid to the proper parties.

ARTICLE 3. The Contract Sum: The Owner shall pay the Contractor for the performance of the Contract a sum not to exceed **One Hundred Sixty-Four Thousand Fifty-Two Dollars and Eighty-Five Cents (\$164,052.85)**, subject to additions and deductions provided herein, in current funds at the prices named in the proposal attached to and a part of these documents and the contract.

ARTICLE 4. Acceptance and Final Payment: Upon receipt of written notice that the work is ready for final inspection and acceptance, the City Representative shall promptly make such inspection, and when the work is deemed acceptable under the Contract and the Contract fully performed, a final certificate with the City Representative's signature shall be issued, stating that the work provided for in this Contract has been completed and is accepted by the City's Representative under the terms and conditions thereof, and the entire balance found to be due the Contractor shall be paid to the Contractor within thirty (30) calendar days after the date of said final certificates.

Before issuance of the final certificates the Contractor shall submit evidence satisfactory to the City Representatives that all payrolls, materials, bills, and other indebtedness connected with the work have been paid.

The holding and acceptance of the final payment shall constitute a waiver of all claims by the Owner, other than those arising from unsettled liens, faulty work appearing after final payment or from requirements of the specifications and of all claims by the Contractor, except those previously made and still unsettled.

If, after the work has been substantially completed, full completion thereof is materially delayed through no fault of the Contractor and the City Representative so certifies, the Owner shall upon certificate of the City Representative, and without terminating the Contract, make payment of the balance due for the portion of the

CONTRACT AGREEMENT

work fully completed and accepted. Such payment shall be made under the terms and conditions covering final payment, except that it shall not constitute a waiver of claims.

ARTICLE 5. The Contract Documents: The information for and instruction to bidders, proposal, the bonds, and the specifications together with the agreement, form the contract and they are as fully a part of this contract as if thereto attached or repeated.

ARTICLE 6. Prevailing Wages: Not less than the prevailing hourly rate of wages, as set out in Annual Wage Order #31, must be paid to all workers performing work under the contract. The contractor will forfeit a penalty to the contracting public body of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work done under the contract by the contractor or by any subcontractor.

ARTICLE 7. Warranty: All labor and materials will be warranted for one (1) year from substantial completion of the project.

ARTICLE 8. Laws and Ordinances: Contractor shall comply with City Code of Ordinance Section 145.040 regarding the registration of sex offenders with the Police Department.

In accordance with City Code of Ordinance Section 145.160, neither the Contractor/Supplier or an affiliated business entity of the Contractor/Supplier shall: (1) be in arrears to the City on any taxes or debt; (2) be in default of any contractual obligation to the City; (3) be in default as security or otherwise of any obligation to the City; or (4) be a party to a non-adjudicated, non-traffic related citation for a code violation. For complete text of Section 145.160, please contact the Purchasing Office.

Pursuant to Section 34.600 RSMo, as amended, Contractor, hereby certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel, or that this certification is not applicable as the value of this contract is less than \$100,000 or Contractor has less than ten (10) employees.

The contractor and all subcontractors to the contract must require all on-site employees to complete the ten-hour construction safety training program required under Section 292.675 RSMo, if they have not previously completed the program and have documentation of having done so. The contractor will forfeit a penalty to the City of St. Charles of \$2,500 plus an additional \$100 for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training.

Contractor acknowledges award of this City Contract requires compliance with Section 208.009 RSMo. Which requires Contractor to provide City with affirmative proof that he/she is a citizen or permanent resident of the United States or is lawfully present in the United States prior to the City awarding Contractor with this contract.

Contractor acknowledges award of this Contract requires compliance with Section 285.530(2) RSMo. (Cumm. Supp. 2008) regarding enrollment and participation in a federal work authorization program with respect to all persons working in connection with the contracted services. Contractor represents and warrants that it is in compliance with Section 285.530 at the time of award of this Contract. A sworn affidavit and supporting documentation affirming participation in a qualified federal work authorization program and that Contractor does not knowingly employ any person who is an unauthorized alien in connection with the services to be performed pursuant to this Contract is attached to this Contract and incorporated herein by this reference.

Every transient employer, as defined in Section 285.230 RSMo., must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) the notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) proof of coverage for workers' compensation insurance, or self-insurance, signed by the transient employer and verified by the department of revenue through the records of the division of workers' compensation; and (3) the notice of registration for

CONTRACT AGREEMENT

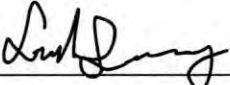
unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall, under Section 285.234 RSMo., be liable for a penalty of \$500 per day until the notices required by this section are posted as required by statute.

ARTICLE 9. The City reserves the right to audit, examine and to make copies of or extracts from all finance related records regarding the Contract kept by or under the control of the Vendor, including, but not limited to those kept by its employees, agents, assigns, successors and subcontractors.

ARTICLE 10. Nondiscrimination: Contractor agrees in the performance of this agreement that Contractor, and any subcontractor to the agreement, will not discriminate against any employee or applicant for employment, in the selection and retention of subcontractors, or in procurement of materials and leases of equipment with regard to the work performed during this agreement, on the basis of race, creed, color, age, sex, national origin, ancestry, religion, or political opinion or affiliation.

IN WITNESS WHEREOF the parties have to hereto executed this Agreement the date of the year first above written.

SWEENCO LLC:

 05/04/2025  
Date  
By: Sarah Sweeney, Owner  
(Print Name & Title)

Corporate Attest (if applicable):

By: \_\_\_\_\_ Date

CITY OF SAINT CHARLES, MISSOURI:

DocuSigned by:  
Daniel J. Borgmeyer 5/14/2025 DS  
8D36AEB1A1BD439...  
Daniel J. Borgmeyer Date  
Mayor



Attest:  
DocuSigned by:  
Kimberly Hudson 5/14/2025  
70E389BA7AAF426...  
City Clerk Date

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.

DocuSigned by:  
Jennifer O'Connor 5/14/2025  
C5FB3E8A40BE40D...  
Director of Finance Date

EXHIBIT A

**SweenCo**

3722 Mueller Rd  
Saint Charles, MO 63301  
6366996882  
Sales@SweenCo.com



Estimate

**ADDRESS**

City of St. Charles  
2871 Elm Point Industrial Dr.  
St. Charles, MO 63301 US

**ESTIMATE # 1864**

**DATE 04/07/2025**

| ACTIVITY  | QTY | RATE      | AMOUNT    |
|---|-----|-----------|-----------|
| <b>Project</b><br>St. Charles Emergency Repair - Influent Collection Chamber - Missouri River Wastewater Treatment Plant<br>- Est. Project Start Date: August 2025<br>- Est. Completion Time: Approx. 2 Weeks   | 1   | 0.00      | 0.00      |
| <b>Services</b><br>Bypass Pumping Setup and Operation (est. 2 weeks)  | 1   | 88,552.85 | 88,552.85 |
| <b>Services</b><br>Emergency Mobilization   | 1   | 20,000.00 | 20,000.00 |
| <b>Services</b><br>Equipment Rental   | 1   | 9,500.00  | 9,500.00  |
| <b>Services</b><br>Chamber Work:<br>- Cleaning & prepping chamber<br>- Cementitious repair degraded concrete in chamber to original profile - High Strength Mortar<br>- Epoxy Coating 250 mils after mortar profile is built<br>- Sealing around screen | 1   | 46,000.00 | 46,000.00 |

Thank you for your business! We accept either Check or ACH for payment.  
We can bill this through the emergency contract pricing, if necessary.

**TOTAL**

**\$164,052.85**

Accepted By

Accepted Date

## Certificate Of Completion

Envelope Id: 180A83C7-BAA9-4D9E-BC7E-1EF91A5CA662

Status: Completed

Subject: Please DocuSign: Pink-CRS- SWEENCO.pdf

Source Envelope:

Document Pages: 6

Signatures: 10

Certificate Pages: 6

Initials: 2

AutoNav: Enabled

Stamps: 1

EnvelopeId Stamping: Enabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:

Maura Zackavec

200 N Second St

Saint Charles, MO, MO 63301

maura.zackavec@stcharlescitymo.gov

IP Address: 35.130.51.195

## Record Tracking

Status: Original

Holder: Maura Zackavec

Location: DocuSign

5/14/2025 9:11:44 AM

maura.zackavec@stcharlescitymo.gov

## Signer Events

Jim Wright

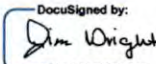
jim.wright@stcharlescitymo.gov

Director of Public Works

City of Saint Charles, MO

Security Level: Email, Account Authentication (None)

## Signature

DocuSigned by:  
  
BDF1C4B553C8492...

Signature Adoption: Pre-selected Style

Using IP Address: 174.210.2.6

Signed using mobile

## Timestamp

Sent: 5/14/2025 9:17:33 AM

Viewed: 5/14/2025 9:45:40 AM

Signed: 5/14/2025 9:45:50 AM

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Willie Hantack

William.Hantack@stcharlescitymo.gov

Audit & Accounting Manager

City of Saint Charles, MO

Signing Group: Senior Financial Analysts

Security Level: Email, Account Authentication (None)

DS  


Signature Adoption: Uploaded Signature Image

Using IP Address: 35.130.51.195

Sent: 5/14/2025 9:45:53 AM

Viewed: 5/14/2025 10:06:38 AM

Signed: 5/14/2025 10:08:42 AM

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Paul Feldmann

paul.feldmann@stcharlescitymo.gov

Purchasing Manager

City of Saint Charles, MO

Security Level: Email, Account Authentication (None)

Signed by:  
  
CA2B97B773142A...

Signature Adoption: Pre-selected Style

Using IP Address: 35.130.51.195

Sent: 5/14/2025 10:08:45 AM

Viewed: 5/14/2025 10:09:29 AM

Signed: 5/14/2025 10:09:59 AM

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Mary Ann Ohms

maryann.ohms@stcharlescitymo.gov

City of Saint Charles, MO

Security Level: Email, Account Authentication (None)

DS  


Signature Adoption: Pre-selected Style

Using IP Address: 35.130.51.195

Sent: 5/14/2025 10:10:02 AM

Viewed: 5/14/2025 10:21:25 AM

Signed: 5/14/2025 10:22:04 AM

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

## Signer Events

Holly Magdziarz  
holly.magdziarz@stcharlescitymo.gov  
Assistant City Attorney  
City of Saint Charles, MO  
Signing Group: LEGAL REVIEW  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Jennifer O'Connor  
jennifer.oconnor@stcharlescitymo.gov  
Director of Finance  
City of Saint Charles, MO  
Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Lawrence S. Dobrosky, Jr.  
lawrence.dobrosky@stcharlescitymo.gov  
Director of Administration  
City of Saint Charles, MO  
Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Daniel J. Borgmeyer  
dan.borgmeyer@stcharlescitymo.gov  
Mayor  
City of Saint Charles, MO  
Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Kimberly Hudson  
kimberly.hudson@stcharlescitymo.gov  
city clerk...  
City of Saint Charles, MO  
Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Deborah Ryan  
deborah.ryan@stcharlescitymo.gov  
Deputy City Clerk  
City of Saint Charles, MO  
Signing Group: City Clerk - Assign Contract #  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**

## Signature

DocuSigned by:  
*Holly Magdziarz*  
25D56664397642C...

Signature Adoption: Uploaded Signature Image  
Using IP Address: 35.130.51.195

DocuSigned by:  
*Jennifer O'Connor*  
C5FB3E8A40BE40D...

Signature Adoption: Pre-selected Style  
Using IP Address: 35.130.51.195

DocuSigned by:  
*Lawrence S. Dobrosky, Jr.*  
3E05A81A58094AA...

Signature Adoption: Pre-selected Style  
Using IP Address: 35.130.51.195

DocuSigned by:  
*Daniel J. Borgmeyer*  
8D36AFB1A1BD439...

Signature Adoption: Pre-selected Style  
Using IP Address: 172.59.171.106  
Signed using mobile

DocuSigned by:  
*Kimberly Hudson*  
70E399BA7AAF426...



Signature Adoption: Pre-selected Style  
Using IP Address: 35.130.51.195

## Completed

Using IP Address: 35.130.51.195

## Timestamp

Sent: 5/14/2025 10:22:08 AM  
Viewed: 5/14/2025 10:50:01 AM  
Signed: 5/14/2025 10:50:16 AM

Sent: 5/14/2025 10:50:19 AM  
Viewed: 5/14/2025 11:10:56 AM  
Signed: 5/14/2025 11:11:04 AM

Sent: 5/14/2025 11:11:08 AM  
Viewed: 5/14/2025 11:42:00 AM  
Signed: 5/14/2025 11:42:11 AM

Sent: 5/14/2025 11:42:13 AM  
Viewed: 5/14/2025 11:42:40 AM  
Signed: 5/14/2025 1:03:15 PM

Sent: 5/14/2025 1:03:18 PM  
Viewed: 5/14/2025 1:45:20 PM  
Signed: 5/14/2025 1:45:41 PM

Sent: 5/14/2025 1:45:45 PM  
Viewed: 5/14/2025 2:56:30 PM  
Signed: 5/14/2025 2:58:10 PM

| Signer Events   | Signature        | Timestamp   |
|---|------------------|---|
| Not Offered via DocuSign  |                  |   |
| In Person Signer Events   | Signature        | Timestamp   |
| Editor Delivery Events  | Status           | Timestamp   |
| Agent Delivery Events   | Status           | Timestamp   |
| Intermediary Delivery Events  | Status           | Timestamp   |
| Certified Delivery Events   | Status           | Timestamp   |
| Carbon Copy Events  | Status           | Timestamp   |
| <p>Carla Bray<br/> carla.bray@stcharlescitymo.gov<br/> Security Level: Email, Account Authentication (None)<br/> <b>Electronic Record and Signature Disclosure:</b><br/> Not Offered via DocuSign</p>   | <b>COPIED</b>    | <p>Sent: 5/14/2025 11:11:07 AM<br/> Viewed: 5/14/2025 11:11:29 AM</p> |
| <p>Amy Milstead<br/> amy.milstead@stcharlescitymo.gov<br/> Mayor Executive Assistant<br/> City of Saint Charles, MO<br/> Security Level: Email, Account Authentication (None)<br/> <b>Electronic Record and Signature Disclosure:</b><br/> Not Offered via DocuSign</p> | <b>COPIED</b>    | <p>Sent: 5/14/2025 11:42:14 AM<br/> Viewed: 5/14/2025 11:49:48 AM</p> |
| <p>Carla Bray<br/> carla.bray@stcharlescitymo.gov<br/> Security Level: Email, Account Authentication (None)<br/> <b>Electronic Record and Signature Disclosure:</b><br/> Not Offered via DocuSign</p>   | <b>COPIED</b>    | <p>Sent: 5/14/2025 2:58:15 PM</p>                                     |
| <p>KIERSTYN LORINCE<br/> kierstyn.lorince@stcharlescitymo.gov<br/> Security Level: Email, Account Authentication (None)<br/> <b>Electronic Record and Signature Disclosure:</b><br/> Accepted: 10/18/2023 11:21:59 AM<br/> ID: 4cdd9e20-cd04-486f-8ecd-f271a54d52a0</p> | <b>COPIED</b>    | <p>Sent: 5/14/2025 2:58:17 PM<br/> Viewed: 5/14/2025 2:59:52 PM</p>   |
| Witness Events  | Signature        | Timestamp   |
| Notary Events   | Signature        | Timestamp   |
| Envelope Summary Events   | Status           | Timestamps  |
| Envelope Sent   | Hashed/Encrypted | 5/14/2025 9:17:33 AM  |
| Certified Delivered   | Security Checked | 5/14/2025 2:56:30 PM  |
| Signing Complete  | Security Checked | 5/14/2025 2:58:10 PM  |
| Completed   | Security Checked | 5/14/2025 2:58:17 PM  |
| Payment Events  | Status           | Timestamps  |
| Electronic Record and Signature Disclosure  |                  |   |

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, SHI OBO City of St Charles (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact SHI OBO City of St Charles:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [lawrence.perney@stcharlescitymo.gov](mailto:lawrence.perney@stcharlescitymo.gov)

### **To advise SHI OBO City of St Charles of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [lawrence.perney@stcharlescitymo.gov](mailto:lawrence.perney@stcharlescitymo.gov) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from SHI OBO City of St Charles**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [lawrence.perney@stcharlescitymo.gov](mailto:lawrence.perney@stcharlescitymo.gov) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with SHI OBO City of St Charles**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to [lawrence.perney@stcharlescitemo.gov](mailto:lawrence.perney@stcharlescitemo.gov) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify SHI OBO City of St Charles as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by SHI OBO City of St Charles during the course of your relationship with SHI OBO City of St Charles.



Contract # \_\_\_\_\_  
(City Clerk will Assign)

**CONTRACT ROUTING SLIP  
(YELLOW PAPER)  
CONTRACTS EXCEEDING \$100,000.00**

|                                    |   |                                      |                            |
|------------------------------------|---|--------------------------------------|----------------------------|
| <b>Requesting Department:</b>      | Engineering   | <b>Department Contact:</b>           | Jim Gremaud/Grace Capritta |
| <b>Vendor Name &amp; NWS#:</b>     | L KEELEY CONSTRUCTION CO / 14733  |                                      |                            |
| <b>Description/Purpose:</b>        | Authorization to enter into an agreement with L Keeley Construction Company for the Edinburgh Storm Water improvements in an amount not to exceed \$297,650.00. |                                      |                            |
| <b>Account #:</b>                  | 517-502-535-873-110 \$297,650.00  |                                      |                            |
| <b>Project #:</b>                  | 24ENGSW1  |                                      |                            |
| <b>Amount of this Routing:</b>     | \$ 297,650.00   | <b>Requisition #:</b>                | 2025-505                   |
| <b>Contract Type:</b>              | New Contract  | <b>N/A</b>                           | <b>Coop#:</b>              |
| <b>Contract Term:</b>              | To Completion   | <b>Renewal Options:</b>              | N/A                        |
| <b>If Renewal or Amendment: C#</b> | <b>Amendment #</b>  | <b>Renewal #</b>                     |                            |
| <b>Original Contract Value:</b>    | \$  | <b>Total of Previous Amendments:</b> | \$                         |
| <b>Total Contract Value:</b>       | \$ 297,650.00   |                                      |                            |

DS  
MAG

**Certifications: to be completed by Originating Department Director**

|  |     |
|--|-----|
| All obligations and/or payment amounts of both parties, and reimbursable expenses (if any), are included in the contract | Yes |
| All required forms are current and attached  | Yes |
| Vendor executed contract attached  | Yes |

As the responsible **DEPARTMENT DIRECTOR**, for the contract's originating department, I certify that I have reviewed the terms and conditions of the agreement and I am satisfied with the business terms and the description of goods, services, payment amounts, and terms to be provided. By signing below, I certify that this agreement complies with City policies, any rules, terms and conditions relating to any funding source, and that the Department can and will comply with the terms of the Agreement.

|                                      |  |           |
|--------------------------------------|--|-----------|
| <b>Printed Name:</b><br><br>Dan Mann | <b>Signature:</b><br><small>DocuSigned by:</small><br>Dan Mann | 5/22/2025 |
|--------------------------------------|--|-----------|

| <b>ROUTING</b>  | <b>Signature/Date</b>   |
|---|---|
| Purchasing Review (Compliant with Chapter 145 and City Terms) | <small>Signed by:</small><br>Paul Feldmann<br>5/23/2025                 |
| Department of Law (for Legality only)                         | <small>DocuSigned by:</small><br>Holly Magdiany<br>5/27/2025            |
| Director of Finance (Funds Available)                         | <small>DocuSigned by:</small><br>Jennifer O'Connor<br>5/27/2025         |
| Director of Administration (Recommend Approval)               | <small>DocuSigned by:</small><br>Lawrence S. Dobrosky, Jr.<br>5/29/2025 |
| City Council Approval on Consent Agenda                       |   |
| Mayor (Signature Indicating Approval)                         |   |
| City Clerk (Signature, Seal and Contract # Assigned)          |   |



**RCA FORM (OFFICE USE ONLY)**

Bill # \_\_\_\_\_

MEETING/DATE: 06/03/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): Ward 6

Sponsor(s): CONSENT AGENDA

**Description:**

Authorization to enter into an Agreement with L Keeley Construction Company for the Edinburg Storm Water improvements in an amount not to exceed \$297,650.00.00.

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

The Edinburg Court Stormwater Improvement Project will install three new area inlets, a new manhole and connections to the existing storm systems. The project will also connect existing downspouts, grade terrain to drain and repair the site after construction.

The City received two bids on the project, with L Keeley Construction Group being the low bid at \$297,650.00. The engineers estimate for the project was \$275,227.50.

The Contractor's experience and capabilities have been reviewed and been found acceptable.

**Staff recommends approval of L Keeley's Construction Company's bid and recommends entering into a contract with them in the amount of \$297,650.00.**

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

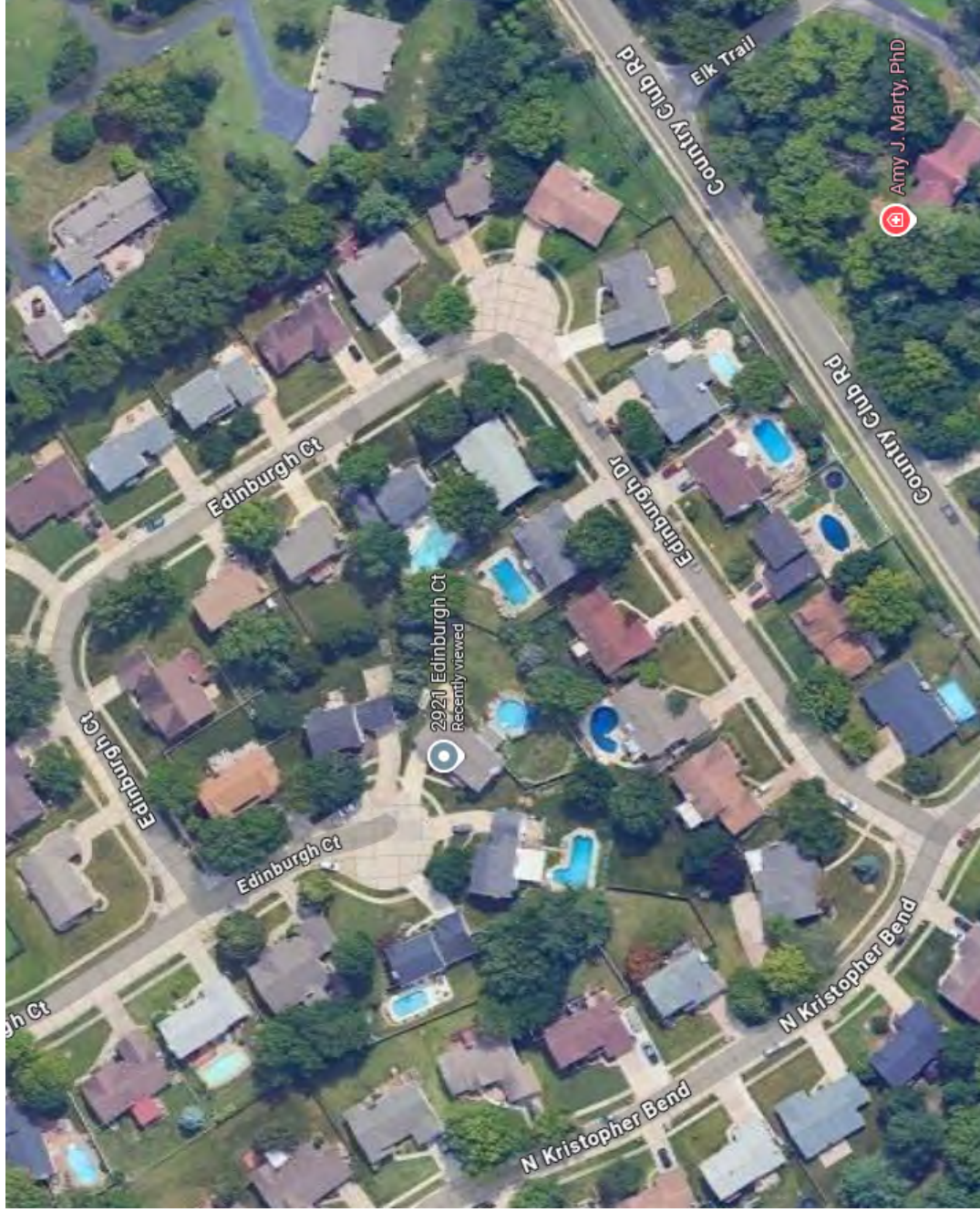
**Fiscal Impact:** 297,650.00

**Requisition #:** 2025-505

**Account #:** 517-502-535-873-110 \$297,650.00

**Project #:** 24ENGSW1

RCA prepared by: JG/GC Dept. Dir. [Signature] Finance Dir. [Signature] Dir. of Admin. [Signature]



# Edinburgh Storm Sewer Location Map



## CONTRACT

This CONTRACT (hereinafter, the "Contract") is between the City of Saint Charles, Missouri, a constitutional home rule charter city and political subdivision of the State of Missouri (hereinafter, the "City"), and Keeley Construction Group, Inc., a [corporation or limited liability company] organized in the State of Illinois and in good standing (hereinafter, the "Contractor") for the **Edinburgh Court Storm Sewers Project** (hereinafter, the "Project"). The City and Contractor may be referred to collectively as the "Parties." The effective date of this **Contract** is \_\_\_\_\_.

In consideration for the foregoing premises and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by the City and Contractor and intending to be mutually bound hereby, City and Contractor agree as follows:

### ARTICLE 1. Contract Documents

For purposes of this Contract and the General Conditions notwithstanding, the Contract Documents consist of the following, and in the event of conflicts or discrepancies among them, they shall be interpreted on the basis of the following priorities and in the manner most favorable to the City.

1. This Contract
2. Job Special Provisions (JSPs)
3. Project Specific Drawings
4. General Conditions of the Contract, as may be modified by the Supplementary Conditions
5. Standards and Specifications
6. Invitation for bids, bid specifications, request for proposals or purchase description
7. Addenda issued prior to the execution of the Contract
8. Performance and Payment Bond in the form attached hereto as **Exhibit A**
9. Guarantee Performance Bond in the form attached hereto as **Exhibit B**
10. Contractor's bid or proposal
11. Modifications issued after execution of the Contract, which are not attached hereto, including the following:
  - a. Work Order issued by the City

- b. Written amendment to the Contract signed by both parties
- c. Change Order
- 12. Copies of all certificates of insurance and/or endorsements and permits required under the Contract
- 13. Notice to Proceed, which may be delivered or issued on or after the Effective Date of this Contract and may not be attached hereto
- 14. Federal Work Authorization (e-verify), Proof of Lawful Presence, Missouri Prevailing Wage Law; OSHA Construction Safety Program; and Nonresident Employers – Bonding Requirements

EACH OF WHICH IS ATTACHED HERETO except as otherwise provided. These documents form the entire Contract between the parties and there are no other agreements between the parties. Any amendment or modification to this Contract must be in writing and signed by an official with the authority to bind the City. Such amendment or modification shall be incorporated into and made a part of this Contract.

ARTICLE 2. Scope of Work

The Contractor shall furnish all of the labor, materials, machinery, and equipment and perform all of the work shown on the Contract Documents, and the Contractor agrees to do everything required by this Contract and the Contract Documents.

ARTICLE 3. Term of Contract

A. This Contract shall commence on the Effective Date, subject to annual appropriation as described in Article 8, Termination.

B. All times for Project Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence in this Contract.

**The Contractor shall meet the following Project Milestones:**

- 1. Substantial Completion
- 2. Final Completion

C. The work will be substantially completed **within sixty (60) calendar days** after the date when the Contract Times commence to run as provided in **Paragraph 2.5.02 of the General Conditions**, and completed and ready for final payment **within ninety (90) calendar days** after the date when the Contract Times commence to run.

D. If the Contractor fails to substantially or finally complete the work or achieve any Milestone by the date specified in the Contract Documents, or an extended completion date which is mutually agreed upon by the Contractor and the City, the Contractor shall pay to the City not as a penalty but as liquidated damages the sum of **two hundred and fifty dollars (\$250.00) (follow MoDOT Liquidated Damages EPG 136.9.4.1.1.2)** per day for each and every calendar day beyond the date on which completion was required. This amount is fixed and agreed upon by and between the City and the Contractor to be the amount of damages which the City would sustain, and is based upon the parties' reasonable estimate of actual damages likely to result from the Contractor's breach hereunder. The City's right to assess liquidated damages shall not preclude the City from the exercise of any other rights to recover damages on account of the Contractor's failure to achieve substantial and final completion within the time required.

ARTICLE 4. The Contract Sum

The Contractor agrees to provide to the City items at the specific price points listed in the Contractor's bid submission, for the duration of this Contract. The City makes no guarantee to purchase any minimum or specific quantity of goods or services under the provisions of this Contract. **The total value of the goods and services will not exceed the sum of Two hundred Ninety Seven Thousand Six Hundred Fifty Dollars and Zero Cents (\$ 297,650.00 )** which includes a 10% contingency amount of \$2,115, for the performance of the Contract, subject to additions and deductions provided herein, in current funds based on the actual quantities of work completed under each line item at the unit prices named in the proposal attached hereto and made a part of these documents and this contract, without the issuance of a change order agreed to in writing and signed by the City and Contractor.

ARTICLE 5. Payment

- A. The City shall make payments on account of the Contract as provided herein as follows:
1. At the end of each calendar month, and no later than the fifth day of the next month, the Contractor shall certify and submit to the Engineer, an estimate of the amount and fair value of the work done, as a basis for partial payments. Each application shall be submitted on AIA Document G702.
  2. Five percent (5%) (retainage) will be deducted each month for a reserve by the City as partial guaranty of the faithful execution of the Contract by the Contractor up to an amount equal to five (5) percent of the total contract sum stated in Article 4. The retainage will be paid to

the Contractor upon substantial completion and acceptance of the work, less one hundred fifty percent (150%) of the value of incomplete punch list work.

3. It is understood and agreed that no partial payment shall be made to the Contractor until the Contractor shall furnish to the Engineer either the original or a duly certified copy of their and each of their subcontractor's payrolls and satisfactory proof of payment of, or satisfactory release thereof of all bills for services, materials, tools, supplies, and subcontractors.

4. The City shall have the right to enter upon and put into proper service, any or all parts of the work which may be in condition for use. No claim or charge is to be made by the Contractor for such use, nor is such use to be construed as an acceptance by the City of any part of the work so used.

#### ARTICLE 6. Final Payment

A. Upon satisfactory final completion of the work as determined by final inspection, and when the final estimate has been prepared and certified by the Engineer, the Engineer will submit to the City a final certificate stating that the work has been completed, under the terms and conditions thereof, and the amount, based on the final estimate, remaining due the Contractor. The City will then accept the work as fully completed and will, not later than sixty (60) days thereafter pay the Contractor the entire sum so found due after deduction of all previous payments and all percentages and amounts to be kept and retained pursuant to this Contract; provided however, that as a condition precedent to receiving final payment, the Contractor shall submit to the City a sworn affidavit that all bills for labor, service, materials, and subcontractors have been paid and that there are no suits pending in connection with the work done or labor and materials furnished under the Contract. All prior certificates and estimates, being approximate only, are subject to correction in the final estimate and payment. The Contractor hereby warrants all of the work done under this contract for a period of two (2) years following the completion of the Project. Upon completion, the Contractor shall submit to the City a written two (2) year warranty. Failure of the Contractor to submit a written warranty does not release the Contractor of this warranty in any way.

B. If, after the work has been substantially completed, full completion thereof is materially delayed through no fault of the Contractor and the Engineer so certifies, the City shall upon receipt of a certificate of the Engineer, and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. This payment shall be made under the terms and conditions covering final payment, and it shall not constitute a waiver of claims by the City.

ARTICLE 7. Contractor's Representations

In order to induce the City to enter into this Contract, the Contractor makes the following representations:

- A. The Contractor has examined and carefully studied the Contract Documents and the other related data identified in the bidding documents.
- B. The Contractor has visited the work site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the work.
- C. The Contractor is familiar with and is satisfied as to all federal, state and local laws and regulations that may affect cost, progress, and performance of the work.
- D. The Contractor has carefully studied all:
  - 1. reports of explorations and tests of subsurface conditions at or contiguous to the work site and all drawings of physical conditions relating to existing surface or subsurface structures at the site, if any, that have been identified in the Contract documents as containing reliable "technical data"; and
  - 2. reports and drawings of hazardous environmental conditions, if any, at the site that have been identified in the Contract documents as containing reliable "technical data."
- E. The Contractor has considered information known to the Contractor; information commonly known to contractors doing business in the locality of the site; information and observations obtained from visits to the site; the Contract Documents; and the site related reports and drawings identified in the Contract Documents with respect to the effect of such information observations, and documents on:
  - 1. the cost, progress, and performance of the work;
  - 2. the means, methods, techniques, sequences, and procedures of construction to be employed by the Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and
  - 3. the Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraphs A through E inclusive above, the Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the work at the contract price, within the contract times, and in accordance with the other terms and conditions of the Contract Documents.
- G. The Contractor is aware of the general nature of the work to be performed by the City and

others at the site, if any, which relates to the work as indicated in the Contract Documents.

H. The Contractor has given the City written notice of all conflicts, errors, ambiguities, or discrepancies that the Contractor has discovered in the Contract Documents, and the written resolution thereof by the City is acceptable to the Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the work.

ARTICLE 8. Termination

In addition to the provisions of **Article 2.3.15 of the General Conditions**, the City shall have the right to terminate this Contract if funds are not appropriated or otherwise made available to pay the contract price.

ARTICLE 9. Performance and Payment Bonds

When the Contractor delivers the counterparts of the contract to the City, the Contractor shall also deliver performance and payment bonds as follows, subject to the additional requirements set forth in **Paragraph 2.7.05 of the General Conditions**:

A. The Contractor shall furnish a 100% Performance and Payment Bond from a surety company qualified to do business under the laws of the State of Missouri which is satisfactory to the City in the full amount of the contract price and in the form attached hereto as **Exhibit A**.

B. The Contractor shall furnish a Guarantee Performance Bond from a surety company qualified to do business under the laws of the State of Missouri which is satisfactory to the City for **ten percent (10%)** of the contract price to guarantee satisfactory performance of the work for a period of **two (2) years** after the date of acceptance of the work, and in the form attached hereto as **Exhibit B**.

ARTICLE 10. Insurance

A. In addition to the requirements set forth in **Section 2.7 of the General Conditions**, the Contractor and its subcontractors, consultants, or other persons or entities performing or furnishing any portion of the work shall purchase and maintain insurance as set forth in this Article. When the Contractor delivers the executed counterparts of the Contract to the City, and before any work at the site is started, the Contractor shall deliver to the City, with copies to each additional insured identified in the Supplementary Conditions, if any, certificates of insurance and insurance policy endorsements (and other evidence of insurance which the City or any additional insured may

reasonably request, including any insurance policies to which such certificates of insurance or policy endorsements relate) for each insurance policy that the Contractor is required to purchase and maintain in accordance herewith.

B. The Contractor and its subcontractors, consultants, and other persons or entities performing or furnishing any portion of the work shall purchase and maintain such insurance as is appropriate for the work being performed and as will provide protection from claims set forth below which may arise out of or result from such party's performance of the work and other obligations under the Contract Documents, whether it be performed by the Contractor, any subcontractor or supplier, or by anyone directly or indirectly employed by any of them to perform any of the work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits or other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of the insured's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than the insured's employees;
4. claims for damages which are sustained:
  - a. by any person as a result of an offense directly or indirectly related to the employment of such person by the insured, or
  - b. by any other person for any other reason.
5. claims for damages, other than to the work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom, including explosion, collapse, and underground coverages;
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle;
7. claims for damages relating to the Contractor's obligations pursuant to this Contract;
8. claims for damages to property written as Builder's Risk Insurance; and
9. claims for damages resulting from the release of hazardous waste due to the Contractor's operations.

C. The policies of insurance required pursuant to this Article shall:

1. with respect to insurance required by paragraphs B.3, B.4, B.5, B.6 and B.7 of this Article, be written on an occurrence basis, include as additional insureds the City, the Engineer,

and any other person or entity required in the Contract Documents, all of whom shall be listed as additional insureds, and include coverage for the respective elected officials, officers, directors, members, partners, employee, agents, consultants, and subcontractors or each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary and non-contributory coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the liability as follows or required by law, whichever is greater:

a. Workers' Compensation, and related coverages under paragraphs B.1 and B.2 of this Article in accordance with federal law and the laws of the State of Missouri:

- i. State: Statutory limit
- ii. Applicable Federal (e.g., Longshoremen's): Statutory limit
- iii. Employer's Liability: \$3,000,000 Each Accident  
\$3,000,000 Disease per Employee

b. Contractor's General Liability under paragraphs B.3, B.4, B.5 and B.6 of this Article which shall include completed operations and product liability coverages:

- i. General Aggregate: \$3,000,000
- ii. Products – Completed operations Aggregate: \$3,000,000
- iii. Personal and Advertising Injury: \$1,000,000
- iv. Each Occurrence  
(Bodily Injury and Property Damage): \$1,000,000
- v. Excess or Umbrella Liability  
General Aggregate: \$5,000,000  
Each Occurrence: \$5,000,000

c. Automobile Liability under paragraph B.6 of this Article:

- i. Bodily Injury:  
Each Person: \$3,000,000  
Each Accident: \$3,000,000
- ii. Property Damage:  
Each Accident: \$3,000,000
- iii. Combined Single Limit of: \$3,000,000
- iv. The policy shall include a CA 99 48 Broadened Pollution

Endorsement. The Contractor, if hauling contaminants or pollutants, must adhere to Sections 29 and 30 of the Motor Carrier Act of 1980, which shall include coverage form MCS-90.

d. Property Liability (Builder's Risk)

i. Amount equal to insurable value of the Contract, including all structures, materials, and equipment to be built and installed.

e. The Contractual Liability coverage of paragraph B.7 of this Article shall cover Contractor's indemnity obligations under the Contract and provide coverage for not less than the following amounts:

i. Bodily Injury:

Each Person: \$3,000,000

Each Accident: \$3,000,000

ii. Property Damage:

Each Accident: \$3,000,000

Annual Aggregate: \$3,000,000

f. The property insurance required by paragraph B.8 of this Article shall be written as Builder's Risk with an "All Risk" Installation Floater that shall at least include insurance for physical loss and damage to the work, temporary buildings, falsework, and work in transit and shall insure against at least the following perils: flood, fire, lightening, extended coverage, theft, vandalism and malicious theft, earthquake, collapse, debris removal, demolition occasioned by enforcement of laws or regulations, and water damage, and be written in the completed value form. Such policy shall cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects) and materials and equipment in transit for incorporation into the work or stored at the site or at another location that was agreed to in writing by the City prior to being incorporated into the work, provided that such material and equipment have been included in an Application for Payment recommended by the City or the Engineer. Such policy shall include the interests of the City, Contractor, subcontractors, engineers, the City's and engineer's consultants, each of whom is deemed to have an insurable interest, and each shall be listed as an insured or an additional insured.

g. The Contractor's Pollution Insurance coverage required by paragraph B.9 of this article shall cover bodily injury and property damage resulting from liability arising out of pollution related exposures such as asbestos abatement, lead paint abatement, tank removal, removal of contaminated soil, etc. The insurance policy shall cover the liability of the Contractor during the process of removal, storage, transport and disposal of hazardous waste and contaminated soil and/or asbestos abatement. The policy shall include coverage for on-site and off-site bodily injury and loss of, damage to, or loss of use of property, directly or indirectly arising

out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gas, waste materials or other irritants, contaminants or pollutants into or upon the land, the atmosphere or any water course or body of water, whether it be gradual or sudden or accidental. The policy shall also include defense and clean-up costs. The amount of coverage shall be as follows:

i. Limit of Liability:

Each Occurrence: \$3,000,000

Aggregate: \$3,000,000

3. contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed, or renewal refused until at least thirty (30) calendar days written notice has been given to the City and the Contractor and to each additional insured identified in the Contract Documents to whom a certificate of insurance and/or endorsement has been issued (and the certificates of insurance furnished by the Contractor pursuant to this Contract will so provide);

4. remain in effect through final payment and at all times thereafter when the contractor may be correcting, removing, or replacing defective work in accordance with **Paragraph 2.7.01 of the General Conditions**; and

5. include completed operations coverage:

a. such insurance shall remain in effect for two years after final payment; and

b. the Contractor shall furnish the City and each other additional insured identified in the Contract Documents, to whom a certificate of insurance has been issued, evidence satisfactory to the City and any such additional insured of continuation of such insurance at final payment and one year thereafter.

