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**CITY OF CLAYTON BOARD OF ALDERMEN-DISCUSSION SESSION  
TUESDAY, FEBRUARY 10, 2015 – 6:15 P.M.  
CITY HALL, COUNCIL CHAMBERS, 2<sup>ND</sup> FL.  
10 N. BEMISTON AVENUE**

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1. Presentation on the Emerald Ash Borer Invasion.
  2. Presentation and Update on Clayton's Citizen's Academy.
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**CITY OF CLAYTON BOARD OF ALDERMEN AGENDA  
TUESDAY, FEBRUARY 10, 2015 – 7:00 P.M.  
COUNCIL CHAMBERS - 10 N. BEMISTON AVENUE**

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**ROLL CALL**

**MINUTES – January 13, 2014**

**PUBLIC REQUESTS AND PETITIONS**

**REPORT FROM THE CITY MANAGER**

1. Motion – To approve a liquor license for Manhattan Express.
2. Ordinance – To authorize the City Manager to enter into a Mutual Aid Agreement for Public Works. (Bill No. 6481)
  - *To consider authorization to enter into a Mutual Aid Agreement with the cities of Chesterfield, Ballwin, Ellisville, Manchester, Maryland Heights, Frontenac, Valley Park, and other entities.*
3. Ordinance – To approve an agreement between the Eric P. and Evelyn F. Newman Foundation, the Clayton School District, the Clayton Century Foundation and the City of Clayton for a contribution to fund improvements to Mark Twain Circle. (Bill No. 6482)
  - *To consider a pledge agreement intended to provide the City with the funds to make improvements to a 1.6 acre parcel of land partially owned by the City of Clayton and the School District of Clayton.*
4. Resolution – To approve a change in the paying agent for the Build America Bonds, Series 2009A and 2009B. (Res. No. 15-02)
  - *To consider the recommendation to change the paying agent.*
5. Motion – To appoint a member to the Sustainability Committee.

**ADJOURNMENT**

**EXECUTIVE SESSION**

Subject to a motion duly made in open session and a roll call vote pursuant to Section 610.022 the Board of Aldermen may also hold a closed meeting, with a closed vote and record for one or more of the reasons as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, negotiation of a contract pursuant to Section 610.021(12) RSMO., proprietary information pursuant to Section 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO.

*Agenda topics may be added or deleted at any time prior to the Board of Aldermen meeting without further notice. To inquire about the status of agenda topics, call 290.8469. Individuals who require an accommodation (i.e., sign language, interpreter, listening devices, etc.) to participate in the meeting should contact the City Clerk at 290.8469 or Relay Missouri at 1.800.735.2966 (TDD) at least two working days prior to the meeting.*



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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**TO:** MAYOR SANGER; BOARD OF ALDERMEN  
**FROM:** CRAIG OWENS, CITY MANAGER  
DALE HOUDSHELL, P.E., PWLF, DIRECTOR OF PUBLIC WORKS  
**DATE:** FEBRUARY 10, 2015  
**RE:** DISCUSSION SESSION PRESENTATION REGARDING THE EMERALD  
ASH BORER (EAB) PREPAREDNESS PLAN

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The Department of Public Work's Forestry Division, Gary Scheipeter, PWLF, Public Works Superintendent and Justin Whipple, City Forester will provide a presentation on the City's Emerald Ash Borer Preparedness Plan. The presentation will include:

- Introduction of the new Assistant City Forester - Teresa Pafford
- Introduction of:
  - Perry Eckhardt - Missouri Department Conservation's Urban Forester, East Region
  - Jeffrey Dixon - Government Affairs Consultant for Emerald Ash Borer chemical treatment
- Overview of City's Emerald Ash Borer Preparedness Plan:
  - Introduction and Explanation
  - Review of City's Street & Parks Tree Inventory, including percentage of ash trees in overall tree canopy
  - Assessment / Short & Long Term Plan
  - Treatment & Removal Phasing Schedules and Cost Projections
  - Tree Re-Forestation Schedule and Cost Projections
  - Responding to citizen inquiries and concerns
  - Summary
- Questions & Answers



City Manager  
10 N. Bemiston Avenue  
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## MEMORANDUM

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**TO:** MAYOR SANGER; BOARD OF ALDERMEN

**FROM:** CRAIG S. OWENS, CITY MANAGER  
KEVIN MURPHY, CHIEF, POLICE DEPARTMENT

**DATE:** FEBRUARY 10, 2015

**SUBJECT:** CITIZENS' POLICE ACADEMY – PART 2

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As a method of educating members of the general public about the complexities of modern law enforcement, a Citizen's Police Academy has been developed to foster a better understanding of how Police Department personnel are trained to fulfill a myriad of responsibilities. The Citizen's Police Academy consists of a nine-week session, one night per week and due to the extensiveness of the program staff will provide periodic updates to the Board.

At the March 11, 2014 Board of Aldermen meeting Corporal Korey Golcynski, with assistance from Detective Ken Nix, provided an overview of the first two sessions of the Citizens' Police Academy activities. The presentation included a general introduction and history about the department and how the department is organized and managed. Tonight Corporal Golcynski will be presenting an update on the academy.

# THE CITY OF CLAYTON

Board of Aldermen  
City Hall – 10 N. Bemiston Avenue  
January 13, 2015  
7:00 p.m.

## Minutes

Mayor Pro Tempore Michelle Harris called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen:, Cynthia Garnholz, Mark Winings, Joanne Boulton, Alex Berger III and Rich Lintz.

Mayor Pro Tempore Michelle Harris  
City Manager Owens  
City Attorney O'Keefe

Absent: Mayor Sanger

**Alderman Boulton moved to approve the December 23, 2014 minutes. Alderman Winings seconded.**

**The motion to approve the minutes passed unanimously on a voice vote.**

## PUBLIC REQUESTS AND PETITIONS

None

## A PUBLIC HEARING AND A RESOLUTION TO CONSIDER APPROVING A CONDITIONAL USE PERMIT FOR CENTRAL BANK OF ST. LOUIS 7707 FORSYTH BOULEVARD

### **Mayor Pro Tempore Harris opened the Public Hearing.**

City Manager Owens reported that this is a public hearing and subsequent resolution for a conditional use permit for a modification to the existing drive-through facility and the installation of a temporary drive-through facility on the top level of the Pierre Laclede Center's parking garage.

The drive-through has been in operation since 1968. The existing drive-through facility accommodates nine lanes (including one ATM lane). The drive-through hours are 8:30 AM to 6 PM Monday through Friday and 9 AM to 12 PM on Saturday; the ATM operates 24 hours/day. The applicant proposes to remove four of the drive-through lanes and to shorten the canopy by 48 feet. The additional space created will be used for 10 new parking spaces.

The applicant proposes to utilize a temporary trailer on the northeast corner of the site to be used as a temporary drive-through facility during the approximate 6-week construction process.

Drive-through facilities for financial institutions require a Conditional Use Permit (CUP). Neither the City nor the applicant has record of an approved CUP for the existing drive-through. Because this is an alteration of an existing drive-through facility, a new CUP is required. The City's drive-through guidelines are not applicable because it is a modification of an existing use.

The City's Off Street Parking and Loading Regulations require establishments with more than one drive-through lane to provide a minimum of 5 stacked parking spaces. More than 5 stacked spaces will be provided.

The Plan Commission considered this request at their January 5, 2015 meeting and voted to recommend approval of the Conditional Use Permit to the Board of Aldermen. Recommendation is to conduct a public hearing and approve the resolution.

In response to Alderman Boulton's question, Ms. Tracy Thomas, representative for Central Bank explained that the construction trailer is only temporary during construction. She explained that due to the convenience of online/electronic services more customers are utilizing that form of banking making their current nine-lane drive through underutilized and therefore they will be constructing a much smaller drive through in order to free-up customer parking to the building.

**Mayor Pro Tempore closed the Public Hearing.**

**Alderman Garnholz moved to approve Resolution No. 15-01, to approve a conditional use permit for Central Bank of St. Louis. Alderman Winings seconded.**

**The motion passed unanimously on a voice vote.**

**A PUBLIC HEARING AND AN ORDINANCE TO CONSIDER APPROVING A REVISION TO CHAPTER 405 (ZONING REGULATIONS), TO ADOPT A NEW ARTICLE REGULATING OUTDOOR DINING**

**Mayor Pro Tempore opened the Public Hearing.**

City Manager Owens reported that the purpose of the proposed regulations is to permit outdoor dining on public and private property that is compatible with other uses of the sidewalk. The regulations simplify and consolidate the current requirements, allow more administrative flexibility, and protect and maintain accessible sidewalks. The proposed regulations closely mirror the existing Outdoor Dining Standards with some variations. Staff is of the opinion that the proposed regulations are in the best interests of the citizenry as a whole and represent a fair balance between the encouragement of outdoor dining and the impact to the community.

Recommendation is to conduct a public hearing and approve an Ordinance revising Chapter 405 (Zoning Regulations), by the addition of a new Article XXIX entitled "Outdoor Dining".

In response to Alderman Lintz' question, City Manager Owens explained that the restaurants are using the spaces along the curb/sidewalk productively and it seems to have worked well in maintaining the three foot pathway for pedestrians. He stressed that staff will consistently enforce those requirements for the safety of the pedestrians.

Alderman Berger expressed his concerns regarding the past approval of signage, particularly "sandwich boards" and it feels to him in some instances it causes an "obstacle course". He stressed that he is a proponent of outdoor dining, but raises caution about accessibility. He is confident that staff will do a good job in enforcing the requirements.

