



## CITY OF COLUMBIA, MISSOURI

OFFICE OF CITY CLERK

July 31, 2014

TRANSMITTED VIA E-MAIL

Columbia City Council  
701 E. Broadway  
Columbia, MO 65201

Dear City Council:

As you are aware, a referendum petition entitled "Referendum Petition To Repeal Bill B130-14A, Ordinance No. 022071" was submitted on June 9, 2014, and a supplementary petition was submitted on July 16, 2014. Per Sections 130 and 131 of the Charter of the City of Columbia, Missouri, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of registered voters, and shall certify the results thereof at its next regular meeting.

After review of the supplementary petition, the petition entitled "Referendum Petition To Repeal Bill B130-14A, Ordinance No. 022071" has been signed by a sufficient number of City of Columbia registered voters. Enclosed is the certification, which has been labeled Exhibit A. Also enclosed is the breakdown of the signature count and its supporting documentation (Exhibit B), a copy of the portion of the Charter of the City of Columbia, Missouri, referring to referendum petitions (Exhibit C), and a copy of one of the petition pages (Exhibit D).

The point of the contact for the petition, Jeremy Root, has been notified and enclosed is the letter to Mr. Root (Exhibit E). Note, per Section 133 of the Charter of the City of Columbia, Missouri, the council shall proceed forthwith to reconsider the referred ordinance, and its final vote upon such reconsideration shall be taken within thirty days after certification. If the council fails to repeal an ordinance specified in the referendum petition, such repeal ordinance shall be submitted to the voters of the city at the next election provided by state law which is consistent with applicable notice provisions and available for municipal elections purposes, and that election date would be November 4, 2014.

Please feel free to contact me if you have any questions.

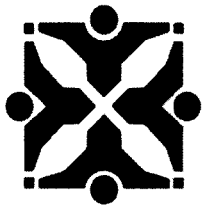
Sincerely,

A handwritten signature in black ink, appearing to read "Sheela Amin", is written over a horizontal line.

Sheela Amin  
City Clerk

Enclosures

cc: Mike Matthes, City Manager  
Nancy Thompson, City Counselor



# CITY OF COLUMBIA, MISSOURI

Exhibit A

OFFICE OF CITY CLERK

**CERTIFICATION RE: THE "REFERENDUM PETITION TO REPEAL BILL B130-14A, ORDINANCE NO. 022071" AFTER THE SUPPLEMENTARY PETITION WAS SUBMITTED**


Per Sections 130 and 131 of the Charter of the City of Columbia, Missouri, I, Sheela Amin, City Clerk in and for the City of Columbia, County of Boone, State of Missouri, hereby certify today, July 31, 2014, that the referendum petition entitled "Referendum Petition To Repeal Bill B130-14A, Ordinance No. 022071" has been signed by a sufficient number of registered voters after receipt and review of the supplementary petition as it has been signed by 3,512 City of Columbia registered voters.

The required number of City of Columbia registered voter signatures needed was equal in number to at least 25 percent of the number of votes cast for council member-at-large at the last municipal election, which by my calculation comes to 3,209 signatures (12,835 x 25%).

This certification does not waive any rights or obligations the City may have, on behalf of itself or others, to claim or declare deficiencies in the form, content or subject matter of the petition, including but not limited to, any allegation or finding the substance of the ordinance relates to exercise of administrative powers by the City which are not subject to referendum under law.

Given under my hand and seal of said City this 31st day of July, 2014.

(seal)

  
Sheela Amin  
City Clerk  
City of Columbia, Missouri

**Supporting documentation in calculating the final signature count for “Referendum Petition To Repeal Bill B130-14A, Ordinance No. 022071” after the Supplementary Petition was submitted**

**City of Columbia Registered Voters:**

2825 (signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is the same as the address on the voter registration record, and the address on the voter registration record is in the City of Columbia – as indicated on the Boone County Clerk certification dated June 26)

+ 406 (supplementary petition submitted on July 16, 2014 – signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is the same as the address on the voter registration record, and the address on the voter registration record is in the City of Columbia – as indicated on the Boone County Clerk certification dated July 30)

**3231 (total signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is the same as the address on the voter registration record, and the address on the voter registration record is in the City of Columbia)**

243 (signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is in the City of Columbia – as indicated on the Boone County Clerk certification dated June 26)

+ 1 (petition page 54 – left out of calculation)

244 (total signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is in the City of Columbia – after further review by the Columbia City Clerk’s Office)

+ 37 (supplementary petition submitted on July 16, 2014 - signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is in the City of Columbia – as indicated on the Boone County Clerk certification dated July 30)

**281 (total signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is in the City of Columbia)**

**3512 (total signatures of City of Columbia registered voters – [3231 (above) + 281 (above) = 3512 (total)])**

**Other:**

251 (signatures of registered voters in Boone County at the address on the petition outside of the City of Columbia, whose address on the petition is the same as the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia – as indicated on the Boone County Clerk certification dated June 26)

+ 41 (supplementary petition submitted on July 16, 2014 - signatures of registered voters in Boone County at the address on the petition outside of the City of Columbia, whose address on the petition is the same as the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia – as indicated on the Boone County Clerk certification dated July 30)

**292 (total signatures of registered voters in Boone County at the address on the petition outside of the City of Columbia, whose address on the petition is the same as the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia)**

40 (signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia – as indicated on the Boone County Clerk certification dated June 26)

+ 6 (supplementary petition submitted on July 16, 2014 - signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia – as indicated on the Boone County Clerk certification dated July 30)

**46 (total signatures of registered voters in Boone County at an address on the petition in the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia)**

30 (signatures of registered voters in Boone County at an address on the petition outside of the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is inside of the City of Columbia – as indicated on the Boone County Clerk certification dated June 26)