ARTICLE 11. Indemnification

A. The Contractor shall indemnify, defend, and hold harmless the City and Engineer and the elected officials, officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, accountants, and other professional and all court and other dispute resolution costs) for or on account of or relating to any act, omission, or negligence of the Contractor, subcontractors, or its or their agents or employees in the performance of the work and/or their failure to comply with the terms and conditions of this Contract. The foregoing provision shall not be deemed to be released, waived, or modified in any respect by any reason of any surety or insurance provided by the Contractor,

and this provision shall survive termination of this Contract.

B. In any and all claims against the City or Engineer or any of their elected officials, officers, directors, members, partners, employees, agents, consultants and subcontractors by any employee (or the survivor or personal representative of such employee) of the Contractor, any subcontractor, any supplier, or any person or entity directly or indirectly employed by any of them to perform any of the work, or anyone for whose acts any of them may be liable, the indemnification obligation under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any such subcontractor, supplier, or any other person or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

#### ARTICLE 12. Dispute Resolution

The City and Contractor agree that disputes regarding the Project shall first be addressed by informal discussions between the Parties. If discussions between the Parties fail to resolve the dispute, then the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, the Contractor shall proceed with the Construction Services pursuant to this Contract as if no dispute existed, and the City shall continue to make payment for the Contractor's completed services unless the Contractor gives notice of termination. Nothing herein shall prohibit the parties from mutually agreeing upon another method of dispute resolution.

#### ARTICLE 13. Prevailing Wage

Contractor shall comply with the Missouri Prevailing Wage Law, R.S.Mo. Section 290.210, et seq. and shall not pay less than the prevailing hourly rate of wages, as set out in the wage order attached to and made part of the specification for work under this Contract to all workers performing work pursuant to this Contract. Contractor shall forfeit a penalty to the City of \$100.00 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work done pursuant to this Contract by the Contractor or by any subcontractor.

#### ARTICLE 14. Miscellaneous Terms and Conditions

- A. Project Management Manual. Contractor shall comply with the City of Saint Charles, Missouri, Project Management Manual in the performance of the work pursuant to this Contract.
- B. Governing Law; Choice of Forum. This Contract and its performance shall be governed

by and construed under the laws of the State of Missouri applicable to contracts made and to be performed wholly within Missouri, without regard to choice or conflict of law's provisions. The City and Contractor agree that any action at law, suit in equity, or other judicial proceeding arising out of this Agreement shall be instituted only in the Circuit Court of St. Charles County, Missouri and waive any objections based upon venue or forum non convenes or otherwise. Contractor specifically acknowledges that R.S.Mo. Section 70.320 shall not apply to any action brought regarding this Contract. Contractor specifically acknowledges that R.S.Mo. Section 508.050 shall apply exclusively to any action brought regarding this Contract. This section of the Contract shall survive termination of this Contract.

C. Partial Invalidity. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any other provisions of this Contract.

D. Modifications to be in Writing. No waiver or modification of this Contract or of any covenant, condition or limitation contained herein shall be valid unless in writing and duly executed by the Parties.

E. No Waiver for Breach. The failure of either Party to insist, in any one or more instances, upon performance of the terms or conditions of this Contract shall not be construed as a waiver or a relinquishment of any right granted hereunder or of the future performance of any such term, covenant, or condition.

F. Notices. All notices or other communications required or desired to be given shall be in writing and shall be deemed duly given when mailed by first class, registered or certified mail, postage prepaid, or sent via national overnight courier (e.g. Federal Express), or if sent by facsimile and contemporaneously sent by regular mail, addressed as follows:

1. To Contractor:  
Keeley Construction Group, Inc.  
Attention: Ron Roellig  
500 S Ewing Avenue  
Suite G  
St. Louis, MO 63103-2914

2. To City:  
  
City of Saint Charles, Missouri  
Attention: Director of Engineering  
200 North Second Street, Room 202  
St. Charles, MO 63301

With a copy to:

City of Saint Charles, Missouri  
Attn: City Attorney  
200 North Second Street, Room 401B  
St. Charles, MO 63301  
Telephone No.: 636-949-3274  
Fax No. 636-940-4666

G. Headings for Reference Only. The headings of this Contract are intended solely for convenience of reference and shall have no effect on the construction or interpretation of this Contract.

H. Assignment. This Contract may not be assigned by either Party in whole or in part without prior written consent of the other Party.

I. No Official Personally Liable. No official, elected official, agent, employee, attorney or representative of the City shall be personally liable to Contractor in the event of any default or breach by any Party under this Contract, or for any amount which may become due to any Party or on any obligations under the terms of this Contract. No director, officer, shareholder, manager, agent, employee, attorney or representative of Contractor shall be personally liable to the City in the event of any default or breach by any Party under this Contract, or for any amount which may become due to any Party or on any obligations under the terms of this Contract.

J. No Discrimination. Contractor agrees in the performance of this Contract that it will not discriminate against any employee or applicant for employment, in the selection and retention of any subcontractor, in procurement of materials, lease of equipment or provision of any labor, material or service based upon age, ancestry, color, disability, familial status, religion or sex.

Pursuant to Section 34.600 RSMo, as amended, Contractor, hereby certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel, or that this certification is not applicable as the value of this contract is less than \$100,000 or Contractor has less than ten (10) employees.

K. Sex Offender Registration. Contractor shall comply with City Code of Ordinances Section 145.040 which requires any person used by the Contractor in the performance of the Contract who is a registered sex offender and has any contact with a City employee or resident or is physically present on City property to register with the City of Saint Charles Police Department.

L. Proof of Lawful Presence. Contractor acknowledges award of this Contract requires compliance with R.S.Mo. Section 208.009 which requires the person executing this Contract on

behalf of the Contractor to provide City with affirmative proof that he/she is a citizen or permanent resident of the United States or is lawfully present in the United States prior to the City awarding Contractor with this Contract.

M. E-Verify. Contractor acknowledges award of this Contract requires compliance with R.S.Mo. Section 285.530(2) regarding enrollment and participation in a federal work authorization program with respect to all persons working in connection with this Project. Contractor represents and warrants that it is in compliance with Section 285.530 at the time of award of this Contract. A sworn affidavit and supporting documentation affirming participation in a qualified federal work authorization program and that Contractor does not knowingly employ any person who is an unauthorized alien in connection with the services to be performed pursuant to this Contract is attached to this Contract and incorporated herein by this reference.

N. Transient Employers. Contractor shall comply with the transient employer obligations as defined in R.S.Mo. Section 285.230 and shall post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) the notice of registration for employer withholding issued to such transient employer by the Missouri Director of Revenue; (2) proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the Missouri Department of Revenue through the records of the Division of Workers' Compensation; and (3) the notice of registration for unemployment insurance issued to such transient employer by the Division of Employment Security. Contractor acknowledges its failure to comply with the transient employer obligations subject the Contractor to a penalty of \$500 per day until the notices required by this section are posted.

O. Construction Contractor Safety Training Program. Contractor and all subcontractors shall require all on-site employees to complete the ten-hour construction safety training program required pursuant to R.S.Mo. Section 292.675, if not previously completed with required documentation of successful completion. Contractor shall forfeit a penalty to the City of \$2,500.00 plus an additional \$100.00 for each employee employed by the Contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training.

P. Counterparts. This Contract may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their respective officers or officials.

Contractor:

KEELEY CONSTRUCTION GROUP, INC.

City:

CITY OF SAINT CHARLES, MISSOURI

Ron Roellig

By: Authorized Signatory \_\_\_\_\_ Date

Daniel J. Borgmeyer, Mayor \_\_\_\_\_ Date

Ron Roellig, Executive Vice President  
Printed Name of Authorized Signatory

Corporate Attest:

Attest:

Daniel Bradley

Signature \_\_\_\_\_ Date

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

Daniel Bradley, Secretary  
Printed Name



CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.

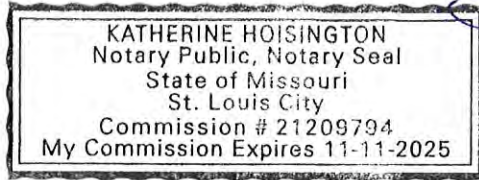
DocuSigned by:  
*Jennifer O'Connor* 5/27/2025  
C5FB3E8A40BE40D...  
Director of Finance, St. Charles      Date  
Jennifer O'Connor

ACKNOWLEDGMENT WHERE THE CONTRACTOR  
IS A CORPORATION

STATE OF MISSOURI )  
 )  
COUNTY (AND/OR CITY) OF ST LOUIS CITY )

On this 12th day of May in the year 2025 before me,  
Katherine Hoisington (name of notary), a Notary Public in and for said state,  
personally appeared Ron Roellig (name of officer),  
Executive Vice President (title of person, president, vice president, etc.) of  
Keeley Construction Group, Inc. (name of corporation), known to me to be the person who  
executed the within Acknowledgment (type of document) in behalf of said corporation and  
acknowledged to me that he or she executed the same for the purposed therein stated.

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



  
\_\_\_\_\_  
Notary Public

My Commission Expires: 11/11/2025

| <b>Edinburgh Court Stormwater Project 24ENGSW1</b> |                  |
|--|------------------|
| <b>Bid #4789</b>                                   |                  |
| <b>Bid Tabs May 12, 2025</b>                       |                  |
| <b>CONTRACTOR</b>                                  | <b>BID TOTAL</b> |
| Keeley Construction Group                          | \$297,650.00     |
| Pace Construction Company                          | \$311,627.00     |
|  |                  |
|  |                  |

103 Elm Street  
Washington, MO 63090



636.639.4751  
www.bfoeng.com

| LINE                      | SPEC. NO.                   | ITEM   | QUANTITY | UNIT | UNIT PRICE   | TOTAL        |
|---------------------------|-----------------------------|--|----------|------|--------------|--------------|
| 1                         | STLC-619                    | Mobilization                                 | 1        | LS   | \$ 31,827.30 | \$ 31,827.30 |
| 2                         | STLC-806                    | Temporary Erosion Control                    | 1        | LS   | \$ 21,218.20 | \$ 21,218.20 |
| <b>Demolition</b>         |                             |  |          |      |              |              |
| 3                         | STLC-202<br>STLC-201<br>MSD | Removal of Improvements                      | 1        | LS   | \$ 15,902.00 | \$ 15,902.00 |
| 4                         | STLC-201                    | 10"-24" Tree                                 | 4        | EACH | \$ 993.00    | \$ 3,972.00  |
| 5                         | MSD                         | PVC (abandon)                                | 1        | EACH | \$ 245.00    | \$ 245.00    |
| <b>Stormwater</b>         |                             |  |          |      |              |              |
| 6                         | MSD<br>STLC-726             | 12" RCP                                      | 219      | LF   | \$ 99.00     | \$ 21,681.00 |
| 7                         | MSD<br>STLC-726             | 24" RCP                                      | 157      | LF   | \$ 138.00    | \$ 21,666.00 |
| 8                         | MSD<br>STLC-726             | 6" PVC                                       | 60       | LF   | \$ 63.00     | \$ 3,780.00  |
| 9                         | MSD                         | CPP  | 7        | LF   | \$ 63.00     | \$ 441.00    |
| 10                        | STLC-605                    | DrainTile                                    | 119      | LF   | \$ 79.00     | \$ 9,401.00  |
| 11                        | STLC-604                    | Cleanout                                     | 7        | EACH | \$ 167.00    | \$ 1,169.00  |
| 12                        | STLC-604                    | Yard Grate                                   | 1        | EACH | \$ 167.00    | \$ 167.00    |
| 13                        | STLC-604                    | Junction Box                                 | 1        | EACH | \$ 4,162.00  | \$ 4,162.00  |
| 14                        | STLC-604                    | Area Inlet                                   | 3        | EACH | \$ 5,000.00  | \$ 15,000.00 |
| 15                        | STLC-604                    | Tie-in Existing Curb Inlet                   | 1        | LS   | \$ 1,500.00  | \$ 1,500.00  |
| 16                        | STLC-604                    | Installation Junction Box No. 6              | 1        | LS   | \$ 4,162.00  | \$ 4,162.00  |
| 17                        | STLC-605                    | Tie-in Downspouts to Cleanouts               | 1        | LS   | \$ 10,000.00 | \$ 10,000.00 |
| <b>Sitework</b>           |                             |  |          |      |              |              |
| 18                        | STLC-608                    | Concrete Sidewalk                            | 10       | SY   | \$ 107.00    | \$ 1,070.00  |
| 19                        | STLC-803                    | Sodding                                      | 563      | SY   | \$ 11.00     | \$ 6,193.00  |
| 20                        | STLC-203                    | Grading Work                                 | 1        | LS   | \$ 8,000.00  | \$ 8,000.00  |
| 21                        | STLC-203                    | Earthwork, Cut                               | 11       | CY   | \$ 93.00     | \$ 1,023.00  |
| 22                        | STLC-203                    | Earthwork, Cut & Fill Rotation               | 4        | CY   | \$ 320.00    | \$ 1,280.00  |
| 23                        | STLC-203                    | Removal & Replacement of Unsuitable Material | 50       | CY   | \$ 95.00     | \$ 4,750.00  |
| 24                        | STLC-608                    | Concrete Approach                            | 15       | SY   | \$ 138.00    | \$ 2,070.00  |
| 25                        | STLC-502 &<br>STLC 609      | Pavement Roadway (Concrete)                  | 383      | SY   | \$ 113.00    | \$ 43,279.00 |
| 26                        | STLC-202                    | Sawcut                                       | 319      | LF   | \$ 4.00      | \$ 1,276.00  |
| 27                        | STLC-201                    | Fencing Removal & Replacement                | 24       | LF   | \$ 62.00     | \$ 1,488.00  |
| 28                        | STLC-104                    | Removal & Replacement of Existing Mailbox    | 1        | EA   | \$ 200.00    | \$ 200.00    |
| 29                        | STLC-304                    | Type 5 Aggregate for Base                    | 46       | CY   | \$ 45.00     | \$ 2,070.00  |
| 30                        | STLC-206                    | Granular Backfill                            | 685      | CY   | \$ 31.00     | \$ 21,235.00 |
| 31                        |                             | As-Built Plans                               | 1        | LS   | \$ 5,000.00  | \$ 5,000.00  |
| 32                        | STLC-1063                   | Traffic & Pedestrian Control                 | 1        | LS   | \$ 5,000.00  | \$ 5,000.00  |
| 33                        |                             | Temporary Pavement and Access                | 1        | LS   | \$ 5,000.00  | \$ 5,000.00  |
| <b>CONSTRUCTION TOTAL</b> |                             |  |          |      | \$           | 275,227.50   |

1. This assumes no irrigation will need to be relocated. 10-17-2024

| Keely                     |      |              |               | Pace                      |      |              |               |
|---------------------------|------|--------------|---------------|---------------------------|------|--------------|---------------|
| QUANTITY                  | UNIT | UNIT PRICE   | TOTAL         | QUANTITY                  | UNIT | UNIT PRICE   | TOTAL         |
| 1                         | LS   | \$ 40,375.00 | \$ 40,375.00  | 1                         | LS   | \$ 39,375.00 | \$ 39,375.00  |
| 1                         | LS   | \$ 2,249.00  | \$ 2,249.00   | 1                         | LS   | \$ 4,008.00  | \$ 4,008.00   |
| 1                         | LS   | \$ 31,806.00 | \$ 31,806.00  | 1                         | LS   | \$ 6,162.00  | \$ 6,162.00   |
| 4                         | EACH | \$ 1,433.00  | \$ 5,732.00   | 4                         | EACH | \$ 1,487.00  | \$ 5,948.00   |
| 1                         | EACH | \$ 1,107.00  | \$ 1,107.00   | 1                         | EACH | \$ 2,269.00  | \$ 2,269.00   |
| 219                       | LF   | \$ 102.00    | \$ 22,338.00  | 219                       | LF   | \$ 166.00    | \$ 36,354.00  |
| 157                       | LF   | \$ 146.00    | \$ 22,920.00  | 157                       | LF   | \$ 264.00    | \$ 41,448.00  |
| 60                        | LF   | \$ 125.00    | \$ 7,500.00   | 60                        | LF   | \$ 89.00     | \$ 5,340.00   |
| 7                         | LF   | \$ 116.00    | \$ 812.00     | 7                         | LF   | \$ 168.00    | \$ 1,176.00   |
| 119                       | LF   | \$ 38.00     | \$ 4,522.00   | 119                       | LF   | \$ 91.00     | \$ 10,829.00  |
| 7                         | EACH | \$ 273.00    | \$ 1,911.00   | 7                         | EACH | \$ 366.00    | \$ 2,562.00   |
| 1                         | EACH | \$ 2,040.00  | \$ 2,040.00   | 1                         | EACH | \$ 1,154.00  | \$ 1,154.00   |
| 1                         | EACH | \$ 4,807.00  | \$ 4,807.00   | 1                         | EACH | \$ 4,756.00  | \$ 4,756.00   |
| 3                         | EACH | \$ 3,602.00  | \$ 10,806.00  | 3                         | EACH | \$ 4,103.00  | \$ 12,309.00  |
| 1                         | LS   | \$ 3,525.00  | \$ 3,525.00   | 1                         | LS   | \$ 2,727.00  | \$ 2,727.00   |
| 1                         | LS   | \$ 6,438.00  | \$ 6,438.00   | 1                         | LS   | \$ 4,575.00  | \$ 4,575.00   |
| 1                         | LS   | \$ 1,026.00  | \$ 1,026.00   | 1                         | LS   | \$ 1,135.00  | \$ 1,135.00   |
| 10                        | SY   | \$ 452.00    | \$ 4,520.00   | 10                        | SY   | \$ 155.00    | \$ 1,550.00   |
| 563                       | SY   | \$ 36.00     | \$ 20,268.00  | 563                       | SY   | \$ 21.00     | \$ 11,823.00  |
| 1                         | LS   | \$ 3,134.00  | \$ 3,134.00   | 1                         | LS   | \$ 8,506.00  | \$ 8,506.00   |
| 11                        | CY   | \$ 513.00    | \$ 5,643.00   | 11                        | CY   | \$ 97.00     | \$ 1,067.00   |
| 4                         | CY   | \$ 1,175.00  | \$ 4,700.00   | 4                         | CY   | \$ 266.00    | \$ 1,064.00   |
| 50                        | CY   | \$ 121.00    | \$ 6,050.00   | 50                        | CY   | \$ 159.00    | \$ 7,950.00   |
| 15                        | SY   | \$ 204.00    | \$ 3,060.00   | 15                        | SY   | \$ 155.00    | \$ 2,325.00   |
| 383                       | SY   | \$ 88.00     | \$ 33,704.00  | 383                       | SY   | \$ 131.00    | \$ 50,173.00  |
| 319                       | LF   | \$ 4.00      | \$ 1,276.00   | 319                       | LF   | \$ 8.50      | \$ 2,711.50   |
| 24                        | LF   | \$ 589.00    | \$ 14,136.00  | 24                        | LF   | \$ 179.00    | \$ 4,296.00   |
| 1                         | EA   | \$ 926.00    | \$ 926.00     | 1                         | EA   | \$ 1,032.00  | \$ 1,032.00   |
| 46                        | CY   | \$ 40.00     | \$ 1,840.00   | 46                        | CY   | \$ 52.00     | \$ 2,392.00   |
| 685                       | CY   | \$ 32.00     | \$ 21,920.00  | 685                       | CY   | \$ 41.50     | \$ 28,427.50  |
| 1                         | LS   | \$ 1,852.00  | \$ 1,852.00   | 1                         | LS   | \$ 1,782.00  | \$ 1,782.00   |
| 1                         | LS   | \$ 2,205.00  | \$ 2,205.00   | 1                         | LS   | \$ 2,346.00  | \$ 2,346.00   |
| 1                         | LS   | \$ 2,500.00  | \$ 2,500.00   | 1                         | LS   | \$ 2,055.00  | \$ 2,055.00   |
| <b>CONSTRUCTION TOTAL</b> |      |              | \$ 297,650.00 | <b>CONSTRUCTION TOTAL</b> |      |              | \$ 311,627.00 |

## Certificate Of Completion

Envelope Id: 19D1E3AE-F5AF-4AD0-AD36-4DFA8A5A5673

Status: Sent

Subject: Please DocuSign: Yellow CRS\_CC 6/3/2025\_ENGSW1\_Edinburgh Court Stormwater Improvements

Source Envelope:

Document Pages: 22

Signatures: 6

Envelope Originator:

Certificate Pages: 3

Initials: 5

Grace Capritta

AutoNav: Enabled

200 N Second St

Envelopeld Stamping: Enabled

Saint Charles, MO, MO 63301

Time Zone: (UTC-06:00) Central Time (US & Canada)

grace.capritta@stcharlescitymo.gov

IP Address: 35.130.51.195

## Record Tracking

Status: Original

Holder: Grace Capritta

Location: DocuSign

5/21/2025 9:50:37 AM

grace.capritta@stcharlescitymo.gov

## Signer Events

Dan Mann

daniel.mann@stcharlescitymo.gov

Director of Engineering

City of Saint Charles, MO

Security Level: Email, Account Authentication (None)

## Signature

DocuSigned by:

147DA4446E33432...

Signature Adoption: Pre-selected Style

Using IP Address: 172.59.170.51

Signed using mobile

## Timestamp

Sent: 5/21/2025 10:25:37 AM

Viewed: 5/22/2025 1:57:32 PM

Signed: 5/22/2025 1:57:42 PM

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Willie Hantack

William.Hantack@stcharlescitymo.gov

Audit & Accounting Manager

City of Saint Charles, MO

Signing Group: Senior Financial Analysts

Security Level: Email, Account Authentication (None)

Signature Adoption: Uploaded Signature Image

Using IP Address: 35.130.51.195

Sent: 5/22/2025 1:57:45 PM

Viewed: 5/23/2025 7:15:43 AM

Signed: 5/23/2025 7:16:25 AM

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Paul Feldmann

paul.feldmann@stcharlescitymo.gov

Purchasing Manager

City of Saint Charles, MO

Security Level: Email, Account Authentication (None)

Signed by:  
  
CA2B397B773142A...

Signature Adoption: Pre-selected Style

Using IP Address: 35.130.51.195

Sent: 5/23/2025 7:16:27 AM

Viewed: 5/23/2025 8:12:40 AM

Signed: 5/23/2025 8:37:03 AM

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Mary Ann Ohms

maryann.ohms@stcharlescitymo.gov

City of Saint Charles, MO

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 35.130.51.195

Sent: 5/23/2025 8:37:05 AM

Viewed: 5/27/2025 10:49:32 AM

Signed: 5/27/2025 10:50:06 AM

### Electronic Record and Signature Disclosure:

Not Offered via DocuSign

**Signer Events****Signature****Timestamp**

Holly Magdziarz  
 holly.magdziarz@stcharlescitymo.gov  
 Assistant City Attorney  
 City of Saint Charles, MO  
 Signing Group: LEGAL REVIEW  
 Security Level: Email, Account Authentication  
 (None)



Sent: 5/27/2025 10:50:09 AM  
 Viewed: 5/27/2025 11:30:11 AM  
 Signed: 5/27/2025 11:30:18 AM

Signature Adoption: Uploaded Signature Image  
 Using IP Address: 35.130.51.195

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Jennifer O'Connor  
 jennifer.oconnor@stcharlescitymo.gov  
 Director of Finance  
 City of Saint Charles, MO  
 Security Level: Email, Account Authentication  
 (None)

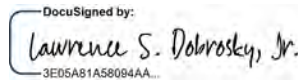


Sent: 5/27/2025 11:30:20 AM  
 Viewed: 5/27/2025 1:24:21 PM  
 Signed: 5/27/2025 1:24:42 PM

Signature Adoption: Pre-selected Style  
 Using IP Address: 35.130.51.195

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Lawrence S. Dobrosky, Jr.  
 lawrence.dobrosky@stcharlescitymo.gov  
 Director of Administration  
 City of Saint Charles, MO  
 Security Level: Email, Account Authentication  
 (None)



Sent: 5/27/2025 1:24:45 PM  
 Viewed: 5/29/2025 8:28:36 AM  
 Signed: 5/29/2025 8:28:45 AM

Signature Adoption: Pre-selected Style  
 Using IP Address: 35.130.51.195

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Emily B. Galantowicz  
 emily.galantowicz@stcharlescitymo.gov  
 Assistant City Clerk  
 City of Saint Charles, MO  
 Security Level: Email, Account Authentication  
 (None)

Sent: 5/29/2025 8:28:48 AM  
 Viewed: 5/29/2025 8:29:45 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Daniel J. Borgmeyer  
 dan.borgmeyer@stcharlescitymo.gov  
 Security Level: Email, Account Authentication  
 (None)

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Kim Hudson  
 kimberly.hudson@stcharlescitymo.gov  
 Security Level: Email, Account Authentication  
 (None)

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

City Clerk - Assign Contract #

Signing Group: City Clerk - Assign Contract #  
 Security Level: Email, Account Authentication  
 (None)

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

|                                |                  |                  |
|--------------------------------|------------------|------------------|
| <b>In Person Signer Events</b> | <b>Signature</b> | <b>Timestamp</b> |
|--------------------------------|------------------|------------------|

|                               |               |                  |
|-------------------------------|---------------|------------------|
| <b>Editor Delivery Events</b> | <b>Status</b> | <b>Timestamp</b> |
|-------------------------------|---------------|------------------|

|                              |               |                  |
|------------------------------|---------------|------------------|
| <b>Agent Delivery Events</b> | <b>Status</b> | <b>Timestamp</b> |
|------------------------------|---------------|------------------|

|                                     |               |                  |
|-------------------------------------|---------------|------------------|
| <b>Intermediary Delivery Events</b> | <b>Status</b> | <b>Timestamp</b> |
|-------------------------------------|---------------|------------------|

|                                  |               |                  |
|----------------------------------|---------------|------------------|
| <b>Certified Delivery Events</b> | <b>Status</b> | <b>Timestamp</b> |
|----------------------------------|---------------|------------------|

|                           |               |                  |
|---------------------------|---------------|------------------|
| <b>Carbon Copy Events</b> | <b>Status</b> | <b>Timestamp</b> |
|---------------------------|---------------|------------------|

Carla Bray  
carla.bray@stcharlescitymo.gov  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**COPIED**

Sent: 5/27/2025 1:24:45 PM  
Viewed: 5/27/2025 1:39:06 PM

Amy Milstead  
amy.milstead@stcharlescitymo.gov  
Security Level: Email, Account Authentication (None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

|                       |                  |                  |
|-----------------------|------------------|------------------|
| <b>Witness Events</b> | <b>Signature</b> | <b>Timestamp</b> |
|-----------------------|------------------|------------------|

|                      |                  |                  |
|----------------------|------------------|------------------|
| <b>Notary Events</b> | <b>Signature</b> | <b>Timestamp</b> |
|----------------------|------------------|------------------|

|                                |               |                   |
|--------------------------------|---------------|-------------------|
| <b>Envelope Summary Events</b> | <b>Status</b> | <b>Timestamps</b> |
|--------------------------------|---------------|-------------------|

|               |                  |                       |
|---------------|------------------|-----------------------|
| Envelope Sent | Hashed/Encrypted | 5/21/2025 10:25:37 AM |
|---------------|------------------|-----------------------|

|                       |               |                   |
|-----------------------|---------------|-------------------|
| <b>Payment Events</b> | <b>Status</b> | <b>Timestamps</b> |
|-----------------------|---------------|-------------------|

# SUPPLEMENTAL

## RCA FORM (OFFICE USE ONLY)

Bill # 13982

MEETING/DATE: 6/3/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

Request for Council Action

Ward(s): 4

Sponsor(s): Mary West

### Description:

An ordinance authorizing the City of St. Charles to issue its Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025, for the purpose of providing funds to pay the costs of acquiring, constructing and improving an industrial development project in the City; approving a plan for the project; and authorizing the City to enter into certain agreements and take certain other actions in connection with the issuance of the bonds.

Contract Extension/Renewal: Yes  No

Information Paper Attached: Yes  No

Staff Recommendation: Approve  Disapprove

Board/Committee/Commission Recommendation: Approve  Disapprove

### Summary:

Bill 13982 was amended on the floor during the May 20, 2025 City Council meeting solely for purposes of substituting in a corrected "Plan for an Industrial Development Project and Cost Benefit Analysis" (the "Corrected Plan"), which is attached as Exhibit A to the bill. The Corrected Plan, in Section IV paragraph "I" thereof, sets forth the expected net fiscal impact to affected taxing jurisdictions of the sales and use tax exemption on qualified building materials which has been granted by the City to the developer, Porterhouse Development, LLC. Importantly, the total value of the exemption that was shown on the table in the original Exhibit A, of \$2,032,000, was correct and, as such, the same is reflected in Exhibit A (the Corrected Plan) to Bill 13982.

No changes or amendments are otherwise made to Bill 13982, and the "summary" provided in the original RCA to this bill is still applicable.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** \_\_\_\_\_

**Project #:** Southpointe Development Project

RCA prepared by: Legal Dept. Dir. Hem Finance Dir. Qao Dir. of Admin. SP For D

**RCA FORM (OFFICE USE ONLY)**

Bill # 13982

MEETING/DATE: 5/6/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): 4

Sponsor(s): Mary West

**Description:**

An ordinance authorizing the City of St. Charles to issue its Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025, for the purpose of providing funds to pay the costs of acquiring, constructing and improving an industrial development project in the City; approving a plan for the project; and authorizing the City to enter into certain agreements and take certain other actions in connection with the issuance of the bonds.

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

This ordinance authorizes the City to issue Taxable Industrial Revenue Bonds (Southpointe Development Project) Series 2025 (the "Bonds") pursuant to Chapter 100, RSMo; and such Bonds will provide funds for the purpose of constructing a mixed-use development consisting of approximately 230 residential apartments and approximately 12,000 square feet of retail and commercial space (the "Project Improvements") on approximately 12.15 acres owned by Porterhouse Development LLC (the "Company") and located at 350 Hemsath Road in the City. Pursuant to Chapter 100 financing, the City will take a leasehold interest in the "Project" financed, and lease the same to the Company during the construction period. The lease will terminate upon completion of construction. The Bond payment obligations of the City will be payable from the lease payments. No tax revenues will be used to repay the Bonds.

The Chapter 100 financing will enable the developer to obtain a sales and use tax exemption on qualified building materials. The Chapter 100 financing does not provide for any property tax abatement.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** \_\_\_\_\_

**Project #:** Southpointe Development Project

RCA prepared by: Legal Dept. Dir. Hum Finance Dir. qaw Dir. of Admin. LJ

Sponsored By: Mary West

**AN ORDINANCE AUTHORIZING THE CITY OF ST. CHARLES, MISSOURI, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (SOUTHPOINTE DEVELOPMENT PROJECT), SERIES 2025, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING AND IMPROVING AN INDUSTRIAL DEVELOPMENT PROJECT IN THE CITY; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.**

**WHEREAS**, the City of St. Charles, Missouri, a constitutional home rule charter city and political subdivision of the State of Missouri (the “City”), is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (collectively, the “Act”) and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act), to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, office industry, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable; and

**WHEREAS**, Porterhouse Development LLC, a Missouri limited liability company (the “Developer”), has requested that the City issue its Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025, in the maximum principal amount of \$72,000,000 (the “Bonds”), for the purpose of acquiring a leasehold interest in approximately 12.575 acres of real property generally located at 350 Hemsath Road in the City (as legally described in the hereinafter-defined Lease, together with all improvements now or hereafter located thereon, the “Project Site”) and constructing thereon a mixed-use development consisting of approximately 230 residential apartments and approximately 12,000 square feet of retail and commercial space (collectively, the “Project Improvements” and, together with the acquisition of a leasehold interest in the Project Site, the “Project”); and

**WHEREAS**, the Act requires the City to prepare a plan in connection with any industrial development project undertaken pursuant to the Act; and

**WHEREAS**, a Plan for an Industrial Development Project and Cost-Benefit Analysis (the “Plan”) has been prepared in the form of **Exhibit A**; and

**WHEREAS**, notice of the City’s consideration of the Plan has been given in the manner required by the Act, and the City Council has fairly and duly considered all comments submitted to the City Council regarding the proposed Plan; and

**WHEREAS**, the City Council hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City and within the public purposes of the Act that the City: (1) approve the Plan pursuant to the Act; (2) issue the Bonds for the purpose of facilitating a sales and use tax exemption on construction materials used to construct the Project Improvements; and (3) enter into certain agreements and documents with the Developer relating to the Bonds; and

**WHEREAS**, the City Council further finds and determines that it is necessary and desirable in connection with the implementation of the Plan and the issuance of the Bonds that the City enter into certain other documents and take certain other actions as herein provided;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, MISSOURI, AS FOLLOWS:**

**Section 1. Approval of the Plan.** The City Council hereby approves the Plan.

**Section 2. Authorization for the Project.** The City is hereby authorized to provide for the purchase and construction of the Project, in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized.

**Section 3. Authorization of the Bonds.** The City is hereby authorized to issue and sell the Bonds as described in the recitals hereto for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the Indenture and shall have such terms, provisions, covenants and agreements as are set forth in the Indenture.

**Section 4. Limitation on Liability.** The Bonds and the interest thereon shall be limited obligations of the City, payable solely out of certain payments, revenues and receipts derived by the City from the Lease. Such payments, revenues and receipts shall be pledged and assigned to the bond trustee named in the Indenture (the "Trustee"), as security for the payment of the Bonds as provided in the Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State of Missouri (the "State") or any other political subdivision thereof, and neither the City nor the State shall be liable thereon. The Bonds shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction and are not payable in any manner by taxation.

**Section 5. Authorization of Documents.** The City is hereby authorized to enter into the following documents (collectively, the "City Documents"), in substantially the forms presented to and approved by the City Council and attached to this Ordinance, with such changes therein as shall be approved by the officials of the City executing the City Documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Base Lease between the City and the Developer, in substantially the form of **Exhibit B**, pursuant to which the City will acquire a leasehold interest in the Project Site during the construction of the Project Improvements, in consideration of the City's agreement to issue the Bonds.

(b) Lease Agreement (the "Lease") between the City and the Developer, in substantially the form of **Exhibit C**, pursuant to which the City will lease the Project to the Developer pursuant to the terms and conditions contained therein, in consideration of rental payments by the Developer that will be sufficient to pay the principal of and interest on the Bonds.

(c) Trust Indenture (the "Indenture") between the City and the Trustee, in substantially the form of **Exhibit D**, pursuant to which the Bonds will be issued and the City will pledge the Project and assign certain of the payments, revenues and receipts received pursuant to the Lease to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions set forth therein.

(d) Bond Purchase Agreement between the City and the Developer, in substantially the form of **Exhibit E**, pursuant to which the Developer will purchase the Bonds.

**Section 6. Execution of Documents.** The Mayor is hereby authorized to execute the Bonds and to deliver the Bonds to the Trustee for authentication, for and on behalf of and as the act and deed of the City, in the manner provided in the Indenture. The Mayor is hereby authorized to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to attest to and affix the seal of the City to the Bonds, the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 7. Further Authority.** The City shall, and the officials, agents and employees of the City are hereby authorized to, take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents. The Mayor and the Director of Administration are hereby authorized, through the term of the Lease, to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of any portion of the Project by the Developer, including but not limited to subordination and non-disturbance agreements, and such easements, licenses, rights-of-way, plats and similar documents as may be requested by the Developer) as may be required to carry out and comply with the intent of this Ordinance and the City Documents. The Mayor and the Director of Administration are further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the Bonds, the Indenture or the Lease as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the economic incentives provided therein, waive an event of default or materially change the nature of the transaction unless approved by the City Council. The City Clerk is authorized to attest to and affix the seal of the City to any document authorized by this Section.

**Section 8. Savings.** Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

**Section 9. Acknowledgement of Pledge.** The City hereby acknowledges that the Bonds may be pledged to one or more lenders, their successors and assigns as security for financing to be provided to the Developer by such lenders. The City is authorized to execute an acknowledgement of such pledge in form and substance acceptable to the lenders and the City Attorney. The City's attorneys are authorized and directed to request the Trustee to execute an acknowledgement of such pledge in form and substance acceptable to the lenders and to note the lenders as owners of the Bonds on the bond register.

**Section 10. Severability.** If any term, condition or provision of this Ordinance is, to any extent, held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provision. If as a result of a subsequent change in applicable law, the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

**Section 11. Effective Date.** This Ordinance shall be in full force and effect from and after its passage and approval.

DATE PASSED: \_\_\_\_\_, 2025.

DATE APPROVED BY MAYOR: \_\_\_\_\_, 2025.



\_\_\_\_\_  
Michael Galba, Presiding Officer

\_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Kimberly Hudson, City Clerk

Approved as to Form:

Holly Magdziarz                      5/5/2025  
Holly Magdziarz, Acting City Attorney      Date

**EXHIBIT A**

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT AND COST-BENEFIT ANALYSIS**

[On file in the office of the City Clerk]

---

**CITY OF ST. CHARLES, MISSOURI**

**PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT  
AND  
COST-BENEFIT ANALYSIS**

**SOUTHPOINTE DEVELOPMENT PROJECT**

---

**EXHIBIT A**

TABLE OF CONTENTS

|   | <u>Page</u> |
|---|-------------|
| <b>I. PURPOSE OF THIS PLAN.....</b>   | <b>1</b>    |
| <b>II. Description of Chapter 100 Financings .....</b>                            | <b>1</b>    |
| <b>General.....</b>   | <b>1</b>    |
| <b>Issuance and Sale of Bonds.....</b>  | <b>1</b>    |
| <b>Sales and Use Tax Exemption .....</b>  | <b>2</b>    |
| <b>Property Tax Abatement.....</b>  | <b>2</b>    |
| <b>III. DESCRIPTION OF THE PARTIES .....</b>                                      | <b>2</b>    |
| <b>Porterhouse Development LLC .....</b>  | <b>2</b>    |
| <b>City of St. Charles, Missouri .....</b>  | <b>2</b>    |
| <b>IV. REQUIREMENTS OF THE ACT .....</b>  | <b>2</b>    |
| <b>Description of the Project.....</b>  | <b>2</b>    |
| <b>Estimate of the Costs of the Project.....</b>                                  | <b>2</b>    |
| <b>Sources of Funds to be Expended for the Project .....</b>                      | <b>2</b>    |
| <b>Statement of the Terms Upon Which the Project is to be Leased or Otherwise</b> |             |
| <b>Disposed of by the City.....</b>   | <b>2</b>    |
| <b>Affected School District, Community College District, Emergency Service</b>    |             |
| <b>Providers, County and City .....</b>   | <b>3</b>    |
| <b>Current Assessed Valuation .....</b>   | <b>3</b>    |
| <b>Payments in Lieu of Taxes.....</b>   | <b>3</b>    |
| <b>Sales and Use Tax Exemption .....</b>  | <b>3</b>    |
| <b>Cost-Benefit Analysis .....</b>  | <b>3</b>    |
| <b>V. ASSUMPTIONS AND BASIS OF PLAN.....</b>                                      | <b>4</b>    |

\* \* \*

## **I. PURPOSE OF THIS PLAN**

The City of St. Charles, Missouri (the "City"), intends to issue taxable industrial revenue bonds in an aggregate principal amount not to exceed \$72,000,000 (the "Bonds") to finance the costs of a proposed project (the "Project") for the benefit of Porterhouse Development LLC (including its successors and assigns, the "Developer"). The Bonds will be issued pursuant to the provisions of the City Charter, Sections 100.010 to 100.200 of the Revised Statutes of Missouri ("Chapter 100") and Article VI, Section 27(b) of the Missouri Constitution (together with Chapter 100, the "Act"). The Bonds will initially be owned by the Developer and cannot be transferred, other than to the Developer lenders, without the City's prior approval.