Alderman Berger asked for clarification if the curb area and the three-foot pathway is inclusive of the streetscape.

City Manager Owens referred to the ordinance, Section 405.3980: Location, which stipulates the requirements.

Alderman Berger commented that he has had a conversation with three restaurant owners and they are very much encouraged by the City's decision.

Alderman Garnholz inquired that the fencing that some restaurants currently have seems to make the outdoor dining areas more uniformed and have a more appealing look. She commented that it is important to maintain an open space for pedestrian access with or without fencing.

Alderman Boulton commented that Central Avenue does not have a large streetscape area such as other areas in Clayton and always seems to feel like a "tighter fit".

In response to Mayor Pro Tempore Harris' question regarding changes in annual permit fees, City Manager Owens stated that there will be no changes at this time.

**Mayor Pro Tempore Harris closed the Public Hearing.**

**Alderman Garnholz introduced Bill No. 6478, an ordinance to consider adopting a new article to the City's Land Use Code (Title IV) to establish regulations governing outdoor dining to be read for the first time by title only. Alderman Winings seconded.**

**City Attorney O'Keefe reads Bill No. 6478, an Ordinance Creating a New Article XXIX of the Zoning Regulations titled Outdoor Dining, and Repealing and Replacing All Existing Resolutions, Moratoriums, and Regulations Related to Outdoor Dining, and Other Actions Related Thereto, for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Mayor Pro Tempore moved that the Board give unanimous consent to consideration for adoption of Bill No. 6478 on the day of its introduction. Alderman Garnholz seconded.**

**The motion passed unanimously on a voice vote.**

**Alderman Garnholz introduced Bill No. 6478, an ordinance to consider adopting a new article to the City's Land Use Code (Title IV) to establish regulations governing outdoor dining to be read for the second time by title only. Alderman Winings seconded.**

**City Attorney O'Keefe reads Bill No. 6478, an Ordinance Creating a New Article XXIX of the Zoning Regulations titled Outdoor Dining, and Repealing and Replacing All Existing Resolutions, Moratoriums, and Regulations Related to Outdoor Dining, and Other Actions Related Thereto, for the second time by title only.**

**Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; and Mayor Pro Tempore Harris – Aye. The bill was adopted and became Ordinance No. 6352 of the City of Clayton.**

#### FY2014 FINANCIAL REPORT

Janet Watson gave a brief summary of the FY2014 Financial Report that was provided to the Board prior to tonight's meeting.

#### AN ORDINANCE TO CONSIDER APPROVING A FINAL AMENDMENT TO THE FISCAL YEAR 2014 BUDGET

Janet Watson reported that after the last meeting on December 23, 2014 when the Board of Aldermen passed a budget amendment for the 4<sup>th</sup> quarter of the FY 2014 fiscal year staff realized that they had mistakenly left out an additional amendment as summarized:

**Debt Service Funds – Increase in Transfer-Out of \$985,000**

- This amendment provides for the ability to transfer bond funds to the CIP fund for construction. Bond funds are received in a separate fund and only transferred into the construction fund when the construction projects actually occur. In FY14, approximately \$985,000 of bond-funded construction actually occurred.

The ordinance incorporates the amendment to the FY14 budget. Recommendation is to approve the ordinance adopting an amendment to the FY14 budget with a net effect on the City’s fund balances of a decrease of \$985,000.

**Alderman Garnholz introduced Bill No. 6479, an ordinance to consider approving a 4<sup>th</sup> Quarter Budget Amendment to be read for the first time by title only. Alderman Winings seconded.**

**Mayor Pro Tempore Harris moved that the Board give unanimous consent to consideration for adoption of Bill No. 6480 on the day of its introduction. Alderman Garnholz seconded.**

**City Attorney O’Keefe reads Bill No. 6479, an Ordinance to consider amending the Fiscal Year 2014 Budget and Appropriating Funds Pursuant Thereto for the first time by title only.**

The motion passed unanimously by a voice vote.

**Alderman Garnholz introduced Bill No. 6479, an ordinance to consider approving a 4<sup>th</sup> Quarter Budget Amendment to be read for the second time by title only. Alderman Winings seconded.**

**City Attorney O’Keefe reads Bill No. 6479, an Ordinance to consider amending the Fiscal Year 2014 Budget and Appropriating Funds Pursuant Thereto for the second time by title only.**

**Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; And Mayor Pro Tempore Harris – Aye. The bill was adopted and became Ordinance No. 6353 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER APPROVING A MODIFICATION TO THE MUNICIPAL TRAFFIC CODE RELATED TO ON-STREET PARKING IN DAVIS PLACE SUBDIVISION**

City Manager Owens reported that last year, Public Works received two requests to address existing on-street parking issues in the southern part of Davis Place subdivision on Central Avenue and on North Biltmore Drive. These issues impacted the ability for workers and patrons to park adjacent to two businesses just north of Clayton Road. Presently, the Municipal Code provides for Two-Hour Parking Zones between 8:00 A.M. and 5:00 P.M. at these locations.

The requests received by Public Works were to remove these restrictions adjacent to the businesses allowing unrestricted parking for a short distance on each street as shown on Exhibit A.

In June 2014 the Two-Hour Parking Zones adjacent to the two businesses were removed and notification was sent to each area indicating the restrictions were being removed for a test period. No concerns have been received regarding either location since they were modified. Given no problems have been experienced with the changes, we believe making these changes permanent is warranted.

Passage of this ordinance is necessary to codify the existing on-street parking restrictions posted in the southern part of Davis Place subdivision on Central Avenue and North Biltmore.

Recommendation is to approve the ordinance codifying the existing on-street parking restrictions posted in Davis Place subdivision on Central Avenue and North Biltmore.

**Alderman Garnholz introduced Bill No. 6480, an ordinance to consider approving a modification to the Municipal Traffic Code related to On-Street Parking in the Davis Place Subdivision, to be read for the first time by title only. Alderman Winings seconded.**

**City Attorney O’Keefe reads Bill No. 6480, an Ordinance Approving Changes to the Traffic Code to Codify Existing On-Street Parking Restrictions at Two Locations in Davis Place Subdivision for the first time by title only.**

**The motion passed unanimously by a voice vote.**

**Mayor Pro Temp Harris moved that the Board give unanimous consent to consideration for adoption of Bill No. 6480 on the day of its introduction. Alderman Garnholz seconded.**

**The motion passed unanimously by a voice vote.**

**Alderman Garnholz introduced Bill No. 6480, an ordinance to consider approving a modification to the Municipal Traffic Code related to On-Street Parking in the Davis Place Subdivision, to be read for the second time by title only. Alderman Winings seconded.**

**City Attorney O’Keefe reads Bill No. 6480, an Ordinance Approving Changes to the Traffic Code to Codify Existing On-Street Parking Restrictions at Two Locations in Davis Place Subdivision for the second time by title only.**

**Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; And Mayor Pro Tempore Harris – Aye. The bill was adopted and became Ordinance No. 6354 of the City of Clayton.**

#### Other

Alderman Garnholz reported that the Parks and Recreation Commission met recently and they had an extensive and very well done report by Patty DeForrest and her team. The overall revenue for the aquatics center was down slightly about three percent from 2013 due to the mild summer; and the *Riverfront Times* voted the Shaw Park Aquatics Center as the 2014 Best Public Pool in St. Louis; the Tennis Center had an overall increase in the net revenue approximately three percent. They have a new head tennis pro, Carolyn Kramer and the contract with the Frontenac Racquetclub has expired and has been placed out to bid.

Alderman Berger wanted to honor and pay tribute to Hugh Scott, Jr. who passed away last week. Mr. Scott was a Clayton business man, a civic leader, and a member of the City Charter Commission and the St. Louis County Council.

Alderman Berger reported that Patty DeForrest and her staff presented good information at the CRSWC Financial Committee meeting. The challenge going forward for The Center of Clayton will be a capital needs plan and the Committee is looking forward to making this a priority.

Mayor Pro Tempore Harris mentioned that Peter Krane, City’s Municipal Judge has accepted an appointment with St. Louis County and the City has started the RFQ process to replace him.

Mayor Pro Tempore Harris expressed get well wishes for a speedy recovery to Mayor Sanger and Bill Eastman.

There being no further business the meeting was adjourned at 7:40 p.m.



\_\_\_\_\_  
Mayor

ATTEST:

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City Clerk



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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**TO:** MAYOR SANGER; BOARD OF ALDERMEN  
**FROM:** CRAIG S. OWENS, CITY MANAGER (CSO)  
JANET K. WATSON, DIRECTOR OF FINANCE & ADMINISTRATION  
**DATE:** FEBRUARY 10, 2015  
**SUBJECT:** MOTION TO APPROVE A LIQUOR LICENSE FOR POLYGRIN, LLC DBA  
MANHATTAN EXPRESS AT 7641 WYDOWN BOULEVARD

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Polygrin, LLC DBA Manhattan Express is requesting a liquor license to sell 5% beer and not to exceed 14% wine at retail by the drink, including Sundays, at 7641 Wydown Blvd., Clayton, MO 63105. Liquor licenses for retail sales of beer and wine by the drink include the ability for the applicant to sell packaged liquor at their establishment. This business also has requested the ability to deliver packaged liquor. This license also allows delivery if the sale is completed by phone or in person at the establishment, is delivered by someone age 21 or older, and the deliverer verifies the purchaser's age to be 21 or older.