+ 7 (supplementary petition submitted on July 16, 2014 - signatures of registered voters in Boone County at an address on the petition outside of the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is inside of the City of Columbia – as indicated on the Boone County Clerk certification dated July 30)

**37 (total signatures of registered voters in Boone County at an address on the petition outside of the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is inside of the City of Columbia)**

## Exhibit B-1

16 (signatures of registered voters of Boone County at an address on the petition outside the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia – as indicated on the Boone County Clerk certification dated June 26)

+ 3 (supplementary petition submitted on July 16, 2014 - signatures of registered voters in Boone County at an address on the petition outside the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia – as indicated on the Boone County Clerk certification dated July 30)

**19 (total signatures of registered voters in Boone County at an address on the petition outside the City of Columbia, whose address on the petition is different from the address on the voter registration record, and the address on the voter registration record is outside of the City of Columbia)**

240 (signatures of persons not registered to vote in Boone County – as calculated by the Boone County Clerk – as indicated on the Boone County Clerk certification dated June 26)

+ 53 (supplementary petition submitted on July 16, 2014 – signatures of persons not registered to vote in Boone County – as calculated by the Boone County Clerk – as indicated on the Boone County Clerk certification dated July 30)

**293 (total signatures of persons not registered to vote in Boone County – as calculated by the Boone County Clerk)**

52 (signatures that are duplicates of previously signed petition pages – as indicated on the Boone County Clerk certification dated June 26)

+ 1 (petition page 358 – left out of calculation)

+ 1 (petition page 358 – left out of calculation)

54 (signatures that are duplicates of previously signed petition pages – after further review by the Columbia City Clerk's Office)

+73 (supplementary petition submitted on July 16, 2014 – signatures that are duplicates of previously signed petition pages – as indicated on the Boone County Clerk certification dated July 30)

**127 (total signatures signatures that are duplicates of previously signed petition pages)**

2 (signatures that were invalid because they did not match the signature on the voter registration record – as calculated by the Boone County Clerk – as indicated on the Boone County Clerk certification dated June 26)

+ 1 (petition page 358 – left out of calculation)

**3 (signatures that were invalid because they did not match the signature on the voter registration record – after further review by the Columbia City Clerk's Office)**



WENDY S. NOREN  
BOONE COUNTY CLERK  
801 E WALNUT RM 236  
COLUMBIA, MO. 65201  
573-573-886-4295 FAX 573-886-4300

Exhibit B-2

I, Wendy S. Noren, County Clerk and Election Authority in and for the County of Boone hereby certify that the City of Columbia petition for the repeal of Ordinance 22071 contains the following:

Qualified voters:

2825 registered voters in the County of Boone who are qualified to vote in the City of Columbia at the address on the petition;

283 signatures may be qualified to vote in the City of Columbia as follows:

243 registered voters in Boone County at an address in the City of Columbia whose address on the petition is different from the address on the voter registration record. The voter would be qualified to vote in the City of Columbia if the voter updates the voter registration address to the address on the petition;

40 registered voters in Boone County at an address outside of the City of Columbia whose address on the petition is different from the address on the voter registration record. The voter would be qualified to vote in the City of Columbia if the voter updates the voter registration address to the address on the petition;

Signatures not qualified to vote in the City of Columbia or otherwise invalid:

251 signatures are registered voters in the County of Boone at the address on the petition and the address is outside the City of Columbia and the voter is not qualified to vote in said city;

30 signatures are registered voters at an address in the City of Columbia but the address on the petition where the voter resides is not in the City of Columbia and the voter would not be qualified to vote in the City of Columbia;

16 signatures are registered to vote outside the City of Columbia at an address different from the petition and the address on the petition is outside the City of Columbia and the voter is would not be qualified to vote in the City of Columbia;

240 signatures of persons not registered to vote in Boone County;

52 signatures that are duplicates of previously signed records;

2 signatures were invalid in that they did not match the signature on the voter registration record;

Given under my hand and seal this 26<sup>th</sup> day of June 2014.

Wendy S. Noren Boone County Clerk



WENDY S. NOREN  
BOONE COUNTY CLERK  
801 E WALNUT RM 236  
COLUMBIA, MO. 65201  
573-573-886-4295 FAX 573-886-4300

Exhibit B-2

I, Wendy S. Noren, County Clerk and Election Authority in and for the County of Boone hereby certify that the City of Columbia petition for the repeal of Ordinance 22071 (additional signatures) contains the following:

Qualified voters:

406 registered voters in the County of Boone who are qualified to vote in the City of Columbia at the address on the petition;

43 signatures may be qualified to vote in the City of Columbia as follows:

37 registered voters in Boone County at an address in the City of Columbia whose address on the petition is different from the address on the voter registration record. The voter would be qualified to vote in the City of Columbia if the voter updates the voter registration address to the address on the petition;

6 registered voters in Boone County at an address outside of the City of Columbia whose address on the petition is different from the address on the voter registration record. The voter would be qualified to vote in the City of Columbia if the voter updates the voter registration address to the address on the petition;

Signatures not qualified to vote in the City of Columbia or otherwise invalid:

41 signatures are registered voters in the County of Boone at the address on the petition and the address is outside the City of Columbia and the voter is not qualified to vote in said city;

7 signatures are registered voters at an address in the City of Columbia but the address on the petition where the voter resides is not in the City of Columbia and the voter would not be qualified to vote in the City of Columbia;

3 signatures are registered to vote outside the City of Columbia at an address different from the petition and the address on the petition is outside the City of Columbia and the voter is would not be qualified to vote in the City of Columbia;

53 signatures of persons not registered to vote in Boone County;

73 signatures that are duplicates of previously signed records;

Given under my hand and seal this 30<sup>th</sup> day of July 2014.