This Plan for an Industrial Development Project and Cost-Benefit Analysis (this "Plan") is intended to satisfy requirements of the Act and to provide an analysis of the potential costs and benefits, including the related tax impact on all affected taxing jurisdictions, of using industrial revenue bonds to finance the Project and to facilitate a sales and use tax exemption on the construction materials used to complete the Project.

## **II. DESCRIPTION OF CHAPTER 100 FINANCINGS**

**General.** Chapter 100 authorizes cities, counties, towns and villages to issue industrial development revenue bonds to finance the purchase, construction, extension and improvement of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities that provide interstate commerce and industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures and machinery. In addition, Article VI, Section 27(b) of the Missouri Constitution authorizes cities, counties, towns and villages to issue revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing, extending or improving any facility for manufacturing, commercial, warehousing and industrial development purposes, including the real estate, buildings, fixtures and machinery. Under Attorney General Opinion 180-81, the Missouri Attorney General determined that the construction and rental of multi-family apartments for profit is a commercial enterprise.

**Issuance and Sale of Bonds.** Revenue bonds issued pursuant to the Act do not require voter approval and are payable solely from revenues received from a lease or other disposition of the project. The municipality issues its bonds and in exchange, the benefited company promises to make payments that are sufficient to pay the principal of and interest on the bonds as they become due. Thus, the municipality merely acts as a conduit for the financing.

Concurrently with the closing of the bonds, the benefited company will lease the site on which the project will be located to the municipality. The municipality will immediately lease the project site and the improvements thereon back to the benefited company pursuant to a lease agreement. The lease agreement will require the benefited company, acting on behalf of the municipality, to use the bond proceeds to purchase and construct the project.

Under the lease agreement, the benefited company typically: (1) unconditionally agrees to make payments sufficient to pay the principal of and interest on the bonds as they become due; (2) agrees, at its own expense, to maintain the project, to pay all taxes and assessments with respect to the project and to maintain adequate insurance; (3) may, at its own expense, make certain additions, modifications or improvements to the project; (4) may assign its interests under the lease agreement or sublease the project while remaining responsible for payments under the lease agreement; (5) covenants to maintain its corporate existence during the term of the bond issue; and (6) agrees to indemnify the municipality for certain liability the municipality might incur as a result of its participation in the transaction.

***Sales and Use Tax Exemption.*** The purpose of this Plan is to provide a sales and use tax exemption on qualified building materials. Under the Act and other applicable state law, qualified building materials can be exempt from sales and use tax if approved by the municipality. The sales and use tax exemption is evidenced by a project exemption certificate issued by the municipality.

***Property Tax Abatement.*** While the Act is often used to facilitate real or personal property tax abatement, the Developer is not seeking, and this Plan does not authorize, any real or personal property tax abatement or exemption.

### III. DESCRIPTION OF THE PARTIES

***Porterhouse Development LLC.*** The Developer was formed for the sole purpose of acquiring, constructing and owning the Project. The Developer is an affiliate of Clearpath Development Partners, LLC, which is a St. Louis-based real estate company with extensive real estate development experience. More information regarding Clearpath Development Partners, LLC can be found at <https://www.clearpathdev.com/>.

***City of St. Charles, Missouri.*** The City is a home rule charter city and political subdivision of the State of Missouri (the "State"). The City is authorized and empowered pursuant to the provisions of the City Charter and the Act to purchase, construct, extend, equip and improve certain projects (as defined in the Act), to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable.

### IV. REQUIREMENTS OF THE ACT

***A. Description of the Project.*** The Project consists of acquiring a leasehold interest in approximately 12.575 acres of real property generally located at 350 Hemsath Road in the City (the "Project Site") and constructing thereon a mixed-use development consisting of approximately 230 residential apartments and approximately 12,000 square feet of retail and commercial space (collectively, the "Project Improvements" and, together with the acquisition of a leasehold interest in the Project Site, the "Project"). The Developer expects to commence the Project Improvements in 2025 and to complete the Project Improvements in 2029.

***B. Estimate of the Costs of the Project.*** The acquisition and construction of the Project are estimated to cost \$71,000,000. The Bonds will be authorized in the maximum principal amount of \$72,000,000 to provide for contingencies.

***C. Sources of Funds to be Expended for the Project.*** The sources of funds to be expended for the Project will be the proceeds of the Bonds in the maximum principal amount of \$72,000,000 and other available funds of the Developer. The Bonds will be payable solely from the revenues derived by the City from the lease or other disposition of the Project (as further described below). The Bonds will not be an indebtedness or general obligation, debt or liability of the City or the State. No tax revenues will be used to repay the Bonds.

***D. Statement of the Terms Upon Which the Project is to be Leased or Otherwise Disposed of by the City.*** Until substantial completion of the Project Improvements, the City will lease the Project to the Developer for lease payments equal to the principal of and interest on the Bonds. Under the terms of the lease agreement, the Developer will have the option to purchase the Project at any time for nominal consideration. The lease will terminate following completion of the Project Improvements (currently estimated to be in 2029), unless terminated sooner pursuant to the terms thereof.

**E. Affected School District, Community College District, Emergency Service Providers, County and City.** The Project is located within the boundaries of the Francis Howell R-III School District, St. Charles County, Missouri; the St. Charles Community College; the St. Charles County Ambulance District; Central County Fire & Rescue, a Fire Protection District of St. Charles County, Missouri; St. Charles County Dispatch and Alarm; St. Charles County, Missouri (the "County"); and the City. Because this Plan is intended to provide only a sales and use tax exemption on qualified building materials, this Plan affects only those taxing districts that have a sales (and use) tax and only to the extent that qualified building materials are purchased within the boundaries of those taxing districts.

**F. Current Assessed Valuation.** The most recent equalized assessed valuation of the real property included in the Project is \$92,094. The total equalized assessed valuation of the real property included in the Project after substantial completion of the Project Improvements is estimated to be \$17,000,000.

**G. Payments in Lieu of Taxes.** This Plan does not provide for any property tax abatement or any payments in lieu of taxes.

**H. Sales and Use Tax Exemption.** Qualified building materials purchased for the construction of the Project Improvements are expected to be exempt from sales and use tax pursuant to the provisions of Section 144.062 of the Revised Statutes of Missouri and the Bond documents upon delivery of a project exemption certificate by the City to the Developer. The project exemption certificate may be used by the Developer and its contractors and subcontractors to purchase and pay for, exempt from sales tax, certain construction materials to be incorporated into or used up in the Project Improvements.

**I. Cost-Benefit Analysis.** In compliance with Section 100.050.2(3) of the Revised Statutes of Missouri, this Plan has been prepared to show the costs and benefits to the City and to other taxing jurisdictions affected by the sales and use tax exemption for the Project. For purposes of determining the impact of the exemption granted by the City on the affected taxing jurisdictions, it was assumed that:

- \$25,560,000 of the total costs of the Project Improvements will be allocated to construction material costs;
- the applicable sales tax rate is 7.950%, of which 4.225% is allocated to the State, 1.725% is allocated to the County and 2.000% is allocated to the City;
- the applicable sales tax rate is 7.950%, of which 4.225% is allocated to the State, 1.725% is allocated to the County and 2.000% is allocated to the City;
- \$17,125,200 of the qualified construction materials will be subject to the State's sales tax, and \$8,434,800 of the qualified construction materials will be subject to the State's use tax;
- \$4,345,200 of the qualified construction materials will be subject to the County's sales tax, and \$21,214,800 of the qualified construction materials will be subject to the County's use tax; and
- \$2,044,800 of the qualified construction materials will be subject to the City's sales tax, and \$23,515,200 will be subject to the City's use tax.

Please note that any variance in these assumptions will alter the net fiscal impact of the sales and use tax exemption on the affected taxing jurisdictions.

Based on the assumptions set forth above, the net fiscal impact to the affected taxing jurisdictions of the sales and use tax exemption on the qualified building materials granted by the City is expected to be \$2,032,000, allocated as follows:

|                     | <u>Sales Tax</u> | <u>Use Tax</u> | <u>Total</u>   |
|---------------------|------------------|----------------|----------------|
| State of Missouri   | \$723,530        | \$ 356,370     | \$1,079,900    |
| St. Charles County  | 74,950           | 365,950        | 440,900        |
| City of St. Charles | <u>40,896</u>    | <u>470,304</u> | <u>511,200</u> |
| Total               | \$839,376        | \$1,192,624    | \$2,032,000    |

The City believes that the Developer's investment in the Project will create construction jobs, spur additional investment in the City and bring new tenants to the City. In addition, significant real and personal property taxes will be generated upon completion of the Project. None of these ancillary impacts were measured for purposes of this Plan. This Plan does not attempt to quantify the overall economic impact of the Project.

**V. ASSUMPTIONS AND BASIS OF PLAN**

As described herein, this Plan includes assumptions that impact the amount of the sales and use tax exemption proposed for the Project.

In addition to the foregoing, in order to complete this Plan, Gilmore & Bell, P.C. has generally reviewed and relied upon information furnished by, and has participated in conferences with, representatives of the City and its counsel, representatives of the Developer and its counsel and other persons as the firm has deemed appropriate. Gilmore & Bell, P.C. does not assume any responsibility for the accuracy, completeness or fairness of any of the information provided by others and has not independently verified the accuracy, completeness or fairness of such information.

\* \* \*

**EXHIBIT B**

**BASE LEASE**

[On file in the office of the City Clerk]



## BASE LEASE

**THIS BASE LEASE**, dated as of \_\_\_\_\_ 1, 2025 (this "Base Lease"), between **PORTERHOUSE DEVELOPMENT LLC**, a Missouri limited liability company (the "Developer"), and the **CITY OF ST. CHARLES, MISSOURI**, a constitutional home rule charter city organized and existing under the laws of the State of Missouri (the "City").

### RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (collectively, the "Act") and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act), to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, office industry, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable.

2. The Developer owns approximately 12.575 acres of real property generally located at 350 Hemsath Road in the City (as legally described on **Exhibit A**, together with all improvements now or hereafter located thereon, the "Project Site"). The Project Site is the subject of an industrial development plan approved pursuant to the Act by Ordinance No. \_\_\_\_\_ (the "Ordinance") passed by the City Council on \_\_\_\_\_, 2025

3. Pursuant to the Act and the Ordinance, the City is authorized to (1) issue its Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025, in the maximum principal amount of \$62,000,000 (the "Bonds"), for the purpose of constructing on the Project Site a mixed-use development consisting of approximately 192 residential apartments and approximately 12,000 square feet of retail and commercial space (collectively, the "Project Improvements"), (2) enter into this Base Lease with the Developer for the purpose of acquiring a leasehold interest in the Project Site during the construction of the Project Improvements and (3) enter into a Lease Agreement of even date herewith with the Developer (the "Lease") for the purpose of leasing the Project Site and the Project Improvements (together, the "Project") back to the Developer for rent sufficient to pay the principal of and interest on the Bonds.

4. The Developer desires to lease the Project Site to the City, and the City desires to lease the Project Site from the Developer and to acquire and hold a leasehold interest for the term of this Base Lease as more fully described in this Base Lease.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Developer do hereby represent, covenant and agree as follows:

**Section 1. Definitions.** In addition to any words and terms defined elsewhere in this Base Lease, capitalized words and terms used in this Base Lease shall have the meanings given to such words and terms in the Lease.

**Section 2. Representations by the City.** The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a constitutional home rule charter city duly organized and validly existing under the laws of the State of Missouri.

(b) Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Base Lease and to carry out its obligations hereunder.

(c) By proper action of its governing body, the City has been duly authorized to execute and deliver this Base Lease, acting by and through its duly authorized officers.

**Section 3. Representations by the Developer.** The Developer makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Developer is a limited liability company validly existing and in good standing under the laws of the State of Missouri.

(b) The Developer has lawful power and authority to enter into this Base Lease and to carry out its obligations hereunder, and the Developer has been duly authorized to execute and deliver this Base Lease, acting by and through its duly authorized officers and representatives.

(c) The Developer is the Owner of the Project Site and is permitted to lease the Project Site to the City pursuant to this Base Lease.

**Section 4. Lease Term.** This Base Lease shall become effective upon its execution and delivery and, subject to earlier termination pursuant to the provisions of this Base Lease, shall have a term commencing as of the date of this Base Lease and terminating simultaneously with the termination of the Lease.

**Section 5. Granting of Leasehold Estate.** The Developer hereby rents, leases and lets the Project Site to the City, and the City hereby rents, leases and hires the Project Site from the Developer, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained.

**Section 6. Rent.** In addition to the City's obligations under the Lease, the City hereby agrees to pay to the Developer annual rent under this Base Lease (the "Rent") equal to One Dollar and no/100 (\$1.00), which shall be due on the date of this Base Lease and on each January 1 thereafter during the term of this Base Lease. The Developer hereby acknowledges that it has received the Rent due on the date of this Base Lease.

**Section 7. Use and Possession of the Project Site.** The City will have the rights of use and possession of the Project Site only to the extent permitted by the Lease.

**Section 8. Assignability.** The City will not assign, sublease, mortgage or otherwise transfer or encumber its interest in this Base Lease except as provided in the Indenture.

**Section 9. Repairs and Maintenance.** The Developer shall, at its sole cost and expense, maintain and repair the Project, and all portions thereof and improvements thereto, to the extent required by the Lease. In no event shall the City be required to make any repairs, improvements, additions, replacements, reconstructions or other changes to the Project or perform any maintenance thereon.

**Section 10. Taxes.** Pursuant to **Section 6.2** of the Lease, the Developer shall promptly pay all taxes or other governmental charges that if unpaid, would encumber the City's leasehold interest in the Project.

**Section 11. Insurance.** The Developer shall maintain the insurance policies required by **Article VII** of the Lease.

**Section 12. Condemnation.** If at any time during the term of this Base Lease, there is a total or partial taking of the Project in condemnation proceedings or by any right of eminent domain or by sale in lieu thereof, the parties shall have the rights and obligations provided in the Lease, and this Base Lease shall terminate only to the extent and in the manner provided in the Lease.

**Section 13. Surrender of the Project.** Except as otherwise expressly provided in this Base Lease, the City shall surrender and deliver up the Project and all associated improvements thereto to the Developer at the expiration or other termination of this Base Lease, to the limited extent that the City may have any right of possession thereof as expressly provided herein, without fraud or delay.

**Section 14. Covenants Against Liens.** The Developer shall not create or permit to be created or to remain, and the Developer shall promptly discharge, any mechanic's, laborer's or materialman's lien which might be or become a lien, encumbrance or charge upon the Project or any part thereof as a result of the Developer's separate actions, except as expressly permitted pursuant to the Lease. Notwithstanding the foregoing, the Developer hereby acknowledges that mechanic's, laborer's or materialman's liens may be filed against the Developer's fee interest in the Project Site despite the City's leasehold interest in the Project Site. All such liens shall be discharged prior to the termination of this Base Lease.

**Section 15. Notices.** Any and all notices, demands, requests, submissions, approvals, consents, disapprovals, objections, offers or other communications or documents required to be given, delivered or served or which may be given, delivered or served under or by the terms and provisions of this Base Lease or pursuant to law or otherwise, shall be made in the form and manner provided in the Lease.

**Section 16. Developer's Right to Terminate.** The Developer may terminate this Base Lease at any time pursuant to **Article XI** of the Lease.

**Section 17. Conflict with the Lease.** In the event of any conflict between the terms hereof and the terms of the Lease, the terms of the Lease shall control.

**Section 18. Limitation on Liability of City.** No provision, covenant or agreement contained in this Base Lease or any obligation herein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

**Section 19. Governing Law.** This Base Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

**Section 20. Binding Effect.** This Base Lease shall be binding upon and shall inure to the benefit of the City and the Developer and their respective successors and assigns.

**Section 21. Severability.** If for any reason any provision of this Base Lease is determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

**Section 22. Execution in Counterparts.** This Base Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 23. Electronic Transaction.** The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 24. Date of Base Lease.** The dating of this Base Lease as of \_\_\_\_\_, 2025, is intended as and for the convenient identification of this Base Lease only and is not intended to indicate that this Base Lease was executed and delivered on said date, this Base Lease being executed and delivered and becoming effective simultaneously with the initial issuance of the Bonds (the "Effective Date").

**Section 25. Anti-Discrimination Against Israel Act.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Developer certifies it is not currently engaged in and will not, for the duration of this Base Lease, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]





## EXHIBIT A

### LEGAL DESCRIPTION OF PROJECT SITE

A tract of land situated in Unincorporated St. Charles County, Missouri, lying in part of U.S. Survey 1198, Township 46 North, Range 4 East, being part of a tract of land conveyed to Steven M. Franz and Michelle Y. Franz, Trustees of the Franz Family Trust dated July 23, 2002 as to an undivided 1/5 interest, as recorded in Deed Book 3567, Page 349 of the land records of said St. Charles County, also being part of a tract of land conveyed to Kenneth J. Montgomery and Gloria Mahady, Trustees of the Kenneth J. Montgomery Family Living Trust dated November 18, 2016, as recorded in Deed Book 6659, Page 397 of said land records, also being part of a tract of land conveyed to Monty's Property LLC, a Missouri limited liability company, as recorded in Deed Book 6961, Page 445 of said land records, also being part of a tract of land conveyed to Margery Ann Mahady and Victoria McKinney, as recorded in Document No. 2022R-065606 of said land records, also being part of a tract of land conveyed to Yvonne M. Shangraw, Robin James Shangraw, Jeannine Marie Hinchley, Christopher John Shangraw, and Paul Maurice Shangraw, as recorded in Deed Book 4265, Page 830 of said land records, also being part of a tract of land conveyed to Paul R. and Marie P. Wegman, as recorded in Deed Book 653, Page 1090 of the land records of said St. Charles County, also being part of a tract of land conveyed to Paul R. and Marie P. Wegman Family Trust, as recorded in Deed Book 5147, Page 39 of said land records, and being more particularly described as follows:

Beginning at the intersection of the Northeastern right-of-way line of Hemsath Road and the Southwestern right-of-way line of Arena Parkway, also being known as South River Road, variable width; thence along said Southern right-of-way line of Arena Parkway the following courses and distances: 32.49 feet along the arc of a curve to the right, having a radius of 39.17 feet, through a central angle of 47 degrees 31 minutes 29 seconds, with a chord that bears North 09 degrees 22 minutes 05 seconds West, a distance of 31.57 feet; 161.73 feet along the arc of a curve to the right, having a radius of 441.22 feet, through a central angle of 21 degrees 00 minutes 07 seconds, with a chord that bears North 65 degrees 23 minutes 28 seconds East, a distance of 160.83 feet; 224.77 feet along the arc of a curve to the right, having a radius of 453.22 feet, through a central angle of 28 degrees 24 minutes 53 seconds, with a chord that bears North 87 degrees 16 minutes 43 seconds East, a distance of 222.47 feet; 331.51 feet along the arc of a curve to the right, having a radius of 453.22 feet, through a central angle of 41 degrees 54 minutes 34 seconds, with a chord that bears South 54 degrees 23 minutes 22 seconds East, a distance of 324.17 feet; South 33 degrees 26 minutes 06 seconds East, a distance of 152.24 feet; 30.49 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 02 degrees 49 minutes 38 seconds, with a chord that bears South 34 degrees 50 minutes 55 seconds East, a distance of 30.49 feet; 18.43 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 01 degrees 42 minutes 33 seconds, with a chord that bears South 37 degrees 07 minutes 00 seconds East, a distance of 18.43 feet to the Northeast corner of a tract of land conveyed to Edward C. Keen, ETAL, as recorded in Deed Book 131, Page 418 of said land records; 216.94 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 020 degrees 06 minutes 52 seconds, with a chord that bears South 46 degrees 36 minutes 23 seconds East, a distance of 215.83 feet; South 56 degrees 45 minutes 37 seconds East, a distance of 305.94 feet to the intersection of said Southwestern right-of-way line of Arena Parkway, variable width, and the Northwest right-of-way line of Mulberry Lane, 40 feet wide, as shown on Timber Crest Subdivision No. 1, a subdivision recorded in Plat Book 6, Page 37 of said land records; thence along said Northwest right-of-way line of Mulberry Lane, South 56 degrees 07 minutes 25 seconds West, a distance of 668.56 feet to said Northeastern right-of-way line of Hemsath Road; thence leaving said Northwest right-of-way line of Mulberry Lane and along said Northeastern right-of-way line of Hemsath Road, North 32 degrees 32 minutes 31 seconds West, a distance of 505.47 feet to the Southernmost corner of a tract of land conveyed to Paul Wegman as recorded in Deed Book 653, Page 1090 of said land records; thence continuing along said Northeastern right-of-way line, North 32 degrees 32 minutes 31 seconds West, a distance of 604.22 feet to the point of beginning.

Containing 12.575 Acres (547,785 square feet), according to survey by Grimes Consulting, Inc., LS-343-D, dated April 2024.

**EXHIBIT C**  
**LEASE AGREEMENT**

[On file in the office of the City Clerk]

MAY 5, 2025

---

**CITY OF ST. CHARLES, MISSOURI,  
As Lessor,**

**AND**

**PORTERHOUSE DEVELOPMENT LLC,  
As Lessee**

---

**LEASE AGREEMENT**

**Dated as of \_\_\_\_\_, 2025**

---

**Relating to:**

**\$72,000,000  
(Aggregate Maximum Principal Amount)  
City of St. Charles, Missouri  
Taxable Industrial Revenue Bonds  
(Southpointe Development Project)  
Series 2025**

---

**Certain rights of the City of St. Charles, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., St. Louis, Missouri, as Trustee under the Trust Indenture dated as of \_\_\_\_\_, 2025, between the City and the Trustee.**

**TABLE OF CONTENTS**

Page

**ARTICLE I**

**DEFINITIONS**

Section 1.1. Definitions of Words and Terms .....2  
Section 1.2. Rules of Interpretation.....2  
Section 1.3. Date of Lease.....2

**ARTICLE II**

**REPRESENTATIONS**

Section 2.1. Representations by the City.....2  
Section 2.2. Representations by the Developer.....3

**ARTICLE III**

**GRANTING PROVISIONS**

Section 3.1. Granting of Leasehold Estate .....4  
Section 3.2. Lease Term.....4  
Section 3.3. Possession and Use of the Project.....4

**ARTICLE IV**

**PURCHASE AND CONSTRUCTION OF THE PROJECT**

Section 4.1. Issuance of the Bonds.....5  
Section 4.2. Purchase and Construction of the Project .....5  
Section 4.3. Project Costs.....5  
Section 4.4. Payment for Project Costs .....6  
Section 4.5. Establishment of Completion Date .....6  
Section 4.6. Surplus in Project Fund.....6  
Section 4.7. Non-Project Improvements, Machinery and Equipment Property of the Developer .....6

**ARTICLE V**

**RENT PROVISIONS**

Section 5.1. Basic Rent .....7  
Section 5.2. Additional Rent .....7  
Section 5.3. Obligations of Developer Absolute and Unconditional .....8  
Section 5.4. Prepayment of Basic Rent.....9  
Section 5.5. PILOT Payments.....9

**ARTICLE VI**

**MAINTENANCE, TAXES AND UTILITIES**

Section 6.1. Maintenance and Repairs .....9  
Section 6.2. Taxes, Assessments and Other Governmental Charges .....9  
Section 6.3. Utilities .....10  
Section 6.4. Sales Tax Exemption.....10

**ARTICLE VII**

**INSURANCE**

Section 7.1. Title Commitment or Report .....10  
Section 7.2. Casualty Insurance .....11  
Section 7.3. Liability Insurance .....11  
Section 7.4. Blanket Insurance Policies .....12  
Section 7.5. Worker’s Compensation.....12  
Section 7.6. Sovereign Immunity .....12

**ARTICLE VIII**

**ALTERATION OF THE PROJECT**

Section 8.1. Additions, Modifications and Improvements to the Project.....12  
Section 8.2. Additional Improvements on the Project Site .....12  
Section 8.3. Permits and Authorizations .....13  
Section 8.4. Mechanics’ Liens .....13  
Section 8.5. Notice of Improvements Subject to Bonding Requirements.....13

**ARTICLE IX**

**DAMAGE, DESTRUCTION AND CONDEMNATION**

Section 9.1. Damage or Destruction.....14  
Section 9.2. Condemnation .....15  
Section 9.3. Bondowner Approval .....16

**ARTICLE X**

**SPECIAL COVENANTS**

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification .17  
Section 10.2. Surrender of Possession .....17  
Section 10.3. Right of Access to the Project .....17  
Section 10.4. Granting of Easements; Leasehold Mortgages and Financing Arrangements .....17  
Section 10.5. Indemnification of City and Trustee .....20  
Section 10.6. Depreciation and Other Tax Benefits .....21  
Section 10.7. Developer to Maintain its Existence .....21  
Section 10.8. Security Interests .....21

|               |   |    |
|---------------|---|----|
| Section 10.9. | Environmental Matters, Warranties, Covenants and Indemnities Regarding Environmental Matters..... | 22 |
|---------------|---|----|

**ARTICLE XI**

**OPTION AND OBLIGATION TO PURCHASE THE PROJECT**

|               |  |    |
|---------------|--|----|
| Section 11.1. | Option to Purchase the Project.....            | 23 |
| Section 11.2. | Conveyance of the Project.....                 | 24 |
| Section 11.3. | Relative Position of Option and Indenture..... | 24 |
| Section 11.4. | Obligation to Purchase the Project.....        | 24 |
| Section 11.5. | Right to Set-Off.....                          | 24 |

**ARTICLE XII**

**DEFAULTS AND REMEDIES**

|               |   |    |
|---------------|---|----|
| Section 12.1. | Events of Default.....                                      | 25 |
| Section 12.2. | Remedies on Default.....                                    | 25 |
| Section 12.3. | Survival of Obligations.....                                | 26 |
| Section 12.4. | Performance of the Developer’s Obligations by the City..... | 26 |
| Section 12.5. | Rights and Remedies Cumulative.....                         | 26 |
| Section 12.6. | Waiver of Breach.....                                       | 27 |
| Section 12.7. | Trustee’s Exercise of the City’s Remedies.....              | 27 |

**ARTICLE XIII**

**ASSIGNMENT AND SUBLEASE**

|               |   |    |
|---------------|---|----|
| Section 13.1. | Assignment; Sublease.....                                   | 27 |
| Section 13.2. | Assignment of Revenues by City.....                         | 28 |
| Section 13.3. | Prohibition Against Leasehold Mortgage of Project.....      | 28 |
| Section 13.4. | Restrictions on Sale or Encumbrance of Project by City..... | 28 |

**ARTICLE XIV**

**AMENDMENTS, CHANGES AND MODIFICATIONS**

|               |  |    |
|---------------|--|----|
| Section 14.1. | Amendments, Changes and Modifications..... | 28 |
|---------------|--|----|

**ARTICLE XV**

**MISCELLANEOUS PROVISIONS**

|               |  |    |
|---------------|--|----|
| Section 15.1. | Notices.....   | 28 |
| Section 15.2. | City Shall Not Unreasonably Withhold Consents and Approvals..... | 30 |
| Section 15.3. | Net Lease.....   | 30 |
| Section 15.4. | Limitation on Liability of City.....                             | 30 |
| Section 15.5. | Governing Law.....   | 30 |
| Section 15.6. | Binding Effect; Third-Party Beneficiary.....                     | 30 |
| Section 15.7. | Severability.....  | 30 |

Section 15.8. Execution in Counterparts.....30  
Section 15.9. Electronic Transaction.....30  
Section 15.10. City Consents and Approvals .....31  
Section 15.11. Anti-Discrimination Against Israel Act .....31  
  
Signatures and Seal .....32

Exhibit A - Project Site  
Exhibit B - Form of Requisition Certificate

## LEASE AGREEMENT

**THIS LEASE AGREEMENT**, dated as of \_\_\_\_\_ 1, 2025 (this "Lease"), between the **CITY OF ST. CHARLES, MISSOURI**, a constitutional home rule charter city organized and existing under the laws of the State of Missouri (the "City"), as lessor, and **PORTERHOUSE DEVELOPMENT LLC**, a limited liability company organized and existing under the laws of the State of Missouri (the "Developer"), as lessee;

### RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (collectively, the "Act") and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act), to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, office industry, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable.

2. Pursuant to the Act, the City Council passed Ordinance No. \_\_\_\_\_ (the "Ordinance") on \_\_\_\_\_, 2025, authorizing the City to (a) acquire a leasehold interest in approximately 12.575 acres of real property generally located at 350 Hemsath Road in the City (as legally described on **Exhibit A**, together with all improvements now or hereafter located thereon, the "Project Site"), and (b) issue its Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025, in the maximum principal amount of \$72,000,000 (the "Bonds"), for the purpose of constructing on the Project Site a mixed-use development consisting of approximately 230 residential apartments and approximately 12,000 square feet of retail and commercial space (collectively, the "Project Improvements").

3. Pursuant to the Ordinance, the City is authorized to enter into (a) a Trust Indenture of even date herewith (the "Indenture") with UMB Bank, N.A., St. Louis, Missouri, as Trustee (the "Trustee"), for the purpose of issuing and securing the Bonds, as therein provided, (b) a Base Lease of even date herewith (the "Base Lease") with the Developer for the purpose of acquiring a leasehold interest in the Project Site and (c) this Lease with the Developer for the purpose of leasing the Project Site and the Project Improvements (together, the "Project") back to the Developer for rent sufficient to pay the principal of and interest on the Bonds.

4. In connection with the issuance of the Bonds, the City has agreed to cooperate with the Developer and the contractors for the Project Improvements in acquiring the benefits of sales tax exemption for purchases of materials used to construct the Project Improvements.

5. Pursuant to the foregoing, the City desires to lease the Project to the Developer and the Developer desires to lease the Project from the City, for the rentals and upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer do hereby represent, covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.1. Definitions of Words and Terms.** In addition to any words and terms defined elsewhere in this Lease, capitalized words and terms used in this Lease shall have the meanings given to such words and terms in **Section 101** of the Indenture (which definitions are hereby incorporated by reference).

**Section 1.2. Rules of Interpretation.**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context otherwise indicates, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

**Section 1.3. Date of Lease.** The dating of this Lease as of \_\_\_\_\_, 2025, is intended as and for the convenient identification of this Lease only and is not intended to indicate that this Lease was executed and delivered on said date, this Lease being executed and delivered and becoming effective simultaneously with the initial issuance of the Bonds.

## ARTICLE II

### REPRESENTATIONS

**Section 2.1. Representations by the City.** The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a constitutional home rule charter city duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry

out its obligations hereunder. By proper action of the City Council, the City has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers.

(b) As of the date of delivery hereof, the City has acquired a leasehold interest in the Project Site from the Developer pursuant to the Base Lease, subject to Permitted Encumbrances. Upon the Completion Date, the Base Lease and this Lease will terminate, and the City will sell its interest in the Project to the Developer, all in furtherance of the public purposes of the Act.

(c) The purchase, construction and improvement of the Project and the leasing of the Project by the City to the Developer will further the public purposes of the Act.

(d) To the City's knowledge, no member of the City Council or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Developer or in the transactions contemplated hereby.

(e) To finance the costs of the Project, the City proposes to issue the Bonds, which will be scheduled to mature as set forth in **Article II** of the Indenture and will be subject to redemption prior to maturity in accordance with the provisions of **Article III** of the Indenture.

(f) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, consisting of all rents, revenues and receipts to be derived by the City from the leasing or sale of the Project, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds and amounts owing pursuant to this Lease.

(g) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project or pledge the revenues derived therefrom for any bonds or other obligations, other than the Bonds, except with the written consent of an Authorized Developer Representative; provided, however, the City's execution of this Lease, the Base Lease and the Indenture shall not be deemed to violate this **Section 2.1(g)**.

(h) The City will not operate the Project as a business or in any other manner except as the lessor thereof; provided, subsequent to an Event of Default hereunder, the City may, but is not obligated to, operate the Project in such manner as the City determines.

**Section 2.2. Representations by the Developer.** The Developer makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri.

(b) The Developer has lawful power and authority to enter into this Lease and to carry out its obligations hereunder, and the Developer has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers and representatives.

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby and the performance of or compliance with the terms and conditions of this Lease by the Developer will not, to the best of the Developer's knowledge, (i) conflict with or result in a breach of any of the terms, conditions or provisions of any mortgage, deed of trust, lease or other restriction, agreement or instrument to which the Developer is a party or by which it or any

of its property is bound, or the Developer's organizational documents, or any order, rule or regulation applicable to the Developer or any of its property of any court or governmental body, or (ii) constitute a default under any of the foregoing, or (iii) result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Developer under the terms of any instrument or agreement to which the Developer is a party.

(d) The estimated costs of the purchase, construction and improvement of the Project are in accordance with sound engineering and accounting principles.

(e) The Project will comply in all material respects with all applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations.

### ARTICLE III

#### GRANTING PROVISIONS

**Section 3.1. Granting of Leasehold Estate.** The City hereby exclusively rents, leases and lets the Project to the Developer, and the Developer hereby rents, leases and hires the Project from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained.

**Section 3.2. Lease Term.** This Lease shall become effective upon its execution and delivery and simultaneously with the initial issuance of the Bonds. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project shall terminate on the Completion Date.

**Section 3.3. Possession and Use of the Project.**

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** following the occurrence and continuance of an Event of Default, as defined in **Section 12.1**, the Developer shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3**) and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII**, to prevent the Developer from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Developer, cooperate with the Developer to defend the Developer's quiet and peaceable possession and enjoyment of the Project.

(b) Subject to the provisions of this Section, the Developer shall have the exclusive right to use the Project for any lawful purpose contemplated by the Act. The Developer shall comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project, as to the manner of use or the condition of the Project. The Developer shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII**. The Developer shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Developer to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Developer may, at its own cost and expense, contest or review by legal or other appropriate

procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Developer may refrain from complying therewith.

## ARTICLE IV

### PURCHASE AND CONSTRUCTION OF THE PROJECT

**Section 4.1. Issuance of the Bonds.** To provide funds for the payment of Project Costs, the City agrees that, upon request of the Developer, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement.

**Section 4.2. Purchase and Construction of the Project.** The City and the Developer agree that the Project will be implemented as follows:

(a) The City will acquire a leasehold interest in the Project Site at the execution hereof. Concurrently with the execution of this Lease, (i) the Base Lease will be executed by the City and the Developer and placed of record, and (ii) the commitment for title insurance or ownership and encumbrance report required by **Article VII** will be delivered to the City.

(b) On behalf of the City, the Developer will purchase, construct and improve the Project Improvements on the Project Site and otherwise improve the Project Site substantially in accordance with the Plans and Specifications. The Developer may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that would alter the intended purpose of the Project may be made only with the prior written approval of the City. The Developer agrees that the aforesaid construction and improvement will, with such changes and additions as may be made hereunder, result in facilities suitable for the Developer, and that all real and personal property described in the Plans and Specifications, with such changes and additions as may be made hereunder, is desirable and appropriate in connection with the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.2**.

(c) The Developer will comply and cause others to comply with the provisions of Section 107.170 of the Revised Statutes of Missouri ("Section 107.170") to the extent applicable to the construction of the Project.

(d) The Developer may enter into one or more construction contracts to complete the Project. All construction contracts entered into by or on behalf of the Developer shall (i) not allow for recourse against the City by a contractor in connection with the contractor's construction of the applicable portion of the Project and (ii) include an acknowledgment that the contractor may not perfect a mechanic's lien against the City (although such acknowledgment does not preclude the contractor from perfecting a mechanic's lien against the Developer's leasehold interest in the Project).

**Section 4.3. Project Costs.** The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of requisition certificates pursuant to **Section 4.4**. The Developer may not submit any requisition certificates for Project Costs incurred after the Completion Date. The maximum amount of Project Costs for which requisition certificates may be submitted is \$72,000,000.

**Section 4.4. Payment for Project Costs.**

(a) The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund and to endorse the Bonds, if the Trustee is holding the Bonds, upon receipt by the Trustee of requisition certificates in substantially the form of **Exhibit B**, signed by an Authorized Developer Representative and approved by an Authorized City Representative. The Developer agrees that the information in each requisition certificate will be accurate in all respects when given and that the Developer will notify the City and the Trustee if the Developer becomes aware of any material inaccuracies in a requisition certificate after it is given.

(b) The Trustee may rely conclusively on each such requisition certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by an Authorized Developer Representative and an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

**Section 4.5. Establishment of Completion Date.** The Completion Date shall be evidenced to the City and the Trustee by a certificate signed by an Authorized Developer Representative stating (a) that the purchase and construction of the Project have been completed in accordance with the Plans and Specifications, (b) the date of completion thereof and (c) that all costs and expenses of the purchase and construction of the Project have been incurred. Notwithstanding the foregoing, (i) such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being and (ii), such certificate shall be deemed given on December 31, 2029 if not actually filed with the City and the Trustee by December 31, 2029, subject to any delay to the extent caused by force majeure, including, without limitation, damage or destruction by fire or other casualty, strike, lockout, civil disorder, war, terrorist threats or acts, restrictive government regulations, actions or orders (including work stoppages or quarantines), lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the construction and occupation of the Project, shortage or delay in shipment of material or fuel, acts of God, unusually adverse weather or wet soil conditions, or other like causes beyond the Developer's reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of this Lease, the Indenture, the Ordinance or the Project (collectively, a "Permitted Excuse"). No Permitted Excuse shall be deemed to exist unless the Developer provides written notice to the City and the Trustee, within 30 days after the Developer has actual notice of the claimed event, specifying the Permitted Excuse. In no event shall a Permitted Excuse extend the Completion Date beyond December 31, 2030.

**Section 4.6. Surplus in Project Fund.** On or promptly after the Completion Date, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed in writing by the Developer solely (a) to the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (b) at the option of the Developer, to the purchase of Bonds at such earlier date or dates as the Developer may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

**Section 4.7. Non-Project Improvements, Machinery and Equipment Property of the Developer.** Any improvements or items of machinery or equipment that do not constitute a part of the Project Improvements and the entire purchase price of which is paid for by the Developer with its own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of

this Lease in the Project Fund, shall be the property of the Developer and shall not constitute a part of the Project.

## ARTICLE V

### RENT PROVISIONS

**Section 5.1. Basic Rent.** The Developer covenants and agrees to pay to the Trustee in same day funds for the account of the City during the Lease Term, on or before 11:00 a.m., Trustee's local time, on each Payment Date, as Basic Rent for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal of the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as principal of the Bonds and the interest thereon as provided in the Indenture. Except as offset pursuant to the right of the Developer set forth below, all payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Base Lease, the Indenture or the Bond Purchase Agreement to the contrary, and provided that the Developer (or any Financing Party) is the sole holder of the Bonds, the Developer, as lessee, may set-off its obligation to the City to pay Basic Rent under this Lease against the City's obligation to the Developer (or such Financing Party), as bondholder, to pay principal of and interest on the Bonds under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any written notice from the Developer to the contrary as evidence that such set-off has occurred and that pursuant to the set-off, the Developer, as lessee, is deemed to have paid its obligation to the City to pay Basic Rent under this Lease and the City is deemed to have paid its obligation to the Developer (or such Financing Party), as bondholder, to pay principal of and interest on the Bonds under the Indenture. On the final Payment Date, the Developer will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be canceled or (b) if any Person other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Developer shall receive a credit against the Basic Rent payable by the Developer in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

**Section 5.2. Additional Rent.** The Developer shall pay as Additional Rent, within 30 days after receiving an itemized invoice therefor, the following amounts:

(a) all reasonable fees, charges and expenses, including agent and counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under or arising from the Indenture, the Base Lease or this Lease, including but not limited to (i) claims by contractors or subcontractors, as and when the same becomes due, (ii) any disposition of this Lease pursuant to **Article XIII** and (iii) the review and execution of any Financing Documents;

(b) all costs incident to the issuance of the Bonds (which are to be paid on the Closing Date), including all fees, charges and expenses of the City and bond counsel, and the payment of the principal of and interest on the Bonds as the same becomes due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(c) all reasonable fees, charges and expenses incurred in connection with the enforcement of any rights under this Lease, the Base Lease or the Indenture by the City, the Trustee or the Owners, including counsel fees and expenses;

(d) to the extent the St. Charles County Assessor determines that the Project is not subject to ad valorem taxes in any calendar year the Project Site is leased to the City pursuant to the Base Lease, including, if applicable, the calendar year in which the Base Lease and this Lease are terminated, payments in lieu of taxes ("PILOT Payments"), in an amount equal to 100% of the actual real property taxes that would otherwise be payable on the Project, but for the City's interest therein, to be paid as provided in **Section 5.5**; and

(e) all other payments of whatever nature that the Developer has agreed in writing to pay or assume under the provisions of this Lease or the Indenture.