The Police Department has completed its review of the application and supports the issuance of the requested license. The Planning and Development department has also approved the application with no objections.

The applicant has chosen not to submit a petition from surrounding property owners and first floor tenants. As a result, they are aware that this application must have a super majority vote of five Board members in order to be approved. Staff has requested that a representative be in attendance at the meeting.

**Recommended Action:** Staff recommends passing a motion to approve the liquor license to sell 5% beer and not to exceed 14% wine at retail by the drink, including Sundays.



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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**TO:** MAYOR SANGER; BOARD OF ALDERMEN

**FROM:** CRAIG S. OWENS, CITY MANAGER  
DALE L. HOUDSHELL, P.E., DIRECTOR OF PUBLIC WORKS

**DATE:** FEBRUARY 10, 2015

**SUBJECT:** ORDINANCE –AUTHORIZING THE CITY MANAGER TO ENTER INTO A MUTUAL AID AGREEMENT FOR PUBLIC WORKS SERVICES

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Last year, Public Works was called upon to provide services to help ensure safe demonstrations in the City of Clayton. Given the magnitude and extent of services required, the need for resources far outstripped the resources of the department. The department was able to borrow some barriers from the City of Chesterfield, but had to rent or buy several pieces of equipment and barriers.

A mutual aid agreement with other communities would have made it easier to know what resources were available and acquire needed equipment from those entities.

Several cities in St. Louis County currently have a mutual aid agreement and are amiable to other entries becoming parties to the agreement.

Passage of this ordinance is necessary to authorize the execution of the mutual aid agreement.

**Recommendation:** To approve the ordinance authorizing the City Manager to enter into an agreement for Mutual Aid for Public Works Services.

BILL NO. 6481

ORDINANCE NO.

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A  
MUTUAL AID AGREEMENT FOR PUBLIC WORKS SERVICES**

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**WHEREAS**, the City of Chesterfield has an existing Public Works Mutual Aid Agreement with the cities of Ballwin, Ellisville, Manchester, Maryland Heights, Frontenac, and Valley Park; and

**WHEREAS**, the Mutual Aid Agreement provides for additional entities to become parties to the agreement; and

**WHEREAS**, the City of Clayton desires to enter into a Mutual Aid Agreement to render assistance to and receive assistance from participating municipalities in a disaster or emergency situation; and

**WHEREAS**, each city desires to ensure that Public Works Mutual Aid Assistance meets all current standards including those set by the Federal Emergency Management Agency.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:**

The City Manager of the City of Clayton, Missouri, is authorized to enter into a Mutual Aid Agreement with the cities of Chesterfield, Ballwin, Ellisville, Manchester, Maryland Heights, Frontenac, Valley Park, and other entities.

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed this 10<sup>th</sup> day of February, 2015.

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Mayor

ATTEST:

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City Clerk

FINAL AGREEMENT 5/19/2014

This Public Works Emergency Response Mutual Aid Agreement (hereinafter "Agreement") is entered into by each of the entities that executes and adopts the understandings, commitments, terms, and conditions contained herein:

**WHEREAS**, Section 44.415 of the Missouri Revised Statutes authorizes municipalities to cooperate with other municipalities to make the most efficient use of their resources on a basis of mutual cooperation; and

**WHEREAS**, municipalities are vulnerable to a variety of natural and technological disasters and recognizing this vulnerability, this Agreement's intended purposes are to:

- (1) Reduce damage, injury, and loss of life and property;
- (2) Prepare for prompt and efficient rescue, care, and treatment of threatened or affected persons;
- (3) Provide for the rapid and orderly rehabilitation of persons and restoration of property; and
- (4) Provide for cooperation and coordination of activities relating to emergency and disaster mitigation, preparedness, response, and recovery; and

**WHEREAS**, the parties to this Agreement and the State of Missouri have recognized the importance of coordination and cooperation between local governments; and

**WHEREAS**, pursuant to Section 44.415 of the Missouri Revised Statutes, entities entering into cooperative mutual aid and assistance agreements may include provisions for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law; and

**WHEREAS**, the entities which have chosen to become signatories to this Agreement wish to provide mutual aid and assistance among one another during times of disaster or public works emergencies; and

**WHEREAS**, it is recognized and accepted by the entities which have chosen to become signatories to this Agreement, that municipalities can best serve their constituencies through cooperation and sharing of resources, thereby maximizing utilization and minimizing expense for redundant equipment and resources.

**THEREFORE**, pursuant to Section 44.415 of the Missouri Revised Statutes, the undersigned entities agree to enter into this Agreement for cooperative and reciprocal public works emergency response aid and assistance, with this Agreement embodying the understandings, commitments, terms, and conditions for said aid and assistance, as follows:

**SECTION I: DEFINITIONS**

The following definitions will apply to the terms appearing in this Agreement.

A. "AID AND ASSISTANCE" includes, but is not limited to, personnel, equipment, facilities, services, supplies.

B. "AUTHORIZED REPRESENTATIVE" means an entity's employee who has been authorized, in writing by that entity, to request, to offer, or to otherwise provide aid and assistance under the terms of this Agreement.

The list of Authorized Representatives for each entity shall be attached to the executed copy of this Agreement. (In the event of a change in personnel, unless otherwise notified, the presumption will be that the successor to the employee's position will be the authorized representative.)

C. "DISASTER" means a calamitous event threatening loss of life or significant loss or damage to property, including, but not limited to flood, hurricane, tornado, dam break, or other naturally-occurring catastrophe or man-made accidental, military, or paramilitary event.

D. "MUTUAL AID RESOURCE LIST" means the list provided by each entity listing equipment, personnel and other resources an entity has available for aid and assistance.

E. "ENTITY" means a governmental entity which has adopted and executed this Agreement.

F. "PROVIDER" means the entity which has received a request to furnish aid and assistance from another entity in need (the "Recipient") and has agreed to provide the aid and assistance requested. The Provider shall be represented by the authorized representative of the local agency charged with recovery, repair and operational activities including, but not limited to, opening of public ways; removal of debris; building of protective barriers; management of physical damage to structures and terrain; transportation of persons, supplies, and equipment; and repair and operation of municipal facilities.

G. "RECIPIENT" means the entity setting forth a request for aid and assistance to another entity (the "Provider"). The Recipient shall be represented by the authorized representative of the local agency requesting recovery, repair and operational activities including, but not limited to, opening of public ways; removal of debris; building of protective barriers; management of physical damage to structures and terrain; transportation of persons, supplies, and equipment; and repair and operation of municipal facilities.

**SECTION II: INITIAL RECOGNITION OF PRINCIPLE BY ALL PARTIES;  
AGREEMENT PROVIDES NO RIGHT OF ACTION FOR THIRD PARTIES**

A. As this is a reciprocal contract, it is recognized that any entity to this Agreement may be requested by another entity to be a Provider. It is mutually understood that each entity's foremost responsibility is to its own citizens. The provisions of this Agreement shall not be construed to impose an unconditional obligation on any entity to provide aid and assistance pursuant to a request from another entity.

Accordingly, when aid and assistance have been requested, an entity may in good faith withhold the resources necessary to provide reasonable and adequate protection for its own community, by deeming itself unavailable to respond and so informing the Recipient.

B. Given the finite resources of any jurisdiction and the potential for each entity to be unavailable for aid and assistance at a given point in time, the parties mutually encourage each other to enlist other entities in mutual aid and assistance efforts and to enter into such agreements accordingly. Concomitantly, the parties fully recognize that there is a highly meritorious reason for entering into this Agreement, and accordingly shall attempt to render assistance in accordance with the terms of this Agreement to the fullest extent possible.

C. All functions and activities performed under this Agreement are hereby declared to be governmental functions conducted pursuant to the powers conferred by Missouri Revised Statutes. Functions and activities performed under this Agreement are carried out for the benefit of the general public and not for the benefit of any specific individual or individuals. Accordingly, this Agreement shall not be construed as or deemed to be an agreement for the benefit of any third parties or persons and no third parties or persons shall have any right of action under this Agreement for any cause whatsoever. All immunities provided by law shall be fully applicable as elaborated upon in Section XI of this Agreement.

**SECTION III: BIENNIAL REVIEW**

The authorized representatives of each entity shall meet not less than biennially to review the Agreement and, if applicable, discuss recommendations to be made to their respective governing bodies for amendments to the Agreement pursuant to Section XIII of this Agreement. Such reviews will be scheduled during January of each even numbered calendar year. A current Mutual Aid Resource List shall be resubmitted at each of the biennial reviews.

**SECTION IV: PROCEDURES FOR REQUESTING ASSISTANCE**

Mutual aid and assistance shall not be requested unless the resources currently available are deemed inadequate by Recipient. When Recipient becomes affected by a disaster, or otherwise deems its resources inadequate to address an emergency response, recovery, or an operational need; it may request mutual aid and assistance by communicating the request directly to one or more Providers on the Mutual Aid Resource List, indicating the request is made pursuant to this Agreement. The request shall be followed as soon as practicable by a written confirmation of that request. All requests for mutual aid and assistance shall be transmitted as set forth below.

A. METHOD OF REQUEST FOR MUTUAL AID AND ASSISTANCE: Recipient shall directly contact Provider's authorized representative, setting forth the information in paragraph B of this Section. All communications shall be conducted directly between Recipient and Provider. Recipient shall be responsible for the costs and expenses incurred by all Providers providing aid and assistance pursuant to the provisions of this Agreement as noted in Section VIII of this Agreement.