  
Wendy S. Noren Boone County Clerk

\_\_\_\_\_  
Signature of Candidate

Date and hour of filing \_\_\_\_\_

This petition is filed by \_\_\_\_\_

Whose address is \_\_\_\_\_

Received by \_\_\_\_\_

\_\_\_\_\_  
Signature of City Clerk

Within ten (10) days after the filing of a nominating petition, the city clerk shall notify the candidate and the person who filed the petition whether or not it is found to be sufficient. If a petition is found insufficient, the city clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient. Within the regular time for filing petitions a new or supplemental petition may be filed for the same candidate. The petition of each candidate nominated shall be preserved by the city clerk until the expiration of the term of office for which the candidate has been nominated.

(Ord. No. 15113, § 1, 1-16-97; Ord. No. 16744, § 1, 1-16-01, passed by voters 4-3-01; Ord. No. 20531, § 1, 4-6-10)

### **Section 123. Preparation of Ballots.**

The names of candidates for elective offices shall be printed on the ballot in order of the time their nominating petitions, sufficiently signed and attested, were filed with the city clerk.

(11-7-78; Ord. No. 20531, § 1, 4-6-10)

### **Section 124. Repealed by Ord. No. 16744, § 1, adopted January 16, 2001; passed by the voters April 3, 2001.**

### **Section 125. Returns.**

The candidate receiving the highest number of votes for each office shall be elected and shall be inducted into office at the first meeting of the council following the certification of the election authority in accordance with state law.

(Ord. No. 16744, § 1, 1-16-01, passed by voters 4-3-01)

### **Section 126. Repealed by Ord. No. 16744, § 1, adopted January 16, 2001; passed by the voters April 3, 2001.**

## **ARTICLE XVII. INITIATIVE, REFERENDUM AND RECALL\***

### **Section 127. Initiative.**

The voters shall have power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power

\***Annotation**—See 42 Am. Jur. 2d, Initiative and Referendum, Section 9 p. 658: "Where the required procedure for a particular ordinance involves steps such as notice and hearing, in addition to normal legislative deliberation, such an ordinance is not subject to initiative and referendum, *International Telemeter Corp. v. City of Columbia*."



being known as the initiative. Any initiated ordinance may be submitted to the council by a petition signed by registered voters of the city equal in number to at least twenty (20) per cent of the number of votes cast for council member-at-large at the last regular municipal election, provided, that there be not less than four hundred (400) signatures.

(Ord. No. 15113, § 1, 1-16-97; Ord. No. 20531, § 1, 4-6-10)

### **Section 128. Referendum.**

The voters shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to the voters, excepting emergency ordinances as provided for in Section 15 of this charter, ordinances for the levying of taxes, or for the issuance of special tax bills, as provided in this charter, such power being known as the referendum. Ordinances submitted to the council by initiative petition and passed by the council shall be subject to the referendum in the same manner as other ordinances. Within twenty (20) days after the enactment by the council of any ordinance which is subject to referendum, a petition signed by registered voters of the city equal in number to at least twenty-five (25) per cent of the number of votes cast for council member-at-large at the last municipal election may be filed with the city clerk, requesting that such ordinance be either repealed or submitted to the voters; provided, however, that the number of signatures in such case be not less than five hundred (500).

(Ord. No. 15113, § 1, 1-16-97; Ord. No. 20531, § 1, 4-6-10)

### **Section 129. Petitions.**

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Clerk as one instrument. Every petition paper shall contain the full text of the measure proposed or referred, but the signatures to the petition need not all be appended to one paper. In order for a signature to be valid, it must be accompanied by the following information, legibly written: the name of petitioner, the address of petitioner, and the date petitioner signed the petition. The circulator of each such paper shall make oath before an officer competent to administer oaths that the circulator believes each signature appended to the petition to be the genuine signature of the person whose name it purports to be, that the circulator believes each such signer to be a legal voter, and that all signatures were affixed in the presence of the circulator.

(Ord. No. 15113, § 1, 1-16-97; Ord. No. 20531, § 1, 4-6-10)

### **Section 130. Filing and Certification of Petitions.**

Within thirty (30) days after a petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of registered voters. After completing examination of the petition, the city clerk shall certify the result thereof to the council at its next regular meeting.

If the clerk shall certify that the petition is insufficient, the clerk shall set forth in the certificate the particulars in which it is defective and shall at once notify the person filing the petition of the insufficiency.

(Ord. No. 15113, § 1, 1-16-97; Ord. No. 20531, § 1, 4-6-10)

### **Section 131. Amended Petitions.**

An initiative or referendum petition may be amended at any time within fourteen (14) days after the notification of insufficiency by filing a supplementary petition upon additional papers executed and filed as provided in case of an original petition. The city clerk shall, within thirty (30) days after such an amendment is filed, make examination of the amended petition; if the petition is still insufficient, the clerk shall file a certificate to that effect in the clerk's office and notify the person filing the petition of the clerk's findings, and no further action shall be had on such insufficient petition. A finding of insufficiency in a petition shall not prevent the filing of a new petition for the same purpose.

(Ord. No. 15113, § 1, 1-16-97; Ord. No. 20531, § 1, 4-6-10)

### **Section 132. Effect of an Initiative Petition.**

When an initiative petition has been certified as sufficient, the council shall proceed at once to consider the proposed ordinance, taking final action thereon not later than thirty (30) days after certification.

If the council shall fail to pass an ordinance in the form proposed by the initiative petition, such ordinance shall be submitted without alteration to the voters of the city at the next election provided for by state law which is consistent with applicable notice provisions and available for municipal elections purposes. The enacting clause of such ordinance shall be: "Be it ordained by the people of the City of Columbia."