**Section 5.3. Obligations of Developer Absolute and Unconditional.**

(a) The obligations of the Developer under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same becomes due and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off (except as provided in **Section 5.1** and **Section 11.5**), counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project has been started or completed, or whether the City's interest therein or in any part thereof is defective or nonexistent, and notwithstanding any damage to, or loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or the right of temporary use of all or any part of the Project, legal curtailment of the Developer's use thereof, the eviction or constructive eviction of the Developer, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City; provided, however, that nothing in this Section is intended or shall be deemed to affect or impair in any way the rights of the Developer to tender Bonds for redemption in satisfaction of Basic Rent as provided in **Section 5.1** and **Section 5.4**, or the right of the Developer to terminate this Lease and purchase the Project as provided in **Article XI**.

(b) Nothing in this Lease shall be construed to release the City from the performance of any agreement on its part herein contained or as a waiver by the Developer of any rights or claims the Developer may have against the City under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Lease that the Developer shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owners and the City. The Developer may, however, at its own cost and expense and in its own name or in the name of the City, prosecute or defend any action or proceeding or take any other action involving third Persons which the Developer deems reasonably necessary in order to secure or protect its rights of possession, occupancy and use hereunder, and in such event the City hereby agrees, at the Developer's expense, to cooperate fully with the Developer and to take all action necessary to effect the substitution of the Developer for the City in any such action or proceeding if the Developer shall so request.

**Section 5.4. Prepayment of Basic Rent.**

(a) The Developer may at any time and from time to time prepay all or any part of the Basic Rent provided for hereunder (subject to the limitations of **Section 301(a)** of the Indenture relating to the partial redemption of the Bonds). During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then-remaining unpaid, the Developer shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

(b) At its option, the Developer may deliver to the Trustee for cancellation Bonds owned by the Developer and not previously paid, and the Developer shall receive a credit against amounts payable by the Developer for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

**Section 5.5. PILOT Payments.** The parties intend for there to be no property tax abatement on the Project by virtue of the issuance of the Bonds and the execution of the Base Lease and this Lease. If, nevertheless, the St. Charles County Assessor determines that the Project or any portion thereof is not subject to ad valorem taxes, the City will notify the Developer of any PILOT Payments due hereunder. The Developer covenants and agrees to make such PILOT Payments on or before December 31 of each year during the term of this Lease. Each PILOT Payment shall be payable to the Collector of Revenue of St. Charles County. The Collector of Revenue shall, after deducting its customary fee for collection thereof, divide each PILOT Payment among the affected taxing jurisdictions in proportion to their respective then-current ad valorem tax levies. The amount of any PILOT Payments due in any year, together with any other taxes due with respect to the Project, shall not collectively exceed the amount of ad valorem property taxes that would have been due with respect to the Project had the City not acquired a leasehold interest therein.

**ARTICLE VI**

**MAINTENANCE, TAXES AND UTILITIES**

**Section 6.1. Maintenance and Repairs.** Throughout the Lease Term the Developer shall, at its own expense, keep the Project in reasonably safe operating condition and keep the Project in good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the Developer shall at all times remain in compliance with all provisions of the City's code relating to maintenance and appearance. The Developer shall also comply with **Section 8.5**.

**Section 6.2. Taxes, Assessments and Other Governmental Charges.**

(a) Subject to subsection (b) of this Section, the Developer shall promptly pay and discharge, as the same becomes due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Project, or any part thereof or interest therein (including the leasehold estate of the Developer therein), or any buildings, improvements, machinery and equipment at any time installed on the Project Site by the Developer, or the income therefrom, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of

the Bonds or encumber the City's interest in the Project; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed that may be paid in installments, the Developer shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Developer may, in its own name or in the City's name, contest the validity or amount of any tax, assessment or other governmental charge which the Developer is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the tax, assessment or other governmental charge complained of becomes delinquent if and provided the Developer (i) before instituting any such contest, gives the City and the Trustee written notice of its intention to do so, (ii) diligently prosecutes such contest, (iii) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (iv) promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and (v) thereafter promptly procures record release or satisfaction thereof. The City agrees to cooperate fully with the Developer in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Developer shall save and hold harmless the City and the Trustee from any costs and expenses the City may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Developer to make duplicate tax payments or PILOT Payments. The Developer shall receive a credit against the PILOT Payments to be made by the Developer hereunder to the extent that any ad valorem taxes imposed with respect to the Project are paid pursuant to this Section.

**Section 6.3. Utilities.** All utilities and utility services used by the Developer in, on or about the Project shall be paid by the Developer and shall be contracted by the Developer in the Developer's own name, and the Developer shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

**Section 6.4. Sales Tax Exemption.** The City will provide a project exemption certificate (i.e., a Missouri Department of Revenue Project Exemption Certificate, Form 5060) to the Developer, which may be used by related entities and their respective contractors and subcontractors to purchase and pay for, exempt from sales tax, certain construction materials to be incorporated into or used up in the Project. The Developer agrees to make, and to cause related entities and their respective contractors and subcontractors to make, such purchases in compliance with the provisions of Section 144.062 of the Revised Statutes of Missouri. Such construction materials may only include tangible personal property and materials that can only be used for the Project and that are actually used up or consumed in constructing the Project. Except as provided in the prior sentences, the acquisition and construction of the Project shall not be exempt from any sales taxes imposed by any governmental authority by virtue of the City's leasehold interest therein, and neither the City nor the Developer will request any such exemption. Nothing herein shall limit the Developer's right to any exemption of sales taxes not resulting from the City's leasehold interest in the Project. The Developer has no right to use the project exemption certificate after the Completion Date.

## ARTICLE VII

### INSURANCE

**Section 7.1. Title Commitment or Report.** Concurrently with the execution of this Lease, the Developer will provide, to the City and the Trustee, a commitment for title insurance or such other report

in a form reasonably acceptable to the City showing the ownership of and encumbrances on the Project Site.

### **Section 7.2. Casualty Insurance.**

(a) Prior to commencement of construction of the Project Improvements, the Developer shall at its sole cost and expense obtain and shall maintain throughout the Lease Term a policy or policies of insurance (including, if appropriate, builder's risk insurance) to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions). The insurance required pursuant to this Section shall be maintained from commencement of construction throughout the Lease Term with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers with an A.M. Best rating of not less than "A-" or the equivalent thereof as may be selected by the Developer. The Developer shall deliver certificates of insurance for such policies to the City and the Trustee prior to commencement of construction of the Project Improvements and promptly after renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the Developer, the City and the Trustee as insureds, as their respective interests may appear, shall name the Trustee as co-loss payee and, to the extent such agreement is available from the insurer, shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least 30 days after written notice of cancellation is given to the City, the Developer, the Trustee and each other insured or loss payee named therein. The Trustee's sole duty with respect to the Developer's compliance with the insurance requirements hereunder shall be to receive certificates of insurance pursuant to this Section and to hold the same solely as repository for the benefit of the Owners. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance.

(b) In the event of loss of or damage to the Project, the Net Proceeds of casualty insurance carried pursuant to this Section shall be, subject to the rights of each Financing Party under the Financing Documents (if any), and unless otherwise provided by law, (i) paid over to the Trustee and applied as provided in **Article IX**, or (ii) applied as directed in writing by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding.

### **Section 7.3. Liability Insurance.**

(a) The Developer shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City, the Developer and the Trustee shall be named as additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Developer). All such policies of insurance pursuant to this Section, and all renewals thereof, shall, to the extent such agreement is available from the insurer, contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least 30 days after written notice of cancellation is given to the Developer, the City, the Trustee and each other insured named therein. The Developer shall deliver certificates of insurance for such policies to the City and the Trustee on the date of execution of this Lease and promptly after renewal of each insurance policy. The Trustee's sole duty with respect to the Developer's compliance with the insurance requirements hereunder shall be to receive certificates of insurance pursuant to this Section and to hold the same solely as repository for the

benefit of the Owners. The Trustee makes no representation as to, and shall have no responsibility for the sufficiency or adequacy of, the insurance.

(b) In the event of a general liability occurrence, the Net Proceeds of liability insurance carried pursuant to this Section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

**Section 7.4. Blanket Insurance Policies.** The Developer may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with.

**Section 7.5. Worker's Compensation.** The Developer agrees throughout the Lease Term to maintain or cause to be maintained the worker's compensation coverage required by the laws of the State of Missouri.

**Section 7.6. Sovereign Immunity.** Notwithstanding anything to the contrary contained herein, nothing in this Lease shall be construed to broaden the liability of the City beyond the provisions of Sections 537.600 to 537.610 of the Revised Statutes of Missouri or abolish or waive any defense at law that might otherwise be available to the City or its officers, agents and employees.

## ARTICLE VIII

### ALTERATION OF THE PROJECT

**Section 8.1. Additions, Modifications and Improvements to the Project.** The Developer may make such additions, modifications and improvements in and to any part of the Project as the Developer from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the Developer pursuant to this Section shall (a) be made in a good and workmanlike manner and shall comply in all respects with all laws, orders and ordinances applicable thereto and (b) when commenced, be prosecuted to completion with due diligence. Any such additions, modifications and improvements shall be subject to ad valorem taxes, or if for any reason the St. Charles County Assessor determines that such additions, modifications and improvements are not subject to ad valorem taxes, the Developer shall, in accordance with **Section 5.5**, make PILOT Payments in an amount equal to the taxes that would otherwise be due, but for the City's interest therein, unless otherwise agreed to by the City.

**Section 8.2. Additional Improvements on the Project Site.** Subject to **Section 8.5**, the Developer may, at its sole cost and expense, construct on the Project Site such additional buildings and improvements as the Developer from time to time may deem necessary or desirable for its business purposes. All additional buildings and improvements constructed on the Project Site by the Developer, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included as Project Improvements and, during the life of this Lease, shall remain the property of the Developer and may be added to, altered or razed and removed by the Developer at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and shall comply in all respects with all laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Developer covenants and agrees (a) to make any repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged

by fire or other casualty. The Developer shall pay all ad valorem taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Developer. If for any reason the St. Charles County Assessor determines that such additional buildings and improvements are not subject to ad valorem taxes, the Developer shall, in accordance with **Section 5.5**, make PILOT Payments in an amount equal to the taxes that would otherwise be due on such additional buildings and improvements, unless otherwise agreed to by the City.

**Section 8.3. Permits and Authorizations.** The Developer shall not do or permit others under its control to do any work on the Project or any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. All such work shall be done in a good and workmanlike manner and shall comply in all respects with all applicable building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII**.

**Section 8.4. Mechanics' Liens.**

(a) The Developer will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, or any part thereof, except Permitted Encumbrances, and the Developer shall promptly notify the City of the imposition of any such lien of which the Developer is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or services or materials furnished in connection with any work in or about the Project, the Developer shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor, services or materials furnished to the Developer or anyone claiming by, through or under the Developer upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project, or any part thereof.

(b) Notwithstanding paragraph (a) above, and subject to the terms of any Financing Documents executed by the Developer in favor and for the benefit of any Financing Party, the Developer may contest any such mechanics' or other similar lien if the Developer (i) within 60 days after the Developer becomes aware of any such lien notifies the City and the Trustee in writing of its intention to do so, (ii) diligently prosecutes such contest, (iii) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (iv) promptly pays or otherwise satisfies any final judgment adjudging or enforcing the contested lien claim and (v) thereafter promptly procures record release or satisfaction thereof. The Developer may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Developer is notified by the City that, in the opinion of counsel, by nonpayment of any such items, the interest of the City in the Project will be subject to loss or forfeiture. In that event, the Developer shall promptly, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such lien, charge, encumbrance or claim if the same shall arise at any time. The Developer shall defend and save and hold harmless the City from any loss, cost or expense the City may incur related to any such contest. The Developer shall reimburse the City for any expense incurred by it in connection with the imposition of any such lien or the discharge or removal of any such lien, charge, encumbrance or claim. The City shall cooperate fully with the Developer in any such contest.

**Section 8.5. Notice of Improvements Subject to Bonding Requirements.** The Developer shall use its best efforts to notify the City in writing of any portion of the Project or any repair, renovation,

modification or improvement thereto that is subject to Section 107.170 or any other law requiring payment or performance bonds for such work prior to beginning construction of the applicable portion of the Project or making such repair, renovation, modification or improvement. The failure to provide the written notification required by this Section will not be deemed to be a material breach of this Lease. However, the Developer agrees and acknowledges that (a) the City and its governing body members, officers, agents and employees shall be fully indemnified by the Developer, as provided in **Section 10.5**, against any claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising from the Developer's failure to provide the written notice as required by this Section or to secure any payment or performance bonds required by Section 107.170 or other applicable law and (b) the Developer's leasehold interest under this Lease may be subject to mechanics' or other similar liens, which the Developer shall promptly resolve in accordance with **Section 8.4**.

## ARTICLE IX

### DAMAGE, DESTRUCTION AND CONDEMNATION

#### Section 9.1. Damage or Destruction.

(a) If the Project is damaged or destroyed by fire or other casualty, whether or not covered by insurance, the Developer, as promptly as practicable, shall either (i) make the determination described in subsection (f) below, or (ii) repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project is of a value not less than the value thereof immediately before the occurrence of such damage or destruction or, at the Developer's option, construct upon the Project Site new buildings and improvements, together with all new machinery, equipment and fixtures that are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (A) the value thereof shall not be less than the value of such destroyed or damaged Project immediately before the occurrence of such damage or destruction and (B) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project as an enterprise permitted by the Act.

If the Developer elects to construct any such new buildings and improvements, then for all purposes of this Lease, any reference to the words "Project Improvements" shall be deemed to also include any such new buildings and improvements and all additions thereto and all replacements and alterations thereof.

Unless the Developer makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Article VII** received with respect to such damage to or loss of the Project shall be used, unless otherwise provided by law, to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof. Insurance monies in an amount less than \$5,000,000 may be paid to or retained by the Developer to be held in trust and used as provided herein. Insurance monies in an amount of \$5,000,000 or more shall be (i) paid to the Trustee, deposited in the Project Fund and disbursed as provided in **Section 4.4** to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof, or (ii) applied as directed in writing by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding. If the Developer makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f).

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of the leasehold

mortgagee (if any) and the Financing Parties (if any), except as otherwise provided by law. If the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Developer shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or other casualty, the provisions of this Lease shall be unaffected and the Developer shall remain and continue to be liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Developer, as though no damage by fire or other casualty has occurred.

(d) The City and the Developer agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other party such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Developer agrees to give prompt written notice to the City, the Trustee and each Financing Party of all fires and other casualties occurring in, on, at or about the Project Site causing (in the Developer's opinion) damage of more than \$5,000,000.

(f) If the Developer determines that repairing, restoring, replacing or rebuilding the Project or any part thereof is not practicable or desirable, or if the Developer does not have the right under any Financing Document to use any Net Proceeds for repair or restoration of the Project or any part thereof, any Net Proceeds of casualty insurance required by **Article VII** received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due. The Developer agrees to be reasonable in exercising its judgment pursuant to this subsection (f). Alternatively, if the Developer is the sole Owner of the Bonds and it has determined that repairing, restoring, replacing or rebuilding the Project or any part thereof is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the casualty insurance and retain such proceeds for its own account.

(g) The Developer shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, restored, replaced or rebuilt, nor by reason of the payment of the costs of such repairing, restoring, replacing or rebuilding, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Developer under this Lease or of any other obligations of the Developer under this Lease except as expressly provided in this Section.

(h) The rights of the City and the Trustee in and to any Net Proceeds are and will at all times be subject to the rights of each Financing Party under the Financing Documents (if any) with respect to such Net Proceeds.

#### **Section 9.2. Condemnation.**

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project is condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than \$5,000,000, the Developer shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City, the Trustee and each Financing Party under the Financing Documents (if any) in writing as to the nature and

extent of such condemnation or loss of title and whether it is practicable and desirable to acquire and construct substitute improvements.

(b) If the Developer determines that such substitution is practicable and desirable, the Developer shall proceed promptly with and complete with reasonable dispatch the acquisition and construction of such substitute improvements, so as to place the Project in substantially the same condition as existed before the exercise of the power of eminent domain, including the acquisition and construction of other improvements suitable for the Developer's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Developer without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the City subject to no liens, security interests or encumbrances before the lien and/or security interest afforded by the Indenture and this Lease other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** (with respect to the receipt of casualty insurance proceeds).

(c) If the Developer determines that it is not practicable or desirable to acquire and construct substitute improvements, or if the Developer does not have the right under any Financing Document to use any Net Proceeds of condemnation awards received by the Developer, then any Net Proceeds of condemnation awards received by the Developer shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, all subject to the rights of each Financing Party under the Financing Documents (if any). Alternatively, if the Developer is the sole Owner of the Bonds and it has determined that acquiring and constructing substitute improvements is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of any condemnation award and retain such proceeds for its own account.

(d) The Developer shall not, by reason of its inability to use all or any part of the Project during any such period of acquisition and restoration nor by reason of the payment of the costs of such acquisition and restoration, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Developer under this Lease or of any other obligations of the Developer under this Lease except as expressly provided in this Section.

(e) The City shall cooperate fully with the Developer in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof, and shall, to the extent it may lawfully do so, permit the Developer to litigate in any such proceedings in the name and on behalf of the City. In no event will the City voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the Developer and each Financing Party (if any).

**Section 9.3. Bondowner Approval.** Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) may before the application thereof by the City or the Trustee be applied as directed in writing by the Owners of 100% of the principal amount of Bonds Outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under **Section 5.2(d)**.

## ARTICLE X

### SPECIAL COVENANTS

**Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification.** The City makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Developer's purposes or needs. The Developer releases the City and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss of or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the Developer's use thereof, unless such loss is the result of the City's or the Trustee's (or their respective employees, consultants or agents') respective negligence or willful misconduct. This provision shall survive termination of this Lease.

**Section 10.2. Surrender of Possession.** Upon accrual of the City's right of re-entry to the extent provided in **Section 12.2(b)**, the Developer shall peacefully surrender possession of the Project to the City in good condition and repair; provided, however, the Developer may within 90 days (or such later date as the City may agree to) after the termination of this Lease remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Developer and not constituting a part of the Project. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Developer, and during said 90-day (or extended) period the Developer shall bear the sole responsibility for and bear the sole risk of loss of said buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Developer and not constituting a part of the Project. All buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Developer that are not so removed from the Project Site before the expiration of said period shall be the separate and absolute property of the City. Notwithstanding the foregoing, if the Developer has paid all obligations due and owing under the Indenture (or such obligations have been canceled by the Owners) and this Lease, the City shall convey the Project in accordance with **Section 11.2**.

**Section 10.3. Right of Access to the Project.** The City may conduct such periodic inspections of the Project as may be generally provided in the City's municipal code. In addition, the Developer agrees that the City and the Trustee and their duly authorized agents may, at reasonable times during normal business hours and, except in the event of emergencies, upon not less than two Business Days' prior notice, subject to the Developer's usual business, proprietary, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the Developer's operations, (b) to monitor the acquisition, construction and installation of the Project pursuant to **Section 4.2** as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Developer's possession pertaining to the acquisition, installation or maintenance of the Project or (d) upon either (i) the occurrence and continuance of an Event of Default or (ii) the Developer's failure to purchase the Project at the end of the Lease Term, to exhibit the Project to prospective purchasers, lessees or trustees.

#### **Section 10.4. Granting of Easements; Leasehold Mortgages and Financing Arrangements.**

(a) Subject to **Sections 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing, the City agrees that, at the written request of the Developer, it will execute and deliver and will cause and direct the Trustee, in writing, to execute and deliver any instrument necessary or appropriate to approve, confirm and grant or release or terminate any sublease, easement, license, right-of-way or other right or privilege or any similar agreement or other arrangement that constitutes a Permitted Encumbrance, conditioned upon receipt by the City and the Trustee of: (i) a copy of the

instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Developer Representative requesting such instrument, and (iii) a certificate executed by an Authorized Developer Representative stating that (A) such grant or release is not detrimental to the proper conduct of the business of the Developer, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance and (B) the Developer will defend, indemnify and save and hold harmless the City and the Trustee from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising from the execution and delivery of such instrument, agreement or other arrangement pursuant to this Section. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Developer for any such grant or with respect to or under any similar agreement or other arrangement shall be and remain the property of the Developer; but, subject to **Sections 10.4(c) and (d)**, upon (1) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Developer or (2) the occurrence and continuance of an Event of Default by the Developer, all rights then existing of the Developer with respect to or under such grant, agreement or other arrangement shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Developer may mortgage or grant a deed of trust against the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such mortgage, and the loan agreement, note or other obligation secured thereby, is delivered to the City within 30 days after the execution thereof. The sale of the Developer's leasehold estate at a foreclosure sale or trustee's sale under any Financing Document or any assignment in lieu thereof shall not require the consent of the City, if (i) written notice of the proposed sale or assignment is provided to the City at least 15 days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under this Lease are paid and the Bonds are paid or redeemed in full.

(c) The City acknowledges and agrees that the Developer may finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Developer may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Developer may, at any time and from time to time, with prior notice to but without the consent of the City, (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1(c)**.

(d) Upon notice by the Developer to the City in writing that the Developer has executed one or more Financing Documents under which it has granted rights in this Lease to a Financing Party, which includes the name and address of such Financing Party, then the following provisions shall apply with respect to each such Financing Party and any Financing Party existing as of the date of the execution and delivery hereof:

(i) there shall be no merger of this Lease or of the leasehold estate created hereby with fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same Person or Persons, without the prior written consent of each such Financing Party;

(ii) the City shall serve upon each such Financing Party (at the address, if any, provided to the City) a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Developer under this Lease, at the same time as such notice is served upon the Developer. No such notice to the Developer shall be effective unless a copy thereof is thus served upon each such Financing Party;

(iii) each such Financing Party shall have the same period of time that the Developer has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus 30 days, and the City shall accept performance by any such Financing Party as timely performance by the Developer;

(iv) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Developer, subject to the rights of each such Financing Party under this **Section 10.4(d)** as to such other Event of Default. Without limiting the generality of the foregoing, any such Financing Party may cause the sale of the leasehold interest of the Developer to be sold at a foreclosure sale conducted in accordance with applicable law and the terms of its Financing Documents, accept assignment of this Lease in lieu of foreclosure and appoint a receiver for the Project, all without obtaining the prior written consent of the City but subject to the provisions of **Section 10.4(b)**;

(v) upon the occurrence and continuance of an Event of Default by the Developer under this Lease, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such Financing Party and permitting each such Financing Party (or its designee, nominee, assignee or transferee) a reasonable time within which to remedy such default in the case of an Event of Default which is susceptible of being cured; provided that the period to remedy such Event of Default shall continue beyond any period set forth in this Lease to effect said cure so long as any such Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure; and further provided that any such Financing Party (or its designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including, without limitation, reasonable counsel fees, court costs and disbursements, incurred by the City or the Trustee in connection with any such default;

(vi) each such Financing Party (and its designees, nominees, assignees and transferees) may enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce its rights under its respective Financing Documents;

(vii) except for terminations of this Lease expressly authorized herein, this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Developer, without prior notice to and the written consent of each such Financing Party; and

(viii) each such Financing Party may, on behalf of the Developer and without the consent of the Developer, exercise the right to purchase the Project pursuant to **Section 11.1**, upon compliance with the provisions of that Section. The Developer agrees that the City and the Trustee will have no liability for taking direction from any such Financing Party in connection with a conveyance of the Project back to the Developer pursuant to **Article XI**.

(e) In connection with the execution of one or more Financing Documents, and upon the request of the Developer, the City agrees to execute such documents as shall be reasonably requested by a

Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents, including, without limitation, subordination of the City's interest in the Project to any fee deed of trust. The Developer agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request.

(f) The Developer's obligations under any mortgage or Financing Document relating to the Project entered into after the date of execution of this Lease shall be subordinate to the Developer's obligations under this Lease.

(g) All deeds of trust and other security agreements secured by the Project shall recognize that PILOT Payments due and owing hereunder, if any, are to be given the same priority as real property taxes in the event of a foreclosure. To evidence such preference, all such deeds of trust or other security agreements must contain the following language (or similar language approved by the City Attorney):

Subordination of [Mortgage] to PILOT Payments. Lender agrees that for so long as the [Property] is subject to the Lease Agreement dated as of \_\_\_\_\_ 1, 2025 between the City of St. Charles, Missouri (the "City"), and Porterhouse Development LLC, the lien of the [Mortgage] shall be subject and inferior to the lien of the City thereto to the extent of any unpaid PILOT Payments (as defined in the aforementioned Lease Agreement), if any. Lender agrees that any proceeds received by Lender as a result of a foreclosure or deed in lieu of foreclosure related to the [Property] shall first be applied to pay any due and owing PILOT Payments.

Before executing any deed of trust or other security agreement secured by the Project, the Developer shall provide the City with a draft of such deed of trust or other security agreement for the sole purpose of ensuring that the language required by this **Section 10.4(g)** is included therein. Any deed of trust or other security agreement secured by the Project that does not contain the required language shall be invalid and unenforceable.

(h) Notwithstanding the foregoing, the City may agree to other provisions and documents requested by the Developer or any Financing Party not contemplated by this **Section 10.4**, subject to approval by ordinance of the City Council.

**Section 10.5. Indemnification of City and Trustee.** The Developer shall defend, indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees and expenses, by or on behalf of any Person arising from the issuance of the Bonds and the execution of this Lease (or any instrument requested by the Developer pursuant to **Section 10.4**), the Indenture or any other document entered into in connection with the Bonds and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Developer in the performance of any of its obligations under the Base Lease, this Lease or any related document, (c) any contract entered into in connection with the acquisition, purchase, construction, extension, installation or improvement of the Project, (d) any act of negligence of the Developer or of any of its agents, contractors, servants, employees or licensees, (e) unless the Developer has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Developer, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Developer, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any violation of Section 107.170; provided, however, the

indemnification contained in **Sections 10.5(a)-(e)** shall not extend (i) to the City to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are (A) the result of work being performed at the Project by employees of the City, or (B) the result of the negligence or willful misconduct of the City or its employees, agents or representatives, or (ii) to the Trustee to the extent that such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of the negligence or willful misconduct of the Trustee. Upon written notice from the City or the Trustee of any such claim or demand, the Developer shall defend them or either of them in any such action or proceeding; provided, that the City shall cooperate with the Developer and provide reasonable assistance in such defense. All costs related to the defense of the City or the Trustee shall be paid by the Developer. This **Section 10.5** shall survive any termination of this Lease or the satisfaction and discharge of the Indenture.

**Section 10.6. Depreciation and Other Tax Benefits.** The City and the Developer hereby acknowledge and agree that:

- (a) this Lease is intended to be and shall be treated as a "financing lease" for federal income tax purposes;
- (b) the Developer shall be treated, solely for federal income tax purposes, as the owner of the Project and, as such, shall be entitled to claim all depreciation, amortization deductions and other tax benefits attributable to the ownership of the Project;
- (c) each party shall report and file all federal income tax returns consistent with the intended tax treatment; and
- (d) the City will fully cooperate with the Developer in any effort by the Developer to avail itself of any such depreciation, amortization deductions and other tax benefits.

**Section 10.7. Developer to Maintain its Existence.** The Developer agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Developer may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee Person expressly assumes in writing all of the obligations of the Developer contained in this Lease and either (a) has a long-term debt rating or is controlled by or under common control with an entity with a long-term debt rating in any of the top three long-term debt rating categories established by a nationally-recognized rating service, (b) is controlled by, under common control with or controls the Developer or (c) is otherwise approved by the City Council.

**Section 10.8. Security Interests.** The City shall file all initial financing statements as may be required under the Uniform Commercial Code. The City and the Developer hereby authorize the Trustee to file all appropriate continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee under the Indenture. Upon the written instructions of the Owners of 100% of the Bonds then-Outstanding, the Trustee shall, in accordance with the Indenture, file all continuation instruments the Owners deem necessary to be filed for so long as the Bonds are Outstanding. The City and the Developer shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to renew such continuation statements.

**Section 10.9. Environmental Matters, Warranties, Covenants and Indemnities Regarding Environmental Matters.**

(a) As used in this Section, the following terms have the following meanings:

“Environmental Law” means any now-existing or hereafter enacted or promulgated federal, state, local or other law, statute, ordinance, order, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean-up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos-containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, all as amended from time to time.

“Hazardous Substances” means all (i) “hazardous substances” (as defined in 42 U.S.C. §9601(14)), (ii) “chemicals” subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time, (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum-based products or crude oil, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials which are included under or regulated by any Environmental Law.

(b) The Developer warrants and represents to the City and the Trustee that to the knowledge of the Developer there are no conditions on the Project Site which materially violate any applicable Environmental Laws and no claims or demands have been asserted or made in writing by any third parties arising out of, relating to or in connection with any Hazardous Substances on, or allegedly on, the Project Site for any injuries suffered or incurred, or allegedly suffered or incurred, by reason of the foregoing.

(c) The Developer will provide the City and the Trustee with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards in material violation of Environmental Laws which are given by or on behalf of the Developer to any federal, state, local or other agencies or authorities or which are received by the Developer from any federal, state, local or other agencies or authorities with respect to the Project. Such copies shall be sent to the City and the Trustee concurrently with their being mailed or delivered to the governmental agencies or authorities or within 10 days after they are made or received by the Developer. The Developer will provide to the City for review only, any environmental assessments (“Assessments”) and reports regarding the correction or remediation of material environmental issues required by Environmental Laws to be addressed in the Assessments (“Reports”) concerning the Project; upon the completion of the City’s review of the Assessments and Reports, the City shall immediately return to the Developer all originals and copies of the Assessments and Reports.

(d) The Developer warrants and represents that the Developer has provided the City and the Trustee with copies of all emergency and hazardous chemical inventory forms (hereinafter “Environmental Notices”) showing Hazardous Substances on the Project Site given within two years preceding the date hereof, as of the date hereof, by the Developer to any federal, state or local governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §11001 *et seq.*, or any other applicable Environmental Laws. The Developer will provide the City and the Trustee with copies of all Environmental Notices concerning Hazardous Substances on the Project Site subsequently sent to any such governmental authority or agency as required pursuant to the Emergency Planning and Community Right-to-Know Act of 1986 or any other applicable Environmental Laws. Such copies of subsequent Environmental Notices shall be sent to the City and the Trustee concurrently with their being mailed to any such governmental authority or agency.

(e) The Developer will comply with and operate and at all times use, keep and maintain the Project and every part thereof (whether or not such property constitutes a facility, as defined in 42 U.S.C. § 9601 *et seq.*) in material conformance with all applicable Environmental Laws. Without limiting the generality of the foregoing, the Developer will not use, generate, treat, store, dispose of or otherwise introduce any Hazardous Substance into or on the Project or any part thereof in any material respect nor cause, suffer, allow or permit anyone else to do so except in compliance with all applicable Environmental Laws.

(f) The Developer agrees to defend, indemnify, protect and hold harmless the City and the Trustee and their directors, officers, shareholders, officials and employees from and against any and all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising from (i) any release (as defined in 42 U.S.C. § 9601 (22)), actual or alleged, of any Hazardous Substances upon the Project Site or respecting any products or materials previously, now or hereafter located upon the Project Site, regardless of whether such release or alleged release has occurred before the date hereof or hereafter occurs and regardless of whether such release or alleged release occurs as the result of any act, omission, negligence or misconduct of the Developer or any third party or otherwise, (ii) any violation now existing or hereafter arising (actual or alleged) of, or any other liability under or in connection with, any applicable Environmental Laws (A) relating to or affecting the Project, or (B) relating to any products or materials previously, now or hereafter located upon the Project Site, regardless of whether such violation or alleged violation or other liability is asserted or has occurred or arisen before the date hereof or hereafter is asserted or occurs or arises and regardless of whether such violation or alleged violation or other liability occurs or arises as the result of any act, omission, negligence or misconduct of the Developer or any third party or otherwise, (iii) any assertion by any third party of any claims or demands for any loss or injury arising out of, relating to or in connection with any Hazardous Substances on or allegedly on the Project Site, or (iv) any material breach, falsity or failure of any of the representations, warranties, covenants and agreements contained in this Section; provided, however, that the Developer's obligations under this **Section 10.9(f)** shall not apply (1) to the City to the extent such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of work being performed at the Project by employees of the City or the negligence or willful misconduct of the City or (2) to the Trustee to the extent such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of the negligence or willful misconduct of the Trustee. The City and the Trustee shall reasonably cooperate with the Developer in the defense of any matters included within the foregoing indemnity without any obligation to expend money. The City and the Trustee shall reasonably cooperate with the Developer in defending any such claims, demands, costs, liabilities, damages or expenses. This subsection (f) shall survive any termination of this Lease.

## ARTICLE XI

### OPTION AND OBLIGATION TO PURCHASE THE PROJECT

**Section 11.1. Option to Purchase the Project.** The Developer shall have, and is hereby granted, the option to purchase all or any portion of the City's interest in the Project, at any time, upon payment in full or redemption of the Outstanding Bonds to be redeemed or provision for their payment or redemption having been made pursuant to **Article XIII** of the Indenture. To exercise such option, the Developer shall give written notice to the City and to the Trustee and shall specify therein the date of closing of such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, provide a certificate of the Developer confirming all real property taxes have been paid with respect to the Project, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Developer shall make arrangements satisfactory to the Trustee for the giving of the required notice of

redemption. Notwithstanding the foregoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder upon an Event of Default (a "Remedies Notice"), the Developer shall be deemed to have exercised its purchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Developer; provided said Remedies Notice has not been rescinded by such date. The Developer may rescind such exercise by providing written notice to the City and the Trustee on or before the 29th day and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Developer if it exercises the option granted in this Section shall be the sum of the following:

- (a) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all or a portion of the then-Outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus
- (b) an amount of money equal to the Trustee's and the Paying Agent's reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus
- (c) an amount of money equal to the City's reasonable charges and expenses incurred in connection with the Developer exercising its option to purchase all or a portion of the Project; plus
- (d) the sum of \$10.00.

**Section 11.2. Conveyance of the Project.** At the closing of the purchase of the Project pursuant to this Article, the City will, upon receipt of the purchase price, deliver to the Developer the following:

- (a) a release from the Trustee of the Project from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under the Uniform Commercial Code; and
- (b) such other documents as may be reasonably necessary to effectuate the conveyance of the Project, including without limitation a termination of the Base Lease and this Lease.

**Section 11.3. Relative Position of Option and Indenture.** The option to purchase the Project granted to the Developer in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Developer is in default under this Lease; provided that such option will not result in nonfulfillment of any condition to the exercise of such option (including the payment of all amounts specified in **Section 11.1**) and further provided that the option herein granted shall terminate upon the termination of this Lease.

**Section 11.4. Obligation to Purchase the Project.** The Developer hereby agrees to purchase, and the City hereby agrees to sell, the Project upon (a) the occurrence of the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture and (b) payment of all real property taxes with respect to the Project. The amount of the purchase price under this Section shall be the sum of the items set forth in **Sections 11.1(a)-(d)**. The purchase price shall be paid by the Developer within 90 days of the expiration of the Lease Term.

**Section 11.5. Right to Set-Off.** At its option, to be exercised at least five days before the date of closing on any purchase of the Project, the Developer may deliver to the Trustee for cancellation Bonds

not previously paid, and the Developer shall receive a credit against the purchase price payable by the Developer in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus accrued interest thereon. The Developer may set-off any payment obligation under **Section 11.1(a)** by tendering a corresponding amount of the Bonds to the Trustee for cancellation.

## ARTICLE XII

### DEFAULTS AND REMEDIES

**Section 12.1. Events of Default.** If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an “Event of Default” under this Lease:

(a) default in the due and punctual payment of Basic Rent or Additional Rent within 10 days after written notice thereof from the City to the Developer; or

(b) default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Developer’s part to be observed or performed, and such default continues for 60 days after the City or the Trustee has given the Developer written notice specifying such default (or such longer period as is reasonably required to cure such default, provided that (i) the Developer has commenced such cure within said 60-day period, and (ii) the Developer diligently prosecutes such cure to completion); or

(c) the Developer: (i) admits in writing its inability to pay its debts as they become due; or (ii) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the United States Bankruptcy Code, as now or in the future amended, or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (iii) makes an assignment for the benefit of creditors; or (iv) consents to the appointment of a trustee, receiver or liquidator for all or a substantial portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Developer’s consent or acquiescence, vacated or set aside; or (v) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a substantial portion of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the United States Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the date of entry or commencement; or (vii) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or a substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed or released within 60 days after the final entry or levy or after any contest is finally adjudicated or any stay is vacated or set aside.

**Section 12.2. Remedies on Default.** If any Event of Default referred to in **Section 12.1** has occurred and continues beyond the period provided to cure, then the City may at the City’s election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions, in addition to the remedies provided in **Section 12.5**:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Indenture; or

(b) give the Developer written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 60 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the Outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.5**, the Developer's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and (i) the City may convey the Project to the Developer and bring an action against the Developer for the purchase price of the Project under **Section 11.1** or (ii) the City may re-enter and take possession of the Project; provided, however, if the Developer has paid all obligations due and owing under the Indenture and this Lease, the City shall convey the Project in accordance with **Section 11.2**. The Developer's rights to cause the conveyance of the Project in accordance with **Section 11.2** shall survive the expiration or termination of this Lease.

**Section 12.3. Survival of Obligations.** The Developer covenants and agrees with the City and the Owners that its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Developer shall continue to pay the Basic Rent and Additional Rent (to the extent the Bonds remain Outstanding) and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; provided, however, that upon (a) the payment of all Basic Rent and Additional Rent required under **Article V** hereof, (b) the satisfaction and discharge of the Indenture under **Section 1301** thereof, and (c) the Developer's exercise of the purchase option contained in **Section 11.1** hereof, the Developer's obligations under this Lease shall thereupon cease and terminate in full, except that obligations with respect to compensation and indemnification of the City and the Trustee shall not so terminate.

**Section 12.4. Performance of the Developer's Obligations by the City.** Upon an Event of Default and the continuance of such failure on the Developer's part for 60 days after written notice of such failure is given to the Developer by the City or the Trustee, and without waiving or releasing the Developer from any obligation hereunder, as an additional but not exclusive remedy, the City, or the Trustee in the City's name, may (but shall not be obligated so to do) make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, attorneys' fees and expenses) in performing such obligation shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Developer, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** in the case of default by the Developer in the payment of Basic Rent.

**Section 12.5. Rights and Remedies Cumulative.** The rights and remedies reserved by the City and the Developer hereunder are in addition to those otherwise provided by law and shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. To the extent provided by Missouri law, the City and the Developer shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease. Notwithstanding anything in this **Section 12.5** or elsewhere in this Lease to the contrary, however, the Developer's option to purchase the Project as provided in **Article XI** above shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** above. The parties agree that no provision of this Lease shall be construed to allow the City to require the Developer to acquire, construct or install the Project.

**Section 12.6. Waiver of Breach.** No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Developer of any covenant, agreement or undertaking, the City may nevertheless accept from the Developer any payment or payments hereunder without in any way waiving the City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Developer which were in existence at the time such payment or payments were accepted by the City.

**Section 12.7. Trustee's Exercise of the City's Remedies.** Whenever any Event of Default has occurred and is continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

### ARTICLE XIII

#### ASSIGNMENT AND SUBLEASE

**Section 13.1. Assignment; Sublease.**

- (a) The Developer may sublease, assign, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act.
- (b) With respect to any assignment, the Developer shall comply with the following conditions:
  - (i) the Developer shall notify the City and the Trustee of the assignment in writing;
  - (ii) the Developer shall provide evidence of payment of all amounts then-due under this Lease;
  - (iii) such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;
  - (iv) such assignment shall include the entire then unexpired term of this Lease; and
  - (v) a duplicate original of such assignment shall be delivered to the City and the Trustee within 10 days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee and in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease on the part of the Developer to be performed and observed.
- (c) Any assignee of all the rights of the Developer shall agree to be bound by the terms of this Lease and any other documents related to the issuance of the Bonds. Upon such assignment of all the rights of the Developer and agreement by the assignee to be bound by the terms of this Lease and any other documents related to the issuance of the Bonds, the Developer shall be released from and have no further obligations under this Lease or any other document related to the issuance of the Bonds.