B. REQUIRED INFORMATION: Each request for aid and assistance shall be accompanied by the following information, in writing or by any other available means, to the extent known:

(1) Condition and Status: A general description summarizing the condition necessitating the request for aid (i.e., whether the condition is planned, imminent, in progress, or has already occurred) and of the damage sustained to date;

(2) Services: Identification of the service function(s) for which assistance is needed and the particular type of aid and assistance needed;



(3) Aid and Assistance: The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed;

(4) Facilities: The need for sites, structures, or buildings outside Recipient's geographical limits to serve as staging areas for incoming emergency goods and services; and

(5) Meeting Time and Place: An estimated time and a specific place for a representative of Recipient to meet the personnel and resources of any Provider.

C. STATE AND FEDERAL ASSISTANCE: In the event of an expected declaration of local emergency and if the severity of the event is expected to exhaust the reasonably available resources on the Mutual Aid Resource List, then the Recipient shall be responsible for notifying the appropriate agencies or coordinating requests for state and/or federal assistance.

#### **SECTION V: PROVIDER'S ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE**

A. When contacted by a Recipient in need, Provider's authorized representative shall assess Provider's own local situation in order to determine if personnel, equipment, and other resources are available. If Provider's authorized representative determines that Provider has available resources and agrees to provide the aid and assistance requested, Provider's authorized representative shall so notify the Recipient. Provider shall complete a written acknowledgment regarding the aid and assistance to be rendered (or a rejection of the request) and shall transmit it by the most efficient practical means to the Recipient for a final response.

Provider's acknowledgment shall contain the following information:

(1) In response to the items contained in the request, an acknowledgment of the personnel, equipment, and other resources to be sent;

(2) The projected length of time such personnel, equipment, and other resources will be available to serve Recipient, particularly if the period is projected to be shorter than one week (as provided in Section VII of this Agreement.)

(3) The estimated time when the aid and assistance provided will arrive at the location designated by the authorized representative of the Recipient; and

(4) The name of the person(s) to be designated as Provider's supervisory personnel (pursuant to Section VI of this Agreement).

B. Nothing in this section shall be deemed to unconditionally require any entity to this Agreement to provide aid and assistance to any Recipient. Each entity has the right to reject any request for aid and assistance.

#### **SECTION VI: SUPERVISION AND CONTROL**

A. Provider shall designate contact persons/coordinators among its employees sent to render aid and assistance to Recipient. As soon as practicable, Recipient shall assign work tasks to Provider's contact persons/coordinators, and unless specifically instructed otherwise, Recipient shall have the responsibility for coordinating communications between Provider's contact persons/coordinators and Recipient.

B. Based upon such assignments set forth by Recipient, Provider's contact persons/coordinators shall:

(1) Have the authority to assign work and establish work schedules for Provider's personnel.

Provider should be prepared to furnish communications equipment sufficient to maintain communications among its respective operating units, and if this is not possible, Provider shall notify Recipient accordingly;

(2) In accordance with Section VIII of this Agreement, maintain a log of daily personnel time records, material records, equipment hours, and other expenses;

(3) Report work progress to Recipient at mutually agreed upon intervals.

C. Provider is to provide adequate supervision and control of Provider's personnel as necessary to comply with the workers compensation laws of Missouri and Section X of this Agreement.

D. When equipment and vehicles are supplied, they should be operated by qualified employees of the Provider agency whenever possible. However, this should not restrict any agency from operating equipment or vehicles when qualified operators of the providing agency are not available for that purpose with the consent of the Provider.

**SECTION VII: LENGTH OF TIME FOR AID AND ASSISTANCE;  
RENEWABILITY; RECALL**

A. Unless otherwise provided, the duration of Provider's aid and assistance shall be presumed to be for an initial period of not more than Seventy Two (72) hours. Thereafter, assistance may be extended as the situation warrants for periods agreed upon by the authorized representatives of Provider and Recipient. The seventy two hour period and any other agreed upon time periods shall start when the aid and assistance departs from Provider's location with the intent of going to Recipient's location. The aid and assistance shall end when the aid and assistance returns to Provider's location and no further expectation of aid and assistance exists between Provider and Recipient.

B. In accordance with Section II of this Agreement, Provider's aid and assistance shall remain subject to recall by Provider to provide for its own citizens if circumstances so warrant. Provider shall make a good faith effort to provide at least twenty-four (24) hours advance notification to Recipient of Provider's intent to terminate portions of or all aid and assistance, unless such notice is not practicable, in which case as much notice as is reasonable under the circumstances shall be provided.

**SECTION VIII: COST DOCUMENTATION & REIMBURSEMENT**

**A. PERSONNEL -**

Provider shall continue to pay its employees according to its then prevailing ordinances, rules, regulations, and collective bargaining agreements. At the conclusion of the period of aid and assistance, the Provider shall document all direct and indirect payroll costs plus any taxes and employee benefits which are measured as a function of payroll (i.e.; FICA, unemployment, retirement, etc.).

**B. PROVIDER'S TRAVELING EMPLOYEE NEEDS -** Provider shall document the basic needs of Provider's traveling employees, such as reasonable out-of-pocket costs and expenses of Provider's personnel, including, but not limited to, transportation expenses for travel to and from the stricken area during the period of aid and assistance.

**C. EQUIPMENT -**

Provider shall document the use of its equipment during the period of aid and assistance including, but not limited to, all repairs to its equipment as

determined necessary by its on-site supervisor(s) to maintain such equipment in safe and operational condition, fuels, miscellaneous supplies, and repairs directly caused by provision of the aid and assistance.

**D. MATERIALS AND SUPPLIES -**

Provider shall document the types and amounts of all materials and supplies furnished by it and used or damaged during the period of aid and assistance.

**E. REIMBURSEMENT OF COSTS** – Provider’s costs as documented in this Section will be reimbursed by Recipient. Provider shall provide a summary of all costs to Recipient within sixty days of the end of an event. Recipient will provide payment to Provider in full within ninety days of receipt of the cost summary.

**SECTION IX: RIGHTS AND PRIVILEGES OF PROVIDER'S EMPLOYEES**

Whenever Provider's employees are rendering aid and assistance pursuant to this Agreement, such employees shall retain the same powers, duties, immunities, and privileges they would ordinarily possess if performing their duties within the geographical limits of Provider.

**SECTION X: PROVIDER'S EMPLOYEES COVERED AT ALL TIMES BY PROVIDER'S WORKERS' COMPENSATION POLICY**

Recipient shall not be responsible for reimbursing any amounts paid or due as benefits to Provider's employees due to personal injury or death occurring during the period of time such employees are engaged in the rendering of aid and assistance under this Agreement. It is mutually understood that Recipient and Provider shall be responsible for payment of such workers' compensation benefits only to their own respective employees. Further, it is mutually understood that Provider will be entirely responsible for the payment of workers' compensation benefits to its own employees.

**SECTION XI: IMMUNITY**

All activities performed under this Agreement are hereby declared to be governmental functions and the liability of both Provider and Recipient shall be governed by Missouri law and all grants of immunity pursuant to Section 537.600 of the Missouri Statutes shall apply.

**SECTION XII: PARTIES MUTUALLY AGREE TO HOLD EACH OTHER HARMLESS**

Each entity (as indemnitor) agrees to protect, defend, indemnify, and hold all other parties (as indemnitees), and their officers, employees, and agents, free and harmless from and against any and all losses, penalties, damages, assessments, costs, charges, professional fees, and other expenses or liabilities of every kind including, but not limited to, attorney's fees and costs of litigation arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of indemnitor's negligent or intentional acts and errors and/or omissions. Indemnitor further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, etc. at indemnitor's sole expense and agrees to bear all other costs and expenses related thereto. To the extent that immunity does not apply, each entity shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. Each entity understands and agrees that any insurance protection obtained shall in no way limit the responsibility to indemnify, keep, and save harmless the other parties to this Agreement.

**SECTION XIII: AMENDMENTS; ADDITIONAL MEMBERS**

A. MANNER -

This Agreement may be amended at any time by (1) unanimous consent of the parties as determined by the governing units of the parties or (2) upon the mutual written consent of the Recipient and Provider.

B. ADDITION OF OTHER ENTITIES -

Additional entities may become parties to this Agreement upon: (1) acceptance and execution of this Agreement; (2) sending the executed Agreement to all parties; and (3) sending a copy of its completed Mutual Aid Resource List to each of the other parties.

**SECTION XIV: INITIAL DURATION OF AGREEMENT; RENEWAL; TERMINATION**

This Agreement shall be binding for not less than one (1) year from its effective date. Thereafter, this Agreement shall automatically renew annually. However, any entity may withdraw from the Agreement at any time by written notification from Authorized Representative served personally or by registered mail upon all parties. The withdrawal shall not be effective until sixty (60) days after notice thereof has been served upon or sent to all other parties. An

entity's withdrawal from this Agreement shall not affect an entity's liability or obligation under the terms of this Agreement incurred hereunder. Once the withdrawal is effective, the withdrawing entity shall no longer be a party to this Agreement, but this Agreement shall continue to exist among the remaining entities. The Agreement may be terminated at any time after the initial duration of the Agreement by unanimous consent of the parties as determined by the governing units of the parties.

**SECTION XV: HEADINGS**

The headings of various sections and subsections of this Agreement have been inserted for convenient reference only and shall not be construed as modifying, amending, or affecting in any way the express terms and provisions of this Agreement or their interpretation.