(Passed by election, April 7, 1981; Ord. No. 20531, § 1, 4-6-10)

### **Section 133. Effect of a Referendum Petition.**

When a referendum petition has been certified as sufficient, the ordinance specified in the petition shall not become effective, or, if it shall have gone into effect, further action thereunder shall be suspended until the ordinance referred has been approved by the voters as hereinafter provided. The council shall proceed forthwith to reconsider the referred ordinance, and its final vote upon such reconsideration shall be taken within thirty (30) days after certification and shall be upon the question: "Shall the ordinance specified in the referendum petition be repealed?"

If the council shall fail to repeal an ordinance specified in any referendum petition, such repeal ordinance shall be submitted without alteration to the voters of the city at the next election provided for by state law which is consistent with applicable notice provisions and available for municipal elections purposes.

(Passed 11-4-80 election; Ord. No. 20531, § 1, 4-6-10)

**Section 134. Voting.**

Ordinances submitted to the voters in accordance with the initiative referendum provisions of this charter shall be submitted by ballot title, which shall be prepared by the city counselor. The ballot title shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following: "For the Ordinance" and "Against the Ordinance." Immediately at the left of each proposition there shall be a square in which by making a cross (X) the voter may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper used for voting on ordinances shall be for that purpose only.

(Ord. No. 20531, § 1, 4-6-10)

**Section 135. Effect of Vote.**

If a majority of the voters voting on a proposed initiative ordinance or referred ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city, and shall, unless otherwise specified, become effective as indicated in Section 15 of this charter. No such ordinance shall be amended or repealed for six (6) months, except by unanimous vote of the council. A referred ordinance which is not approved by a majority of the voters voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail. No election under the initiative or referendum procedure shall be set aside because of any defect in the petitions.

(Ord. No. 20531, § 1, 4-6-10)

**Section 136. Recall Petition.**

Any officer elected by vote of the people may be removed by the voters qualified to vote for a successor to such incumbent. The procedure to effect the removal of such incumbent shall be as follows: a petition demanding the removal of such officer shall be filed with the city clerk; such petition shall be signed by voters entitled to participate in such petition equal in number to at least thirty (30) percent of the number of votes cast for such office in the last election; provided, that there be at least two hundred (200) signatures in the case of officials elected by wards and five hundred (500) signatures in the case of officials elected at large. This petition shall contain a general statement of the grounds for removal. Such petition shall be executed, verified, filed, and may be amended in the manner provided for initiative and referendum petitions.

(Ord. No. 20531, § 1, 4-6-10)

**Section 137. Recall Election.**

When a sufficient recall petition has been filed, the city clerk shall submit the same to the council without delay, and the council shall call an election on said recall at the next election provided for by state law which is consistent with applicable notice provisions and available for municipal elections purposes.

(Passed 11-4-80 election)

**Section 138. Recall Ballot.**

The ballots shall be in the following form:

Shall \_\_\_\_\_ (Name and Title) \_\_\_\_\_ be removed from office?

( ) YES

( ) NO

Voters in favor of the recall place a cross (X) in the square opposite the word "YES."

Voters opposed to the recall place a cross (X) in the square opposite the word "NO."

**Section 139. Effect of Election.**

If a majority of those voting in such recall election shall vote in favor of the recall, then a vacancy shall exist, regardless of any defect in the recall petition. Such vacancy shall be filled as provided in Section 9 of this charter. If a majority of those voting in such election shall vote against the recall, the official shall continue in office. An official who has been recalled shall be ineligible to serve in any city office at any time during the remainder of the term for which the official was originally elected.

(Ord. No. 15113, § 1, 1-16-97)

**Section 140. Limitation on Recall.**

No officer shall be subject to recall within six (6) months after induction into office, nor during the last six (6) months of the officer's term. If an officer is retained in office by any recall election, the officer shall not be subject to recall within a period of six (6) months thereafter.

(Ord. No. 15113, § 1, 1-16-97)

# REFERENDUM PETITION TO REPEAL BILL B130-14A, ORDINANCE NO. 022071

**Bill 130-14A: a proposed 6-story, 260-beds, 62-parking space student housing development at Eighth and Locust**

On May 19, 2014, Council passed Bill 130-14A, enacted as ordinance No. 022071, authorizing the City Manager to enter into a development agreement with Opus Development Co. to erect a student housing development on the north side of Locust Street, between Seventh and Eighth Street.

We, the undersigned petitioners and registered Columbia voters, consistent with the Charter of the City of Columbia, demand that Bill B130-14A, enacted as Ordinance No. 022071 be repealed or submitted to the voters.

FULL TEXT OF ORDINANCE: AN ORDINANCE authorizing the City Manager to execute an amended and restated development agreement with Opus Development Company, L.L.C. as it relates to property located on the north side of Locust Street, between Seventh Street and Eighth Street; directing the City Clerk to have the development agreement recorded; and providing for the repeal of Ordinance No. 022010. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS: SECTION 1. The City Manager is hereby authorized to execute an amended and restated development agreement with Opus Development Company, L.L.C. as it relates to property located on the north side of Locust Street, between Seventh Street and Eighth Street. The form and content of the amended and restated development agreement shall be substantially in the same form as set forth in "Attachment A" attached hereto. SECTION 2. The City Clerk is authorized and directed to have a certified copy of the amended and restated development agreement recorded in the office of the Boone County Recorder of Deeds. SECTION 3. In the event a referendum petition is not filed by the voters with the City Clerk pursuant to City Charter Article XVII requesting a repeal of this ordinance within the timeframe allowed for filing a referendum petition under the City Charter, Ordinance No. 022010 shall hereby be repealed in its entirety. A true and correct copy of the ordinance and development agreement is attached hereto and incorporated by reference.

