

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 344-13

AN ORDINANCE

authorizing rights of use permits with MM III, LLC to allow construction, improvement, operation and maintenance of balconies and canopies to extend in a portion of the Ninth Street (404 South Ninth Street) right-of-way; 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 MM III, LLC to allow construction, improvement, operation and maintenance of balconies to extend in a portion of the Ninth Street (404 South Ninth Street) right-of-way. The form and content of the permit shall be substantially in the same form as set forth in "Exhibit A" attached hereto.

SECTION 2. The City Manager is hereby authorized to execute a right of use permit with MM III, LLC to allow construction, improvement, operation and maintenance of canopies to extend in a portion of the Ninth Street (404 South Ninth Street) right-of-way. The form and content of the permit shall be substantially in the same form as set forth in "Exhibit B" attached hereto.

SECTION 3. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2013.

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 _____, 20____ the City of Columbia, a municipal corporation, in consideration of the sum of ten dollars (\$10.00) and other considerations to it paid, does hereby permit **MM III, LLC**, their heirs and/or assigns (hereinafter referred to as "Permittee") to enter upon the following described lands owned by the City of Columbia and located within the right of way of S. Ninth Street, Columbia, County of Boone, State of Missouri, and more particularly described as follows, to wit:

Install and maintain private balconies within the right of way of S. Ninth Street, at 404 S. Ninth Street, further shown by the diagram attached to this right of use permit.

This permit is subject to the following conditions and stipulations:

1. This permit is for the exclusive purpose of construction, improvement, operation and maintenance of balconies in the right of way of S. Ninth Street, at 404 S. Ninth Street.
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 S. Ninth Street without City of Columbia 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, the Permittee shall present construction plans or diagrams locating the proposed infrastructure 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.
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 balconies are 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 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 balconies or any utility existing in the easement at the time this permit is granted, is necessary which would require relocation of the balconies, the Permittee shall relocate the balconies at their own expense.
8. The Permittee agrees by exercising its rights under this permit that if the balconies become damaged in any way, whether negligently or intentionally by the construction, repair, modification or relocation of any utility existing in the easement at the time this permit is granted it will repair or replace the balconies

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 facilities.

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 said Party of the First Part has caused these presents to be signed by its officers the day and year first written above.

City of Columbia, Missouri

By: _____
Mike Matthes
City Manager

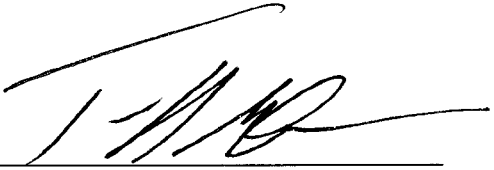
Attest:

By: _____
Sheela Amin
City Clerk

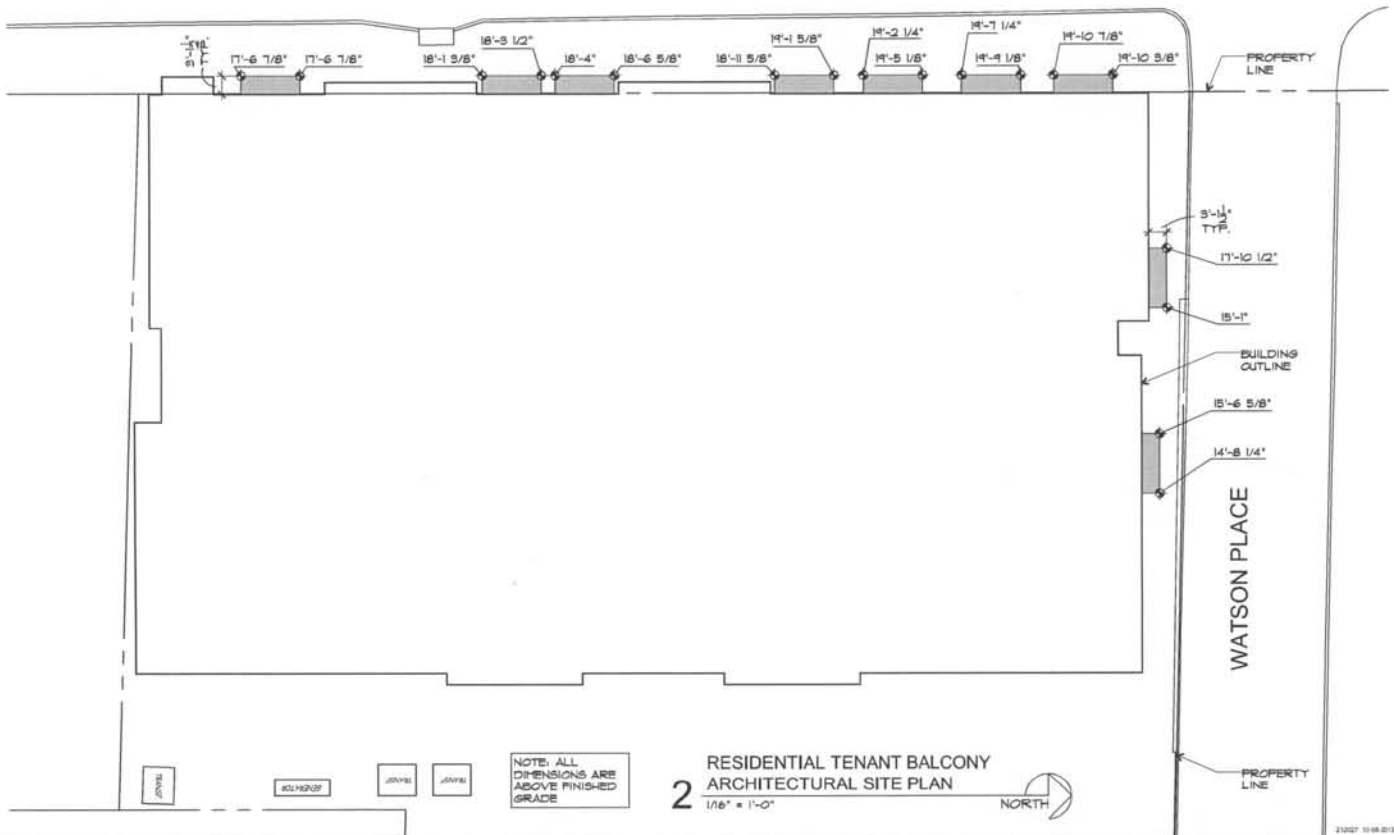
Approved as to form:

By: _____
Nancy Thompson
City Counselor

MM III, LLC

By:  _____
Travis McGee - Member

SOUTH NINTH STREET



MMII, LLC

404 SOUTH NINTH STREET
COLUMBIA MISSOURI

11477 Old Cabin Road | Suite 202
St. Louis, Missouri 63141
P: 314.281.3990
info@acifoundry.com

ACI
FOUNDRY

RIGHT OF USE PERMIT

KNOW ALL MEN BY THESE PRESENT that on this _____ day of _____, 20____ the City of Columbia, a municipal corporation, in consideration of the sum of ten dollars (\$10.00) and other considerations to it paid, does hereby permit **MM III, LLC**, their heirs and/or assigns (hereinafter referred to as "Permittee") to enter upon the following described lands owned by the City of Columbia and located within the right of way of S. Ninth Street, Columbia, County of Boone, State of Missouri, and more particularly described as follows, to wit:

Install and maintain canopies over the sidewalk within the right of way of S. Ninth Street, at 404 S. Ninth Street, further shown by the diagram attached to this right of use permit.

This permit is subject to the following conditions and stipulations:

1. This permit is for the exclusive purpose of construction, improvement, operation and maintenance of canopies in the right of way of S. Ninth Street, at 404 S. Ninth Street.
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 S. Ninth Street without City of Columbia 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, the Permittee shall present construction plans or diagrams locating the proposed infrastructure 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.
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 canopies are 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 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 canopies or any utility existing in the easement at the time this permit is granted, is necessary which would require relocation of the canopies, the Permittee shall relocate the canopies at their own expense.
8. The Permittee agrees by exercising its rights under this permit that if the canopies become damaged in any way, whether negligently or intentionally by the construction, repair, modification or relocation of any utility existing in the easement at the time this permit is granted it will repair or replace the canopies

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 facilities.

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 said Party of the First Part has caused these presents to be signed by its officers the day and year first written above.