**SECTION XVI: SEVERABILITY ----- EFFECT ON OTHER AGREEMENTS**

Should any clause, sentence, provision, paragraph, or other part of this Agreement be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement. Each of the parties declares that it would have entered into this Agreement irrespective of the fact that any one or more of this Agreement's clauses, sentences, provisions, paragraphs, or other parts have been declared invalid. Accordingly, it is the intention of the parties that the remaining portions of this Agreement shall remain in full force and effect without regard to the clause(s), sentence(s), provision(s), paragraph(s), or other part(s) invalidated.

**SECTION XVII: EFFECTIVE DATE**

This Agreement shall be effective upon proper approval and execution hereof by at least two entities. The effective date shall be the date upon which the second entities executed the Agreement. As to all subsequently added entities, the effective date shall be the date upon which the newly added entities properly executed the Agreement.

Execution of this agreement may be accomplished by facsimile or PDF signatures.

NOW THEREFORE, in acknowledgment of the acceptance of this Agreement, each of the parties have caused this Public Works Emergency Response Mutual Aid Agreement to be duly executed in its name and behalf by its chief executive officer, who has signed accordingly with seals affixed and attested with

FINAL AGREEMENT 5/19/2014

concurrence of a majority of its governing board, as of the date set forth in this Agreement.

**City of Chesterfield**

By: Michael G. Herring *Libbey Tucker*

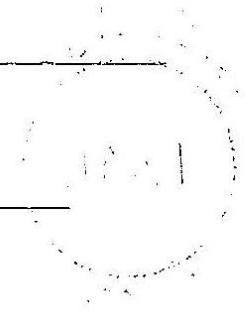
Date: 5/22/14

Title: Acting City Administrator

Attest: Vickie Hass

Date: 5/23/14

Title City Clerk



**DULY AUTHORIZED REPRESENTATIVE(S)**

Name: Mike O'Connor Title: Superintendent of Maintenance Operations

Address: 165 Public Works Drive

City/State/Zip: Chesterfield, Missouri, 63005

Phone: 636-537-9602 After hours Phone: 314-680-9004

E-Mail: moconnor@chesterfield.mo.us Fax: 636-537-4798

Name: James A. Eckrich Title: Public Works Director \ City Engineer

Address: 690 Chesterfield Parkway West

City/State/Zip: Chesterfield, Missouri 63017

Phone: 636-537-4764 After hours Phone: 314-680-9803

E-Mail: jeckrich@chesterfield.mo.us Fax: 636-537-4798

Name: Mike Geisel Title: Director of Public Services

Address: 690 Chesterfield Parkway West

City/State/Zip: Chesterfield, Missouri 63017

Phone: 636-537-4760 After hours Phone: 314-680-9802

E-Mail: mgeisel@chesterfield.mo.us Fax: 636-537-4798



City of ELLISVILLE

By: William K. Schwer

Date: 5/27/14

Title: City Manager

Attest: [Signature]

Date: 5/27/14

Title CITY CLERK

**DULY AUTHORIZED REPRESENTATIVE(S)**

Name: John Calvert Title: Assistant Public Works Director

Address: 1 Weis Ave

City/State/Zip: ELLISVILLE, MO 63011

Phone: 636-227-8507 (work) After hours Phone: 314-258-0045 (mobile)

E-Mail: jcalvert@ellisville.mo.us Fax: 636-227-9486

Name: Larry Kirn Title: Superintendent

Address: 553 Old State Road

City/State/Zip: ELLISVILLE, MO 63021

Phone: 636-591-6666 (work) After hours Phone: (314) 226-3541 (mobile)

E-Mail: LKirn@ellisville.mo.us Fax: 636-458-8813

Name: Gary Couch Title: Maintenance Field Supervisor

Address: 553 Old State Road

City/State/Zip: ELLISVILLE, MO 63021

Phone: 636-591-6666 (work) After hours Phone: 314-226-3545 (mobile)

E-Mail: gcouch@ellisville.mo.us Fax: 636-458-8813

City of Manchester

By: Andy Henson

Date: June 5 2014

Title: City Administrator

Attest: [Signature]

Date: June 5, 2014

Title City Clerk

**DULY AUTHORIZED REPRESENTATIVE(S)**

Name: Bob Ruck Title: Public Works Director

Address: 14318 Manchester Road

City/State/Zip: Manchester, MO 63011

Phone: 636-227-1385 x131 (office) After hours Phone: 314-393-4844 (cell)

E-Mail: rruck@manchester-mo.gov Fax: 636-227-3818

Name: Mark Belpulsi Title: Public Works Superintendent

Address: 14318 Manchester Road

City/State/Zip: Manchester, MO 63011

Phone: 636-227-1385 x131 (office) After hours Phone: 314-393-2341

E-Mail: mbelpulsi@manchester-mo.gov Fax: 636-227-3818

Name: Mark Becker Title: Maintenance Supervisor

Address: 14318 Manchester Road

City/State/Zip: Manchester, MO 63011

Phone: 636-227-1385 x130 (office) After hours Phone: 314-393-2104

E-Mail: mbecker@manchester-mo.gov Fax: 636-227-3818

City of Ballwin

By: Robert Kuntz

Date: 6/5/14

Title: City Administrator

Attest: Marie Clark

Date: 6/5/14

Title: City Clerk

**DULY AUTHORIZED REPRESENTATIVE(S)**

Name: Gary Kramer Title: City Engineer/Dir. of Public Works

Address: 200 Park Drive

City/State/Zip: Ballwin, Mo 63011

Phone: 636-227-9000 After hours Phone: 314-605-1447

E-Mail: gkramer@ballwin.mo.us Fax: 636-207-2333

Name: Jim Link Title: Superintendent of Streets

Address: 200 Park Drive

City/State/Zip: Ballwin, Mo 63011

Phone: 636-227-9000 After hours Phone: 314-220-5519

E-Mail: jlink@ballwin.mo.us Fax: 636-207-2333

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ After hours Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_ Fax: \_\_\_\_\_

**SECTION XVII: EFFECTIVE DATE**

This Agreement shall be effective upon proper approval and execution hereof by at least two entities. The effective date shall be the date upon which the second entities executed the Agreement. As to all subsequently added entities, the effective date shall be the date upon which the newly added entities properly executed the Agreement.

Execution of this agreement may be accomplished by facsimile or PDF signatures.

**NOW THEREFORE**, in acknowledgment of the acceptance of this Agreement, each of the parties have caused this Public Works Emergency Response Mutual Aid Agreement to be duly executed in its name and behalf by its chief executive officer, who has signed accordingly with seals affixed and attested with concurrence of a majority of its governing board, as of the date set forth in this Agreement.

**City of Maryland Heights**

By: Michael G. Moeller Date: 9-18-14  
  
(signature)

Title: Mayor

Attest: JoAnn Cova Date: 9/18/14  
  
(signature)

Title City Clerk

**DULY AUTHORIZED REPRESENTATIVE(S)**

Name: Bryan Pearl Title: Director of Public Works

Address: 11911 Dorsett Road

City/State/Zip: Maryland Heights, MO 63043

Phone: 314-738-2251 After hours Phone: 314-486-2161

E-Mail: bpearl@marylandheights.com Fax: 314-738-2451

Name: Steve Schenck Title: Operations Manager  
Address: 11911 Dorsett Road  
City/State/Zip: Maryland Heights, MO 63043  
Phone: 314-738-2277 After hours Phone: 314-486-2375  
E-Mail: sschenck@marylandheights.com Fax: 314-738-2475

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Frontenac

FINAL AGREEMENT 7/15/2014

City of Frontenac

By: Robert Shelton [Signature] Date: 7-17-14

Title: City Administrator

Attest: Leesa Ross [Signature] Date: 7/17/2014

Title City Clerk

DULY AUTHORIZED REPRESENTATIVE(S)

Name: Jeff Wappelhorst Title: Director of Public Works

Address: 10555 Clayton Road

City/State/Zip: Frontenac, Missouri, 63131

Phone: 314-994-0646 After hours Phone: 314-393-7481

E-Mail: Jwappelhorst@cityoffrontenac.org Fax: 314-373-6650

Name: James Griffin Title: Foremen of Public Works

Address: 10555 Clayton Road

City/State/Zip: Frontenac, Missouri, 63131

Phone: 314-994-9861 After hours Phone: 314-393-7540

E-Mail: Jim@cityoffrontenac.org Fax: 314-373-7540

**City of Valley Park** \_\_\_\_\_

By: Mike Pennise \_\_\_\_\_ Date: \_\_\_\_\_

Title: Mayor \_\_\_\_\_

Attest: \_\_\_\_\_ Date: \_\_\_\_\_

Title \_\_\_\_\_

**DULY AUTHORIZED REPRESENTATIVE(S)**

Name: Gerald Martin \_\_\_\_\_ Title: Public Works Director \_\_\_\_\_

Address: 320 Benton Street \_\_\_\_\_

City/State/Zip: Valley Park, MO. 63088 \_\_\_\_\_

Phone: 636-225-5171 \_\_\_\_\_ After hours Phone: 314-565-4086 \_\_\_\_\_

E-Mail: gmatrin@valleyparkmo.org \_\_\_\_\_ Fax: 636-225-0643 \_\_\_\_\_

Name: Gil DeNormandie \_\_\_\_\_ Title: Parks Director \_\_\_\_\_

Address: 320 Benton Street \_\_\_\_\_

City/State/Zip: Valley Park, MO. 63088 \_\_\_\_\_

Phone: 636-225-5171 \_\_\_\_\_ After hours Phone: 314-985-4649 \_\_\_\_\_

E-Mail: gdenormandie@valleyparkmo.org \_\_\_\_\_ Fax: 636-225-0643 \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ After hours Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_ Fax: \_\_\_\_\_