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street)	ZIP CODE	NAME (Printed or Typed)
Robert W. Achmeide	6/9/14	1907 McRee ST	65202	Robert W Achmeide
1. Robert W. Achmeide	6/9/14	5106 Whitefish Dr	65203	David J. Parfitt
2. David J. Parfitt	6/9/14	4508 Shore Ct	65203	Pat McCarty
3. Pat McCarty	6/9/14	503 Parkade Blvd	65202	Andrea Weingartner
4. Andrea Weingartner	6/9/14	4606 Southwylan Ct	65202	Angela Patterson
5. Angela Patterson	6/9/14	4708 Derby Ridge Dr	65202	Jennifer Bloss
6. Jennifer Bloss	6/9/14	4708 Derby Ridge Dr	65202	Betty R. Bloss
7. Betty R. Bloss	6/9/14	2104 IRIS DR	65202	Kenneth Araiza
8. Kenneth Araiza	6/9/14	4403 Germantown Dr	65203	Sessice Nelson
9. Sessice Nelson	6/9/14	405 Hulen Dr	65203	Lori Knudsen
10. Lori Knudsen				

I, Ann Peters, (Petition Circulator) being first duly sworn, say that the above listed persons signed this page of the referendum petition, and each of them signed his/her name thereto in my presence; I believe that each has stated his/her name, registered voting address correctly, and that each signer is a registered voter of the state of Missouri, County of Boone, City of Columbia.

Signature of Circulator

3150 N. Rt 2 Columbia mo  
Address of Circulator 65202

Subscribed and sworn to before me this 9th day of June, A.D. 2014  
Notary Public (Seal)

Signature of Notary

My commission Expires:

DIANA L. RAHM  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires July 8, 2017  
Commission #13890847

Introduced by Chadwick  
 First Reading 5-5-14 Second Reading 5-19-14  
 Ordinance No. 022071 Council Bill No. B 130-14 A

## AN ORDINANCE

authorizing the City Manager to execute an amended and restated development agreement with Opus Development Company, L.L.C. as it relates to property located on the north side of Locust Street, between Seventh Street and Eighth Street; directing the City Clerk to have the development agreement recorded; and providing for the repeal of Ordinance No. 022010.

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

SECTION 1. The City Manager is hereby authorized to execute an amended and restated development agreement with Opus Development Company, L.L.C. as it relates to property located on the north side of Locust Street, between Seventh Street and Eighth Street. The form and content of the amended and restated development agreement shall be substantially in the same form as set forth in "Attachment A" attached hereto.

SECTION 2. The City Clerk is authorized and directed to have a certified copy of the amended and restated development agreement recorded in the office of the Boone County Recorder of Deeds.

SECTION 3. In the event a referendum petition is not filed by the voters with the City Clerk pursuant to City Charter Article XVII requesting a repeal of this ordinance within the timeframe allowed for filing a referendum petition under the City Charter, Ordinance No. 022010 shall hereby be repealed in its entirety.

PASSED this 19th day of May, 2014.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

022071  
 Filed in Clerk's Office  
 Permanent Record

## Amended and Restated Development Agreement

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT (this "Amended and Restated Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, (the "Effective Date") between Opus Development Company, L.L.C., a Delaware limited liability company, whose address is 7733 Forsyth Boulevard, Ste. 1100, St. Louis, MO 63105, and its successors and assigns (the "Developer") and the City of Columbia, a municipal corporation and constitutional charter city under the laws of the State of Missouri, whose address is 701 East Broadway, Columbia, Missouri 65201 (the "City"), (collectively hereinafter referred to as the "Parties").

WHEREAS, City and Developer desire to re-evaluate the original development agreement approved by Bill 62-14A enacted as Ordinance 022010 on March 19, 2014 and desire to modify the project design and conceptual plan set forth in Exhibit B to provide for community spaces on the street-level floor along Eighth Street, giving the building an "active" ground floor together with an expanded time frame for consideration of the proposed plan by providing for introduction and first reading of the bill to approve this Amended and Restated Agreement at a regular council meeting scheduled for May 5, 2014 with public comment on such plan two weeks later at a regular council meeting scheduled on May 19, 2014; and

WHEREAS, Developer is the contract purchaser of certain tracts of land in the City of Columbia, Boone County, State of Missouri, described on Exhibit A to this Amended and Restated Agreement (the "Developer Tract"); and

WHEREAS, the current zoning of the Developer Tract is C-2; and

WHEREAS, the Developer desires to construct a residential housing structure on the Developer Tract generally in the manner shown on the depictions attached hereto as Exhibit B (the "Conceptual Site Plan") to consist of a building not to exceed six (6) stories in height and containing a maximum of 260 bedrooms in a mix of one, two, three and/or four bedroom units together with parking and related uses (the "Project"); and

WHEREAS, the existing use of the Developer Tract consists of three buildings currently used for commercial and residential purposes; and

WHEREAS, the Project to be constructed by Developer is a significant change of use from the existing use of the Developer Tract; and

WHEREAS, prior to issuance of a building permit to construct the Project, City and Developer desire to ensure adequate utilities and public infrastructure exist to serve the intended use; and

WHEREAS, the City has conducted a survey of existing public infrastructure within the overall downtown Columbia geographical area, which includes the Developer Tract; and

WHEREAS, inadequate water, fire protection, electric, storm water and sanitary sewer facilities exist to serve the proposed increase in use of the Developer Tract which will result from the Project construction; and

WHEREAS, the Developer desires to begin construction of the Project during the 2nd calendar quarter of 2014 and to complete construction and open to residents on or before 3rd calendar quarter of 2015 (the "Project Schedule"); and