City of Columbia, Missouri

By: _____
Mike Matthes
City Manager

Attest:

By: _____
Sheela Amin
City Clerk

Approved as to form:

By: _____
Nancy Thompson
City Counselor

MM III, LLC

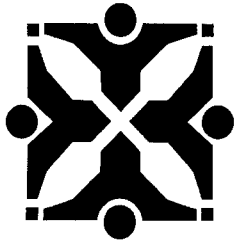
By:  _____
Travis McGee - Member

404 SOUTH NINTH STREET
COLUMBIA MISSOURI

1 RETAIL TENANT CANOPY
ARCHITECTURAL SITE PLAN
1/8" = 1'-0"

11477 Old Cape Road | Suite 100
St. Louis, MO 63141
T: 314.991.9999
grubland.com

ACI
80.450



Source: Public Works

A handwritten signature in black ink, appearing to be "John".

Agenda Item No:

To: City Council
From: City Manager and Staff

A handwritten signature in black ink, appearing to be "M".

Council Meeting Date: Nov 18, 2013

Re: Allowing MM III LLC to Install Balconies and Canopies within a Portion of City Right of Way of S. Ninth Street

EXECUTIVE SUMMARY:

Staff has prepared for Council consideration legislation authorizing the City Manager to execute right of use permits with MM III LLC to install and maintain balconies and canopies within a portion of the right of way at 404 S. Ninth Street.

DISCUSSION:

MM III LLC is proposing to build a mixed use building at 404 S. Ninth Street and has requested to install and maintain private balconies and canopies that would extend into City right of way of S. Ninth Street (see attached diagrams). The right of use permits stipulate the responsibilities and duties of MM III LLC and is similar to other right of use permits granted for this type of project.

FISCAL IMPACT:

None

VISION IMPACT:

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

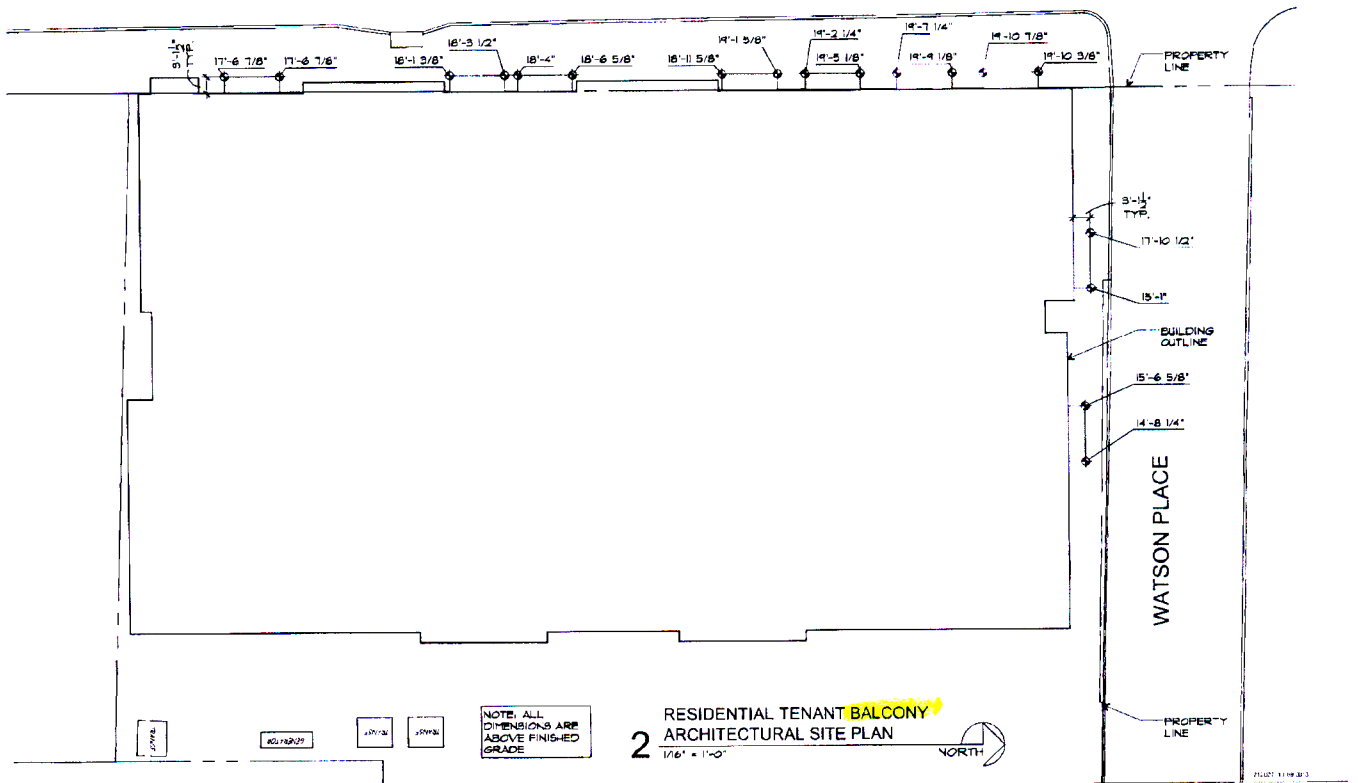
None

SUGGESTED COUNCIL ACTIONS:

Approve the legislation authorizing the City Manager to execute right of use permits with MM III LLC to install and maintain balconies and canopies within a portion of the right of way at 404 S. Ninth Street.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Expands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	

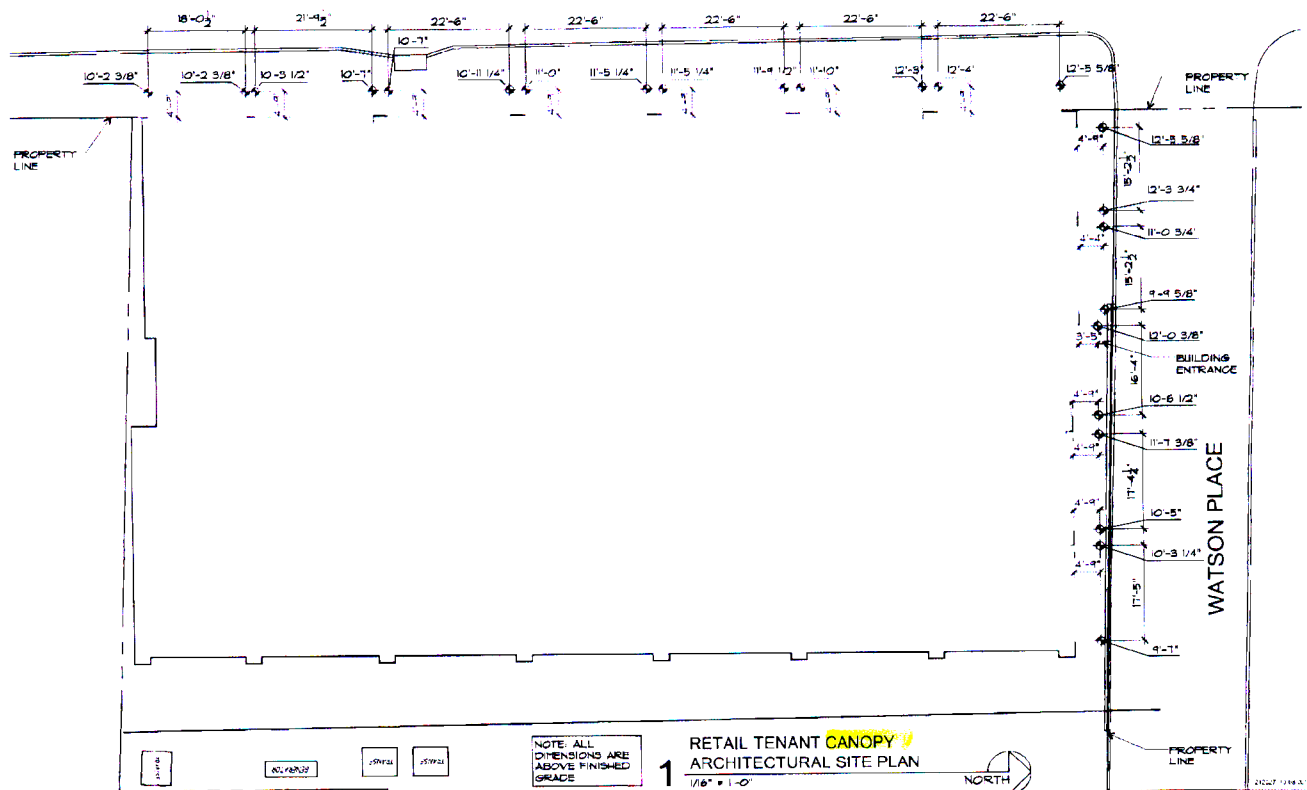
SOUTH NINTH STREET



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