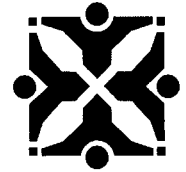


City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 385-15

Department Source: City Manager, Law

To: City Council

From: City Manager & Staff

Council Meeting Date: 12/21/2015

Re: Authorizing an Agreement with The Curators of the University of Missouri to Transfer Property Owned by the City of Columbia Located at Fifth Street and Locust Street

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Exhibits to Resolution/Ordinance

Supporting documentation includes: Maps, R-42-11 authorizing Memorandum of Understanding between the City and University

Executive Summary

Requesting approval of an ordinance to transfer property owned by the City of Columbia located at Fifth Street and Locust Street to the University of Missouri.

Discussion

In 2011, the City entered into a memorandum of understanding (MOU) with The Curators of the University of Missouri and the State Historical Society of Missouri related to the future site of the headquarters for the State Historical Society. The MOU provided that if any time within five years the Historical Society obtained funding for construction of a new facility, the University would allow construction on property it owns (currently used as a surface parking lot) at Sixth and Elm Streets and the City would transfer title to property it owns at Fifth and Locust Streets to the University in exchange for the University's lost parking at Sixth and Elm. The City has received notification from the Historical Society that funding has been obtained for construction of the new headquarters in Columbia, and the parties desire to formalize an agreement to transfer the property from the City to the University upon commencement of construction of the new headquarters. The attached agreement provides for such transfer to occur at no additional cost to the City.

Fiscal Impact

Short-Term Impact: Current average annual revenue is \$41,813.00 per year. Cost per square foot is estimated between \$100-\$150, so the value of the property is estimated at somewhere between \$3,302,500.00 to \$4,803,750.00.

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The value of increased tourism and economic activity generated by headquarters construction and visitor activity has not been calculated in monetary terms.

Long-Term Impact: Not applicable

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Arts and Culture, Community Character, Development, Downtown, Economic Development, Education

Strategic Plan Impact: Economy...Jobs that Support Families

Comprehensive Plan Impact: Economic Development, Inter-Governmental Cooperation

Suggested Council Action

No suggested action.

Legislative History

R 42-11 Adopted by City Council on March 21, 2011.



Department Approved

City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 385-15

AN ORDINANCE

authorizing a property transfer agreement with The Curators of the University of Missouri relating to City-owned property located at the corner of Fifth Street and Locust 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 property transfer agreement with The Curators of the University of Missouri relating to City-owned property located at the corner of Fifth Street and Locust Street. The form and content of the agreement shall be substantially in the same form as set forth in "Attachment A" attached hereto.

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

PASSED this _____ day of _____, 2016.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

**PROPERTY TRANSFER AGREEMENT
(5TH & Locust)**

THIS AGREEMENT ("Agreement"), is entered into as of the date such Agreement is executed by the last party to subscribe its name hereto (the "Effective Date") by and between the **City of Columbia, Missouri**, a municipal corporation, (hereinafter the "City") and **The Curators of the University of Missouri** (hereinafter the "University").

WHEREAS, in April of 2011, the parties and the State Historical Society of Missouri (hereinafter the "Society") executed a Memorandum of Understanding which provided the general terms and conditions under which the parties thereto would consider entering into an agreement to facilitate construction of a new museum and headquarters for the Society (hereinafter the "Museum Project") in the event adequate funding for design and construction of the Museum Project was substantially obtained; and

WHEREAS, through bonds to be issued by the Missouri Development Finance Board, the proceeds of which are to be loaned to the State of Missouri (the "State") to finance the cost of the Museum Project, the State has represented to the parties that it has substantially obtained adequate funding for the Museum Project; and

WHEREAS, said Memorandum of Understanding contemplated that the Museum Project would be constructed on the site of a surface parking lot at 6th and Elm Streets in Columbia, Missouri, on property owned by the University and legally described on Exhibit A attached hereto (hereinafter "University Property"; and

WHEREAS, said Memorandum of Understanding further contemplated the City would transfer to the University a tract of land at 5th Street between Locust and Cherry Streets, in Columbia, Missouri, and legally described on Exhibit B-1 attached hereto (the "City Property"); and

WHEREAS, the City is the owner of an alley which bisects those parcels constituting the University Property, and legally described on Exhibit B-2 hereto (the "Alley")

WHEREAS, the University intends to enter into a ground lease with the State for the University Property, and a separate agreement with the State to provide for construction and operation of the Museum Project; and