**Section 13.2. Assignment of Revenues by City.** The City shall assign and pledge any rents, revenues and receipts receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest and premium, if any, on the Bonds, and the Developer hereby consents to such pledge and assignment.

**Section 13.3. Prohibition Against Leasehold Mortgage of Project.** The City shall not mortgage its leasehold interest in the Project but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

**Section 13.4. Restrictions on Sale or Encumbrance of Project by City.** During the Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture and except to enforce its rights under **Section 12.2(b)**, it will not sell, assign, encumber, mortgage, transfer or convey the Project or any interest therein.

#### ARTICLE XIV

##### AMENDMENTS, CHANGES AND MODIFICATIONS

**Section 14.1. Amendments, Changes and Modifications.** Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of the Bonds and before the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated, except for terminations of this Lease expressly authorized herein, without the prior written consent of (a) the Trustee, given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld, (b) all of the Owners and (c) each Financing Party.

#### ARTICLE XV

##### MISCELLANEOUS PROVISIONS

**Section 15.1. Notices.** All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when delivered personally or transmitted electronically (and receipt confirmed by telephone or electronic read receipt), addressed as follows:

(i) To the City:

City of St. Charles, Missouri  
200 North Second Street  
St. Charles, Missouri 63301  
Attn: Mayor  
E-mail: [dan.borgmeyer@stcharlescitymo.gov](mailto:dan.borgmeyer@stcharlescitymo.gov)

with copies to:

City Attorney  
200 North Second Street  
St. Charles, Missouri 63301  
E-mail: [holly.magdziarz@stcharlescitymo.gov](mailto:holly.magdziarz@stcharlescitymo.gov)

and:

Director of Administration  
200 North Second Street  
St. Charles, Missouri 63301  
E-mail: [lawrence.dobrosky@stcharlescitymo.gov](mailto:lawrence.dobrosky@stcharlescitymo.gov)

(ii) To the Trustee:

UMB Bank, N.A.  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
Attn: Corporate Trust Department  
E-mail: [kristina.tibbits@umb.com](mailto:kristina.tibbits@umb.com)

(iii) To the Developer:

Porterhouse Development LLC  
1610 Des Peres Road, Suite 385  
St. Louis, Missouri 63131  
Attn: Casey Urkevich  
E-mail: [curkevich@aegfunds.com](mailto:curkevich@aegfunds.com)

and:

Schott & Hamilton, LLC  
1610 Des Peres Road, Suite 385  
St. Louis, Missouri 63131  
Attn: Stephen M. Schott, Esq.  
E-mail: [stephen@schotthamilton.com](mailto:stephen@schotthamilton.com)

A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Developer to the other shall also be given to the Trustee and each Financing Party requesting such notice. The City, the Developer and the Trustee may from time to time designate, by notice given

hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 15.2. City Shall Not Unreasonably Withhold Consents and Approvals.** Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project subject to zoning, building permit or other regulatory approval by the City.

**Section 15.3. Net Lease.** The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same becomes due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Developer shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if, after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full, the Trustee or the City holds unexpended funds received in accordance with the terms hereof, such unexpended funds shall, after payment therefrom of all sums then due and owing by the Developer under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Developer.

**Section 15.4. Limitation on Liability of City.** No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

**Section 15.5. Governing Law.** This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

**Section 15.6. Binding Effect; Third-Party Beneficiary.** This Lease shall be binding upon and shall inure to the benefit of the City and the Developer and their respective successors and assigns. Each Financing Party shall be a third-party beneficiary of any provisions contained herein granting rights to a Financing Party.

**Section 15.7. Severability.** If for any reason any provision of this Lease is determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

**Section 15.8. Execution in Counterparts.** This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 15.9. Electronic Transaction.** The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be

deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 15.10. City Consents and Approvals.** Pursuant to the Ordinance, the Mayor and the Director of Administration are authorized to execute all documents on behalf of the City (including documents pertaining to the financing or refinancing of the Project by the Developer) as may be required to carry out and comply with the intent of the Ordinance, the Indenture and this Lease. The Mayor and the Director of Administration are also authorized, unless expressly prohibited herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, the Indenture or this Lease as may be requested by the Developer during the term hereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of this Lease or the economic incentives provided herein, waive an Event of Default or materially change the nature of the transaction unless approved by ordinance of the City Council.

**Section 15.11. Anti-Discrimination Against Israel Act.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Developer certifies it is not currently engaged in and will not, for the duration of this Lease, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

**CITY OF ST. CHARLES, MISSOURI**

By: \_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Kimberly Hudson, City Clerk

**PORTERHOUSE DEVELOPMENT LLC**

By: \_\_\_\_\_  
Name: Casey Urkevich  
Title: Manager

## EXHIBIT A

### PROJECT SITE

A tract of land situated in Unincorporated St. Charles County, Missouri, lying in part of U.S. Survey 1198, Township 46 North, Range 4 East, being part of a tract of land conveyed to Steven M. Franz and Michelle Y. Franz, Trustees of the Franz Family Trust dated July 23, 2002 as to an undivided 1/5 interest, as recorded in Deed Book 3567, Page 349 of the land records of said St. Charles County, also being part of a tract of land conveyed to Kenneth J. Montgomery and Gloria Mahady, Trustees of the Kenneth J. Montgomery Family Living Trust dated November 18, 2016, as recorded in Deed Book 6659, Page 397 of said land records, also being part of a tract of land conveyed to Monty's Property LLC, a Missouri limited liability company, as recorded in Deed Book 6961, Page 445 of said land records, also being part of a tract of land conveyed to Margery Ann Mahady and Victoria McKinney, as recorded in Document No. 2022R-065606 of said land records, also being part of a tract of land conveyed to Yvonne M. Shangraw, Robin James Shangraw, Jeannine Marie Hinchley, Christopher John Shangraw, and Paul Maurice Shangraw, as recorded in Deed Book 4265, Page 830 of said land records, also being part of a tract of land conveyed to Paul R. and Marie P. Wegman, as recorded in Deed Book 653, Page 1090 of the land records of said St. Charles County, also being part of a tract of land conveyed to Paul R. and Marie P. Wegman Family Trust, as recorded in Deed Book 5147, Page 39 of said land records, and being more particularly described as follows:

Beginning at the intersection of the Northeastern right-of-way line of Hemsath Road and the Southwestern right-of-way line of Arena Parkway, also being known as South River Road, variable width; thence along said Southern right-of-way line of Arena Parkway the following courses and distances: 32.49 feet along the arc of a curve to the right, having a radius of 39.17 feet, through a central angle of 47 degrees 31 minutes 29 seconds, with a chord that bears North 09 degrees 22 minutes 05 seconds West, a distance of 31.57 feet; 161.73 feet along the arc of a curve to the right, having a radius of 441.22 feet, through a central angle of 21 degrees 00 minutes 07 seconds, with a chord that bears North 65 degrees 23 minutes 28 seconds East, a distance of 160.83 feet; 224.77 feet along the arc of a curve to the right, having a radius of 453.22 feet, through a central angle of 28 degrees 24 minutes 53 seconds, with a chord that bears North 87 degrees 16 minutes 43 seconds East, a distance of 222.47 feet; 331.51 feet along the arc of a curve to the right, having a radius of 453.22 feet, through a central angle of 41 degrees 54 minutes 34 seconds, with a chord that bears South 54 degrees 23 minutes 22 seconds East, a distance of 324.17 feet; South 33 degrees 26 minutes 06 seconds East, a distance of 152.24 feet; 30.49 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 02 degrees 49 minutes 38 seconds, with a chord that bears South 34 degrees 50 minutes 55 seconds East, a distance of 30.49 feet; 18.43 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 01 degrees 42 minutes 33 seconds, with a chord that bears South 37 degrees 07 minutes 00 seconds East, a distance of 18.43 feet to the Northeast corner of a tract of land conveyed to Edward C. Keen, ETAL, as recorded in Deed Book 131, Page 418 of said land records; 216.94 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 020 degrees 06 minutes 52 seconds, with a chord that bears South 46 degrees 36 minutes 23 seconds East, a distance of 215.83 feet; South 56 degrees 45 minutes 37 seconds East, a distance of 305.94 feet to the intersection of said Southwestern right-of-way line of Arena Parkway, variable width, and the Northwest right-of-way line of Mulberry Lane, 40 feet wide, as shown on Timber Crest Subdivision No. 1, a subdivision recorded in Plat Book 6, Page 37 of said land records; thence along said Northwest right-of-way line of Mulberry Lane, South 56 degrees 07 minutes 25 seconds West, a distance of 668.56 feet to said Northeastern right-of-way line of Hemsath Road; thence leaving said Northwest right-of-way line of Mulberry Lane and along said Northeastern right-of-way line of Hemsath Road, North 32 degrees 32 minutes 31 seconds West, a distance of 505.47 feet to the Southernmost corner of a tract of land conveyed to Paul Wegman as recorded in Deed Book 653, Page 1090 of said land records; thence continuing along said Northeastern right-of-way line, North 32 degrees 32 minutes 31 seconds West, a distance of 604.22 feet to the point of beginning.

Containing 12.575 Acres (547,785 square feet), according to survey by Grimes Consulting, Inc., LS-343-D, dated April 2024.

**EXHIBIT B**

**FORM OF REQUISITION CERTIFICATE**

Requisition No. \_\_\_\_\_  
Date: \_\_\_\_\_

**REQUISITION CERTIFICATE**

**TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF \_\_\_\_\_ 1, 2025, BETWEEN THE CITY OF ST. CHARLES, MISSOURI, AND THE TRUSTEE, AND A LEASE AGREEMENT DATED AS OF \_\_\_\_\_ 1, 2025, BETWEEN THE CITY OF ST. CHARLES, MISSOURI, AND PORTERHOUSE DEVELOPMENT LLC**

The undersigned Authorized Developer Representative hereby states and certifies that:

1. A total of \$\_\_\_\_\_ is requested to pay for Project Costs. The total amount of this requisition and all prior requisitions is as follows:

| <u><i>Date of Project Costs</i></u> | <u><i>Amount Submitted in this Requisition</i></u> | <u><i>Requisitions Submitted to Date (Including this Requisition)</i></u> |
|-------------------------------------|--|---|
|                                     |  |   |
|                                     |  |   |
|                                     |  |   |
|                                     |  |   |
|                                     |  |   |
|                                     |  |   |
|                                     |  |   |
|                                     |  |   |
|                                     |  |   |

2. Said Project Costs shall be paid in whole from Bond proceeds in such amounts, to such payees and for such purposes as set forth on **Schedule 1**.

3. Each of the items for which payment is requested is or was desirable and appropriate in connection with the purchase and construction of the Project, has been properly incurred and is a proper charge against the Project Fund, has been paid by the Developer or is justly due to the Persons whose names and addresses are stated on **Schedule 1**, and has not been the basis of any previous requisition from the Project Fund.

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and construction of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

5. With respect to this disbursement, the Developer (i) certifies it has reviewed any wire instructions set forth herein to confirm such wire instructions are accurate and (ii) agrees it will not seek

recourse from the Trustee as a result of losses incurred by it for making the disbursement in accordance with such wire instructions.

6. Capitalized words and terms used in this Requisition Certificate have the meanings given to such words and terms in **Section 101** of the Trust Indenture.

**PORTERHOUSE DEVELOPMENT LLC**

By: \_\_\_\_\_  
Authorized Developer Representative

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY OF ST. CHARLES, MISSOURI**

By: \_\_\_\_\_  
Authorized City Representative

**SCHEDULE 1 TO REQUISITION CERTIFICATE**

**PROJECT COSTS**

| <u>Payee and Address</u> | <u>Description</u> | <u>Amount</u> |
|--------------------------|--------------------|---------------|
|--------------------------|--------------------|---------------|

**EXHIBIT D**

**TRUST INDENTURE**

[On file in the office of the City Clerk]

MAY 5, 2025

---

---

**CITY OF ST. CHARLES, MISSOURI,**

**AND**

**UMB BANK, N.A.,  
as Trustee**

---

**TRUST INDENTURE**

**Dated as of \_\_\_\_\_, 2025**

---

**Relating to:**

**\$72,000,000  
(Aggregate Maximum Principal Amount)  
City of St. Charles, Missouri  
Taxable Industrial Revenue Bonds  
(Southpointe Development Project)  
Series 2025**

---

---

**TRUST INDENTURE**

**TABLE OF CONTENTS**

|                       | <u>Page</u> |
|-----------------------|-------------|
| Parties.....          | 1           |
| Recitals.....         | 1           |
| Granting Clauses..... | 2           |

**ARTICLE I**

**DEFINITIONS**

|              |                                     |   |
|--------------|-------------------------------------|---|
| Section 101. | Definitions of Words and Terms..... | 3 |
| Section 102. | Rules of Interpretation.....        | 7 |
| Section 103. | Date of Indenture.....              | 8 |

**ARTICLE II**

**THE BONDS**

|              |   |    |
|--------------|---|----|
| Section 201. | Title and Amount of Bonds .....                         | 8  |
| Section 202. | Nature of Obligation .....                              | 8  |
| Section 203. | Denomination, Number and Dating of the Bonds .....      | 9  |
| Section 204. | Method and Place of Payment of Bonds .....              | 9  |
| Section 205. | Execution and Authentication of Bonds.....              | 10 |
| Section 206. | Registration, Transfer and Exchange of Bonds.....       | 10 |
| Section 207. | Persons Deemed Owners of Bonds .....                    | 11 |
| Section 208. | Authorization of the Bonds .....                        | 11 |
| Section 209. | Mutilated, Lost, Stolen or Destroyed Bonds.....         | 13 |
| Section 210. | Cancellation and Destruction of Bonds Upon Payment..... | 13 |

**ARTICLE III**

**REDEMPTION OF BONDS**

|              |                                     |    |
|--------------|-------------------------------------|----|
| Section 301. | Redemption of Bonds.....            | 13 |
| Section 302. | Effect of Call for Redemption ..... | 14 |
| Section 303. | Notice of Redemption .....          | 14 |

**ARTICLE IV**

**FORM OF BONDS**

|              |                      |    |
|--------------|----------------------|----|
| Section 401. | Form Generally ..... | 14 |
|--------------|----------------------|----|

**ARTICLE V**

**CUSTODY AND APPLICATION OF BOND PROCEEDS**

|              |   |    |
|--------------|---|----|
| Section 501. | Creation of Funds .....                   | 15 |
| Section 502. | Deposits into the Project Fund .....      | 15 |
| Section 503. | Disbursements from the Project Fund ..... | 15 |
| Section 504. | Completion of the Project .....           | 15 |
| Section 505. | Disposition Upon Acceleration .....       | 16 |

**ARTICLE VI**

**REVENUES AND FUNDS**

|              |   |    |
|--------------|---|----|
| Section 601. | Deposits into the Bond Fund .....                   | 16 |
| Section 602. | Application of Moneys in the Bond Fund .....        | 16 |
| Section 603. | Payments Due on Days Other than Business Days ..... | 17 |
| Section 604. | Nonpresentment of Bonds .....                       | 17 |

**ARTICLE VII**

**SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS**

|              |  |    |
|--------------|--|----|
| Section 701. | Moneys to be Held in Trust .....                         | 17 |
| Section 702. | Investment of Moneys in Project Fund and Bond Fund ..... | 18 |
| Section 703. | Record Keeping .....                                     | 18 |

**ARTICLE VIII**

**GENERAL COVENANTS AND PROVISIONS**

|              |  |    |
|--------------|--|----|
| Section 801. | Payment of Principal and Interest .....              | 18 |
| Section 802. | Authority to Execute Indenture and Issue Bonds ..... | 18 |
| Section 803. | Performance of Covenants .....                       | 19 |
| Section 804. | Instruments of Further Assurance .....               | 19 |
| Section 805. | Recordings and Filings .....                         | 19 |
| Section 806. | Inspection of Project Books .....                    | 19 |
| Section 807. | Enforcement of Rights Under the Lease .....          | 19 |

**ARTICLE IX**

**DEFAULT AND REMEDIES**

|              |   |    |
|--------------|---|----|
| Section 901. | Events of Default; Notice; Opportunity to Cure .....                                      | 20 |
| Section 902. | Acceleration of Maturity in Event of Default .....  | 20 |
| Section 903. | Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession ..... | 21 |
| Section 904. | Appointment of Receivers in Event of Default .....  | 21 |
| Section 905. | Exercise of Remedies by the Trustee .....   | 21 |
| Section 906. | Limitation on Exercise of Remedies by Owners .....  | 22 |
| Section 907. | Right of Owners to Direct Proceedings .....   | 22 |
| Section 908. | Application of Moneys in Event of Default .....   | 22 |

|              |                                    |    |
|--------------|------------------------------------|----|
| Section 909. | Remedies Cumulative .....          | 23 |
| Section 910. | Waivers of Events of Default ..... | 24 |

**ARTICLE X**

**THE TRUSTEE**

|               |  |    |
|---------------|--|----|
| Section 1001. | Acceptance of the Trusts .....                             | 24 |
| Section 1002. | Fees, Charges and Expenses of the Trustee.....             | 27 |
| Section 1003. | Notice to Owners if Default Occurs.....                    | 28 |
| Section 1004. | Intervention by the Trustee.....                           | 28 |
| Section 1005. | Successor Trustee Upon Merger, Consolidation or Sale ..... | 28 |
| Section 1006. | Resignation of Trustee.....                                | 28 |
| Section 1007. | Removal of Trustee .....                                   | 28 |
| Section 1008. | Appointment of Successor Trustee.....                      | 28 |
| Section 1009. | Vesting of Trusts in Successor Trustee .....               | 29 |
| Section 1010. | Right of Trustee to Pay Taxes and Other Charges.....       | 29 |
| Section 1011. | Trust Estate May be Vested in Co-Trustee .....             | 29 |
| Section 1012. | Accounting .....   | 30 |
| Section 1013. | Performance of Duties Under the Lease .....                | 30 |

**ARTICLE XI**

**SUPPLEMENTAL INDENTURES**

|               |   |    |
|---------------|---|----|
| Section 1101. | Supplemental Indentures Not Requiring Consent of Owners ..... | 30 |
| Section 1102. | Supplemental Indentures Requiring Consent of Owners .....     | 31 |
| Section 1103. | Developer's Consent to Supplemental Indentures .....          | 31 |
| Section 1104. | Opinion of Counsel .....                                      | 32 |

**ARTICLE XII**

**SUPPLEMENTAL LEASES**

|               |   |    |
|---------------|---|----|
| Section 1201. | Supplemental Leases Not Requiring Consent of Owners ..... | 32 |
| Section 1202. | Supplemental Leases Requiring Consent of Owners .....     | 32 |
| Section 1203. | Opinion of Counsel .....                                  | 32 |

**ARTICLE XIII**

**SATISFACTION AND DISCHARGE OF INDENTURE**

|               |   |    |
|---------------|---|----|
| Section 1301. | Satisfaction and Discharge of this Indenture..... | 33 |
| Section 1302. | Bonds Deemed to be Paid .....                     | 33 |

**ARTICLE XIV**

**MISCELLANEOUS PROVISIONS**

|               |   |    |
|---------------|---|----|
| Section 1401. | Consents and Other Instruments by Owners .....  | 34 |
| Section 1402. | Limitation of Rights Under this Indenture ..... | 34 |

|   |   |    |
|---|---|----|
| Section 1403.                             | Notices.....                                | 35 |
| Section 1404.                             | Severability .....                          | 36 |
| Section 1405.                             | Execution in Counterparts.....              | 36 |
| Section 1406.                             | Governing Law.....                          | 36 |
| Section 1407.                             | Electronic Transaction.....                 | 36 |
| Section 1408.                             | City Consent and Approvals.....             | 37 |
| Section 1409.                             | Anti-Discrimination Against Israel Act..... | 37 |
|   | Signature and Seals .....                   | 38 |
|   |   |    |
| Exhibit A - Project Site                  |   |    |
| Exhibit B - Form of Bonds                 |   |    |
| Exhibit C - Form of Representation Letter |   |    |

## TRUST INDENTURE

**THIS TRUST INDENTURE**, dated as of \_\_\_\_\_, 2025 (this “Indenture”), between the **CITY OF ST. CHARLES, MISSOURI**, a constitutional home rule charter city organized and existing under the laws of the State of Missouri (the “City”), and **UMB BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in St. Louis, Missouri, as Trustee (the “Trustee”);

### RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (collectively, the “Act”) and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act), to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, office industry, warehousing, multifamily and industrial development purposes upon such terms and conditions as the City deems advisable.

2. Pursuant to the Act, the City Council passed Ordinance No. \_\_\_\_\_ (the “Ordinance”) on \_\_\_\_\_, 2025, authorizing the City to (a) acquire from Porterhouse Development LLC, a Missouri limited liability company (the “Developer”), a leasehold interest in approximately 12.575 acres of real property generally located at 350 Hemsath Road in the City (as legally described on **Exhibit A**, together with all improvements now or hereafter located thereon, the “Project Site”), and (b) issue its Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025, in the maximum principal amount of \$72,000,000 (the “Bonds”), for the purpose of constructing on the Project Site a mixed-use development consisting of approximately 230 residential apartments and approximately 12,000 square feet of retail and commercial space (collectively, the “Project Improvements”).

3. Pursuant to the Ordinance, the City is authorized to enter into (a) this Indenture with the Trustee for the purpose of issuing and securing the Bonds, as herein provided, (b) a Base Lease of even date herewith (the “Base Lease”) with the Developer for the purpose of acquiring a leasehold interest in the Project Site and (c) a Lease Agreement of even date herewith (the “Lease”) with the Developer for the purpose of leasing the Project Site and the Project Improvements (together, the “Project”) back to the Developer for rent sufficient to pay the principal of and interest on the Bonds.

4. All things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate (as defined herein) herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:**

**GRANTING CLAUSES**

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners (as defined herein) thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding (as defined herein) under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

(a) All right, title and interest of the City in and to the Project together with the tenements, hereditaments, appurtenances, rights, easements, privileges and immunities thereunto belonging or appertaining and, to the extent permissible, all permits, certificates, approvals and authorizations;

(b) All right, title and interest of the City in, to and under the Base Lease and the Lease (excluding the Unassigned Rights, as defined herein), and all rents, revenues and receipts derived by the City from the Project including, without limitation, all rentals and other amounts to be received by the City and paid by the Developer under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by or now or hereafter required to be paid to the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

**TO HAVE AND TO HOLD**, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee and its successors and assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Owners from time to time of the Bonds Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

**PROVIDED, HOWEVER**, that if the City pays, or causes to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or provides for the payment thereof (as provided in **Article XIII**), and pays or causes to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

**THIS INDENTURE FURTHER WITNESSETH**, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all of the Trust Estate is to be held and applied under,

upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

## ARTICLE I

### DEFINITIONS

**Section 101. Definitions of Words and Terms.** In addition to any words and terms defined in the Lease (which definitions are hereby incorporated by reference) and any words and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

**“Act”** means, collectively, Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri.

**“Additional Rent”** means the additional rental described in **Section 5.2** of the Lease.

**“Approved Investor”** means (a) the Developer, (b) a Financing Party, (c) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, as amended, or (d) any Person approved by the City Council.

**“Authorized City Representative”** means the Mayor, the Director of Administration or such other Person at the time designated to act on behalf of the City as evidenced by written certificate furnished to the Developer and the Trustee containing the specimen signature of such Person and signed on behalf of the City by its Mayor. Such certificate may designate an alternate or alternates, each of whom may perform all duties of the Authorized City Representative.

**“Authorized Developer Representative”** means the Person at the time designated to act on behalf of the Developer as evidenced by written certificate furnished to the City and the Trustee containing the specimen signature of such Person and signed on behalf of the Developer by an authorized officer of the Developer. Such certificate may designate an alternate or alternates, each of whom may perform all duties of the Authorized Developer Representative.

**“Base Lease”** means the Base Lease dated as of \_\_\_\_\_, 2025, between the Developer and the City, as from time to time amended and supplemented.

**“Basic Rent”** means the rental described in **Section 5.1** of the Lease.

**“Bond”** or **“Bonds”** means the Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025, in the maximum aggregate principal amount of \$72,000,000, issued, authenticated and delivered under and pursuant to this Indenture.

**“Bond Fund”** means the “City of St. Charles, Missouri, Series 2025 Bond Fund -- Southpointe Development Project” created in **Section 501**.

**“Bond Purchase Agreement”** means the agreement by that name with respect to the Bonds by and between the City and the Purchaser.

**“Business Day”** means any day other than a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the principal corporate trust office or the principal payment office of the Trustee are required or authorized by law to remain closed.

**“City”** means the City of St. Charles, Missouri, a constitutional home rule charter city organized and existing under the laws of the State.

**“Closing Date”** means the date identified in the Bond Purchase Agreement for the initial issuance and delivery of the Bonds.

**“Closing Price”** means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs paid by the Developer from its own funds on or before the Closing Date, and, at the Developer’s option, the costs of issuance of the Bonds if such costs are not paid for from Bond proceeds.

**“Completion Date”** means the date of execution of the certificate required by **Section 4.5** of the Lease and **Section 504** hereof, which shall be deemed executed and filed on December 31, 2029 if not actually filed with the City by such date, except as otherwise provided in **Section 4.5** of the Lease.

**“Cumulative Outstanding Principal Amount”** means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, which shall not exceed \$72,000,000, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

**“Developer”** means Porterhouse Development LLC, a Missouri limited liability company, and its successors or assigns.

**“Event of Default”** means, with respect to this Indenture, any Event of Default as defined in **Section 901** hereof and, with respect to the Lease, any Event of Default as described in **Section 12.1** of the Lease.

**“Financing Document”** means any loan agreement, credit agreement, security agreement, mortgage, participation agreement, lease agreement, sublease, ground lease, hedging agreement or other document related to the Project and executed by or on behalf of, or for the benefit of, a Financing Party.

**“Financing Party”** means any Person providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letter of credit or credit support for or in connection with such financing or hedging arrangements, in connection with the acquisition, construction, ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person’s behalf.

**“Full Insurable Value”** means the reasonable replacement cost of the Project less physical depreciation and exclusive of land, excavations, footings, foundations and parking lots as determined at the expense of the Developer from time to time.

**“Government Securities”** means direct obligations of, or obligations the payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America.

“**Indenture**” means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of **Article XI**.

“**Investment Securities**” means any investment approved in writing by an Authorized Developer Representative and the Owners of all of the Outstanding Bonds.

“**Lease**” means the Lease Agreement dated as of \_\_\_\_\_, 2025, between the City, as lessor, and the Developer, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII**.

“**Lease Term**” means the period from the effective date of the Lease until the expiration thereof pursuant to **Section 3.2** of the Lease.

“**Leasehold Mortgage**” means any leasehold mortgage, leasehold deed of trust, assignment of rents and leases, security agreement or other agreement relating to the Project permitted pursuant to the provisions of **Section 10.4** of the Lease.

“**Net Proceeds**” means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award remaining after payment of all expenses (including attorneys’ fees, the Trustee’s fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

“**Outstanding**” means, when used in reference to Bonds, as of a particular date, all Bonds theretofore authenticated and delivered, except:

- (a) Bonds subsequently canceled by the Trustee or delivered to the Trustee for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 1302**; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

“**Owner**” means the registered owner of any Bond as recorded on the bond registration records maintained by the Trustee.

“**Paying Agent**” means the Trustee and any other bank or trust company designated by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bonds shall be payable.

“**Payment Date**” means the date on which the principal of or interest on any Bond, whether at the stated maturity thereof or the redemption date thereof, is payable, which shall be December 1 of each year that the Bonds are Outstanding.

“**Permitted Encumbrances**” means, as of any particular time, as the same may encumber the Project Site, (a) liens for ad valorem taxes, special assessments and other governmental charges not then delinquent, (b) this Indenture, the Base Lease and the Lease, (c) utility, access and other easements and rights-of-way, mineral rights, restrictions, exceptions and encumbrances that will not materially interfere with or impair the operations being conducted on the Project Site or easements granted to the City, (d) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project Site and as do not in the aggregate materially

impair the property affected thereby for the purpose for which it was acquired or is held by the City, (e) liens or security interests granted pursuant to any Leasehold Mortgage or any other Financing Document, and (f) such exceptions to title set forth in the [\*ALTA Commitment for Title Insurance, Commitment/File No. \_\_\_\_\_, issued by \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\*].

**“Person”** means an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture or other entity of whatever nature.

**“Plans and Specifications”** means the plans and specifications prepared for and showing the Project, as amended by the Developer from time to time, the same being on file at the principal office of the Developer, and which shall be available for reasonable inspection during normal business hours and upon not less than one Business Day’s prior notice by the City, the Trustee and their duly appointed representatives.

**“Principal Amount Advanced”** means the amount set forth in each requisition certificate submitted to the Trustee in accordance with **Section 4.4** of the Lease and reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

**“Project”** means, collectively, the Project Site and the Project Improvements as they may at any time exist.

**“Project Costs”** means all costs of purchasing and constructing the Project, including the following:

(a) all costs and expenses necessary or incident to the acquisition, construction and improvement of the Project Improvements on the Project Site;

(b) fees and expenses of architects, appraisers, surveyors and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary for the commencement of construction, preparation of plans, drawings and specifications and supervision of construction, as well as for the performance of all other duties of professionals and consultants in relation to the purchase and construction of the Project or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in purchasing and constructing the Project Improvements and otherwise improving the Project Site, including the actual cost of labor and materials as payable to contractors, builders and materialmen in connection with the purchase and construction of the Project;

(d) interest accruing on the Bonds during the construction period of the Project;

(e) the cost of title insurance policies and the cost of any other insurance maintained during the construction period in accordance with **Article VII** of the Lease;

(f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, legal fees and expenses, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the purchase and construction of the Project;

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bonds, including costs of issuance of the Bonds; (2) the purchase and construction of the Project; and (3) the financing thereof; and

(h) reimbursement to the Developer or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease.

**“Project Fund”** means the “City of St. Charles, Missouri, Series 2025 Project Fund -- Southpointe Development Project” created in **Section 501**.

**“Project Improvements”** means the buildings, structures, improvements and fixtures to be purchased, constructed, installed and otherwise improved on the Project Site pursuant to **Article IV** of the Lease and paid for in whole from proceeds of the Bonds, and all additions, alterations, modifications and improvements thereto made pursuant to the Lease.

**“Project Site”** means all of the real estate described in **Exhibit A**, together with all improvements now or hereafter located thereon.

**“Purchaser”** means the Person identified in the Bond Purchase Agreement as the purchaser of the Bonds.

**“State”** means the State of Missouri.

**“Supplemental Indenture”** means any indenture supplemental or amendatory to this Indenture entered into by the City and the Trustee pursuant to **Article XI**.

**“Supplemental Lease”** means any supplement or amendment to the Lease entered into pursuant to **Article XII**.

**“Trust Estate”** means the Trust Estate described in the Granting Clauses of this Indenture.

**“Trustee”** means UMB Bank, N.A., St. Louis, Missouri, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, in its capacity as trustee hereunder, and its successor or successors and any other Person which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

**“Unassigned Rights”** means the City’s rights under the Lease to receive moneys for its own account and the City’s rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

#### **Section 102. Rules of Interpretation.**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context otherwise indicates, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

**Section 103. Date of Indenture.** The dating of this Indenture as of \_\_\_\_\_, 2025, is intended as and for the convenient identification of this Indenture only and is not intended to indicate that this Indenture was executed and delivered on said date, this Indenture being executed and delivered and becoming effective simultaneously with the initial issuance of the Bonds.

## ARTICLE II

### THE BONDS

**Section 201. Title and Amount of Bonds.** No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as the "City of St. Charles, Missouri, Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to \$72,000,000.

**Section 202. Nature of Obligation.** The Bonds and the interest thereon shall be special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City. The Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and none of the City, the State or any political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction and are not payable in any manner by taxation.

**Section 203. Denomination, Number and Dating of the Bonds.**

(a) The Bonds shall be issuable in the form of one fully-registered Bond, in substantially the form set forth in **Exhibit B**, in the denomination of \$0.01 or any multiple thereof.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bonds are at any time thereafter transferred, any replacement Bonds shall be dated as of the date of authentication thereof.

**Section 204. Method and Place of Payment of Bonds.**

(a) The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts.

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bonds at the principal payment office of the Paying Agent named in the Bonds. The payment of principal of the Bonds shall be noted on the Bonds on **Schedule I** thereto and the registration books maintained by the Trustee pursuant to **Section 206**. Payment of the interest on the Bonds shall be made by the Trustee on each Payment Date to the Person appearing on the registration books of the Trustee hereinafter provided for as the Owner thereof on the 15th day (whether or not a Business Day) of the calendar month next preceding such Payment Date by check or draft mailed to such Owner at such Owner's address as it appears on such registration books.

(c) The Bonds and the original **Schedule I** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the Owner. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via facsimile or other electronic means to the Owner, the Developer (if not the Owner) and the City. Absent manifest error, the amounts shown on **Schedule I** as noted by the Trustee shall be conclusive evidence of the principal amount paid on the Bonds.

(d) If there is one Owner of the Bonds, the Trustee is authorized to make the final or any interim payment of principal of such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated in writing by such Owner and located in the United States. The Trustee is also authorized to make interest payments on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated by such Owner and located in the United States.

(e) If the Developer or any Financing Party is the sole Owner of the Bonds, then the Developer, as lessee under the Lease, may set-off its obligation to the City to pay Basic Rent under the Lease against the City's obligation to the Developer (or such Financing Party), as bondholder, to pay principal of and interest on the Bonds under this Indenture. The Trustee may conclusively rely on the absence of any written notice from the Developer to the contrary as evidence that such set-off has occurred and that pursuant to the set-off, the Developer, as lessee under the Lease, is deemed to have paid its obligation to the City to pay Basic Rent under the Lease and the City is deemed to have paid its obligation to the Developer (or such Financing Party), as bondholder, to pay principal of and interest on the Bonds under this Indenture. On the final Payment Date, the Developer may deliver the Bonds to the Trustee for cancellation, and the Developer shall receive a credit against the Basic Rent payable by the Developer under **Section 5.1** of the Lease in an amount equal to the remaining principal of the Bonds so tendered for cancellation, plus accrued interest thereon.

**Section 205. Execution and Authentication of Bonds.**

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk and shall have the corporate seal of the City affixed thereto or imprinted thereon. If any officer whose signature or facsimile thereof appears on the Bonds ceases to be such officer before the delivery of such Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such Person had remained in office until delivery. Any Bond may be signed by such Persons as at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form thereof set forth in **Exhibit B**, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes until such Certificate of Authentication has been duly executed by the Trustee. The executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee.

**Section 206. Registration, Transfer and Exchange of Bonds.**

(a) The Trustee shall keep books for the registration and transfer of Bonds as provided in this Indenture.

(b) The Bonds may be transferred to an Approved Investor only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. In connection with any such transfer of the Bonds, the City and the Trustee shall receive an executed representation letter signed by the proposed assignee in substantially the form of **Exhibit C**. The Trustee has no duty or obligation to confirm that any transferee that provides such representation letter is an Approved Investor. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bonds a new fully-registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bonds, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds are exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid before any new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

**Section 207. Persons Deemed Owners of Bonds.** As to any Bond, the Person in whose name the same is registered as shown on the bond registration books required by **Section 206** shall be deemed and regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the Owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

**Section 208. Authorization of the Bonds.**

(a) The Bonds are authorized in the aggregate maximum principal amount of \$72,000,000 for the purpose of providing funds to pay Project Costs, which Bonds shall be designated the "City of St. Charles, Missouri, Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025." The Bonds shall be dated as provided in **Section 203(b)**, shall become due on the Completion Date (subject to prior redemption as provided in **Article III**) and shall bear interest as specified in **Section 208(f)**, payable on the dates specified in **Section 208(f)**.

(b) The Trustee is hereby designated as the Paying Agent. The Owners of a majority of Bonds then-Outstanding may designate a different Paying Agent upon written notice to the City and the Trustee.

(c) The Bonds shall be executed without material variance from the form and in the manner set forth in **Exhibit B** and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

- (1) a copy of the Ordinance;
- (2) executed counterparts of this Indenture, the Base Lease, the Lease and the Bond Purchase Agreement;
- (3) a representation letter from the Purchaser in substantially the form attached as **Exhibit C**;
- (4) a request and authorization to the Trustee on behalf of the City, executed by an Authorized City Representative, to authenticate the Bonds and deliver the same to or at the written direction of the Purchaser upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to the name of the Purchaser and the amount of such purchase price; and
- (5) such other certificates, statements, receipts and documents as the Trustee shall reasonably require for the delivery of the Bonds.

In authenticating Bonds, the Trustee makes no certification or representation that the Bonds have been validly issued or constitute legally binding obligations of the City.

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, either:

(1) the Purchaser shall pay the Closing Price to the Trustee, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to or upon the order of the Purchaser; or

(2) the Developer shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Developer (or another purchaser designated by the Developer).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the Closing Price.

(e) Following the initial issuance and delivery of the Bonds, the Developer may submit additional requisition certificates in accordance with **Section 4.4** of the Lease. If the Purchaser does not pay to the Trustee the amount set forth in the requisition certificates, the Purchaser will be deemed to have advanced an amount equal to the amount set forth in the requisition certificates, and if the Trustee is holding the Bonds, the Trustee shall endorse the Bonds in an amount equal to the amount set forth in the requisition certificates. The date of endorsement of each Principal Amount Advanced as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Trustee shall keep a record of the total requisitions submitted for the Project and shall notify the City if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 5.0% per annum on the Cumulative Outstanding Principal Amount of the Bonds. Such interest shall be payable in arrears on each December 1, commencing on December 1, 2025, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full, but not later than the Completion Date. Interest shall be calculated on the basis of a year of 360 days consisting of 12 months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as the "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then-Outstanding on its records as the "Cumulative Outstanding Principal Amount." If the Trustee is holding the Bonds, such advanced amounts shall be reflected on **Schedule I** to the Bonds. To the extent that advances are deemed to have been made pursuant to requisition certificates, the Trustee's records of such advances shall be based solely on the requisition certificates provided to it. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records and **Schedule I** to the Bonds (if the Trustee is holding the Bonds) the principal amount paid on the Bonds as the "Principal Amount Redeemed" and shall enter the then-Outstanding principal amount of the Bonds as the "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit B**. To the extent the Developer, as lessee under the Lease, sets off its obligation to the City against the City's obligation to the Developer, as bondholder, as permitted by **Section 204(e)**, the Trustee shall not be required to confirm that such set-off has occurred. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts

and disbursements with respect thereto to the City and the Developer on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 4.5** of the Lease, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012**, shall file a final statement of receipts and disbursements with respect thereto with the City and the Developer.

**Section 209. Mutilated, Lost, Stolen or Destroyed Bonds.** If any Bond becomes mutilated or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee to save and hold each of the City and the Trustee harmless. If any such Bond has matured, instead of delivering a substitute Bond, the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

**Section 210. Cancellation and Destruction of Bonds Upon Payment.**

(a) All Bonds that have been paid or redeemed or that the Trustee has purchased or that have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity, shall be canceled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds canceled under any of the provisions of this Indenture shall be destroyed by the Trustee in accordance with applicable laws and regulations and the Trustee's policies and practices. The Trustee shall execute a certificate describing the Bonds so destroyed and shall file executed counterparts of such certificate with the City and the Developer.

### ARTICLE III

#### REDEMPTION OF BONDS

**Section 301. Redemption of Bonds.**

(a) The Bonds are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Developer, (1) in whole, if the Developer exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Developer prepays additional Basic Rent pursuant to the Lease. If only a portion of the Bonds are to be redeemed, (A) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (B) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

(b) The Bonds are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Section 9.1(f)** or **9.2(c)** of the Lease, in the event of

substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided hereunder. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph (b), money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

(c) At its option, the Developer may deliver to the Trustee for cancellation any Bonds owned by the Developer or any Financing Party and not previously paid, and the Developer shall receive a credit against the amounts payable by the Developer for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

**Section 302. Effect of Call for Redemption.** Before or on the date fixed for redemption, funds, Government Securities, or a combination thereof, shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed before maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Developer's direction, deliver to the Developer the items described in **Section 11.2** of the Lease.

