

# City of Columbia

701 East Broadway, Columbia, Missouri 65201



**Agenda Item Number:** B 336-14

**Department Source:** Public Works

**To:** City Council

**From:** City Manager & Staff

**Council Meeting Date:** November 3, 2014

**Re:** Authorizing a Right of Use Permit for a Hood Exhaust Fan that Protrudes into the Right of Way of the Alley between 114 S. Ninth Street and 118 S. Ninth Street

## Documents Included With This Agenda Item

Council Memo, Resolution/Ordinance, Exhibit to Resolution/Ordinance

**Supporting documentation includes:** Maps, Diagrams (construction, route, etc.)

## Executive Summary

Authorizing the City Manager to execute a Right of Use permit with Michael Urban to construct, operate, and maintain a hood exhaust fan that protrudes into the right of way of the alley between 114 S. Ninth Street and 118 S. Ninth Street.

## Discussion

Michael Urban, of Harold's Doughnuts located at 114 S Ninth Street, has requested to construct, operate and maintain a hood exhaust fan that protrudes 4' & 7-3/4" out into the right of way of the alley located between 114 and 118 S. Ninth Street. Staff from the departments of Public Works and Fire reviewed the location of the hood exhaust fan and has no issues.

The Right of Use permit stipulates the responsibilities and duties of Michael Urban and is similar to other Right of Use permits granted for this type of project.

## Fiscal Impact

Short-Term Impact: None

Long-Term Impact: None

## Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Not Applicable

Comprehensive Plan Impact: Not Applicable

## Suggested Council Action

Authorize the City Manager to execute a Right of Use permit with Michael Urban to construct, operate, and maintain a hood exhaust fan that protrudes into the right of way of the alley between 114 and 118 S. Ninth Street.

# City of Columbia

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## Legislative History

None

A handwritten signature in cursive script, appearing to read "John D. Howard", written over a horizontal line.

Department Approved

A handwritten signature in cursive script, appearing to be a stylized "M", written over a horizontal line.

City Manager Approved

Introduced by \_\_\_\_\_

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

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

Council Bill No. B 336-14

**AN ORDINANCE**

authorizing a right of use permit with Michael Urban for construction, improvement, operation and maintenance of a hood exhaust fan to extend in a portion of the alley right-of-way between 114 S. Ninth Street and 118 S. Ninth Street; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a right of use permit with Michael Urban for construction, improvement, operation and maintenance of a hood exhaust fan to extend in a portion of the alley right-of-way between 114 S. Ninth Street and 118 S. Ninth Street. The form and content of the permit shall be substantially in the same form as set forth in "Exhibit A" attached hereto.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

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

\_\_\_\_\_  
Mayor and Presiding Officer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Counselor

### RIGHT OF USE PERMIT

KNOW ALL MEN BY THESE PRESENT that on this \_\_\_\_\_ day of \_\_\_\_\_, 2014 the **CITY OF COLUMBIA, MISSOURI** a municipal corporation, in consideration of the sum of ten dollars (\$10.00) and other considerations to it paid, does hereby permit **MICHAEL URBAN** (hereinafter referred to as "Permittee"), Permittee's heirs and/or assigns, to enter upon the following described lands owned by the City of Columbia and located within the alley right-of-way south of 114 S. Ninth Street, Columbia, County of Boone, State of Missouri, and more particularly described as follows, to wit:

**The alley right-of-way located south of 114 S. Ninth Street, within the limits of the City of Columbia, further described by the attachment(s) attached to this Right of Use Permit.**

This permit is subject to the following conditions and stipulations:

1. This permit is for the sole purpose of construction, improvement, operation and maintenance of an exhaust fan built in the alley right-of-way located south of 114 S. Ninth Street, as set forth in "Attachment A" attached hereto, and does not grant Permittee exclusive rights to any part of the right-of-way.
2. This permit does not grant Permittee or any of its officers, agents or employees, the right to cut, break, excavate or damage the street pavement of the alley located south of 114 S. Ninth Street without City consent.
3. Permittee will be responsible for the costs of any future repairs, maintenance or replacements which is the result from Permittee's use under this Right of Use Permit.
4. Prior to exercising its right granted herein, Permittee shall present construction plans or diagrams locating the proposed exhaust fan to the City Public Works Department and City Water and Light Department and any existing utility company using facilities located within the limits of the Permit. Permittee may not conflict with existing facilities located in the right-of-way.
5. Prior to exercising its right granted hereunder, Permittee agrees to obtain all necessary permits required by the City of Columbia pertaining to work being done in the right-of-way.
6. If the exhaust fan is ever abandoned, all rights herein granted shall cease and terminate and Permittee shall have no further right of interest therein except that, upon abandonment, Permittee remains responsible for all of Permittee's facilities and structures left in place and any costs to remove them or store them or to otherwise clean up easement.
7. If at any time during construction, repair, modification or relocation of the exhaust fan, or any utility existing in the easement at the time this permit is granted, is necessary which would require the relocation of the exhaust fan, the Permittee shall relocate the exhaust fan at their own expense.