WHEREAS, the parties find construction of the Museum Project on the University Property is in the best interest of the public and will enhance economic, cultural, and historic opportunities available to the citizens of the City as well as students and faculty of the University; and

WHEREAS, in order to facilitate construction of the Museum Project, the parties desire to provide for the transfer by the City of ownership in both the City Property and the Alley to the University;

NOW THEREFORE, in order to provide and protect the health, safety and welfare of the public, ten dollars (\$10.00) paid to the City, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **TRANSFER OF CITY PROPERTY.** Subject to the terms and conditions of this Agreement, City agrees to transfer to University the City Property and the Alley by Quit Claim Deeds, free and clear of all liens and encumbrances whatsoever. Such transfers shall occur within a reasonable time, not less than thirty (30) days, before the Construction Commencement Date. The "Construction Commencement Date" shall be the date identified by the State as that date on which the State intends to begin construction activities on the University Property. The University shall provide written notice to the City of the Construction Commencement Date, as identified by the State to University, in writing. The City shall maintain the City Property and the Alley substantially in the same condition as each is in as of the Effective Date hereof until the transfer contemplated herein, or the expiration of this Agreement, whichever is earlier. The property is being transferred "as is" and in its present condition, status and state of repair with no representation or warranty, express or implied, as to the condition, fitness for particular use, state of title, availability of utilities, capacity for development, compliance with law (including without limitation building codes, zoning laws and environmental laws. All costs of transfer, including, but not limited to, title examination, survey, inspections, filing fees, closing fees, etc. shall be borne by University. The City agrees to use its best efforts and cooperate with University to resolve any title or boundary issues which may be identified by University during the process of effectuating transfer of the property.
2. **TERMINATION.** This Agreement shall terminate in the event the Construction Commencement Date does not occur within two (2) years following the Effective Date of this Agreement.
3. **ENTIRE AGREEMENT.** Should any clause, paragraph, sentence or section of this Agreement be determined to be void, illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of the Agreement shall not be rendered void and enforceable as a result but rather shall remain in full force and effect.
4. **NON WAIVER.** A party's waiver of any right, or any default of the other party, shall not constitute a waiver of any other right or constitute waiver of any other default or any subsequent default.
5. **ENTIRE AGREEMENT/AMENDMENTS.** This Agreement constitutes the entire Agreement between the parties with respect to its subject matter, and supersedes any and all previous written or oral agreements or representations between the parties. This Agreement may only be amended in writing signed by both parties. Except as expressly authorized herein, the City's agents and representatives do not have authority to make any changes to this Agreement except by authorized written amendments authorized by the City Council.
6. **NO ASSIGNMENT OR TRANSFER.** The rights and privileges granted herein shall not be assignable or transferable by either party to any other person or entity without the express written consent of other party.
7. **JURISDICTION/VENUE.** This Agreement is made under the laws of the State of Missouri, and any disputes that arise under or related to this Agreement shall be governed by the laws of Missouri, without regard to conflicts of law principles. Venue for any legal action involving this Agreement shall be in Boone County, Missouri.

8. **NOTICES.** Any notice under this Agreement shall be given by certified mail, overnight mail, or by personal delivery, and shall be effective upon receipt. Notice shall be sent to the address for the receiving party as designated herein:

For University:

For City:

City of Columbia

Attn: City Manager

701 E Broadway

Columbia, MO 65201

With a copy to:

City of Columbia

City Counselor

701 E Broadway

Columbia, MO 65201

9. **AUTHORIZATION.** Each party represents and warrants to the other that the execution, delivery and performance of this Agreement and the transaction herein has been duly authorized by all necessary corporate and governmental actions required of such party, and constitutes the valid and binding obligations of the respective parties, enforceable in accordance with respective terms, and that the persons executing this Agreement have full authority to execute this Agreement on behalf of his or her respective party.

[Signature Page Follows]

WHEREFORE, this Agreement is executed by the parties hereto to be effective as of the date of the last party to execute.