WHEREAS, it is critical for Developer to receive the assurances and protections provided by this Amended and Restated Agreement in order to proceed with the acquisition of the Developer Tract and final design and construction of the Project in order to construct the Project according to the Project Schedule; and

WHEREAS, establishing the terms and conditions under which utilities will be provided to the Project will protect and benefit the health, safety, and general welfare of the City and is in the best interest of the public; and

NOW, THEREFORE, in consideration of the recitals set forth above, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

## 1. Definitions.

"Affiliated Entity" of any Party means any other person directly or indirectly controlling, controlled by or under common control with, such person. For purposes of this definition, the term "control" (including the correlative meaning of the terms "controlling", "controlled by" and "under common control with"), as applied with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such person whether through the ownership of voting securities or by contract or otherwise, provided (but without limiting the foregoing) that no pledge of voting securities of any person without the current right to exercise voting right with respect thereto shall by itself be deemed to constitute control over such person. Without limiting the generality of the foregoing, the word "Affiliate" with respect to Developer shall include any entity that directly or indirectly through one or more intermediaries is controlled by, controls or is under common control with some or all of (a) Developer, (b) the founder of Opus Holding, L.L.C. and Opus Holding Corporation group of companies, its children, its grandchildren or other members of his family or their issue, (c) the trustee of a trust or trusts for the benefit of the founder of Opus Holding, L.L.C. and the Opus Holding Corporation group of companies, its children, its grandchildren or other members of his family or their issue, or (d) a partner, limited liability company, corporation or other entity comprised of all or some of the above.

"Applicable Law" means those rules, regulations, official policies, standards and specifications, ordinances and resolutions which are controlled by the City and in force and effect on the Effective Date of this Amended and Restated Agreement.

"Commencement of Construction" means the issuance of the building permit to authorize physical construction of the structure and shall not include demolition and grading activities on the site related to the Project prior to issuance of the building permit.

"Construction Period" means the period of time the Project is under construction. The Construction Period shall commence at such time as City issues the building permit to construct the Project and such construction shall proceed without unnecessary delay until completion of the project, which shall be evidenced by issuance of a certificate of occupancy by the City.

"Governmental Authority" or "Governmental Authorities" means any municipal governmental authority, including all executive, legislative and administrative departments and bodies thereof having jurisdiction over the Developer, the Developer Tract, and the Project.

"Governmental Requirements" means all laws, ordinances, statutes, executive orders, rules, zoning requirements and agreements of any Governmental Authority that are applicable to the acquisition, renovation, demolition, development, and construction of the Developer Tract and/or Project including, without limitation, all required permits, approvals and any rules, guidelines or restrictions enacted or imposed by any Governmental Authorities.

"Term" means the earlier of: (i) the last day of the Construction Period; or (ii) the fifth anniversary date of the Effective Date, unless extended with the written consent of the City.

2. **Project Development.** With respect to the use and development of the Project and the Developer Tract and provided all requisite permits have been issued by the City, the Developer agrees to begin Commencement of Construction of the Project by September 1, 2014 in substantial conformance with the Conceptual Site Plan and complete such construction by the end of the Term pursuant to the terms and provisions herein and City agrees to permit construction of the Project pursuant to the terms and conditions of this Amended and Restated Agreement and Applicable Law. Notwithstanding anything contained herein to the contrary, this Amended and Restated Agreement shall terminate and the terms and provisions shall be null, void, and of no force or effect and the Parties shall have no further obligations hereunder if Commencement of Construction has not occurred by September 1, 2014.

3. **Storm Water Improvements.** As part of the Project, the Developer shall replace the existing storm water improvements serving the Developer Tract with new structures (the "Storm Water Improvements") in a new location within the Developer Tract that is consistent with the Conceptual Site Plan and as shall be approved by the City and the Developer. The Developer shall construct such Storm Water Improvements at its sole cost and expense and shall cause the Storm Water Improvements to be designed, constructed and dedicated in comply with the requirements of the Applicable Law. City agrees to accept the dedication of the Storm Water Improvements for maintenance upon completion thereof pursuant to the terms of this Amended and Restated Agreement and to vacate any rights and

interests it may have on or around the location of the existing storm water improvements at the time that the City accepts the Storm Water Improvements. Prior to Commencement of Construction, the Developer shall submit to the City's Public Works Department for review and approval a complete set of engineered plans for the Storm Water Improvements. Said plans shall be prepared by a registered engineer authorized to perform such work and shall be designed in accordance with the Applicable Law. The Storm Water Improvements shall be dedicated to the public prior to issuance of a certificate of occupancy to occupy the Project.