**Section 303. Notice of Redemption.** If the Bonds are to be called for redemption as provided in **Section 301(a)**, the Developer shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile or other electronic communication, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

## ARTICLE IV

### FORM OF BONDS

**Section 401. Form Generally.** The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit B**. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

## ARTICLE V

### CUSTODY AND APPLICATION OF BOND PROCEEDS

**Section 501. Creation of Funds.** There are hereby created and ordered to be established in the custody of the Trustee the following special trust funds in the name of the City:

(a) "City of St. Charles, Missouri, Series 2025 Project Fund -- Southpointe Development Project" (herein called the "Project Fund").

(b) "City of St. Charles, Missouri, Series 2025 Bond Fund -- Southpointe Development Project" (herein called the "Bond Fund").

**Section 502. Deposits into the Project Fund.** The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208(d)**), including Additional Payments (as defined in the Bond Purchase Agreement), when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 601**, shall be deposited by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of purchasing, constructing and installing the Project shall, pursuant to any written directions from the Person depositing such moneys, also be deposited into the Project Fund.

#### **Section 503. Disbursements from the Project Fund.**

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Developer (or any other Person that has made payment on behalf of the Developer) for payment of, Project Costs upon receipt of requisition certificates signed by the Developer and approved by the City in accordance with the provisions of **Article IV** of the Lease. The Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions.

(b) If, pursuant to **Section 208(d)** or **(e)**, the Trustee is deemed to have deposited into the Project Fund the amount specified in a requisition certificate submitted by the Developer, the Trustee shall, upon endorsement of the Bonds in an equal amount, be deemed to have disbursed such funds from the Project Fund to the Developer (or such other purchaser designated by the Developer) in satisfaction of such requisition certificate.

(c) In paying any requisition certificate under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by an Authorized Developer Representative and approved by an Authorized City Representative without inquiry or investigation. It is understood that the Trustee shall not be required to make any inspections of the Project, nor any improvements with respect thereto, make any provision to obtain completion bonds, mechanic's or materialman's lien releases or otherwise supervise the Project. The approval of each requisition certificate by an Authorized Developer Representative and an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payment of the specified amounts from the Project Fund have been completed. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

**Section 504. Completion of the Project.** The completion of the purchase and construction of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the

Trustee of the certificate required by the provisions of **Section 4.5** of the Lease. As soon as practicable after the Completion Date, any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease.

**Section 505. Disposition Upon Acceleration.** If the principal of the Bonds has become due and payable pursuant to **Section 902**, upon the date of payment by the Trustee of any moneys due as hereinafter provided in **Article IX**, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee, with advice to the City and the Developer of such action.

## ARTICLE VI

### REVENUES AND FUNDS

#### **Section 601. Deposits into the Bond Fund.**

(a) The Trustee shall deposit into the Bond Fund, as and when received, (1) all accrued interest on the Bonds, if any, paid by the Purchaser; (2) all Basic Rent payable by the Developer to the City specified in **Section 5.1** of the Lease; (3) any Additional Rent payable by the Developer specified in **Section 5.2** of the Lease; (4) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** upon completion of the Project or pursuant to **Section 505** upon acceleration of the Bonds; (5) subject to the terms and conditions of any Financing Documents with respect to the use thereof, the balance of any Net Proceeds of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; (6) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f)** and **9.2(c)** of the Lease; (7) all interest and other income derived from the investment of Bond Fund moneys as provided in **Section 702**; and (8) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by written directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) The Trustee shall notify the Developer in writing, at least 15 days before each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Developer pursuant to such Section.

#### **Section 602. Application of Moneys in the Bond Fund.**

(a) Except as provided in **Section 604** and **Section 908** hereof and **Section 4.6** of the Lease, moneys in the Bond Fund shall be expended solely for the payment of the principal of and interest on the Bonds as the same matures and becomes due or upon the redemption thereof before maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease and deposited to the Bond Fund as provided in **Section 601** above shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the City.

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and interest on the Bonds as the same becomes due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest. To the extent the Developer is the Owner of all of the Bonds Outstanding, payment may be made via transaction entry on the trust records held by Trustee.

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon before and until such redemption, the City covenants and agrees, upon request of the Developer, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Developer. The Trustee may use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** so long as the Developer is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

(d) After payment in full of (1) the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), (2) the fees, charges and expenses of the Trustee, the City and the Paying Agent and (3) any other amounts required to be paid under this Indenture and the Lease, all amounts remaining in the Bond Fund shall be paid to the Developer upon the expiration or sooner termination of the Lease.

**Section 603. Payments Due on Days Other than Business Days.** In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds is not a Business Day, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

**Section 604. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond have been made available to the Trustee, all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due, whether at maturity or otherwise, the Trustee shall without liability for interest thereon repay to the Developer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Developer, and the Owner thereof may look only to the Developer for payment, and then only to the extent of the amount so repaid, and the Developer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

## ARTICLE VII

### SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

**Section 701. Moneys to be Held in Trust.** All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture, and all moneys deposited with or paid to the Paying Agent under any provision of this Indenture, shall be held by the Trustee or the Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease, and, until used or applied as herein provided, shall constitute part of the Trust

Estate and be subject to the lien hereof. Neither the Trustee nor the Paying Agent shall be under any liability for interest on any moneys received hereunder except as may be agreed upon in writing.

**Section 702. Investment of Moneys in Project Fund and Bond Fund.** Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Developer, signed by an Authorized Developer Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the Owner before the date such funds will be needed. If the Developer fails to provide written directions concerning the investment of moneys held in the Project Fund and the Bond Fund, the Trustee shall hold such amounts uninvested in cash. The Trustee may conclusively rely upon the Authorized Developer Representative's written instructions as to both the suitability and legality of the directed investments and such written direction shall be deemed to be a certification that such directed investments constitute Investment Securities. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments; provided that any such fees shall not exceed the interest income on the investment. The Trustee shall be provided ample time to clear any such fees that exceed the interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any fund is insufficient for the purposes of such fund. In determining the balance in any fund, investments in such fund shall be valued at the lower of their original cost or their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

**Section 703. Record Keeping.** The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** while any of the Bonds are Outstanding.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

**Section 801. Payment of Principal and Interest.** The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. Nothing herein shall be construed as requiring the City to operate the Project as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Project.

**Section 802. Authority to Execute Indenture and Issue Bonds.** The City covenants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to lease the Project, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth;

that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; and that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

**Section 803. Performance of Covenants.** The City covenants that it will faithfully perform or cause to be performed at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its City Council pertaining thereto. The Trustee may take such action as it deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

**Section 804. Instruments of Further Assurance.** The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such further acts and such Supplemental Indentures, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds, upon being first indemnified by the Developer for the cost thereof. The City covenants and agrees that, except as herein and in the Lease provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or its rights under the Lease.

**Section 805. Recordings and Filings.** The City shall file or cause to be kept and filed all financing statements and hereby authorizes and directs the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases, the Base Lease and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. The Trustee shall file continuation statements with respect to each Uniform Commercial Code financing statement relating to the Trust Estate filed by the City at the time of the issuance of the Bonds; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee has been notified in writing by the City that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial filing and description of collateral in filing any continuation statement or modification thereto pursuant to this Section, and (b) filing any continuation statement in the same filing office as the initial filing was made. The Developer shall be responsible for the customary fees charged by the Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder, including attorneys' fees and expenses. These fees shall be considered "extraordinary services" fees.

**Section 806. Inspection of Project Books.** The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agents as the Trustee may from time to time designate.

**Section 807. Enforcement of Rights Under the Lease.** The Trustee, as assignee, transferee, pledgee and owner of a security interest under this Indenture, in its name or in the name of the City, may enforce all assigned rights of the City and the Trustee and all obligations of the Developer under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder.

## ARTICLE IX

### DEFAULT AND REMEDIES

**Section 901. Events of Default; Notice; Opportunity to Cure.** If any of the following events occur, it is hereby defined as and declared to be and to constitute an “Event of Default”:

- (a) Default in the due and punctual payment of the principal of any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for the redemption thereof;
- (b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for the redemption thereof;
- (c) Default as specified in **Section 12.1** of the Lease has occurred; or
- (d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

No default specified above shall constitute an Event of Default until the City, the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail or a recognized overnight delivery service to the Developer and any Financing Party, and the Developer and any Financing Party have had 30 days after receipt of such notice to correct said default or cause said default to be corrected and has not corrected said default or caused said default to be corrected within such period; provided, however, if any such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Developer or any Financing Party within such period and diligently pursued until the default is corrected. Nothing herein shall constitute an obligation on any Financing Party to cure defaults hereunder.

**Section 902. Acceleration of Maturity in Event of Default.**

(a) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the Trustee may, and upon the written request of the City or the Owners of not less than 25% in aggregate principal amount of Bonds then-Outstanding, shall, by notice in writing delivered to the City, each Financing Party and the Developer, declare the principal of all Bonds then-Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest and all other amounts due hereunder shall thereupon become and be immediately due and payable.

(b) If, at any time after such declaration, but before the Bonds have matured by their terms, all overdue installments of principal and interest upon the Bonds, together with the reasonable and proper expenses of the Trustee, and all other sums then payable by the City under this Indenture are either paid or provisions satisfactory to the Trustee are made for such payment, then and in every such case the Trustee shall, but only with the written approval of a majority of the Owners of the Bonds then-Outstanding, rescind such declaration and annul such default in its entirety. In such event, the Trustee shall rescind any declaration of acceleration of installments of rent payments on the Bonds as provided in **Section 11.1** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee, the Developer and the Owners shall be restored to their former positions and rights hereunder, respectively, but no such

rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

**Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession.** If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for the account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof, pay and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges before the lien of this Indenture, and (d) all expenses of such repairs and improvements. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908**. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Developer a summarized statement of receipts and expenditures in connection therewith.

**Section 904. Appointment of Receivers in Event of Default.** If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 905. Exercise of Remedies by the Trustee.**

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Bonds then-Outstanding and all other amounts due hereunder, and to enforce and compel the performance of the duties and obligations of the City or the Developer as herein set forth or as set forth in the Lease, respectively.

(b) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and if requested in writing to do so by (1) the City (in the case of an Event of Default pursuant to **Section 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease), or (2) the Owners of 25% in aggregate principal amount of Bonds then-Outstanding and indemnified as provided in **Section 1001(I)**, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Owners, as the case may be.

(c) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as

Trustee without necessity of joining as plaintiffs or defendants any Owners, and any recovery of judgment shall, subject to the provisions of **Section 908**, be for the equal benefit of all the Owners of the Outstanding Bonds.

**Section 906. Limitation on Exercise of Remedies by Owners.** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then-Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed 60 days following such notice and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(i)**, and (d) the Trustee thereafter fails or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then-Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

**Section 907. Right of Owners to Direct Proceedings.**

(a) The Owners of a majority in aggregate principal amount of Bonds then-Outstanding may, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(i)**.

(b) Notwithstanding any provision in this Indenture to the contrary, including paragraph (a) of this Section, the Owners shall not have the right to control or direct any remedies hereunder upon an Event of Default under **Section 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease.

**Section 908. Application of Moneys in Event of Default.**

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall be applied first to the costs and expenses of the proceedings resulting in the collection of such moneys and to the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys' fees and expenses) or amounts to be paid pursuant to **Section 903** and second to any obligations outstanding under the Lease. Any remaining moneys shall be deposited in the Bond Fund, and all moneys in the Bond Fund shall be applied as follows:

(1) Unless the principal of all the Bonds has become or has been declared due and payable, all such moneys shall be applied:

FIRST -- To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment, ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND -- To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto, without any discrimination or privilege.

(2) If the principal of all the Bonds has become due or has been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds has been declared due and payable, and if such declaration thereafter has been rescinded and annulled under the provisions of **Section 910**, then, subject to the provisions of subsection (2) of this Section if the principal of all the Bonds later becomes due or is declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture and the Lease have been paid, any balance remaining in the Bond Fund shall be paid to the Developer as provided in **Section 602**.

**Section 909. Remedies Cumulative.** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right,

power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then and in every such case the City, the Developer, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 910. Waivers of Events of Default.** The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on the Bonds, but only upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then-Outstanding, provided, however, that (a) there shall not be waived without the consent of the City an Event of Default hereunder arising from an Event of Default under **Section 12.1(a)** (but only as it relates to Additional Rent), **(b)** (but only as it relates to Unassigned Rights), **(c)** or **(d)** of the Lease, and (b) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (1) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (2) any Event of Default in the payment when due of the interest on any such Bonds, unless before such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including reasonable attorneys' fees and expenses), in connection with such default, have been paid or provided for. In case of any such waiver or rescission, or in case any proceedings taken by the Trustee on account of any such default have been discontinued or abandoned or determined adversely, then and in every such case the City, the Developer, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

## ARTICLE X

### THE TRUSTEE

**Section 1001. Acceptance of the Trusts.** The Trustee hereby accepts the trusts imposed upon it by this Indenture but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to **Section 1001(l)** below, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their exercise as a prudent Person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee undertakes to perform such duties as are specifically set forth in this Indenture, and in the absence of negligence or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee. No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct. The Trustee may execute any of the trusts or powers

hereunder or perform any duties hereunder either directly or through agents, affiliates, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care. The Trustee may conclusively rely upon and act or refrain from acting upon any opinion or advice of counsel, who may be counsel to the City or to the Developer, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or except as provided in the Lease and particularly **Section 10.8** thereof, for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of Uniform Commercial Code financing statements), or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security for the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII**.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds with the same rights that it would have if it were not the Trustee. The Trustee shall not be accountable for the use or application by the City or the Developer of the proceeds of any of the Bonds or of any money paid to or upon the order of the City or the Developer under any provision of this Indenture.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by it to be genuine and correct and to have been signed, presented or sent by the proper Person or Persons. The Trustee may rely conclusively on any such document and shall not be required to make any independent investigation in connection therewith. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent is an Owner, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee may rely upon a certificate signed by an Authorized City Representative or an Authorized Developer Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in **Article VI**, unless the Trustee is specifically notified in writing of such default by the City or by the Owners of at least 25% in aggregate principal amount of all Bonds then-Outstanding.

(i) At any and all reasonable times and subject to the Developer's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives may, but shall not be required to, inspect any and all of the Project, and all books, papers and records of the Developer pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of the Developer as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of its trusts and powers hereunder or otherwise in respect of the Project.

(k) The Trustee may, but shall not be required to, demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property or the taking of any other action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, the release of any property or the taking of any other action by the Trustee.

(l) Notwithstanding anything in this Indenture or the Lease to the contrary, before taking any action under this Indenture other than the payments from moneys on deposit in the Project Fund or the Bond Fund, as provided herein, the Trustee may require that satisfactory indemnity be furnished to it for the payment or reimbursement of all costs and expenses (including, without limitation, attorneys' fees and expenses) to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, or intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to, the Trustee, shall be interpreted to include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

(n) No provision of this Indenture or any other agreement executed in connection herewith shall require the Trustee to expend or risk its own funds or otherwise incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(o) The Trustee agrees to accept and act on instructions or directions pursuant to this Indenture sent by the City or the Developer, as the case may be, by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the City or the Developer, respectively, shall provide to the Trustee an incumbency certificate listing designated Persons with the authority to provide such instructions, which incumbency certificate shall be amended whenever a Person is to be added or deleted from the listing. If the City or the Developer, as applicable, elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee acts upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City or the Developer, as applicable, agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions and the risk of interception and misuse by third parties.

(p) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, pandemics, epidemics, recognized public emergencies, quarantine restrictions, hacking or cyber-attacks, or other use or infiltration of the Trustee's technological infrastructure exceeding authorized access, or loss or malfunctions of, or interruptions to, utilities, communications or computer (software and hardware) services unless caused by the Trustee's negligence or willful misconduct; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(q) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

**Section 1002. Fees, Charges and Expenses of the Trustee.** The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are caused by the negligence or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Developer has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Developer for the payment of all reasonable fees, charges and expenses of the Trustee and the Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a first lien with right of payment before payment on account of principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred. The Trustee's rights to compensation and

indemnification shall survive its resignation or removal hereunder or the satisfaction and discharge of this Indenture and payment in full of the Bonds.

**Section 1003. Notice to Owners if Default Occurs.** If a default occurs of which the Trustee is by **Section 1001(h)** required to take notice or if notice of default is given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the last known Owners of all Bonds then-Outstanding as shown by the bond registration books required by **Section 206** to be kept at the corporate trust office of the Trustee.

**Section 1004. Intervention by the Trustee.** In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(i)**, shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then-Outstanding.

**Section 1005. Successor Trustee Upon Merger, Consolidation or Sale.** With the prior written consent of the Developer, any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

**Section 1006. Resignation of Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the City, the Developer and the Owners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Owners or by the City; provided, however, that in no event shall the resignation of the Trustee or any successor Trustee become effective until such time as a successor Trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within 30 days after the giving of such notice of resignation, the Trustee may, at the Developer's expense, petition any court of competent jurisdiction for the appointment of a successor Trustee. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive any such resignation.

**Section 1007. Removal of Trustee.** The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Developer and signed by the Owners of a majority in aggregate principal amount of Bonds then-Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease has occurred and is continuing, delivered to the Trustee, the City and the Owners and signed by the Developer. The Trustee's rights to indemnity and to any fees, charges or other amounts due and payable to it shall survive any such removal.

**Section 1008. Appointment of Successor Trustee.** If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Developer (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Developer may be appointed by the Owners of a majority in aggregate principal amount of Bonds then-Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of any vacancy, the City, by an instrument

executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trusts with a corporate trust office in the State, and having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than \$50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee, at the Developer's expense, or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor has been appointed as above provided.

**Section 1009. Vesting of Trusts in Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Developer an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor and the duties and obligations of such predecessor hereunder shall thereafter cease and terminate; but such predecessor shall, nevertheless, on the written request of the City and upon payment of its outstanding fees and expenses, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

**Section 1010. Right of Trustee to Pay Taxes and Other Charges.** If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental or other charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it has been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then-Outstanding and has been provided adequate funds for the purpose of such payment.

**Section 1011. Trust Estate May be Vested in Co-Trustee.**

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it cannot exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be

necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(b) If the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Developer), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the City be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee or separate trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

(d) If any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

**Section 1012. Accounting.** The Trustee shall render an annual accounting for the period ending December 31 of each year to the City, the Developer and any Owner requesting the same and, upon the request of the City, the Developer or any Owner, at such Owner's expense, a monthly accounting to such party, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

**Section 1013. Performance of Duties Under the Lease.** The Trustee hereby accepts and agrees to perform the duties and obligations expressly assigned to it under the Lease.

## ARTICLE XI

### SUPPLEMENTAL INDENTURES

**Section 1101. Supplemental Indentures Not Requiring Consent of Owners.** The City and the Trustee may from time to time, without the consent of or notice to any of the Owners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Owners (provided that in exercising such judgment, the Trustee may rely upon the advice or opinion of counsel);

(b) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or both of them;

(c) To more precisely identify any portion of the Project or to add additional property thereto;

(d) To conform this Indenture to amendments to the Lease made by the City and the Developer; or

(e) To subject to this Indenture additional revenues, properties or collateral.

**Section 1102. Supplemental Indentures Requiring Consent of Owners.**

(a) Exclusive of Supplemental Indentures covered by **Section 1101** and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than a majority in aggregate principal amount of the Bonds then-Outstanding may, from time to time, anything contained in this Indenture to the contrary notwithstanding, consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that without the consent of the Owners of 100% of the principal amount of the Bonds then-Outstanding, nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) If the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner as shown on the bond registration books required by **Section 206**. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1103. Developer's Consent to Supplemental Indentures.** Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article shall not become effective unless and until the Developer has consented in writing to the execution and delivery of such Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture (regardless of whether it affects the Developer's rights) together with a copy of the proposed Supplemental Indenture to be mailed to the Developer and each Financing Party of which the Trustee has received written notice at least 15 days before the proposed date of execution and delivery of the Supplemental Indenture.

**Section 1104. Opinion of Counsel.** In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

## ARTICLE XII

### SUPPLEMENTAL LEASES

**Section 1201. Supplemental Leases Not Requiring Consent of Owners.** The City and the Trustee shall, without the consent of or notice to the Owners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Developer as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project or add additional property thereto or (d) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Owners (provided that in exercising such judgment, the Trustee may rely upon the advice or opinion of counsel).

**Section 1202. Supplemental Leases Requiring Consent of Owners.** Except for Supplemental Leases as provided for in **Section 1201**, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Developer without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102**. If at any time the City and the Developer shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the City or the Developer from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1203. Opinion of Counsel.** In executing or consenting to any Supplemental Lease permitted by this Article, the City and the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed to the Trustee and the City stating that the execution of such Supplemental Lease is authorized or permitted by the Lease and this Indenture and the applicable law and will upon the execution and delivery thereof be valid and binding obligations of the parties thereto.

## ARTICLE XIII

### SATISFACTION AND DISCHARGE OF INDENTURE

#### **Section 1301. Satisfaction and Discharge of this Indenture.**

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302**, and provision also made for paying all other sums payable hereunder and under the Lease, including the reasonable fees and expenses of the Trustee, the City and the Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Developer execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Developer under **Section 602** and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The City is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds then-Outstanding has been paid or such payment provided for in accordance with **Section 1302** as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

#### **Section 1302. Bonds Deemed to be Paid.**

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) has been made or caused to be made in accordance with the terms thereof, or (2) has been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (A) moneys sufficient to make such payment or (B) Government Securities maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment, or (3) has been provided for by surrendering the Bonds to the Trustee for cancellation. When the Bonds are deemed to be paid hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed before the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed before their respective stated maturities, proper notice of such redemption has been given in accordance with **Article III** or irrevocable instructions have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for

the payment of the particular Bonds, with respect to which such moneys or Government Securities have been so set aside in trust.

## ARTICLE XIV

### MISCELLANEOUS PROVISIONS

#### **Section 1401. Consents and Other Instruments by Owners.**

(a) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (other than the assignment of ownership of a Bond) if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(1) The fact and date of the execution by any Person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(2) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee pursuant to **Section 206**.

(b) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Developer shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded; provided, the foregoing provisions shall not be applicable if the Developer is the only Owner of the Bonds. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Developer or any affiliate thereof.

**Section 1402. Limitation of Rights Under this Indenture.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, the Financing Parties, if any, and the Owners any right, remedy or claim under or in respect of this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto, the Financing Parties, if any, and the Owners, as herein provided.

**Section 1403. Rights of Financing Parties.** The City and the Trustee agree that in addition to any other rights to assign the Bonds as set forth herein, the Developer may collaterally assign its interest in the Bonds to any Financing Party for the purpose of securing the Developer's obligations to such Financing Party in connection with the financing or refinancing of the Project. In the event of a collateral assignment made by the Developer, the City and the Trustee agree, at the expense of the Developer, to execute such consents, estoppels and other documents related thereto as the Financing Party may reasonably request and

in such form with such terms as the City and the Trustee deem appropriate; provided the Trustee has received indemnification from the Financing Party and the Developer as provided in **Section 1001(I)**, and provided further the Trustee shall be entitled to engage the advice of counsel, at the expense of the Developer, in executing any such document, shall have no obligation to execute any such document that affects the Trustee's rights, duties or immunities under this Indenture or otherwise, and any obligations of the Trustee under any such document shall be in compliance with the regulatory requirements applicable to the Trustee.

**Section 1404. Notices.** It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Developer or the Owners if the same is delivered personally or transmitted electronically (and receipt confirmed by telephone or electronic read receipt), addressed as follows:

(a) To the City:

City of St. Charles, Missouri  
200 North Second Street  
St. Charles, Missouri 63301  
Attn: Mayor  
E-mail: [dan.borgmeyer@stcharlescitymo.gov](mailto:dan.borgmeyer@stcharlescitymo.gov)

with copies to:

City Attorney  
200 North Second Street  
St. Charles, Missouri 63301  
E-mail: [holly.magdiarz@stcharlescitymo.gov](mailto:holly.magdiarz@stcharlescitymo.gov)

and:

Director of Administration  
200 North Second Street  
St. Charles, Missouri 63301  
E-mail: [lawrence.dobrosky@stcharlescitymo.gov](mailto:lawrence.dobrosky@stcharlescitymo.gov)

(b) To the Trustee:

UMB Bank, N.A.  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
Attn: Corporate Trust Department  
E-mail: [kristina.tibbits@umb.com](mailto:kristina.tibbits@umb.com)

(c) To the Developer:

Porterhouse Development LLC  
1610 Des Peres Road, Suite 385  
St. Louis, Missouri 63131  
Attn: Casey Urkevich  
E-mail: [curkevich@aegfunds.com](mailto:curkevich@aegfunds.com)

with a copy to:

Schott & Hamilton, LLC  
1610 Des Peres Road, Suite 385  
St. Louis, Missouri 63131  
Attn: Stephen M. Schott, Esq.  
E-mail: [stephen@schotthamilton.com](mailto:stephen@schotthamilton.com)

(d) To the Owners if the same is duly mailed by first-class, registered or certified mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** to be kept at the corporate trust office of the Trustee. All such notices given by mail shall be deemed fully given as of the date they are so mailed.

A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Developer. The City, the Developer and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

**Section 1405. Severability.** If any provision of this Indenture is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever.

**Section 1406. Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 1407. Governing Law.** This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 1408. Electronic Transaction.** The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

The Trustee shall have the right to accept and act upon instructions or directions pursuant to this Indenture sent in the form of a manually signed document by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods. If the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding that such instructions conflict or are inconsistent with a subsequent written instruction. The Developer agrees to assume all risk arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation, the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

**Section 1409. City Consent and Approvals.** Pursuant to the Ordinance, the Mayor and the Director of Administration are authorized to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Developer, and such easements, licenses, rights-of-way, plats and similar documents as may be requested by the Developer) as may be required to carry out and comply with the intent of the Ordinance, this Indenture, the Base Lease and the Lease. The Mayor and the Director of Administration are also authorized, unless expressly prohibited herein, to grant on behalf of the City such consents, estoppels and waivers relating to the Bonds, this Indenture or the Lease as may be requested by the Developer during the term hereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the economic incentives provided therein, waive an Event of Default or materially change the nature of the transaction unless approved by ordinance of the City Council.

**Section 1409. Anti-Discrimination Against Israel Act.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Trustee certifies it is not currently engaged in and will not, for the duration of this Indenture, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, the City of St. Charles, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the City to be hereunto affixed and attested by its City Clerk, and to evidence its acceptance of the trusts hereby created, UMB Bank, N.A. has caused this Indenture to be signed in its name and behalf by a duly authorized officer, all as of the date first above written.

**CITY OF ST. CHARLES, MISSOURI**

By: \_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Kimberly Hudson, City Clerk

[Trust Indenture]

**UMB BANK, N.A., as Trustee**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Trust Indenture]

## EXHIBIT A

### PROJECT SITE

A tract of land situated in Unincorporated St. Charles County, Missouri, lying in part of U.S. Survey 1198, Township 46 North, Range 4 East, being part of a tract of land conveyed to Steven M. Franz and Michelle Y. Franz, Trustees of the Franz Family Trust dated July 23, 2002 as to an undivided 1/5 interest, as recorded in Deed Book 3567, Page 349 of the land records of said St. Charles County, also being part of a tract of land conveyed to Kenneth J. Montgomery and Gloria Mahady, Trustees of the Kenneth J. Montgomery Family Living Trust dated November 18, 2016, as recorded in Deed Book 6659, Page 397 of said land records, also being part of a tract of land conveyed to Monty's Property LLC, a Missouri limited liability company, as recorded in Deed Book 6961, Page 445 of said land records, also being part of a tract of land conveyed to Margery Ann Mahady and Victoria McKinney, as recorded in Document No. 2022R-065606 of said land records, also being part of a tract of land conveyed to Yvonne M. Shangraw, Robin James Shangraw, Jeannine Marie Hinchley, Christopher John Shangraw, and Paul Maurice Shangraw, as recorded in Deed Book 4265, Page 830 of said land records, also being part of a tract of land conveyed to Paul R. and Marie P. Wegman, as recorded in Deed Book 653, Page 1090 of the land records of said St. Charles County, also being part of a tract of land conveyed to Paul R. and Marie P. Wegman Family Trust, as recorded in Deed Book 5147, Page 39 of said land records, and being more particularly described as follows:

Beginning at the intersection of the Northeastern right-of-way line of Hemsath Road and the Southwestern right-of-way line of Arena Parkway, also being known as South River Road, variable width; thence along said Southern right-of-way line of Arena Parkway the following courses and distances: 32.49 feet along the arc of a curve to the right, having a radius of 39.17 feet, through a central angle of 47 degrees 31 minutes 29 seconds, with a chord that bears North 09 degrees 22 minutes 05 seconds West, a distance of 31.57 feet; 161.73 feet along the arc of a curve to the right, having a radius of 441.22 feet, through a central angle of 21 degrees 00 minutes 07 seconds, with a chord that bears North 65 degrees 23 minutes 28 seconds East, a distance of 160.83 feet; 224.77 feet along the arc of a curve to the right, having a radius of 453.22 feet, through a central angle of 28 degrees 24 minutes 53 seconds, with a chord that bears North 87 degrees 16 minutes 43 seconds East, a distance of 222.47 feet; 331.51 feet along the arc of a curve to the right, having a radius of 453.22 feet, through a central angle of 41 degrees 54 minutes 34 seconds, with a chord that bears South 54 degrees 23 minutes 22 seconds East, a distance of 324.17 feet; South 33 degrees 26 minutes 06 seconds East, a distance of 152.24 feet; 30.49 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 02 degrees 49 minutes 38 seconds, with a chord that bears South 34 degrees 50 minutes 55 seconds East, a distance of 30.49 feet; 18.43 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 01 degrees 42 minutes 33 seconds, with a chord that bears South 37 degrees 07 minutes 00 seconds East, a distance of 18.43 feet to the Northeast corner of a tract of land conveyed to Edward C. Keen, ETAL, as recorded in Deed Book 131, Page 418 of said land records; 216.94 feet along the arc of a curve to the left, having a radius of 617.96 feet, through a central angle of 020 degrees 06 minutes 52 seconds, with a chord that bears South 46 degrees 36 minutes 23 seconds East, a distance of 215.83 feet; South 56 degrees 45 minutes 37 seconds East, a distance of 305.94 feet to the intersection of said Southwestern right-of-way line of Arena Parkway, variable width, and the Northwest right-of-way line of Mulberry Lane, 40 feet wide, as shown on Timber Crest Subdivision No. 1, a subdivision recorded in Plat Book 6, Page 37 of said land records; thence along said Northwest right-of-way line of Mulberry Lane, South 56 degrees 07 minutes 25 seconds West, a distance of 668.56 feet to said Northeastern right-of-way line of Hemsath Road; thence leaving said Northwest right-of-way line of Mulberry Lane and along said Northeastern right-of-way line of Hemsath Road, North 32 degrees 32 minutes 31 seconds West, a distance of 505.47 feet to the Southernmost corner of a tract of land conveyed to Paul Wegman as recorded in Deed Book 653, Page 1090 of said land records; thence continuing along said Northeastern right-of-way line, North 32 degrees 32 minutes 31 seconds West, a distance of 604.22 feet to the point of beginning.

Containing 12.575 Acres (547,785 square feet), according to survey by Grimes Consulting, Inc., LS-343-D, dated April 2024.

**EXHIBIT B**  
**FORM OF BONDS**

***THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR  
NEGOTIATED ONLY AS PROVIDED IN THE HEREIN-DESCRIBED INDENTURE.***

No. 1

Not to Exceed  
**\$72,000,000**

**UNITED STATES OF AMERICA**  
**STATE OF MISSOURI**  
  
**CITY OF ST. CHARLES, MISSOURI**  
**TAXABLE INDUSTRIAL REVENUE BOND**  
**(SOUTHPOINTE DEVELOPMENT PROJECT)**  
**SERIES 2025**

| <u>Interest Rate</u> | <u>Maturity Date</u>         | <u>Dated Date</u> |
|----------------------|------------------------------|-------------------|
| 5.0%                 | Completion Date <sup>1</sup> | _____, 2025       |

**OWNER:** \_\_\_\_\_

**MAXIMUM PRINCIPAL AMOUNT: SIXTY-TWO MILLION DOLLARS**

The **CITY OF ST. CHARLES, MISSOURI**, a constitutional home rule charter city organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above shall be payable in arrears on each December 1, commencing on December 1, 2025, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advance of the principal amount of this Bond

<sup>1</sup> "Completion Date" means the date of execution of the certificate required by **Section 4.5** of the herein-defined Lease and **Section 504** of the herein-defined Indenture, which shall be deemed executed and filed on December 31, 2029 if not actually filed with the City by such date, except as otherwise provided in **Section 4.5** of the Lease, including an extension to December 31, 2030 in the event of a Permitted Excuse (as defined in the Lease).

shall accrue from the date that such advance is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

As used herein, the term “Cumulative Outstanding Principal Amount” means all Bonds outstanding under the terms of the hereinafter-defined Indenture, as reflected on **Schedule I** hereto maintained by the Trustee.

**THIS BOND** is one of a duly authorized series of Bonds of the City designated the “City of St. Charles, Missouri, Taxable Industrial Revenue Bonds (Southpointe Development Project), Series 2025,” issued in the maximum aggregate principal amount of \$72,000,000 (the “Bonds”) for the purpose of acquiring a leasehold interest in approximately 12.575 acres of real property generally located at 350 Hemsath Road in the City and constructing thereon a mixed-use development consisting of approximately 230 residential apartments and approximately 12,000 square feet of retail and commercial space (together, the “Project”), which the City will lease to Porterhouse Development LLC, a Missouri limited liability company (the “Developer”), under the terms of a Lease Agreement dated as of July 1, 2025 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Lease”), between the City and the Developer, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, and the charter of the City and pursuant to proceedings duly had by the governing body of the City.

**THE BONDS** are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of July 1, 2025 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the “Indenture”), between the City and UMB Bank, N.A., St. Louis, Missouri, as trustee (the “Trustee”). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Owners, and the terms upon which the Bonds are issued and secured.

**THE BONDS** are subject to redemption and payment at any time before the stated maturity thereof, at the option of the City, upon written instructions from the Developer, (1) in whole, if the Developer exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Developer prepays additional Basic Rent pursuant to the Lease; provided, however, if only a portion of the Bonds are to be redeemed, Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized under the Indenture shall not be subject to redemption and payment before the stated maturity thereof. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

**THE BONDS** are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Section 9.1(f)** or **9.2(c)** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided in the Indenture. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption

to the Owners pursuant to this paragraph, money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

If the Bonds are to be called for optional redemption, the Developer shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if there is one Owner) before the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if there is one Owner) before the scheduled redemption date by first-class mail (or facsimile or other electronic communication, if there is one Owner) stating the date upon which the Bonds will be redeemed and paid.

**THE BONDS**, including the interest thereon, are special obligations of the City and are payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and are secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute a general obligation of the City or the State of Missouri, and neither the City nor the State of Missouri shall be liable thereon, and the Bonds do not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Developer directly to the Trustee for the account of the City and deposited in a special fund designated the "City of St. Charles, Missouri, Series 2025 Bond Fund -- Southpointe Development Project."

**THE OWNER** of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then-Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

**THIS BOND** is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the Owner hereof in person or by such Person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person's duly authorized attorney, and thereupon a new fully-registered Bond or Bonds, in an aggregate principal amount equal to the Outstanding principal amount of this Bond, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and the Paying Agent may deem and treat the Person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

**THE BONDS** are issuable in the form of one fully-registered Bond in the maximum principal amount of \$72,000,000.

**THIS BOND** shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon has been executed by the Trustee.

**IT IS HEREBY CERTIFIED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State of Missouri.

**IN WITNESS WHEREOF**, the City of St. Charles, Missouri, has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk and its corporate seal to be affixed hereto or imprinted hereon.

**CITY OF ST. CHARLES, MISSOURI**

By: \_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Kimberly Hudson, City Clerk



**CERTIFICATE OF AUTHENTICATION**

This Bond is the Taxable Industrial Revenue Bond (Southpointe Development Project), Series 2025, described in the Indenture. The effective date of registration of this Bond is set forth below.

**UMB BANK, N.A.**, as Trustee

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Authorized Signatory





---

---

**FORM OF ASSIGNMENT**

*(NOTE RESTRICTIONS ON TRANSFERS)*

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

---

Print or Typewrite Name, Address and Social Security or  
other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept by the Trustee for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: \_\_\_\_\_.

---

NOTICE: The signature to this assignment must correspond with the name of the Owner as it appears upon the face of the within Bond in every particular.

Medallion Signature Guarantee:

## EXHIBIT C

### FORM OF REPRESENTATION LETTER

City of St. Charles, Missouri  
200 North Second Street  
St. Charles, Missouri 63301  
ATTN: Mayor

UMB Bank, N.A.  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
ATTN: Corporate Trust Department

Re: \$72,000,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds  
(Southpointe Development Project), Series 2025 of the City of St. Charles, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced bonds (the “Bonds”), the undersigned purchaser of the Bonds hereby represents, warrants and agrees as follows:

1. The undersigned understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of \_\_\_\_\_ 1, 2025 (the “Indenture”), between the City of St. Charles, Missouri (the “City”), and UMB Bank, N.A., as trustee (the “Trustee”), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Porterhouse Development LLC, a Missouri limited liability company (the “Developer”), under a Lease Agreement dated as of \_\_\_\_\_ 1, 2025 (the “Lease”), between the City and the Developer, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds. *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

2. The undersigned understands that (a) the Bonds and the interest thereon are special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City, (b) the Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in the Indenture, (c) the Bonds and the interest thereon do not constitute general obligations of the City, the State or any political subdivision thereof, and none of the City, the State or any political subdivision thereof is liable thereon, and (d) the Bonds do not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction and are not payable in any manner by taxation.

3. The undersigned understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward their distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

4. The undersigned is an Approved Investor.

5. The undersigned agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture and, if requested by the City, upon receipt of an opinion of counsel reasonably acceptable to the City, the Developer and the purchaser that all registration and disclosure requirements of the Securities and Exchange Commission and all other appropriate federal and Missouri securities laws and the securities law of any other applicable state are complied with.

6. The Developer has (a) furnished to the undersigned such information about itself as the undersigned deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the undersigned, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested. [\*Delete this paragraph if the Developer is the Purchaser of the Bonds.\*]

7. The undersigned is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Developer and fully aware of the terms and risks of the Bonds. [\*Delete previous sentence if the Developer is the Purchaser of the Bonds.\*] The undersigned believes that the Bonds which it is acquiring is a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

8. The undersigned is fully aware of and satisfied with (a) the current status of the title to the Project and any issues related thereto and (b) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

9. The undersigned understands and agrees that the interest on the Bonds *is* subject to federal and state income taxation.

10. The undersigned hereby directs the Trustee to hold the Bonds in trust pursuant to **Section 204(c)** of the Indenture.