For University:

Dated: _____

For City:

Mike Matthes, City Manager

Dated: _____

Attest:

Sheela Amin, City Clerk

Approved as to form:

Nancy Thompson, City Counselor

Exhibit A
Legal Description of University Property

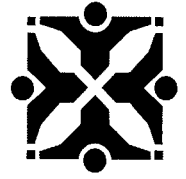
[to be inserted by the parties following survey, if needed]

Exhibit B-1
Legal Description of City Property

[to be inserted by the parties following survey, if needed]

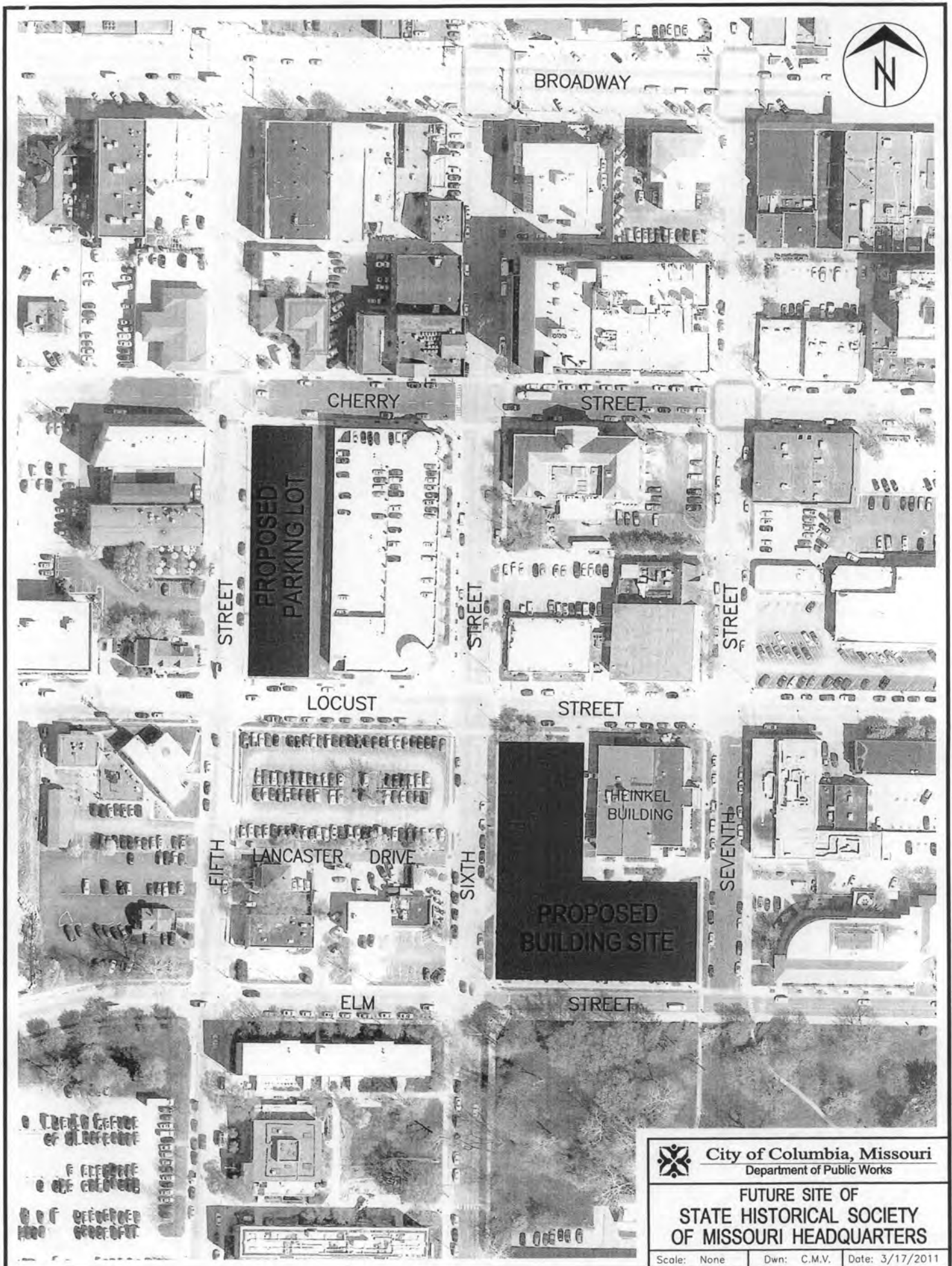
Exhibit B-2
Legal Description of Alley

[to be inserted by parties following survey, if needed]



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Maps, R-42-11 authorizing Memorandum of Understanding
between the City and The Curators of the University of Missouri



City of Columbia, Missouri
Department of Public Works

FUTURE SITE OF
STATE HISTORICAL SOCIETY
OF MISSOURI HEADQUARTERS

Scale: None Dwn: C.M.V. Date: 3/17/2011

Introduced by McDavid Council Bill No. R 42-11

A RESOLUTION


authorizing a memorandum of understanding with the University of Missouri and the State Historical Society of Missouri relating to the future site of the headquarters for the State Historical Society.