4. **Water System Improvements.** Developer hereby agrees to pay to City \$230,000 for the upgrade and reconstruction of the water main depicted in Exhibit E attached hereto (the "Water System Infrastructure"). Subject to the public improvement process requirements set forth in Chapter 22 of the Columbia City Code, the City shall perform the construction and be responsible for all remaining costs of reconstruction of the Water System Infrastructure in excess of Developer's contribution. Developer's payment for the upgrade and reconstruction of the Water System Infrastructure shall be made by Developer to City prior to issuance of the building permit to construct the Project. Nothing contained herein shall prohibit City from requiring other developers or property owners to contribute to the cost of reconstruction of the Water System Infrastructure. Failure of City to construct or complete the Water System Infrastructure improvements prior to the end of the Construction Period shall not prevent Developer from obtaining a certificate of occupancy following construction of the Project or obtaining any other necessary approvals to occupy and use the Project for its intended purpose.
5. **Sanitary Sewer Improvements.** Developer hereby agrees to pay to City \$200,000 for the reconstruction and/or rehabilitation of the connecting sanitary sewer main depicted in Exhibit D attached hereto (the "Sanitary Sewer Infrastructure"). Subject to the public improvement process requirements set forth in Chapter 22 of the Columbia City Code, the City shall perform the construction and be responsible for all remaining costs of reconstruction of the Sanitary Sewer Infrastructure in excess of Developer's contribution. Developer's payment for the reconstruction of the Sanitary Sewer Infrastructure shall be made by Developer to City prior to issuance of the building permit to construct the Project. Nothing contained herein shall prohibit City from requiring other developers or property owners to contribute to the cost of reconstruction of the Sanitary Sewer Infrastructure. Failure of City to construct or complete the Sanitary Sewer Infrastructure improvements prior to the end of the Construction Period shall not prevent Developer from obtaining a certificate of occupancy following construction of the Project or obtaining any other necessary approvals to occupy and use the Project for its intended purpose.
6. **Availability of Public Utility Services.** City and Developer acknowledge that the availability of public utility services of electricity, water, storm water and sanitary sewer capacity is critical to the Project. The Developer has submitted to the City the projected load and flow demands for public utility services to be generated by the Project at the end of the Construction Period as set forth in Exhibit G attached hereto, (the "Utility Estimates"). The City has reviewed the Utility Estimates and hereby commits that, in combination with the Developer commitments contained in this Amended and Restated Agreement, the City will have adequate capacity to support the Project and the intended uses set forth herein by the

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necessary to address health and safety issues created by the increase in capacity demanded by the Project which is in excess of the capacity contemplated herein;

- c. Apply to the Project any City Regulation otherwise allowed by this Amended and Restated Agreement that is not uniformly applied to all similar types of development projects and project sites within the Downtown Community Improvement District boundaries; and
- d. Establish, enact, increase, or impose against the Project or Developer Tract any fees, taxes (including without limitation general, special and excise taxes), assessments or other monetary obligations other than those imposed and applied on all similar types of development projects and project sites within the Downtown Community Improvement District boundaries; provided however, if such additional fees, taxes, assessments or other monetary obligations related to the utility infrastructure improvements are imposed by City against the Developer Tract, the Developer shall have the right to claim a credit for any payments and construction enhancements made by Developer pursuant to this Amended and Restated Agreement.

Nothing herein shall limit the City's authority to enact ordinances, resolutions, or otherwise pass laws or promulgate rules or regulations with regard to any matter, so long as same does not have the effect of limiting construction of the Project on the Developer Tract within the Term in substantially the same manner as set forth in this Amended and Restated Agreement. City expressly retains the right to control and determine all matters relating to the public streets and rights of way without any regard to the impact such decisions may have on the Project or Developer Tract, including but not limited to the granting of right of use permits and/or street closures adjacent to the Developer Tract

10. **Timing of Project Construction and Completion.** Subject to the following, the Developer shall endeavor in good faith and with reasonable diligence to proceed with and construct the Project during the Term and as described in this Amended and Restated Agreement:

- a. It is the intent of the Developer to complete construction of the Project by August 31, 2015. The timing, order and rate of development shall be in Developer's sole discretion. It shall not be an event of default hereunder if the Project is not constructed during the Term; rather, this Amended and Restated Agreement shall terminate in such case without any further action required by the Parties.
- b. In no event shall a delay by Developer to complete construction of the Project according to the Project Schedule result in a refund or claim for refund of Developer's contribution for the construction of the Sanitary Sewer Improvements.

11. **Waiver.** Failure of any party to this Amended and Restated Agreement to insist on the full performance of any of its provisions by the other Party shall not constitute a waiver of such performance unless the Party failing to insist on full performance of the provision declares in writing signed by it that it is waiving such performance. A waiver of any breach under this Amended and Restated Agreement by any Party, unless otherwise expressly declared in

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end of the Construction Period and that if the Developer is not in default under this Amended and Restated Agreement the City will not deny Developer the ability to connect to such essential public services to serve the Project at the end of the Construction Period. In no event shall the commitment of the City to reserve, construct or supply adequate capacity to support the Project extend beyond the Term of this Amended and Restated Agreement, nor shall the City's commitment herein to provide public utility services be in excess of the Utility Estimates.

7. **Permit and Connection Fees.** In addition to the commitments of Developer contained herein, the Developer shall pay to the City, at the time and in the amount required by the Applicable Law, the standard connection and permit fees associated with connecting the Developer Tract to the utilities.
8. **Transit Services.** Developer hereby agrees to purchase 118 transit system bus passes for use of residents of the Project for each fall and spring semester of The University of Missouri for the first two years following opening of the Project. The price for the first two years shall be paid by Developer in a lump sum of \$30,680 prior to end of the Construction Period. During the first two years following opening of the Project, Developer may purchase additional bus passes as desired at the rate of \$55.00 per pass. After the first two years following end of the Construction Period, Developer may continue to purchase transit system bus passes at the rates then in effect as Developer determines to be necessary or desirable for use of its residents. Provided City is in receipt of payment for bus passes from Developer, City shall provide such passes to Developer at least two weeks prior to the start of each semester.
9. **No Conflicting Easements.** During the Term the City will not impose on the Project or Developer Tract, whether by action of the City Council or otherwise, any Governmental Requirement (to the extent that the City has authority with respect to a Governmental Requirement), ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each individually, a "City Regulation" and collectively the "City Regulations") that reduces the assurances provided by this Amended and Restated Agreement with respect to the availability of public utilities for the development, maintenance, and operation of the Project. Nothing contained herein shall prohibit the City from enacting a Governmental Requirement and imposing the same on the Project and Developer Tract for protection of the health, safety and welfare of the public in the same manner and to the same extent as imposed on the general public. During the Term, any change in the following shall not be effective as applied to the Developer Tract without the express written agreement of Developer:

- a. Change any land use designation or permitted use of the Development Tract existing as of the Effective Date of this Amended and Restated Agreement which would prohibit or limit the use of the Developer Tract for the Project as described in this Amended and Restated Agreement;
- b. Limit or control the availability of public utilities, services or facilities for the Project as described in this Amended and Restated Agreement, unless such limitation is

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writing, shall not be a continuing waiver or waiver of any subsequent breach of the same or other provision of this Amended and Restated Agreement.