8. The Permittee acknowledges it is constructing facilities in the right-of-way which may cause an obstruction or be damaged by vehicles utilizing the right-of-way. The Permittee expressly agrees by exercising its rights under this permit that if the exhaust fan is damaged in any way, whether negligently or intentionally, it will repair or replace the exhaust fan at their own cost and hold the City of Columbia harmless for any of the costs associated with the repair or replacement or any other costs associated with the damage to the exhaust fan.
9. This permit shall remain in effect until canceled by the City of Columbia, which shall be obligated to notify the Permittee six (6) months in advance of cancellation.

IN WITNESS WHEREOF, the parties have caused this Right of Use Permit to be executed by their duly authorized agents on the day and year first above written.

**CITY OF COLUMBIA, MISSOURI**

By: \_\_\_\_\_  
Mike Matthes, City Manager

ATTEST:

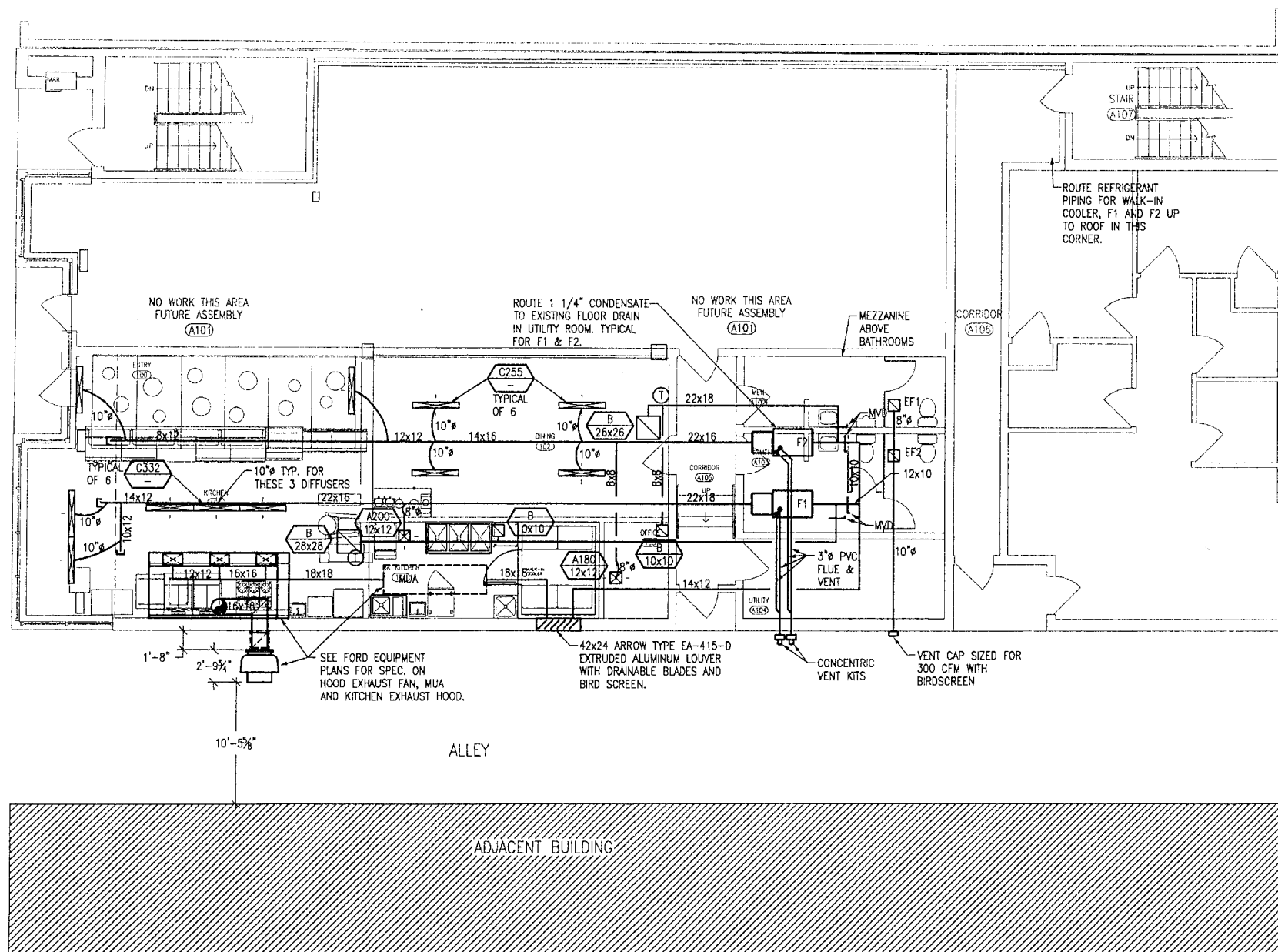
By: \_\_\_\_\_  
Sheela Amin City Clerk

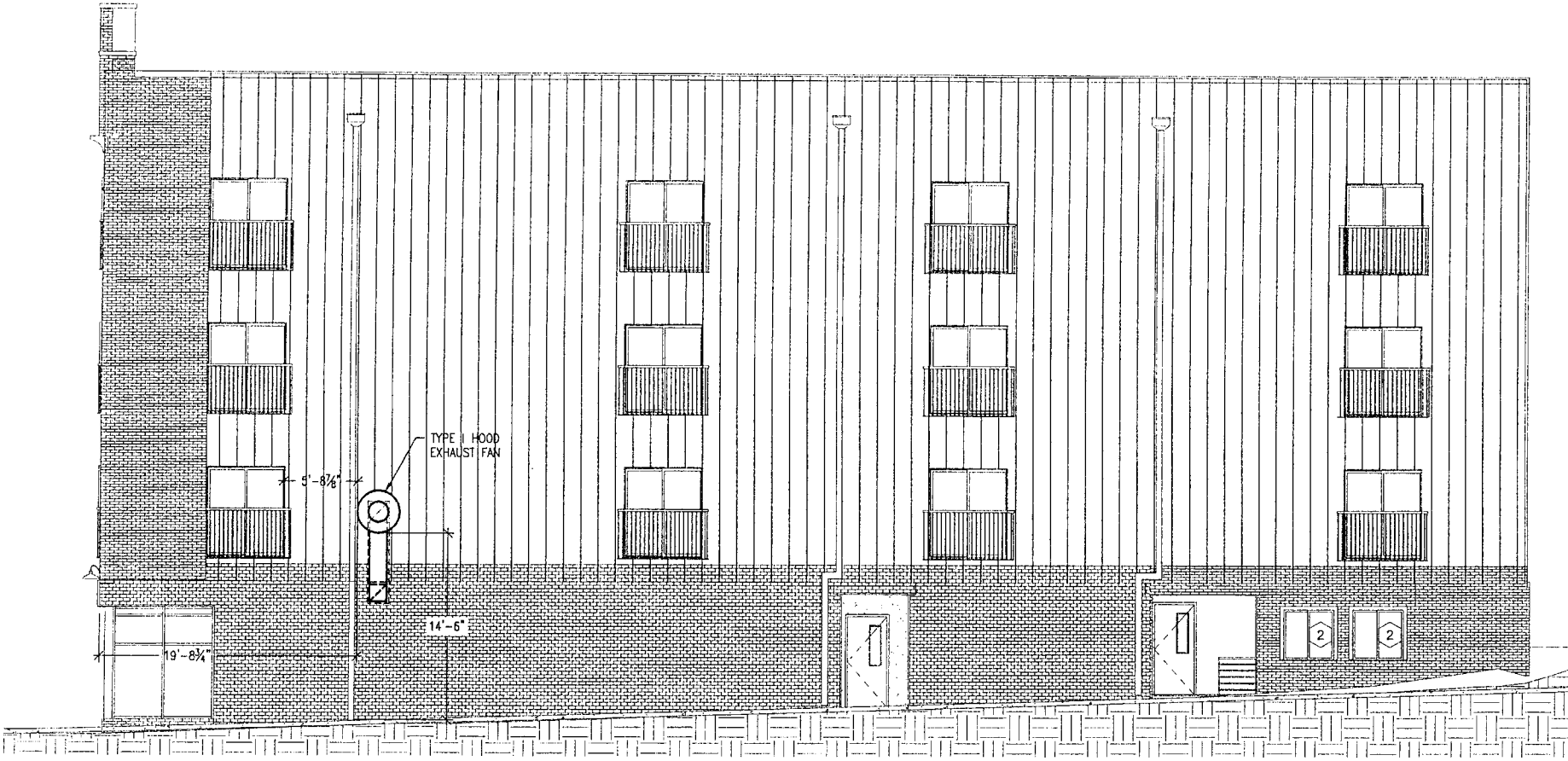
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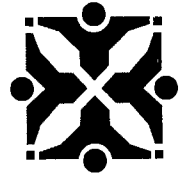
By: \_\_\_\_\_  
Nancy Thompson City Counselor

**PERMITTEE**

By: \_\_\_\_\_  
Michael Urban







## SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Maps, Diagrams (construction, route, etc.)