**City of Clayton**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Craig S. Owens

Title: City Manager

Attest: \_\_\_\_\_ Date: \_\_\_\_\_  
June Frazier

Title: City Clerk

**DULY AUTHORIZED REPRESENTATIVE(S)**

Name: Gary M. Scheipeter Title: Superintendent of Public Works

Address: 10 North Bemiston Avenue

City/State/Zip: Clayton, Missouri 63105

Phone: (314) 290-8550 After hours Phone: (314) 578-2443

E-Mail: gscheipeter@claytonmo.gov Fax: \_\_\_\_\_

Name: John E. Wulf Title: Assist. Public Works Director\City Engineer

Address: 10 North Bemiston Avenue

City/State/Zip: Clayton, Missouri 63105

Phone: (314) 290-8546 After hours Phone: (314) 605-1022

E-Mail: jwulf@claytonmo.gov Fax: \_\_\_\_\_

Name: Dale L. Houdeshell Title: Director of Public Works

Address: 10 North Bemiston Avenue

City/State/Zip: Clayton, Missouri 63105

Phone: (314) 290-8545 After hours Phone: (314) 449-3308

E-Mail: dhoudeshell@claytonmo.gov Fax: \_\_\_\_\_





City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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**TO:** MAYOR SANGER; BOARD OF ALDERMEN  
**FROM:** CRAIG S. OWENS, CITY MANAGER (CSO)  
PATTY DEFORREST, DIRECTOR OF PARKS & RECREATION  
**DATE:** FEBRUARY 10, 2015  
**SUBJECT:** ORDINANCE – APPROVING A PLEDGE AGREEMENT BETWEEN THE ERIC P. AND EVELYN F. NEWMAN FOUNDATION , THE SCHOOL DISTRICT OF CLAYTON, THE CLAYTON CENTURY FOUNDATION AND THE CITY OF CLAYTON FOR A CONTRIBUTION TO FUND IMPROVEMENTS TO MARK TWAIN CIRCLE, TO NOW BE TITLED “NEWMAN GREEN”

---

Before you tonight is a Pledge Agreement that is intended to provide the City with the funds to make improvements to the 1.6 acre parcel of land outlined in Exhibit A of the document. As this property is partially owned by the City of Clayton (the “City”) and the School District of Clayton, the agreement is written as a four party agreement. The parties to the agreement include the Eric P. and Evelyn F. Newman Foundation (the “Donor”), the District, the Clayton Century Foundation (CCF), and the City.

The City’s Parks & Recreation Master Plan recommends that this site be improved due to its high visibility location in front of the District’s Administrative Offices and High School as well as its close proximity to Shaw Park. While the Master Plan itself calls for more improvements than are anticipated with this agreement, the goal of improving this open space is shared by all parties to the agreement.

This agreement outlines the following terms:

- The Donor would make a gift to the CCF of \$100,000.
- In consideration of their gift, the improved area will be designated as the “Newman Green” in honor of the donor’s family.
- The City would pay for and make improvements to the property that would include an irrigation system, a diverse collection of plantings and trees, two to four benches and general landscaping enhancements.
- CCF would make a grant to the City for all costs associated with the work.
- The District would consent to the City’s installation on their property in consideration of the City’s commitment to install the improvements.
- The City would maintain the property (with the exception of the area known as Centene Plaza) for the term of the agreement which is twenty-five years.
- CCF will make grants to the City to the extent needed to fund regular and necessary maintenance of the site.
- The District will allow the irrigation system to connect to the District’s water service and will pay for and supply all water used for irrigation during the term of the agreement.

- The City and District agree that during the initial term of the agreement they will respectively preserve the area as open and passive in usage.

If approved by all parties, this work would begin promptly with a target completion timeline of July 31, 2015.

**STAFF RECOMMENDATION:** To approve the Pledge Agreement for improvements to Mark Twain Circle as submitted.

**BILL NO. 6482**

**ORDINANCE NO.**

**AN ORDINANCE APPROVING A PLEDGE AGREEMENT BETWEEN THE ERIC P. AND EVELYN F. NEWMAN FOUNDATION, THE SCHOOL DISTRICT OF CLAYTON, THE CLAYTON CENTURY FOUNDATION AND THE CITY OF CLAYTON FOR A CONTRIBUTION TO FUND IMPROVEMENTS TO MARK TWAIN CIRCLE, TO NOW BE TITLED "NEWMAN GREEN"**

---

**WHEREAS**, the City and the District wish to make improvements to the open space in an area commonly called Mark Twain Circle; and

**WHEREAS**, the Clayton Century Foundation wishes to fund this project; and

**WHEREAS**, the Eric P. and Evelyn F. Newman Foundation wish to donate funds to the Clayton Century Foundation that will be used for construction and maintenance costs associated with this project,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI AS FOLLOWS:**

Section 1. The City Manager of the City of Clayton, Missouri, is authorized to execute on behalf of the City the pledge agreement to fund improvements to Mark Twain Circle in substantially the form attached hereto as Exhibit A and incorporated herein by reference, and the City Clerk is authorized to attest such signature and to attach the official seal of the City of Clayton to said agreement.

Section 2. This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen.

Passed this 10<sup>th</sup> day of February 2015.

\_\_\_\_\_  
Mayor

ATTEST:

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

## **2015 CHARITABLE PLEDGE AGREEMENT**

**Between**

**THE ERIC P. AND EVELYN E. NEWMAN FOUNDATION,**

**THE CLAYTON CENTURY FOUNDATION,**

**THE SCHOOL DISTRICT OF CLAYTON, and**

**THE CITY OF CLAYTON, MISSOURI**

### The Parties:

1. The City of Clayton (the “City”) is a municipality in St. Louis County, Missouri.
2. The School District of Clayton (the “District”) is a public school district in St. Louis County, Missouri.
3. The Clayton Century Foundation (“CCF”), is a 501(c)(3) non-profit organization that supports history, arts, parks and sustainability in the City.
4. The Eric P. and Evelyn F. Newman Foundation (the “Donor”) is a philanthropic entity of the Newmans who are long term residents of the City as well as outstanding leaders in the St. Louis Metropolitan Area.

### The Gift:

5. CCF and the City have reviewed projects identified as priorities in the City’s overall plan for its parks, encompassing enhanced landscaping and seating areas throughout Shaw Park, including the 1.6 acre, oval-shaped, green space area that is adjacent to Shaw Park and is located near the front of Clayton High School and the District’s administrative building.
6. The City has identified this green space area as a priority landscaping and green space opportunity. The general location of this green space area is depicted on Exhibit A hereto.
7. The Donor would like to make a gift to the Clayton Century Foundation in honor of the 75th wedding anniversary of Evelyn and Eric Newman which occurred on November 29, 2014. Donor has identified the improvement of this green space area as one it wishes to fund and has earmarked a portion of its gift to assist in the enhancement of this green space area.
8. The City and the District each own a portion of this green space area; roughly one-third of this green space area is owned by the City (the “City Portion”) and the balance is owned by the District (the “District Portion”).

The City Portion and the District Portion are separately identified on Exhibit A.

9. In consideration of the Donor's intended gift, the 1.6 acre green space area will, subject to approval by the governing bodies of the City, District and CCF, be formally designated as the "Newman Green" with the exception of the plaza area currently known as Centene Plaza for the duration of the term of the agreement. It will be designated as "Newman Green" in maps, publications and or mentions of the area prepared by the City and/or District.
10. To allow the City and District to promptly begin the Newman Green designation and improvements, the Newmans hereby pledge a gift to CCF in the sum of \$100,000 (the "Gift") to be paid no later than March 1, 2015 and for which Donor will receive an acknowledgment in writing by CCF.

The Newman Green:

11. CCF will use the Gift to make a grant to the City to the extent needed to allow the City to fund the design and installation of landscaping improvements in the Newman Green. The City's Parks Department will provide Donor a landscape plan for the Newman Green as suggested by Exhibit B hereto. The Newman Green installation is intended to include an irrigation system, a diverse collection of plantings and trees, two to four additional benches and general landscaping enhancements. Donor shall approve, subject to input from the District, CCF and City, the final landscaping design prior to installation.
12. The City will promptly initiate installation of the Newman Green landscaping improvements after receipt of funds from the Gift and Donor approval of the design and complete the installation on or about July 30, 2015. If there are any material changes to the improvements due to field conditions or other extenuating circumstances, Donor shall be consulted for approval.
13. The District consents to the City's installation of landscaping improvements on both the City Portion and District Portion of the Newman Green in consideration of the City's commitment to install the improvements at City expense.

Usage and Recognition:

14. The City will maintain the Newman Green in its enhanced landscaped condition for twenty-five (25) years (the "Initial Term"). The District area known as "Centene Plaza" will be maintained by the District.
15. Donor will provide text for the wording on a commemorative donor plaque or stone in consultation with the City, District and CCF and such plaque or

stone will be funded by Donor with funds other than those derived from the Gift.