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

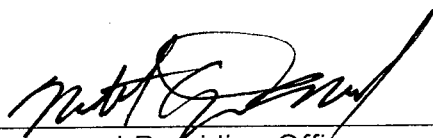
SECTION 1. The City Manager is hereby authorized to execute a memorandum of understanding with the University of Missouri and the State Historical Society of Missouri relating to the future site of the headquarters for the State Historical Society. The form and content of the memorandum of understanding shall be substantially as set forth in "Exhibit A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

ADOPTED this 21st day of March, 2011.

ATTEST:

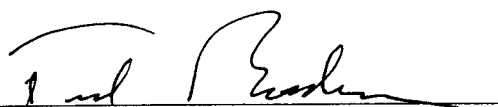


City Clerk



Mayor and Presiding Officer

APPROVED AS TO FORM:



City Counselor

City of Columbia
Missouri
Recorder's Office

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is intended to outline the general terms of the future agreement between the City of Columbia, Missouri, the University of Missouri, and the State Historical Society of Missouri relating and pertaining to provision of a site for construction of a new facility and headquarters for the Society on land presently owned by the University, on the following general terms:

1. The Society has secured funding to prepare preliminary plans for the new facility and has commenced work thereon.
2. The parties acknowledge that in order for the Society to properly plan, design, and determine the cost of the new facility, it is necessary for the location of the new facility to be secured.
3. The parties acknowledge that the Society is presently without funds to build the new facility and will require that funding of construction of the new facility be obtained through capital improvement appropriations by the State of Missouri, charitable contributions, and grants from the funding sources. This Memorandum of Understanding is contingent upon the Society obtaining sufficient funding for the new facility from those funding sources.
4. The University is the owner of Lots 19, 20, 21, 46, 47, and 48 in the Original town, now the City of Columbia, Missouri and that is a building known as the "Heinkel Building" presently located in the northeast part of the University property on Lot 46 and the east half of Lot 47. The remainder of the University property consisting of Lots 19, 20, 21, 48 and the west half of Lot 47 which is presently used for surface parking shall be designated as the location for the Society's new facility. The parties also desire that the Society's new facility shall be erected at the new location at such time as funding is obtained for that purpose.
5. The parties acknowledge that the City is presently the owner of Lot 79 and Lot 114 of the Original Town, now the City of Columbia, Missouri, together with the 15 foot wide alley that lies between Lots 79 and 114 (which previously has been vacated) and the 15-foot wide alley bisecting the University property lying between Lots 46, 47 and 48 on the north and Lots 19, 20 and 21 on the south.
6. If, at any time within five years after the date of this Memorandum, the Society substantially obtains funding for construction of its new facility at the new location the University shall permit the new facility to be constructed on the new location for the use of the Society, provided only that: Society designs the new facility with a future University addition in mind (if the University decides to tear down the Heinkel Building and construct a building addition for University use); the Society will design the building to provide parking for its employees and patrons; the Society will design the building to connect to University utility systems; and the Society will pay for the operation, utilities and maintenance of the new facility after the same is constructed.

7. Within a reasonable time before construction of the new facility commences, the City shall transfer and convey the City property and the alley to the University; provided that the Society agrees that the facility shall remain in Columbia for a reasonable period of time and shall be made reasonably available to the citizens of Columbia.

8. In agreeing to the provisions of this Memorandum of Understanding, the parties acknowledge that it does not constitute a binding commitment or enforceable obligation of any of the parties and that no such binding and enforceable obligation will come into existence unless and until a more detailed and definitive written agreement is properly authorized by the Curators of the University, City Council of the City of Columbia, Missouri, and the Trustees of the Society.

Dated: April 7, 2011

UNIVERSITY OF MISSOURI

By: Brady J. Deaton
Brady Deaton,
Chancellor

CITY OF COLUMBIA, MISSOURI

By: Paula Hertwig Hopkins
Paula Hertwig Hopkins,
Interim City Manager

STATE HISTORICAL SOCIETY OF MISSOURI

By: Stephen N. Limbaugh, Jr.
Stephen N. Limbaugh, Jr.,
President, Board of Trustees