Dated: \_\_\_\_\_, 20\_\_

**[PURCHASER OF BONDS]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT E**

**BOND PURCHASE AGREEMENT**

[On file in the office of the City Clerk]

**\$72,000,000**  
**(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)**  
**CITY OF ST. CHARLES, MISSOURI**  
**TAXABLE INDUSTRIAL REVENUE BONDS**  
**(SOUTHPOINTE DEVELOPMENT PROJECT)**  
**SERIES 2025**

Dated as of \_\_\_\_\_, 2025

**BOND PURCHASE AGREEMENT**

Honorable Mayor and City Council  
City of St. Charles, Missouri

On the basis of the representations and covenants and upon the terms and conditions contained in this Bond Purchase Agreement (this "Agreement"), Porterhouse Development LLC, a Missouri limited liability company (the "Purchaser"), offers to purchase from the City of St. Charles, Missouri (the "City"), the above-referenced bonds (the "Bonds"), to be issued by the City under and pursuant to Ordinance No. \_\_\_\_\_, adopted by the City Council on \_\_\_\_\_, 2025 (the "Ordinance") and a Trust Indenture dated as of \_\_\_\_\_, 2025, pursuant to which the Bonds are issued (the "Indenture"), by and between the City and UMB Bank, N.A., as trustee (the "Trustee"). *Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture.*

**SECTION 1. REPRESENTATIONS AND AGREEMENTS**

(a) By the City's acceptance hereof, the City hereby represents to the Purchaser that:

(1) The City is a constitutional home rule charter city duly organized and validly existing under the laws of the State of Missouri. The City is authorized pursuant to the Constitution and laws of the State of Missouri, the City Charter and the ordinances, orders and resolutions of the City, and all necessary action has been taken, to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by the Ordinance, this Agreement, the Indenture, the Base Lease dated as of \_\_\_\_\_, 2025 by and between the Purchaser and the City (the "Base Lease"), the Lease Agreement dated as of \_\_\_\_\_, 2025 by and between the City and the Purchaser (the "Lease"), and any and all other agreements relating thereto. The proceeds of the Bonds shall be used for the purpose of acquiring, constructing and improving the Project and paying the costs incurred in connection with the issuance of the Bonds.

(2) There is no controversy, suit or other proceeding of any kind pending or, to the City's knowledge, threatened wherein or whereby any question is raised, or may be raised, questioning, disputing or affecting in any way the legal organization of the City or its boundaries, or the right or title of any of its officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds, or the constitutionality or validity of the obligations represented by the Bonds or the validity of the Bonds, the Ordinance, the Base Lease, the Lease, the Indenture or this Agreement.

(b) The Purchaser represents as follows:

(1) *Organization.* The Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri.

(2) *No Conflict or Breach.* The execution, delivery and performance of this Agreement by the Purchaser have been duly authorized by all necessary action of the Purchaser and do not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound.

(3) *Document Legal, Valid and Binding.* When executed and delivered by the Purchaser, this Agreement will be, and is, a legal, valid and binding obligation, enforceable in accordance with its terms, subject, as to enforcement, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and further subject to the availability of equitable remedies. The Person executing this Agreement on behalf of the Purchaser is duly authorized to execute this Agreement.

(4) *Purchaser's Certificates.* Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by the Purchaser to the City as to the statements made therein.

## **SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS**

On the basis of the representations and covenants contained herein and in the other agreements referred to herein, and subject to the terms and conditions set forth herein and in the Indenture, the Purchaser agrees to purchase from the City and the City agrees to sell to the Purchaser the Bonds on the terms and conditions set forth herein.

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), which amount shall be applied as provided in the Indenture and the Lease. From time to time after the Closing Date, the Purchaser shall make additional payments with respect to the Bonds ("Additional Payments") to the Trustee under the Indenture, which Additional Payments shall be applied to the payment or reimbursement of Project Costs as provided in the Indenture and the Lease; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$72,000,000 plus the costs of issuance of the Bonds (if such costs of issuance are not paid with Bond proceeds).

As used herein, the term "Closing Date" shall mean \_\_\_\_\_, 2025, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to (a) any Project Costs paid by the Purchaser from its own funds on or before the Closing Date, and, at the Purchaser's option, the costs of issuance of the Bonds if such costs are not paid for from Bond proceeds; or (b) the aggregate principal amount of the Bonds, if all of the proceeds of the Bonds are being transferred to trustee on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance and the Indenture and the Lease authorized thereby, and the Bonds shall mature, accrue interest and be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully-registered bond in the maximum aggregate principal denomination of \$72,000,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the records of the Trustee, absent manifest error, and further provided that interest shall be payable only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

### **SECTION 3. CONDITIONS TO THE OBLIGATIONS**

The obligations hereunder shall be subject to the due performance by the parties of the obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the representations contained herein, as of the date hereof and as of the Closing Date, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly certified (and recorded, as applicable) copy of the Ordinance, the Indenture, the Base Lease, the Lease, this Agreement and any other instrument contemplated thereby or hereby, and such documents shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser.

(b) The City shall confirm on the Closing Date by a certificate that at and as of the Closing Date the City has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending or, to its knowledge, threatened against the City wherein any question is raised affecting in any way the legal organization of the City, or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the obligations represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof.

(c) The Purchaser shall execute a certificate, dated the Closing Date, to the effect that (1) no litigation, proceeding or investigation is pending against the Purchaser or its affiliates or, to the knowledge of the Purchaser, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the existence or powers of the Purchaser, (2) no litigation, proceeding or investigation is pending or, to the knowledge of the Purchaser, threatened against the Purchaser that could reasonably be expected to adversely affect its ability to perform its obligations hereunder or under the Base Lease or the Lease, (3) the representations and warranties of the Purchaser herein were and are true and correct in all material respects and not misleading as of the date made and as of the Closing Date, and (4) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bonds.

### **SECTION 4. THE PURCHASER'S RIGHT TO CANCEL**

The Purchaser may cancel its obligation hereunder to purchase the Bonds by notifying the City in writing at or before the Closing Date.

## **SECTION 5. CONDITIONS OF OBLIGATIONS**

The obligations of the parties hereto are subject to the receipt of the approving opinion of Gilmore & Bell, P.C., Bond Counsel (if one is requested), with respect to the validity of the authorization and issuance of the Bonds.

## **SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY**

All of the representations and agreements by either party shall remain operative and in full force and effect and shall survive delivery of the Bonds to the Purchaser.

## **SECTION 7. NOTICE**

Any notice or other communication to be given under this Agreement may be given in writing by mailing or delivering the same as follows:

(a) To the City:

City of St. Charles, Missouri  
200 North Second Street  
St. Charles, Missouri 63301  
Attn: Mayor  
E-mail: [dan.borgmeyer@stcharlescitymo.gov](mailto:dan.borgmeyer@stcharlescitymo.gov)

with copies to:

City Attorney  
200 North Second Street  
St. Charles, Missouri 63301  
E-mail: [holly.magdiarz@stcharlescitymo.gov](mailto:holly.magdiarz@stcharlescitymo.gov)

and:

Director of Administration  
200 North Second Street  
St. Charles, Missouri 63301  
E-mail: [lawrence.dobrosky@stcharlescitymo.gov](mailto:lawrence.dobrosky@stcharlescitymo.gov)

(b) To the Trustee:

UMB Bank, N.A.  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
Attn: Corporate Trust Department  
E-mail: [kristina.tibbits@umb.com](mailto:kristina.tibbits@umb.com)

(c) To the Purchaser:

Porterhouse Development LLC  
1610 Des Peres Road, Suite 385  
St. Louis, Missouri 63131  
Attn: Casey Urkevich  
E-mail: [curkevich@aegfunds.com](mailto:curkevich@aegfunds.com)

and:

Schott & Hamilton, LLC  
1610 Des Peres Road, Suite 385  
St. Louis, Missouri 63131  
Attn: Stephen M. Schott, Esq.  
E-mail: [stephen@schotthamilton.com](mailto:stephen@schotthamilton.com)

#### **SECTION 8. APPLICABLE LAW; ASSIGNABILITY**

This Agreement shall be governed by the laws of the State of Missouri. This Agreement may be assigned by the Purchaser, in whole as to all of the Bonds, to any Person that expressly assumes in writing all of the obligations of the Purchaser contained in the Base Lease and the Lease, or if such assignment is in part as to the Bonds, the obligations of the Purchaser contained in the Lease; provided that the consent of the City for the assignment of this Agreement shall not be required if the consent of the City is not required for such Person's assumption of the Lease under the provisions of **Article XIII** thereof. Any such assignee shall agree to be bound by the terms of this Agreement. This Agreement may be assigned and the Bonds may be pledged, without approval of but with notice to the City, by the Purchaser to any lender of the Purchaser as collateral for a loan secured by a deed of trust or mortgage of the Project.

#### **SECTION 9. EXECUTION IN COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

#### **SECTION 10. ANTI-DISCRIMINATION AGAINST ISRAEL ACT**

Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Purchaser certifies it is not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

Very truly yours,

**PORTERHOUSE DEVELOPMENT LLC**

By: \_\_\_\_\_

Name: Casey Urkevich

Title: Manager

DATE OF EXECUTION: \_\_\_\_\_, 2025

Accepted and Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**CITY OF ST. CHARLES, MISSOURI**

By: \_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
Kimberly Hudson, City Clerk

[Bond Purchase Agreement]

**RCA FORM (OFFICE USE ONLY)**

Bill # 13984

MEETING/DATE: 5/20/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): N/A

Sponsor(s): Mary West, Mark Hollander, Denise Mitchell  
Bill Otto, Vince Katchford, & Michael Craiba

**Description:**

An Ordinance authorizing a cooperative agreement between Boone County, Missouri and the City of St. Charles, Missouri for assistance with the selection and procurement of a dog

Contract Extension/Renewal: Yes  No

Information Paper Attached: Yes  No

Staff Recommendation: Approve  Disapprove

Board/Committee/Commission Recommendation: Approve  Disapprove

**Summary:**

St. Charles Fire Department requests authorization to enter into a Cooperative Agreement with the Boone County Sheriff's Department to assist with selecting a canine for purchase, and for the canine to receive training to meet the standards and requirements of the Missouri Police Canine Association. The agreement also provides for the training of a St. Charles City firefighter as that canine's handler through the Boone County Sheriff's Department K-9 Basic Training Program.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** \$ 2,000.00 N/A

**Account #:** 001-140-401-761-099

**Project #:** 25PSFIR15

RCA prepared by: Fire Dept. Dir. [Signature] Finance Dir. gaw Dir. of Admin. [Signature]

Bill No. 13984

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

Sponsors: Mary West, Mark Hollander, Denise Mitchell, **Bill Otto, Vince Ratchford,**  
**Michael Galba**

AN ORDINANCE AUTHORIZING A COOPERATIVE AGREEMENT BETWEEN BOONE COUNTY, MISSOURI, AND THE CITY OF ST. CHARLES, MISSOURI FOR ASSISTANCE WITH SELECTION AND PROCUREMENT OF A DOG (K-9) AND FOR TRAINING OF THE K-9 AND HANDLER IN AN AMOUNT NOT TO EXCEED \$2,000.00.

Be It Ordained by the Council of the City of St. Charles, Missouri, as Follows:

SECTION 1. A Cooperative Agreement between Boone County, Missouri, by and through the Boone County Sheriff's Department and the City of St. Charles, Missouri, by and through the St. Charles Fire Department for assistance with selection and procurement of a K-9, and for training of the K-9 and handler in an amount not to exceed \$2,000.00 is approved. The Agreement shall be substantially the same in form and content as attached hereto and identified as Exhibit 1. The Mayor is authorized to execute the Agreement and perform all acts necessary to carry out the intent of this ordinance.

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

\_\_\_\_\_  
Date Passed

\_\_\_\_\_  
Michael Galba, Presiding Officer

\_\_\_\_\_  
Date Approved by Mayor

\_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

Approved as to Form:

Attest:

Holly Magdziarz 5/7/2025  
Holly Magdziarz, Acting City Attorney, Date

\_\_\_\_\_  
Kimberly Hudson, City Clerk



CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.

[Signature] 5-9-25  
Director of Finance Date

**COOPERATIVE AGREEMENT  
FOR K-9 BASIC TRAINING SERVICES**

THIS AGREEMENT, dated the \_\_\_ day of \_\_\_\_\_, 2025, is entered into by and between Boone County, Missouri (County), by and through the Boone County Sheriff's Office (BCSO), and the City of Saint Charles, Missouri, by and through the Saint Charles City Fire Department (Agency):

**WHEREAS**, BCSO can provide K-9 basic training through its certified K-9 training staff; and

**WHEREAS**, BCSO can assist Agency in selecting a canine for purchase from an approved vendor to receive the training; and

**WHEREAS**, Agency desires to procure a canine to receive training from a vendor approved by County and train one of Agency's officers as that canine's handler through the BCSO's K-9 basic training program; and

**WHEREAS**, County and Agency have the authority to cooperate with each other for the purposes of this Agreement pursuant to RSMo §70.220;

**NOW, THEREFORE**, it is agreed by and between the parties as follows:

1. **ASSISTANCE WITH PROCUREMENT OF CANINE.** County's K-9 trainer will provide advice on the selection of an appropriate canine from a vendor approved by County. The approved vendor will provide a minimum of a 6-month trainability guarantee and a 1-year health guarantee on a purchased canine that will run to the benefit of Agency. County will provide Agency with information about approved vendors.
2. **TRAINING.** BCSO agrees to provide Agency's K-9 handler and canine basic training by and through BCSO's certified staff. Training areas will include obedience, tracking, and searching. The training shall consist of not less than twenty (20) sessions, with each session consisting of approximately one, 8-hour day. The training will be conducted over a period of four (4) weeks, Monday – Friday, in regularly-scheduled sessions during that 4-week period. Agency will receive a certificate documenting successful completion of the BCSO's program if the K-9 team meets the standards and requirements of the Missouri Police Canine Association at the conclusion of the training contemplated herein.
3. **EMPLOYED STATUS OF K-9 HANDLER.** Agency agrees that the training contemplated herein is within the scope and course of its handler's employment and Agency will be responsible for all appropriate compensation and the provision of Worker's Compensation coverage to Agency's employee. Agency's handler will execute a Waiver & Release as set out in the attached Exhibit "A" prior to being permitted to participate in the training.
4. **CONTRACT PRICE AND PAYMENT.** Agency shall pay County a total sum of Two Thousand Dollars (\$2,000.00) for the training contemplated herein, calculated at a rate of \$100.00/session. Agency may pay the full amount upon execution of this contract or, at Agency's option, Agency shall pay one-half, or \$1,000.00, upon execution of this contract and the remaining one-half, or \$1,000.00, after ten (10) sessions have been completed.
5. **TERM AND TERMINATION.** The Agreement contemplates training sessions to commence on or about the 23rd day of June, 2025, and sessions will proceed consecutively, Monday – Friday, for a period of four (4) weeks as scheduled by County. Either party may terminate this

Agreement at any time by providing the other written notice of their intent to terminate. Upon termination for convenience by either party, the parties will reconcile the payments paid and/or due based on the number of sessions attended at the rate of \$100.00 per session (with each session being approximately one, 8-hour day).

6. **MODIFICATION AND WAIVER.** No modification or waiver of any provision of this Agreement nor consent to any departure therefrom, shall in any event be effective, unless the same shall be in writing and signed by County and Agency and then such modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which mutually agreed.
7. **FUTURE COOPERATION.** The parties agree to fully cooperate with each other to give full force and effect to the terms and intent of this Agreement.
8. **ENTIRE AGREEMENT.** The parties state that this document contains the entire agreement between the parties, and there are no other oral, written, express or implied promises, agreements, representations or inducements not specified herein.
9. **AUTHORITY.** The signatories to this Agreement warrant and certify that they have obtained the necessary authority, by resolution or otherwise, to execute this Agreement on behalf of the named party for whom they are signing.

SO AGREED.

**CITY OF ST. CHARLES, MISSOURI**

By: \_\_\_\_\_

Daniel J. Borgmeyer, Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Kimberly Hudson, City Clerk

**AGENCY**

By: \_\_\_\_\_

Print Name:

Approved as to legal form:

*Holly Magdziaz*  
Holly Magdziaz, Acting City Attorney

**BOONE COUNTY, MISSOURI**

By: \_\_\_\_\_

Kip Kendrick, Presiding Commissioner

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Brianna L. Lennon, County Clerk

Approved:

Dwayne Carey, Sheriff

Approved as to legal form:

CJ Dykhouse, County Counselor

Acknowledged for Budgeting Purposes:

Kyle Rieman, Auditor



CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.

Jim O'Leary      5-9-25  
Director of Finance      Date  
City of St. Charles, Missouri



Exhibit "A"

**INFORMED CONSENT WAIVER AND RELEASE**

ASSUMPTION OF RISKS: I acknowledge that participation in the BCSO Basic Single Purpose K-9 Training Class [hereinafter the "Program"] involves physical activities which, by their very nature, carry certain inherent risks that cannot be eliminated regardless of the care taken to avoid injuries. These physical activities involve strenuous exertions of strength using various muscle groups and also involve quick movements using speed and change of direction, all of which could result in injury. These risks range from minor bruises and scratches to more severe injuries, including the risk of heart attacks or other catastrophic injuries. I understand and appreciate that these physical activities carry certain inherent risks and I hereby assert that my participation is voluntary and that I knowingly assume all such risks.

WAIVER AND RELEASE: In consideration of accepting my entry into this Program, I hereby, for myself, my heirs, executors, administrators, or anyone else who might claim on my behalf, covenant not to sue, and waive, release and discharge the Boone County Sheriff's Office, Boone County, Missouri, and/or its employees and agents engaged by them for any purpose relating to the Program that I have been permitted to participate in. This release and waiver extends to all claims of every kind of nature, whatsoever, foreseen or unforeseen, known or unknown.

INDEMNIFICATION AND HOLD HARMLESS: I also agree to indemnify and hold harmless the Boone County Sheriff's Department, Boone County, Missouri, and/or its employees and agents all from any and all claims, actions, suits, procedures, costs, expenses, damages, and liabilities, including attorney's fees, that result from my participation in or involvement with the Program.

Waivers and Releases for minors are accepted only with a parent/guardian signature.

**Signature of Participant/Date**

---

**Printed Name of Participant**

---

**RCA FORM (OFFICE USE ONLY)**

Bill # 13985

MEETING/DATE: 5/20/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): All

Sponsor(s): Bart Haberstroh

**Description:**

AN ORDINANCE AMENDING ORD #24-154 BY AMENDING CERTAIN REVENUE, EXPENDITURE, AND FUND BALANCE ACCOUNTS FOR THE FISCAL YEAR 2025 (BUDGET AMENDMENT #7).

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

The Mayor is recommending that City Council give favorable consideration to the seventh budget amendment for the year 2025.

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** \_\_\_\_\_ N/A \_\_\_\_\_ N/A

**Account #:** Multiple - Please see details in Bill

**Project #:** \_\_\_\_\_

RCA prepared by: js Dept. Dir. gao Finance Dir. gao Dir. of Admin. g

Bill No. 13985

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

Sponsor: Bart Haberstroh

AN ORDINANCE AMENDING ORDINANCE NUMBER 24-154 BY AMENDING CERTAIN REVENUE, EXPENDITURE, AND FUND BALANCE ACCOUNTS FOR THE BUDGET FOR THE FISCAL YEAR 2025 (BUDGET AMENDMENT #7)

Whereas, the Mayor has recommended to the City Council that the 2025 Budget of the City of Saint Charles, Missouri, be amended in accordance with the following revisions; and

Now, Therefore, Be It Ordained by the Council of the City of Saint Charles, Missouri, as follows:

SECTION 1. Ordinance Number 24-154 adopting the budget of the City of St. Charles, Missouri, for the fiscal year 2025, is hereby amended by increasing the following revenue accounts by the following amounts:

| <u>Account Number</u> | <u>Description</u>  | <u>Amount</u> | <u>Project</u> |
|-----------------------|---------------------|---------------|----------------|
| 001-000-000-431-999   | Grant Federal Other | \$40,226.92   |                |

SECTION 2. Ordinance Number 24-154 adopting the budget of the City of St. Charles, Missouri, for the fiscal year 2025, is hereby amended by decreasing the following revenue accounts by the following amounts:

| <u>Account Number</u> | <u>Description</u> | <u>Amount</u> | <u>Project</u> |
|-----------------------|--------------------|---------------|----------------|
|                       | NONE               |               |                |

SECTION 3. Ordinance Number 24-154 adopting the budget of the City of St. Charles, Missouri, for the fiscal year 2025, is hereby amended by increasing the following expenditure accounts by the following amounts:

| <u>Account Number</u> | <u>Description</u>          | <u>Amount</u> | <u>Project</u> |
|-----------------------|-----------------------------|---------------|----------------|
| 001-140-402-874-199   | Machinery & Equipment Other | \$40,226.92   |                |
| 203-120-258-874-500   | Machinery & Equipment DAG   | \$200,000.00  |                |

SECTION 4. Ordinance Number 24-154 adopting the budget of the City of St. Charles, Missouri, for the fiscal year 2025, is hereby amended by decreasing the following expenditure accounts by the following amounts:

| <u>Account Number</u> | <u>Description</u> | <u>Amount</u> | <u>Project</u> |
|-----------------------|--------------------|---------------|----------------|
|                       | NONE               |               |                |

SECTION 5. Ordinance Number 24-154 adopting the budget of the City of St. Charles, Missouri, for the fiscal year 2025, is hereby amended by increasing the following fund balance accounts by the following amounts:

| <u>Account Number</u> | <u>Description</u> | <u>Amount</u> | <u>Project</u> |
|-----------------------|--------------------|---------------|----------------|
|                       | NONE               |               |                |

SECTION 6. Ordinance Number 24-154 adopting the budget of the City of St. Charles, Missouri, for the fiscal year 2025, is hereby amended by decreasing the following fund balance accounts by the following amounts:

| <u>Account Number</u> | <u>Description</u>      | <u>Amount</u> | <u>Project</u> |
|-----------------------|-------------------------|---------------|----------------|
| 203-322-062           | Forfeiture Fund Balance | \$200,000.00  |                |

SECTION 7. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

\_\_\_\_\_  
Date Passed

\_\_\_\_\_  
Michael Galba, Presiding Officer

\_\_\_\_\_  
Date Approved by Mayor

\_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

Approved as to Form:

Attest:

Holly Magdziarz      5/13/2025  
Holly Magdziarz, Asst. City Attorney      Date

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





*Discover.*

May 20, 2025

TO: Members of City Council  
FROM: Finance Department  
SUBJECT: Proposed Amendment to the 2025 Budget  
Budget Amendment #

The following budget amendment summary is presented for your consideration.

#### GRANTS

- The Fire Department was awarded two Victim Location System Cameras as a STARRS Grant worth \$40,226.92. We are requesting an increase in grant revenue for \$40,226.92 and a corresponding increase in specialized equipment expense.

#### POLICE FORFEITURES

- The Police Department would like to use \$200,000.00 in Forfeiture Fund Balance for the following purchases:
  - Under Cover Vehicles - \$48,000.00
  - Training - \$20,000.00
  - Narcotic School/Training - \$40,000.00
  - Gun Holsters - \$17,000.00
  - Weapon Sights - \$17,000.00
  - GPS Equipment - \$5,000.00
  - Additional Items to be identified - \$53,000.00

*Finance Department*

City of Saint Charles  
200 North Second Street  
Saint Charles, MO 63301  
636.949.3280

**RCA FORM (OFFICE USE ONLY)**

Bill # 13986

MEETING/DATE: 6/3/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): 6 & 8 upon annex

Sponsor(s): Justin Foust & Michael Galba

**Description:**

Approve an ordinance to annex an overall 144.25-acres (more or less) from St. Charles County to the City of St. Charles.

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

This application involves an 144-acres (more or less), which is currently under the jurisdiction of Unincorporated St. Charles County. Application Z-2025-04 (also on the June 3, 2025 City Council agenda) would establish zoning for the subject parcels, should it be annexed. The Planning and Zoning Commission held a public hearing on this item at their May 12, 2025 meeting where representatives of the applicant addressed the Commission and there was one (1) speaker from the public on this application. The speaker's questions were in regards to potential future applications, not applicable to the annexation. The application was forwarded with a recommendation for approval (7 in favor, 0 opposed).

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: LAB Dept. Dir. [Signature] Finance Dir. 9ao Dir. of Admin. [Signature]

Sponsor: Justin Foust, Michael Galba

AN ORDINANCE ANNEXING CERTAIN ADJACENT CONTIGUOUS LAND INTO THE CITY OF SAINT CHARLES, MISSOURI, AND ASSIGNING THE LAND TO DESIGNATED WARDS OF THE CITY BEING PETITIONED FOR ANNEXATION BY CRG CUMULUS, LLC, APPROXIMATELY 144.25 ACRES OF LAND OVERALL ON EHLMANN ROAD AND HAYFORD ROAD, GENERALLY LOCATED ON THE NORTH AND SOUTH SIDES OF STATE HIGHWAY 370 AND BETWEEN HUSTER ROAD AND HARRY S. TRUMAN BOULEVARD.

WHEREAS, a certain verified petition signed by the owners of the land hereinafter described requesting annexation of said land into the City of Saint Charles, Missouri, was filed with the City Clerk; and

WHEREAS, said land as hereinafter described is adjacent and contiguous to the present municipal boundaries of the City of Saint Charles, Missouri; and

WHEREAS, the City Council of the City of Saint Charles, Missouri, does find and determine that said annexation is reasonable and necessary to the proper development of the City; and

WHEREAS, the City is able to furnish normal municipal services to said area within a reasonable time after annexation.

NOW THEREFORE, Be it Ordained by the Council of the City of Saint Charles, Missouri, as Follows:

SECTION 1. Pursuant to the Revised Statutes of Missouri Section 71.014, the land, as more particularly described in the attached Exhibit A, Exhibit B, Exhibit C and Exhibit D which are incorporated herein by this reference, is annexed into the City of Saint Charles, Missouri.

SECTION 2. The boundaries of the City of Saint Charles, Missouri are altered so as to encompass the above described land lying adjacent and contiguous to the present municipal boundaries of the City.

SECTION 3. The City Clerk is directed to file three certified copies of this Ordinance with the County of St. Charles, Missouri.

SECTION 4. Severability. If any provision, clause, sentence, paragraph, section or part of this ordinance, or application thereof to any person, entity or political subdivision shall, for any reason, be adjudged by a court of competent jurisdiction to be

unconstitutional or invalid, or if any judgment shall find that a particular tract of land is not contiguous to the City of Saint Charles, said judgment shall not affect, impair or invalidate the remainder of this ordinance in the application of such provision to other person, entities or political subdivision, and shall be confined in its operation to the provision, clause, sentence, paragraph, section or a part thereof directly involved in the controversy in which said judgment shall have been rendered and to the person, entity or political subdivision involved. It is hereby declared to be the legislative intent of the City Council that this ordinance would have been adopted had such unconstitutional, invalid provision or non-contiguous tract of land, clause, sentence, paragraph, section or part thereof not been included.

SECTION 5. The lands described in Exhibit A and Exhibit C annexed by this ordinance are designated as part of Ward Six of the City of Saint Charles, Missouri.

SECTION 6. The land described in Exhibit B annexed by this ordinance is designated as part of Ward Eight of the City of St. Charles, Missouri.

SECTION 7. The land described in Exhibit D annexed by this ordinance which is situated south of the southerly line of State Highway 370 is designated as part of Ward 6 of the City of Saint Charles, Missouri, and the land described in Exhibit D which is situated north of the northerly line of State Highway 370 is designated as part of Ward 8 of the City of Saint Charles, Missouri.

SECTION 8. This Ordinance shall be in full force and effect seven (7) days from the date of its passage and approval.

\_\_\_\_\_  
Date Passed

\_\_\_\_\_  
Michael Galba, Presiding Officer

\_\_\_\_\_  
Date Approved by Mayor

\_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

Approved as to Form:

Attest:

Holly Magdziarz 5/27/2025  
Holly Magdziarz, City Attorney Date

\_\_\_\_\_  
Kimberly Hudson, City Clerk



**TABLE OF EXHIBITS**

|           |                                       |
|-----------|---------------------------------------|
| Exhibit A | RLG Industries LLC – Parcel 1         |
| Exhibit B | RLG Industries LLC – Parcel 2         |
| Exhibit C | Ostmann Family Partnership – Parcel 1 |
| Exhibit D | Ostmann Family Partnership – Parcel 2 |

GRIGGS PROPERTY

PARCEL 1:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 SOUTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF LOT 3A AND NOTED AS CORNER NUMBER 14 OF THE ESTATE OF J.D. HOLLRAH, PER PLAT RECORDED IN SURVEY RECORD BOOK 3, PAGE 157, OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING NORTH 67 DEGREES 14 MINUTES 56 SECONDS EAST 231.00 FEET FROM THE INTERSECTION OF THE NORTHWESTERLY LINE OF U.S. SURVEY 291 AND THE EASTERLY LINE OF THE ABOVE SAID SECTION 22; THENCE NORTH 22 DEGREES 01 MINUTES 17 SECONDS WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT 3A, A DISTANCE OF 1732.50 FEET TO A SET 1/2 INCH IRON ROD, SET FOR THE NORTHEAST CORNER OF SAID LOT 3A, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREON DESCRIBED TRACT OF LAND; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG THE NORTHWESTERLY LINE OF SAID LOT 3A, A DISTANCE OF 853.36 FEET TO THE EASTERLY LINE OF TRUMAN BUSINESS CENTER PLAT TWO, A SUBDIVISION RECORDED IN PLAT BOOK 47, PAGE 225 OF THE ST. CHARLES COUNTY RECORDS; THENCE NORTH 22 DEGREES 18 MINUTES 10 SECONDS WEST ALONG THE EASTERLY LINE OF SAID TRUMAN BUSINESS CENTER PLAT TWO, A DISTANCE OF 710.41 FEET TO THE SOUTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 159.41 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 30.00 FEET; THENCE NORTH 73 DEGREES 01 MINUTES 41 SECONDS EAST 1350.01 FEET; THENCE NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 106.18 FEET TO THE EAST LINE OF AFOREMENTIONED SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 637.76 FEET TO THE NORTHWESTERLY LINE OF LOT 2A OF THE AFOREMENTIONED J.D. HOLLRAH ESTATE; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG LAST SAID NORTHWESTERLY LINE A DISTANCE OF 506.31 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 NORTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF A TRACT OF LAND NOW OR FORMERLY OWNED BY HLRH LLC BY DEED RECORDED IN BOOK 7023, PAGE 613 (PARCEL 1) OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING ON THE EASTERLY LINE OF ABOVE SAID SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 495.66 FEET TO THE NORTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH, AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 1075.68 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 300.00 FEET; THENCE SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 549.60 FEET TO THE EASTERLY LINE OF A TRACT OF LAND NOW OR FORMERLY OWNED BY TEMPEST PROPERTIES, LLC BY DEED RECORDED IN BOOK 6716, PAGE 2338 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE EASTERLY LINE OF SAID TEMPEST PROPERTIES TRACT THE FOLLOWING COURSES AND DISTANCES: NORTH 07 DEGREES 03 MINUTES 07 SECONDS WEST 17.96 FEET; THENCE NORTH 00 DEGREES 48 MINUTES 04 SECONDS EAST 1.69 FEET TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED HLRH LLC TRACT; THENCE NORTH 67 DEGREES 55 MINUTES 50 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID HLRH LLC TRACT A DISTANCE OF 1782.30 FEET TO THE POINT OF BEGINNING.

## Property Description

Part of a tract of land as conveyed to the Ostmann Family Partnership by instrument recorded in Book 2637, page 786 of the St. Charles County Records, being part West Fractional Half of the Northeast Fractional Quarter of Section 23, Township 47 North, Range 4 East, located in St. Charles County, Missouri, being more particularly described as follows:

Beginning at the Northeast corner of the West Fractional Half of the Northeast Fractional Quarter of Section 23; thence along the east line of said Fractional Quarter; South 00 degrees 14 minutes 01 seconds West, 2,790.77 feet to the north line of Gardnerville Industrial Park, a subdivision according to the plat thereof as recorded in Plat Book 8, Page 17; thence along said north line and its direct northwesterly prolongation thereof, North 88 degrees 43 minutes 28 seconds West, 968.10 feet to its intersection with the northeastern line of US Survey 291; thence along the northeastern and northern lines of said US Survey, the following: North 22 degrees 26 minutes 29 seconds West, 345.23 feet and South 67 degrees 15 minutes 11 seconds West, 0.98 feet; thence North 42 degrees 55 minutes 32 seconds West, 333.22 feet to its intersection with the west line of above said West Fractional Half Northeast Fractional Quarter of Section 23; thence along said west line, North 01 degree 10 minutes 26 seconds East, 1,894.46 feet to its intersection with the southern right-of-way line of State highway 370, variable width; thence along said right-of-way line, North 72 degrees 48 minutes 02 seconds East, 1,080.48 feet to its intersection with the North line of said Section 23; thence along said north line, South 88 degrees 29 minutes 20 seconds East, 267.99 feet to the POINT OF BEGINNING.

Containing 3,375,553 square feet or 77.492 acres, more or less.

Basis of Bearings: Missouri State Plane Grid North; East Zone

PARCEL 2:

ALL THAT PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 23, TOWNSHIP 47 NORTH, RANGE 4 EAST, SITUATED IN ST. CHARLES COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 89 DEGREES 30' WEST 27.79 CHAINS TO THE MIDDLE OF THE PUBLIC ROAD; THENCE ALONG THE MIDDLE LINE OF SAID ROAD SOUTH 39 DEGREES EAST FOLLOWING THE CURVES OF SAID ROAD 43.96 CHAINS TO THE WEST LINE OF FRACTIONAL NORTHEAST QUARTER OF SAID SECTION 23; THENCE NORTH WITH SAID WEST LINE 33.70 CHAINS TO THE PLACE OF BEGINNING CONTAINING 45.85 ACRES; EXCEPTING THEREFROM THAT PART CONVEYED TO THE STATE OF MISSOURI BY DEED RECORDED IN BOOK 1542 PAGE 450 OF THE ST. CHARLES COUNTY, MISSOURI, RECORDS.

|             |          |
|-------------|----------|
| DATE        | 1/19/25  |
| SCALE       | AS SHOWN |
| DESIGNED BY | JHD      |
| DRAWN BY    | JHD      |
| CHECKED BY  | AWG      |
| KHA PROJECT |          |

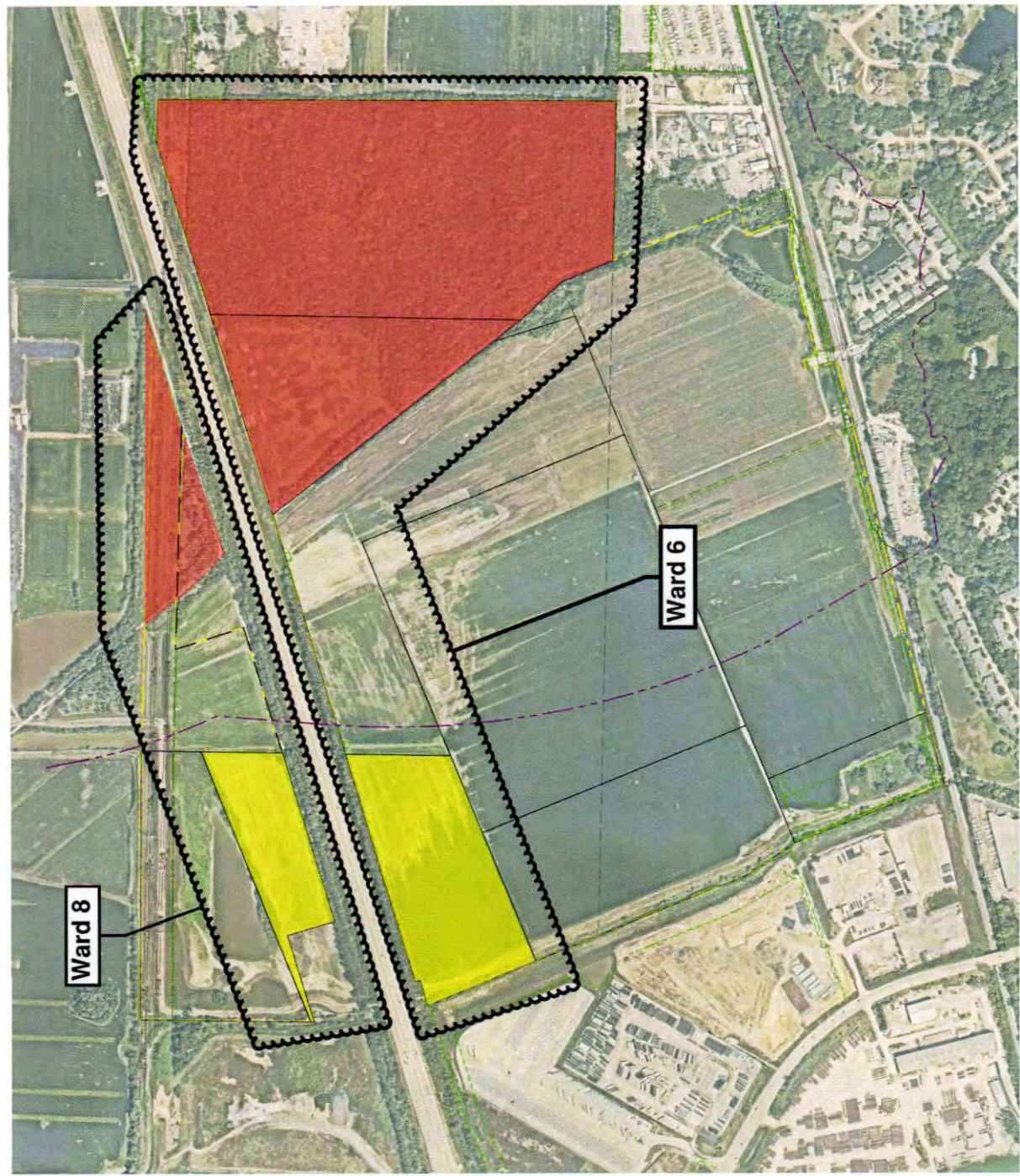
Kimley-Horn  
505 PENNSYLVANIA AVE., SUITE 150 KANSAS CITY, MO 64105  
WWW.KIMLEY-HORN.COM  
PHONE: 816-652-0300

|           |     |      |    |
|-----------|-----|------|----|
| REVISIONS | NO. | DATE | BY |
|           |     |      |    |
|           |     |      |    |
|           |     |      |    |
|           |     |      |    |
|           |     |      |    |
|           |     |      |    |
|           |     |      |    |
|           |     |      |    |
|           |     |      |    |



**LEGEND**

- SURVEY PARCEL LINES
- ▭ GRASSY PROPERTY TO BE ANNEXED (Yellow)
- ▭ URBAN PROPERTY TO BE ANNEXED (Red)



This document, together with the concepts and designs presented herein, is intended solely for the specific project and site for which it was prepared. It is not to be used for any other project or site without the written consent of Kimley-Horn and Associates, Inc. and the client. The client shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The client shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The client shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities.

## Property Description

Part of a tract of land as conveyed to the Ostmann Family Partnership by instrument recorded in Book 2637, page 786 of the St. Charles County Records, being part West Fractional Half of the Northeast Fractional Quarter of Section 23, Township 47 North, Range 4 East, located in St. Charles County, Missouri, being more particularly described as follows:

Beginning at the Northeast corner of the West Fractional Half of the Northeast Fractional Quarter of Section 23; thence along the east line of said Fractional Quarter; South 00 degrees 14 minutes 01 seconds West, 2,790.77 feet to the north line of Gardnerville Industrial Park, a subdivision according to the plat thereof as recorded in Plat Book 8, Page 17; thence along said north line and its direct northwesterly prolongation thereof, North 88 degrees 43 minutes 28 seconds West, 968.10 feet to its intersection with the northeastern line of US Survey 291; thence along the northeastern and northern lines of said US Survey, the following: North 22 degrees 26 minutes 29 seconds West, 345.23 feet and South 67 degrees 15 minutes 11 seconds West, 0.98 feet; thence North 42 degrees 55 minutes 32 seconds West, 333.22 feet to its intersection with the west line of above said West Fractional Half Northeast Fractional Quarter of Section 23; thence along said west line, North 01 degree 10 minutes 26 seconds East, 1,894.46 feet to its intersection with the southern right-of-way line of State highway 370, variable width; thence along said right-of-way line, North 72 degrees 48 minutes 02 seconds East, 1,080.48 feet to its intersection with the North line of said Section 23; thence along said north line, South 88 degrees 29 minutes 20 seconds East, 267.99 feet to the POINT OF BEGINNING.

Containing 3,375,553 square feet or 77.492 acres, more or less.