16. The District and the City agree, each for itself, that during the Initial Term it will respectively preserve the City Portion and District Portion of the Newman Green as open and passive in usage and will not allow parking, large scale art objects, formal sports fields or buildings of any kind to be constructed thereon. However, City and District reserve the right, and Donor acknowledges and accepts, that City and District may, from time to time, grant easements above and below the Newman Green, provided such easements do not permanently interfere with the nature, design and use of Newman Green as described here, and City and District may grant temporary easements that may be disruptive or destructive provided Newman Green is restored to pre-easement condition immediately thereafter. CCF will, in a manner acceptable to Donor, cooperatively publicize the Gift to local media and other potential donors.

Maintenance:

17. CCF will use the Gift to make grants to the City to the extent needed to allow the City to provide regular and necessary maintenance for the upkeep of the Newman Green including maintenance and repair of the irrigation system at a quality standard similar to other first class parks in the City. The City and District will respectively and separately maintain property and liability insurance on their respective portion of the Newman Green in a manner and to an extent no less than is currently in place. District agrees to allow the irrigation system for Newman Green to connect to District's water service and to pay for and supply all water used for irrigation of Newman Green during the Initial Term.

Change of Circumstances:

18. During the Initial Term, the Donor may, at any time, request removal of their name from any commemorative plaque or stone.
19. The City may also withdraw or modify name recognition if, in their reasonable judgment, the Donor becomes the subject of public disrepute or scandal that would make continued association of a public property with the Donor's name inappropriate. Such action, can, in any event, only be considered after written notice, and substantial discussion with the City, District, CCF and the Donor. Any decision shall be accompanied by a written statement, detailing the factors reasonably considered in making such a judgment and concluding that the events having occurred under this Section 19 would reasonably be expected to cause public opprobrium, criticism or other adverse public reaction by reason of continuing to so acknowledge a public property.

Miscellaneous:

20. Each party represents and warrants that: (i) they have the power and authority to enter into and perform their obligations under this Agreement; (ii) upon signature, the agreement is a valid and binding agreement between the parties; and (iii) performance hereunder will not violate any applicable law, regulation or ordinance.
21. The City and District acknowledge that during the Initial Term hereof, the Donor will not be responsible in any way for the actual day-to-day maintenance or repair of the Newman Green and the Donor will have no control over how the Newman Green is used except to the extent of the expectation set forth in Section 16 above. The City further acknowledges that the District does not have any obligation for maintenance or repair of the Newman Green or the irrigation system, subject to the District's obligation to supply water as specified in Section 17, above. In the event of any claim regarding the Newman Green being made by a third party against the Donor relating to or arising out of or in connection with (i) the negligent, wrongful, tortious or criminal acts or omissions of the City or District or of their respective directors, officers, employees and/or agents, or (ii) the failure by the City to provide maintenance and regular upkeep or by the City and District to provide adequate insurance as reflected in Section 17, the appropriate party as part of any defense thereto, will reaffirm in writing the Donor's lack of involvement in providing physical maintenance, repair, or control of the Newman Green.
22. Notices. Any notices or other communications under this Agreement shall be in writing and delivered to the addresses listed below unless otherwise specified in written notice by either party to the other:

If to Foundation: Andrew Newman  
220 Topton Way  
Clayton, MO 63105

If to CCF: Clayton Century Foundation, President  
10 N. Bemiston Avenue  
Clayton, Missouri 63105

If to the City: City Manager  
City of Clayton  
10 N. Bemiston Avenue  
Clayton, Missouri 63105

With Copy to: Parks & Recreation Director  
50 Gay Avenue  
Clayton, Missouri 63105

If to School

District: Superintendent  
Clayton School District  
Administrative Center  
#2 Mark Twain Circle  
Clayton, Missouri 63105

23. Force Majeure. In no event shall any party be liable for any delay or failure to perform hereunder, which delay or failure is due to causes beyond the reasonable control of that party, including, without limitation, acts of God , embargos, acts or regulations of any governmental authority, war or civil disturbances (each a “Force Majeure Event”). The delayed party’s time for performance shall be extended for a period of time equivalent to the time lost because of the excusable delay.
24. Except as otherwise noted, no party may assign, transfer or delegate any of its rights or obligations under this Agreement, and any attempt to do so shall be null and void. Provided, however, that either the City or the District may agree to transfer and convey its interest in the Newman Green property (i.e. the “City Portion” or “District Portion” described in Section 8 above) to the other party, after which the conveying party shall have no further obligation with respect to this Agreement except that the District’s obligation to provide and pay for water for irrigation in accord with Paragraph 17, above, shall not be affected by any conveyance between the parties.
25. This Agreement and all other terms and conditions contained herein or in any other schedule or attachment hereto, may be amended, modified or supplemented only in writing signed by each party hereto.
26. Waiver: No waiver or indulgence by a party to this Agreement as to any required performance by another party shall constitute a waiver as to any subsequent required performance or other obligations of any party hereto. No provision of this Agreement may be waived except in writing signed by each party hereto.
27. No Joint Venture: Nothing herein shall be construed or deemed to create any relationship of joint venture, partnership, master-servant, employer-employee, or principal-agent between the parties. Except as expressly provided herein, no party shall have authority to commit or bind the other with respect to any third party.
28. Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile or electronic copies hereof shall be deemed to be originals.
29. Entire Agreement. This Agreement, including any exhibits hereto, sets forth the entire understanding between the parties with respect to the subject matter, and supersedes all prior or contemporaneous



understandings, communications or agreements, whether written or oral, regarding such subject matter.

IN WITNESS WHEREOF the parties have executed this Agreement by their duly authorized representatives as of the last date written below.

Eric P. and Evelyn E. Newman Foundation

Clayton Century Foundation, a Missouri 501(c)(3) not-for-profit

By: \_\_\_\_\_  
Eric P. Newman, Trustee

By: \_\_\_\_\_  
Judy Goodman, President

\_\_\_\_\_  
Evelyn E. Newman, Trustee

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

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

School District of Clayton, MO

City of Clayton, Missouri

By: \_\_\_\_\_  
Sharmon Wilkinson, Superintendent

By: \_\_\_\_\_  
Craig S. Owens, City Manager

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

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

# Exhibit A: Newman Green

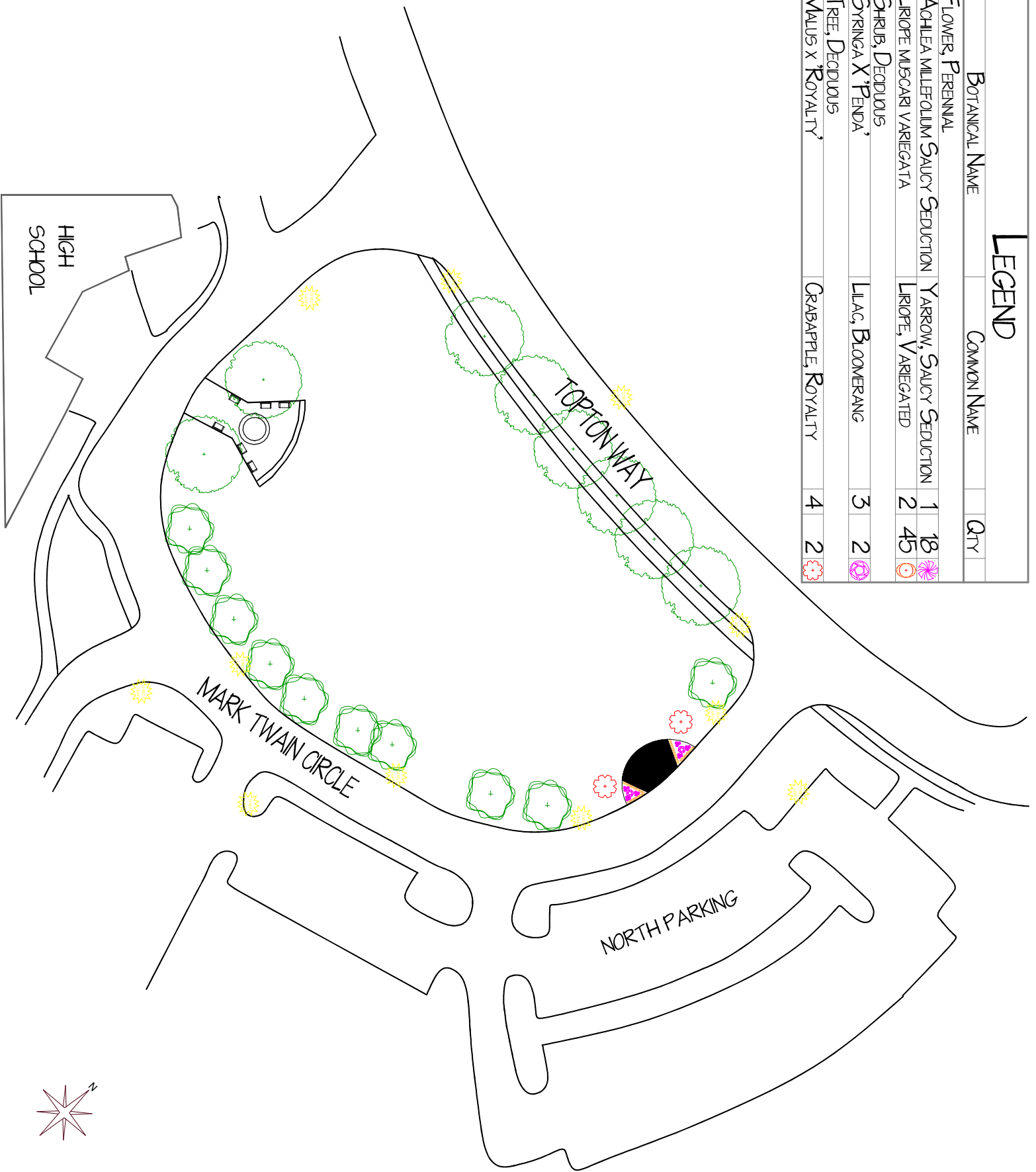


— — — Project area

— — — City/School District Property Line

# LEGEND

BOTANICAL NAME	COMMON NAME	QTY
FLOWER, PERENNIAL		
ACHILLEA MILLEFOLIUM SAUCY SEDUCTION	YARROW, SAUCY SEDUCTION	1 18
LIRIOPE MUSCARI VAREGATA	LIRIOPE, VAREGATED	2 45
SHRUB, DECIDUOUS		
SYRINGA X 'PENDA'	LIAC, BLOOMERANG	3 2
TREE, DECIDUOUS		
MAUIS X 'ROYALTY'	GRABAPPLE, ROYALTY	4 2