Basis of Bearings: Missouri State Plane Grid North; East Zone

PARCEL 2:

ALL THAT PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 23, TOWNSHIP 47 NORTH, RANGE 4 EAST, SITUATED IN ST. CHARLES COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 89 DEGREES 30' WEST 27.79 CHAINS TO THE MIDDLE OF THE PUBLIC ROAD; THENCE ALONG THE MIDDLE LINE OF SAID ROAD SOUTH 39 DEGREES EAST FOLLOWING THE CURVES OF SAID ROAD 43.96 CHAINS TO THE WEST LINE OF FRACTIONAL NORTHEAST QUARTER OF SAID SECTION 23; THENCE NORTH WITH SAID WEST LINE 33.70 CHAINS TO THE PLACE OF BEGINNING CONTAINING 45.85 ACRES; EXCEPTING THEREFROM THAT PART CONVEYED TO THE STATE OF MISSOURI BY DEED RECORDED IN BOOK 1542 PAGE 450 OF THE ST. CHARLES COUNTY, MISSOURI, RECORDS.

GRIGGS PROPERTY

PARCEL 1:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 SOUTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF LOT 3A AND NOTED AS CORNER NUMBER 14 OF THE ESTATE OF J.D. HOLLRAH, PER PLAT RECORDED IN SURVEY RECORD BOOK 3, PAGE 157, OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING NORTH 67 DEGREES 14 MINUTES 56 SECONDS EAST 231.00 FEET FROM THE INTERSECTION OF THE NORTHWESTERLY LINE OF U.S. SURVEY 291 AND THE EASTERLY LINE OF THE ABOVE SAID SECTION 22; THENCE NORTH 22 DEGREES 01 MINUTES 17 SECONDS WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT 3A, A DISTANCE OF 1732.50 FEET TO A SET 1/2 INCH IRON ROD, SET FOR THE NORTHEAST CORNER OF SAID LOT 3A, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREON DESCRIBED TRACT OF LAND; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG THE NORTHWESTERLY LINE OF SAID LOT 3A, A DISTANCE OF 853.36 FEET TO THE EASTERLY LINE OF TRUMAN BUSINESS CENTER PLAT TWO, A SUBDIVISION RECORDED IN PLAT BOOK 47, PAGE 225 OF THE ST. CHARLES COUNTY RECORDS; THENCE NORTH 22 DEGREES 18 MINUTES 10 SECONDS WEST ALONG THE EASTERLY LINE OF SAID TRUMAN BUSINESS CENTER PLAT TWO, A DISTANCE OF 710.41 FEET TO THE SOUTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 159.41 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 30.00 FEET; THENCE NORTH 73 DEGREES 01 MINUTES 41 SECONDS EAST 1350.01 FEET; THENCE NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 106.18 FEET TO THE EAST LINE OF AFOREMENTIONED SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 637.76 FEET TO THE NORTHWESTERLY LINE OF LOT 2A OF THE AFOREMENTIONED J.D. HOLLRAH ESTATE; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG LAST SAID NORTHWESTERLY LINE A DISTANCE OF 506.31 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 NORTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF A TRACT OF LAND NOW OR FORMERLY OWNED BY HLRH LLC BY DEED RECORDED IN BOOK 7023, PAGE 613 (PARCEL 1) OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING ON THE EASTERLY LINE OF ABOVE SAID SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 495.66 FEET TO THE NORTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH, AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 1075.68 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 300.00 FEET; THENCE SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 549.60 FEET TO THE EASTERLY LINE OF A TRACT OF LAND NOW OR FORMERLY OWNED BY TEMPEST PROPERTIES, LLC BY DEED RECORDED IN BOOK 6716, PAGE 2338 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE EASTERLY LINE OF SAID TEMPEST PROPERTIES TRACT THE FOLLOWING COURSES AND DISTANCES: NORTH 07 DEGREES 03 MINUTES 07 SECONDS WEST 17.96 FEET; THENCE NORTH 00 DEGREES 48 MINUTES 04 SECONDS EAST 1.69 FEET TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED HLRH LLC TRACT; THENCE NORTH 67 DEGREES 55 MINUTES 50 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID HLRH LLC TRACT A DISTANCE OF 1782.30 FEET TO THE POINT OF BEGINNING.

**RCA FORM (OFFICE USE ONLY)**

Bill # 13987

MEETING/DATE: 6/3/2025

Regular  Special  Work Session

ATTACHMENT: YES  NO

Report  Resolution  Ordinance

**Request for Council Action**

Ward(s): 6 & 8 upon annex

Sponsor(s): Justin Foust & Michael Galba

**Description:**

Case No. Z-2025-04. (CRG Cumulus, LLC) An application to establish zoning for an overall 144.25-acres (more or less) from St. Charles County "A" Agricultural District & "I1" Light Industrial to the City of St. Charles "I-1" Light Industrial District & "I-1/WHP" Light Industrial District, within the Wellhead Protection District. Subject properties are generally located on the north and south sides of Hwy 370, between Huster Rd & Harry S Truman Blvd.

**Contract Extension/Renewal:** Yes  No

**Information Paper Attached:** Yes  No

**Staff Recommendation:** Approve  Disapprove

**Board/Committee/Commission Recommendation:** Approve  Disapprove

**Summary:**

The City has received an application to establish zoning for an overall 144-acre (more or less), upon annexation from St. Charles County "A" Agricultural District and "I1" Light Industrial to the City of St. Charles "I-1" Light Industrial District and "I-1/WHP" Light Industrial District, within the Wellhead Protection District. The annexation of this tract will help to further incorporate remaining areas of property within Unincorporated County. The applicant intends to align the zoning of these parcels with adjacent properties as a preliminary step toward consolidating the area for a future industrial development. If the requested zoning is approved, the property would be required to operate in compliance with the zoning regulations of the I-1 Light Industrial District and the Wellhead Protection District, to include additional review by City staff, P&Z (Site Plan & Conditional Use) and City Council (Conditional Use) for Wellhead compliance. The Planning and Zoning Commission held a public hearing on this item at their May 12, 2025 meeting where representatives of the applicant addressed the Commission and there was one (1) speaker from the public on this application. The speaker's questions were not applicable under this proposal (development standards & not the proposed zoning). The application was forwarded with a recommendation for approval (7 in favor, 0 opposed).

**Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

**Fiscal Impact:** N/A

**Account #:** N/A

**Project #:** N/A

RCA prepared by: LAB Dept. Dir. [Signature] Finance Dir. [Signature] Dir. of Admin. [Signature]

Sponsor: Justin Foust, Michael Galba

AN ORDINANCE REZONING TO ST. CHARLES CITY ZONING DISTRICTS “I-1” LIGHT INDUSTRIAL DISTRICT AND “I-1/WHP” LIGHT INDUSTRIAL DISTRICT WITHIN THE WELLHEAD PROTECTION DISTRICT FROM ST. CHARLES COUNTY ZONING DISTRICTS “A” AGRICULTURAL DISTRICT AND “I1” LIGHT INDUSTRIAL DISTRICT, AN APPROXIMATE 144.25 ACRES OVERALL OF LAND ON EHLMANN ROAD AND HAYFORD ROAD, GENERALLY LOCATED ON THE NORTH AND SOUTH SIDES OF STATE HIGHWAY 370 AND BETWEEN HUSTER ROAD AND HARRY S. TRUMAN BOULEVARD.

Whereas, an application for rezoning property was received from the owners of this land; and

Whereas, the Planning and Zoning Commission of the City of Saint Charles, Missouri, considered this application at its May 12, 2025 meeting and made a favorable recommendation (7 in favor, 0 opposed) to the City Council; and

Whereas, the Council of the City of Saint Charles, Missouri, held a Public Hearing on this proposed zoning; and

Whereas, citizens were provided an opportunity to speak on this proposed zoning at the Public Hearing.

Now, Therefore, Be It Ordained by the Council of the City of Saint Charles, Missouri, as Follows:

SECTION 1. Chapter 400 of the Code of Ordinances of the City of Saint Charles, Missouri, is hereby amended by making the following changes in the District Zoning map which is on file in the Office of the City Clerk:

An approximate 20.908 acres of land on Ehlmann Road and more particularly described in the attached Exhibit A and Exhibit B, and incorporated by this reference, is rezoned from St. Charles County Zoning District “A” Agricultural District to St. Charles City Zoning District “I-1” Light Industrial District.

An approximate 123.342 acres of land on Hayford Road and more particularly described in the attached Exhibit C and Exhibit D, and incorporated by this reference, is rezoned from St. Charles County Zoning District “I1” Light Industrial District to St. Charles City Zoning District “I-1/WHP” Light Industrial District within the Wellhead Protection Dis.

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

Bill No. 13987

\_\_\_\_\_  
Date Passed

\_\_\_\_\_  
Michael Galba, Presiding Officer

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Daniel J. Borgmeyer, Mayor

Approved as to Form:

Attest:

Holly Magdziarz 5/27/2025  
Holly Magdziarz, City Attorney Date

\_\_\_\_\_  
Kimberly Hudson, City Clerk



**TABLE OF EXHIBITS**

|           |                                       |
|-----------|---------------------------------------|
| Exhibit A | RLG Industries LLC – Parcel 1         |
| Exhibit B | RLG Industries LLC – Parcel 2         |
| Exhibit C | Ostmann Family Partnership – Parcel 1 |
| Exhibit D | Ostmann Family Partnership – Parcel 2 |

GRIGGS PROPERTY

PARCEL 1:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 SOUTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF LOT 3A AND NOTED AS CORNER NUMBER 14 OF THE ESTATE OF J.D. HOLLRAH, PER PLAT RECORDED IN SURVEY RECORD BOOK 3, PAGE 157, OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING NORTH 67 DEGREES 14 MINUTES 56 SECONDS EAST 231.00 FEET FROM THE INTERSECTION OF THE NORTHWESTERLY LINE OF U.S. SURVEY 291 AND THE EASTERLY LINE OF THE ABOVE SAID SECTION 22; THENCE NORTH 22 DEGREES 01 MINUTES 17 SECONDS WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT 3A, A DISTANCE OF 1732.50 FEET TO A SET 1/2 INCH IRON ROD, SET FOR THE NORTHEAST CORNER OF SAID LOT 3A, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREON DESCRIBED TRACT OF LAND; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG THE NORTHWESTERLY LINE OF SAID LOT 3A, A DISTANCE OF 853.36 FEET TO THE EASTERLY LINE OF TRUMAN BUSINESS CENTER PLAT TWO, A SUBDIVISION RECORDED IN PLAT BOOK 47, PAGE 225 OF THE ST. CHARLES COUNTY RECORDS; THENCE NORTH 22 DEGREES 18 MINUTES 10 SECONDS WEST ALONG THE EASTERLY LINE OF SAID TRUMAN BUSINESS CENTER PLAT TWO, A DISTANCE OF 710.41 FEET TO THE SOUTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 159.41 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 30.00 FEET; THENCE NORTH 73 DEGREES 01 MINUTES 41 SECONDS EAST 1350.01 FEET; THENCE NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 106.18 FEET TO THE EAST LINE OF AFOREMENTIONED SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 637.76 FEET TO THE NORTHWESTERLY LINE OF LOT 2A OF THE AFOREMENTIONED J.D. HOLLRAH ESTATE; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG LAST SAID NORTHWESTERLY LINE A DISTANCE OF 506.31 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 NORTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF A TRACT OF LAND NOW OR FORMERLY OWNED BY HLRH LLC BY DEED RECORDED IN BOOK 7023, PAGE 613 (PARCEL 1) OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING ON THE EASTERLY LINE OF ABOVE SAID SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 495.66 FEET TO THE NORTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH, AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 1075.68 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 300.00 FEET; THENCE SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 549.60 FEET TO THE EASTERLY LINE OF A TRACT OF LAND NOW OR FORMERLY OWNED BY TEMPEST PROPERTIES, LLC BY DEED RECORDED IN BOOK 6716, PAGE 2338 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE EASTERLY LINE OF SAID TEMPEST PROPERTIES TRACT THE FOLLOWING COURSES AND DISTANCES: NORTH 07 DEGREES 03 MINUTES 07 SECONDS WEST 17.96 FEET; THENCE NORTH 00 DEGREES 48 MINUTES 04 SECONDS EAST 1.69 FEET TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED HLRH LLC TRACT; THENCE NORTH 67 DEGREES 55 MINUTES 50 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID HLRH LLC TRACT A DISTANCE OF 1782.30 FEET TO THE POINT OF BEGINNING.

## Property Description

Part of a tract of land as conveyed to the Ostmann Family Partnership by instrument recorded in Book 2637, page 786 of the St. Charles County Records, being part West Fractional Half of the Northeast Fractional Quarter of Section 23, Township 47 North, Range 4 East, located in St. Charles County, Missouri, being more particularly described as follows:

Beginning at the Northeast corner of the West Fractional Half of the Northeast Fractional Quarter of Section 23; thence along the east line of said Fractional Quarter; South 00 degrees 14 minutes 01 seconds West, 2,790.77 feet to the north line of Gardnerville Industrial Park, a subdivision according to the plat thereof as recorded in Plat Book 8, Page 17; thence along said north line and its direct northwesterly prolongation thereof, North 88 degrees 43 minutes 28 seconds West, 968.10 feet to its intersection with the northeastern line of US Survey 291; thence along the northeastern and northern lines of said US Survey, the following: North 22 degrees 26 minutes 29 seconds West, 345.23 feet and South 67 degrees 15 minutes 11 seconds West, 0.98 feet; thence North 42 degrees 55 minutes 32 seconds West, 333.22 feet to its intersection with the west line of above said West Fractional Half Northeast Fractional Quarter of Section 23; thence along said west line, North 01 degree 10 minutes 26 seconds East, 1,894.46 feet to its intersection with the southern right-of-way line of State highway 370, variable width; thence along said right-of-way line, North 72 degrees 48 minutes 02 seconds East, 1,080.48 feet to its intersection with the North line of said Section 23; thence along said north line, South 88 degrees 29 minutes 20 seconds East, 267.99 feet to the POINT OF BEGINNING.

Containing 3,375,553 square feet or 77.492 acres, more or less.

Basis of Bearings: Missouri State Plane Grid North; East Zone

PARCEL 2:

ALL THAT PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 23, TOWNSHIP 47 NORTH, RANGE 4 EAST, SITUATED IN ST. CHARLES COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 89 DEGREES 30' WEST 27.79 CHAINS TO THE MIDDLE OF THE PUBLIC ROAD; THENCE ALONG THE MIDDLE LINE OF SAID ROAD SOUTH 39 DEGREES EAST FOLLOWING THE CURVES OF SAID ROAD 43.96 CHAINS TO THE WEST LINE OF FRACTIONAL NORTHEAST QUARTER OF SAID SECTION 23; THENCE NORTH WITH SAID WEST LINE 33.70 CHAINS TO THE PLACE OF BEGINNING CONTAINING 45.85 ACRES; EXCEPTING THEREFROM THAT PART CONVEYED TO THE STATE OF MISSOURI BY DEED RECORDED IN BOOK 1542 PAGE 450 OF THE ST. CHARLES COUNTY, MISSOURI, RECORDS.



**AGENDA ITEM #7**

**STAFF REPORT  
 CASE NO. Z-2025-04  
 ANNEXATION & ESTABLISHMENT OF ZONING  
 APPROX. 144 ACRES  
 EHLMANN ROAD & HAYFORD ROAD**

**MAY 12, 2025  
 BY LARA BERRY**

**APPLICANT:** CRG Cumulus, LLC  
 8640 Evans Avenue  
 St. Louis, Missouri 63134

**OWNERS:** Ehlmann Road: RLG Industries LLC  
 16 Windcastle Drive  
 St. Charles, Missouri 63304

Hayford Road: Ostmann Family Partnership LP  
 8025 Maryland Avenue, Unit 5C  
 Clayton, Missouri 63105

**ADDRESS/LOCATION:** Ehlmann Road & Hayford Road  
 (Generally located on the north and south sides of Highway 370  
 and between Huster Road and Harry S Truman Boulevard)  
 Wards 6, 7 & 8

**LOT SIZE:** Overall 144.25-acres (more or less)

**EXISTING ZONING:** Ehlmann Road: St. Charles County “A” Agricultural District  
Hayford Road: St. Charles County “I1” Light Industrial District

**REQUESTED ZONING:** Ehlmann Road: “I-1” Light Industrial District  
Hayford Road: “I-1/WHP” Light Industrial District and within the Wellhead Protection District

**SURROUNDING ZONING:**

**Ehlmann Road**

| Direction | Zoning | Use                |
|-----------|--------|--------------------|
| North     | I-1    | Vacant/Undeveloped |
| South     | I-1    | Vacant/Agriculture |
| West      | I-1    | Outdoor Storage    |
| East      | I-1    | Vacant/Agriculture |

**Hayford Road**

| Direction | Zoning                      | Use                                  |
|-----------|-----------------------------|--------------------------------------|
| North     | I-1/WHP                     | Soccer Fields & Agriculture          |
| South     | I-2/WHP (City & County)     | Vacant/Undeveloped                   |
| West      | I-1/WHP                     | Vacant/Agriculture                   |
| East      | I-1/I-2/WHP (City & County) | Outdoor Storage & Vacant/Undeveloped |

### **REQUEST**

The applicant has submitted petitions for annexation and establishment of initial zoning for approximately 144.25 acres, more or less, comprising two areas located along the north and south sides of Highway 370. The first area, identified as Ehlmann Road (Parcel ID: 6-0003-S022-00-0001.0000000), lies just east of Sandfort Creek. The second area consists of three contiguous tracts commonly known as Hayford Road (Parcel IDs: 6-0002-S023-00-0006.1000000, 6-0002-S023-00-0006.0000000, and 5-0079-S023-00-0006.0000000), located on the east side of Hayford Road.

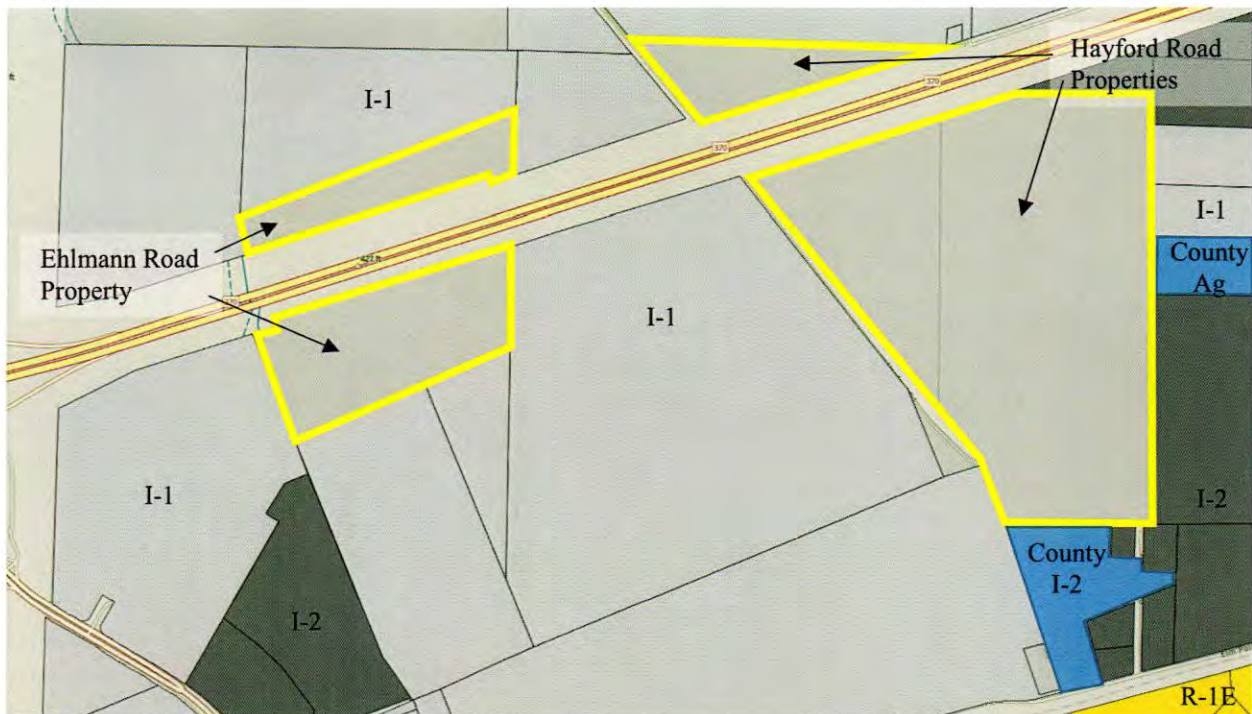
The applicant intends to align the zoning of these parcels with adjacent properties, to I-1 Light Industrial, as a preliminary step toward consolidating the area for a future industrial development.

### **SUMMARY/ANALYSIS**

Figure 1 on the following page illustrates the zoning designations in and around the subject area. Along the length of Highway 370, the predominant zoning classifications are I-1 Light Industrial and I-2 Heavy Industrial. This reflects the corridor's continued evolution toward employment-based uses near major transportation infrastructure. Residential uses begin to appear south of Elm Point Industrial Road and the railroad tracks create a natural buffer between uses.

The proposed zoning is consistent with surrounding land use patterns and the City's long-range vision for the 370 Corridor – West (Activity Center 15), which can support higher-intensity development in this location. The applicant's approach to matching the zoning of nearby industrial parcels is also aligned with broader plans for regional consolidation and coordinated development.

While annexation and zoning are the focus of this request, future development will require additional City staff review. Oversight by the Planning & Zoning Commission (site Plan and Conditional Use) and City Council (Conditional Use) for Wellhead compliance to ensure adequate protection of public water sources and compliance with environmental standards.



**Figure 1: Area Zoning of the Subject Properties.**

### **COMPLIANCE WITH THE COMPREHENSIVE PLAN**

The City of St. Charles Comprehensive Plan, originally adopted in 2002 and updated in 2012, emphasizes that land use decisions should be guided by a project's location and compatibility with surrounding development. This revision to the Comprehensive Plan was approved by the City Council and developed in collaboration with residents, elected officials, and City staff.

The Plan identifies fifteen (15) activity centers throughout the city—areas defined by higher levels of development intensity, visibility, and activity. These centers are intended to support the City's most prominent and active land uses, while surrounding areas should reflect a gradual reduction in density, traffic, and activity levels. New development should be evaluated based on its proximity to these centers, how well it integrates with adjacent uses, and whether it supports the goal of transitioning intensity away from activity nodes.

The subject property is located near Activity Center 15 – 370 Corridor (West), a location designated for higher-intensity development, especially those suited for regional access and highway visibility. In this context, the proposed I-1 Light Industrial zoning is consistent with the Comprehensive Plan's guidance. The applicant's intent to align zoning with adjacent industrial properties supports the long-term land use vision for the corridor and reflects the area's evolving development pattern.

### **COMPLIANCE WITH WELLHEAD PROTECTION ORDINANCE**

Although uses permitted by right in the I-1 District are also permitted by right within the Wellhead Protection District, certain activities may be classified as Conditional or Prohibited Uses under Section 400.320 (Wellhead Protection Ordinance) of the City Code. As such, while this zoning

request aligns with the Comprehensive Plan, any future development will be subject to further review to evaluate environmental impacts and ensure compliance with applicable protection standards. These reviews will occur as site-specific proposals are brought forward for consideration.

### **STAFF RECOMMENDATION**

After review of the proposed annexation and zoning, anticipated land uses permitted under the City's Zoning Ordinance, applicable sections of the Comprehensive Plan, and surrounding development patterns and zoning designations, staff finds the request to be appropriate. The Department of Community Development recommends that the application be forwarded to the City Council with a **favorable** recommendation, as submitted.

### **Recommended Motions:**

*Motion to forward a recommendation of approval to the City Council for annexation of the subject properties and establishment of zoning via Z-2025-04.*

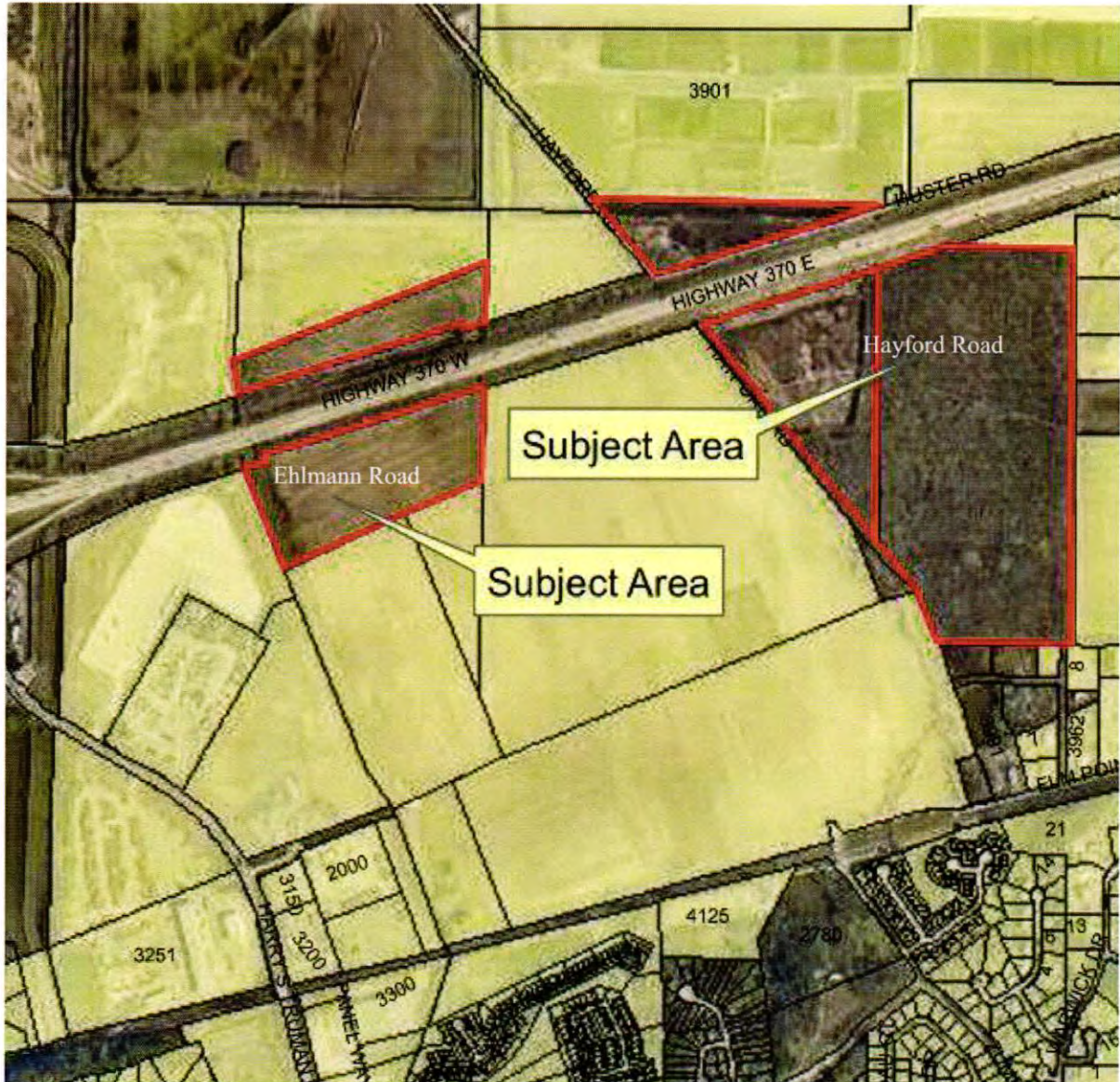


Figure 2: Map of Subject Properties.



**Figure 3: General Area of the Subject Properties.**

## Property Description

Part of a tract of land as conveyed to the Ostmann Family Partnership by instrument recorded in Book 2637, page 786 of the St. Charles County Records, being part West Fractional Half of the Northeast Fractional Quarter of Section 23, Township 47 North, Range 4 East, located in St. Charles County, Missouri, being more particularly described as follows:

Beginning at the Northeast corner of the West Fractional Half of the Northeast Fractional Quarter of Section 23; thence along the east line of said Fractional Quarter; South 00 degrees 14 minutes 01 seconds West, 2,790.77 feet to the north line of Gardnerville Industrial Park, a subdivision according to the plat thereof as recorded in Plat Book 8, Page 17; thence along said north line and its direct northwesterly prolongation thereof, North 88 degrees 43 minutes 28 seconds West, 968.10 feet to its intersection with the northeastern line of US Survey 291; thence along the northeastern and northern lines of said US Survey, the following: North 22 degrees 26 minutes 29 seconds West, 345.23 feet and South 67 degrees 15 minutes 11 seconds West, 0.98 feet; thence North 42 degrees 55 minutes 32 seconds West, 333.22 feet to its intersection with the west line of above said West Fractional Half Northeast Fractional Quarter of Section 23; thence along said west line, North 01 degree 10 minutes 26 seconds East, 1,894.46 feet to its intersection with the southern right-of-way line of State highway 370, variable width; thence along said right-of-way line, North 72 degrees 48 minutes 02 seconds East, 1,080.48 feet to its intersection with the North line of said Section 23; thence along said north line, South 88 degrees 29 minutes 20 seconds East, 267.99 feet to the POINT OF BEGINNING.

Containing 3,375,553 square feet or 77.492 acres, more or less.

Basis of Bearings: Missouri State Plane Grid North; East Zone

PARCEL 2:

ALL THAT PART OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 23, TOWNSHIP 47 NORTH, RANGE 4 EAST, SITUATED IN ST. CHARLES COUNTY, MISSOURI, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH 89 DEGREES 30' WEST 27.79 CHAINS TO THE MIDDLE OF THE PUBLIC ROAD; THENCE ALONG THE MIDDLE LINE OF SAID ROAD SOUTH 39 DEGREES EAST FOLLOWING THE CURVES OF SAID ROAD 43.96 CHAINS TO THE WEST LINE OF FRACTIONAL NORTHEAST QUARTER OF SAID SECTION 23; THENCE NORTH WITH SAID WEST LINE 33.70 CHAINS TO THE PLACE OF BEGINNING CONTAINING 45.85 ACRES; EXCEPTING THEREFROM THAT PART CONVEYED TO THE STATE OF MISSOURI BY DEED RECORDED IN BOOK 1542 PAGE 450 OF THE ST. CHARLES COUNTY, MISSOURI, RECORDS.

GRIGGS PROPERTY

PARCEL 1:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 SOUTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF LOT 3A AND NOTED AS CORNER NUMBER 14 OF THE ESTATE OF J.D. HOLLRAH, PER PLAT RECORDED IN SURVEY RECORD BOOK 3, PAGE 157, OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING NORTH 67 DEGREES 14 MINUTES 56 SECONDS EAST 231.00 FEET FROM THE INTERSECTION OF THE NORTHWESTERLY LINE OF U.S. SURVEY 291 AND THE EASTERLY LINE OF THE ABOVE SAID SECTION 22; THENCE NORTH 22 DEGREES 01 MINUTES 17 SECONDS WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT 3A, A DISTANCE OF 1732.50 FEET TO A SET 1/2 INCH IRON ROD, SET FOR THE NORTHEAST CORNER OF SAID LOT 3A, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREON DESCRIBED TRACT OF LAND; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG THE NORTHWESTERLY LINE OF SAID LOT 3A, A DISTANCE OF 853.36 FEET TO THE EASTERLY LINE OF TRUMAN BUSINESS CENTER PLAT TWO, A SUBDIVISION RECORDED IN PLAT BOOK 47, PAGE 225 OF THE ST. CHARLES COUNTY RECORDS; THENCE NORTH 22 DEGREES 18 MINUTES 10 SECONDS WEST ALONG THE EASTERLY LINE OF SAID TRUMAN BUSINESS CENTER PLAT TWO, A DISTANCE OF 710.41 FEET TO THE SOUTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 159.41 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 30.00 FEET; THENCE NORTH 73 DEGREES 01 MINUTES 41 SECONDS EAST 1350.01 FEET; THENCE NORTH 72 DEGREES 48 MINUTES 57 SECONDS EAST 106.18 FEET TO THE EAST LINE OF AFOREMENTIONED SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 637.76 FEET TO THE NORTHWESTERLY LINE OF LOT 2A OF THE AFOREMENTIONED J.D. HOLLRAH ESTATE; THENCE SOUTH 67 DEGREES 28 MINUTES 43 SECONDS WEST ALONG LAST SAID NORTHWESTERLY LINE A DISTANCE OF 506.31 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A TRACT OF LAND BEING PART OF THE EAST FRACTIONAL HALF OF SECTION 22 NORTH OF STATE HIGHWAY 370, IN TOWNSHIP 47 NORTH, RANGE 4 EAST, CITY OF ST. CHARLES, ST. CHARLES COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A FOUND STONE SET FOR THE SOUTHEAST CORNER OF A TRACT OF LAND NOW OR FORMERLY OWNED BY HLRH LLC BY DEED RECORDED IN BOOK 7023, PAGE 613 (PARCEL 1) OF THE ST. CHARLES COUNTY RECORDS, SAID POINT BEING ON THE EASTERLY LINE OF ABOVE SAID SECTION 22; THENCE SOUTH 00 DEGREES 56 MINUTES 38 SECONDS WEST ALONG THE EASTERLY LINE OF SAID SECTION 22 A DISTANCE OF 495.66 FEET TO THE NORTHERLY LINE OF STATE HIGHWAY 370, VARIABLE WIDTH, AS ESTABLISHED BY DEED RECORDED IN BOOK 1559, PAGE 1875 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID HIGHWAY 370 THE FOLLOWING COURSES AND DISTANCES: SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 1075.68 FEET; THENCE NORTH 17 DEGREES 11 MINUTES 03 SECONDS WEST 300.00 FEET; THENCE SOUTH 72 DEGREES 48 MINUTES 57 SECONDS WEST 549.60 FEET TO THE EASTERLY LINE OF A TRACT OF LAND NOW OR FORMERLY OWNED BY TEMPEST PROPERTIES, LLC BY DEED RECORDED IN BOOK 6716, PAGE 2338 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE EASTERLY LINE OF SAID TEMPEST PROPERTIES TRACT THE FOLLOWING COURSES AND DISTANCES: NORTH 07 DEGREES 03 MINUTES 07 SECONDS WEST 17.96 FEET; THENCE NORTH 00 DEGREES 48 MINUTES 04 SECONDS EAST 1.69 FEET TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED HLRH LLC TRACT; THENCE NORTH 67 DEGREES 55 MINUTES 50 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID HLRH LLC TRACT A DISTANCE OF 1782.30 FEET TO THE POINT OF BEGINNING.

**SITE LEGEND**

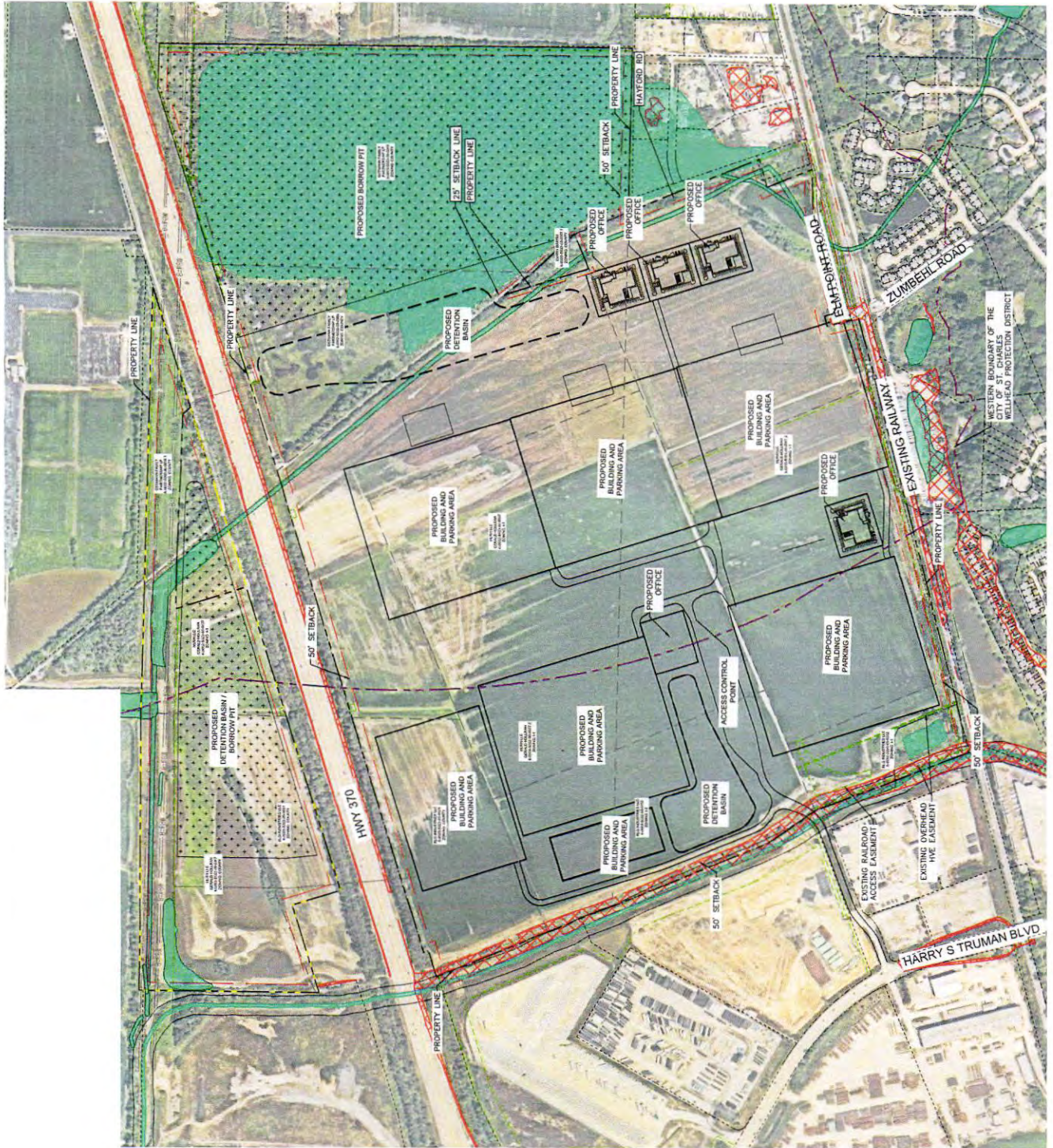
|  |  |
|--|--|
|  | PROPERTY BOUNDARY                              |
|  | PROPERTY SETBACKS                              |
|  | EXISTING UTILS AND PER PUBLICLY AVAILABLE DATA |
|  | EXISTING LORR CONTOURS                         |
|  | EXISTING PARCEL LINES                          |
|  | EXISTING OVERHEAD POWER LINES                  |
|  | EXISTING FEMA ZONE A                           |
|  | PROPOSED STORMWATER POND                       |
|  | EXISTING EASEMENT                              |
|  | EXISTING WELHEAD PROTECTION BOUNDARY           |

**NOTE:**  
 \* FEMA FLOODZONE INFORMATION SHOWN PER FEMA FLOOD MAP #270700010B  
 • WETLAND AND WATERWAY INFORMATION SHOWN PER U.S. FISH & WILDLIFE SERVICE NATIONAL WETLANDS INVENTORY

VICINITY MAP: NOT TO SCALE



GRAPHIC SCALE IN FEET  
 0 50 100 150 200 300 400 500 600



**RCA FORM (OFFICE USE ONLY)**

MEETING/DATE: 06/03/2025

Regular (X) Special ( ) Work Session ( )

ATTACHMENT: YES (X) NO ( )

Line of Succession (X)

**Request for Council Action**

**Description:** Announcement of Line of Succession

---

**Summary:**

In accordance with Section 110.030(C) of the City Code, a lottery was held to determine the Line of Succession of Council members. I have attached a copy of the Line Succession as determined on May 21, 2025, for receipt by the Council.

**FORM OF MOTION:** I move to receive the Announcement of Council Line of Succession.

By: Kimberly Hudson, City Clerk

Date: 05/21/2025

**St. Charles City Council**  
**Line of Succession**  
**May 21, 2025**

By Section 110.030 (C) of the Code of Ordinances

1. President of the Council: Michael Galba
2. Vice-President: Mark Hollander

By Lottery:

3. Bart Haberstroh
4. Brian Gould
5. Steve Hollander
6. Denise Mitchell
7. Justin Foust
8. Vince Ratchford
9. Mary West
10. Bill Otto

Lottery Drawing Date: Wednesday, May 21, 2025

Conducted by: Emily Galantowicz

Witnessed by: Kim Hudson, Amy Milstead and Debbie Ryan