Revision #:  
Date: 2/5/2015

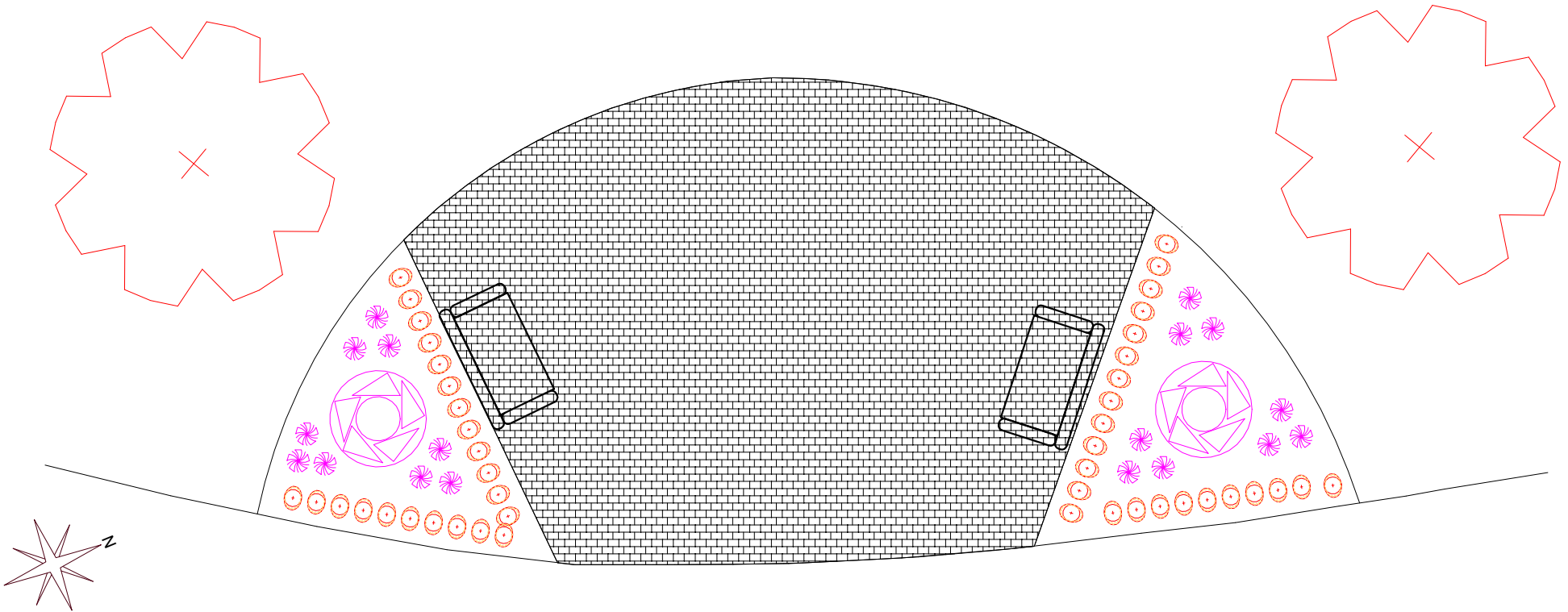
Scale:  
1/64" = 1'

Landscape Plan: 1  
**Newman Green Site Plan**

Landscape Design by: Geni Metzger  
**City of Clayton**

# LEGEND

BOTANICAL NAME	COMMON NAME	QTY		
FLOWER, PERENNIAL				
ACHILEA MILLEFOLIUM SAUCY SEDUCTION	YARROW, SAUCY SEDUCTION	1	18	
LIRIOPE MUSCARI VARIEGATA	LIRIOPE, VARIEGATED	2	45	
SHRUB, DECIDUOUS				
SYRINGA X 'PENDA'	LILAC, BLOOMERANG	3	2	
TREE, DECIDUOUS				
MALUS X 'ROYALTY'	CRABAPPLE, ROYALTY	4	2	



Revision #:	Scale:	Landscape Plan: 1	Landscape Design by: Geni Metzger
Date: 2/5/2015	1/16" = 1'	<b>Newman Green Exhibit B</b>	<b>City of Clayton</b>



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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TO: MAYOR SANGER; BOARD OF ALDERMEN  
FROM: CRAIG S. OWENS, CITY MANAGER (CSO)  
JANET K. WATSON, DIRECTOR OF FINANCE AND ADMINISTRATION  
DATE: FEBRUARY 10, 2015  
SUBJECT: RESOLUTION TO CHANGE PAYING AGENT FOR BUILD AMERICA  
BONDS, SERIES 2009A AND 2009B

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When the City passed the two recent bond issues, the City entered into an escrow trust agreement with UMB Bank, N.A. ("UMB") to serve as the City's escrow agent. This agreement named UMB as the escrow agent on the new bond issues, as well as provided authority for UMB to act as paying agent on all outstanding City bond issues. The reason the City would want to combine to only one paying agent is for efficiency in sending large transfers of funds for bond payments, centralized communication of important information, and the need to assure our continuing disclosure requirements are met with only one entity.

There are two remaining bond issues, Build America Bonds Series 2009A and 2009B, which are still registered with the previous paying agent. These bonds are currently registered with The Bank of New York Mellon Trust Company, N.A. (successor to BNY Trust Company of Missouri and the Bank of New York Trust Company, N.A.) ("BNY").

The attached resolution authorizes the City to execute the necessary documents to transfer the paying agent from BNY to UMB on the Build America Bonds.

**Recommended Actions:** Staff recommends approving the attached resolution transferring the paying agent from BNY to UMB for the Build America Bonds, Series 2009A and 2009B.

**RESOLUTION NO. 15-02**

**RESOLUTION TERMINATING THE EXISTING PAYING AGENT  
AND APPOINTING A SUCCESSOR PAYING AGENT WITH RESPECT  
TO CERTAIN BOND ISSUES OF THE CITY**

**WHEREAS**, the City of Clayton, Missouri (the “City”) has heretofore issued and has outstanding the following series of special obligation bonds (collectively, the “Bonds”):

<u>Series of Bonds</u>	<u>Date of Bonds</u>	<u>Original Principal Amount</u>
Taxable Build America (Direct-Pay) Special Obligation Bonds, Series 2009A	November 5, 2009	\$6,420,000
Taxable Build America (Direct-Pay) Special Obligation Bonds, Series 2009B	November 5, 2009	\$8,580,000

**WHEREAS**, The Bank of New York Mellon Trust Company, N.A. (as successor to BNY Trust Company of Missouri and The Bank of New York Trust Company, N.A.) (“BNY”) is the existing paying agent for the Bonds; and

**WHEREAS**, the City desires to terminate BNY as paying agent for the Bonds and appoint UMB Bank, N.A. (“UMB”) as successor paying agent for the Bonds, as UMB is the paying agent for all other bonds of the City;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:**

**Section 1. Termination and Appointment.** The City hereby terminates BNY as paying agent for the Bonds and appoints UMB as successor paying agent for the Bonds. The City is authorized to give notice to (1) BNY of its termination, and (2) the registered owners of the bonds of the appointment of UMB as successor paying agent.

**Section 2. Further Authority.** The officers, agents and employees of the City, including the Mayor, Board of Aldermen, City Clerk, and the City Manager and Director of Finance and Administration of the City, are authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution, and to carry out, comply with and perform the duties of the City, to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

**Section 3. Effective Date.** This Resolution shall take effect and be in full force immediately after its passage by the Board of Aldermen of the City.

**PASSED** by the Board of Aldermen of the City of Clayton, Missouri this \_\_\_\_ day of \_\_\_\_\_, 2015.

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Mayor

ATTEST:

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City Clerk



City Manager  
10 N. Bemiston Avenue  
Clayton, MO 63105

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## REQUEST FOR BOARD ACTION

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**TO:** MAYOR SANGER; BOARD OF ALDERMEN  
**FROM:** CRAIG S. OWENS, CITY MANAGER  
JUNE FRAZIER, CITY CLERK  
**DATE:** FEBRUARY 10, 2015  
**SUBJECT:** APPOINTMENT TO THE SUSTAINABILITY COMMITTEE

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Due to a recent resignation of a member of the Sustainability Committee Ward 1 has nominated George Hettich to be appointed to serve a three-year term ending June 30, 2018.

Recommendation is to approve the appointment.