12. **Governing Law.** The laws of the State of Missouri (without regard to conflicts of law) shall govern the validity, construction, enforcement and interpretation of this Amended and Restated Agreement.
13. **Headings.** All section headings in this Amended and Restated Agreement are for the convenience of the reader only and are not intended, nor shall they be deemed, to define or limit the scope of any provision of this Amended and Restated Agreement.
14. **Notices.** All notices, demands, requests, and other communications required or permitted hereunder shall be in writing shall be considered delivered: (a) upon personal delivery to the party to whom the notice is directed; or (b) two (2) business days after deposit in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid, addressed as follows (or to such other address as the Parties may specify by notice given pursuant to this section):

To Developer: Opus Development Company, L.L.C.  
7733 Forsyth Boulevard, Ste. 1100  
St. Louis, MO 63105  
Attn: Joe Downs

With a Copy to: Opus Development Company, L.L.C.  
7733 Forsyth Boulevard, Ste. 1100  
St. Louis, MO 63105  
Attn: Legal Department

And a Copy to: Robert Hollis  
Van Maure, Harrison, Hollis, Taylor, and Bacon, P.C.  
1103 East Broadway  
Columbia, MO 65201

To City: City of Columbia  
Attn: City Manager  
701 East Broadway  
Columbia, MO 65201

With a Copy to: City of Columbia  
Attn: City Counselor  
701 E. Broadway  
Columbia, MO 65201

15. **No Adverse Inference.** This Amended and Restated Agreement shall not be construed more strongly against one Party or the other. The Parties had equal access to input with respect to, and influence over, the provisions of this Amended and Restated Agreement. Accordingly,

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no rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this Amended and Restated Agreement.

16. **Third Party Beneficiaries.** There are no third party beneficiaries to this Amended and Restated Agreement.
17. **Jurisdiction and Venue.** Legal action concerning any dispute, claim or matter arising out of the Amended and Restated Agreement shall be brought only in the Circuit Court of Boone County, Missouri.
18. **Severability or Partial Invalidity.** This Amended and Restated Agreement is to be considered in its entirety and both parties acknowledge the assurances granted herein are dependent upon each other. If any provision of this Amended and Restated Agreement is for any reason held to be invalid or unenforceable, such provision shall render the entire agreement invalid and unenforceable.
19. **Gender and Number.** Pronouns and any reference to a person or persons, wherever used herein, and of whatever gender, shall include natural persons, corporations, associations, partnerships and other entities of every kind and character, and the singular shall include the plural and vice versa, wherever and as often as may be appropriate.
20. **Failure or Delay to Enforce.** No failure to exercise or delay in exercising any right hereunder on the part of any Party to this Amended and Restated Agreement shall operate as a waiver thereof, and no single or partial exercise of any right of such Party shall preclude any other or further exercise of such right or the exercise of any other right.
21. **Force Majeure.** In the event that either Party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, riots, insurrection, the act, failure to act or default of the other Party, war or other reason beyond their control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.
22. **Priority and Recording.** This Amended and Restated Agreement shall be recorded in the records of Boone County, Missouri and the covenants, rights and obligations contained herein shall run with the Developer Tract. By the recording of this Amended and Restated Agreement, all conditions, terms and obligations of this Amended and Restated Agreement are effective as to and binding on the Parties, their successors and assigns with the intention that this Amended and Restated Agreement with the intention that it will, in addition to the Parties hereto, govern all future and subsequent owners of all or any portion of the Developer Tract unless and until this Amended and Restated Agreement is amended or terminated in accordance with the terms hereof.
23. **Binding Effect; Assignment.** This Amended and Restated Agreement is not assignable by any party, without the prior written consent of the other Party, which consent shall not be

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29. **Entire Agreement; Amendment.** It is agreed and understood by the parties that this Amended and Restated Agreement embodies the entire understanding and represents the full and final agreement among the parties with respect to the subject matter hereof and supersedes any and all prior commitments, agreements, discussions, representations, and understandings, whether written or oral, relating to the subject matter hereof; that this Amended and Restated Agreement may not be contradicted or varied by evidence of prior or contemporaneous written or oral agreements or discussions of the parties, or subsequent oral agreements or discussions of the parties; that there are no oral agreements among the parties, and no representations, agreements or promises not set forth herein have been made. Without limiting the foregoing, Developer acknowledges that: (i) no promise or commitment has been made to it by or on behalf of the City other than as set forth in this Amended and Restated Agreement; and (ii) except as otherwise expressly provided herein, this Amended and Restated Agreement supersedes and replaces any and all proposals, letters of intent and approval and commitment letters relating to the subject matter hereof, none of which shall be considered a part of this Amended and Restated Agreement unless expressly incorporated into this Amended and Restated Agreement. This Amended and Restated Agreement shall be amended only in writing and effective when signed by the parties.

30. **Representatives Not Personally Liable.** No elected or appointed official, agent, employee or representative of the City shall be personally liable to the Developer in the event of any default or breach by any party under this Amended and Restated Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Amended and Restated Agreement.

31. **Counterparts.** This Amended and Restated Agreement may be executed in several counterparts, each of which is an original and all of which together constitute but one and the same document.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -  
SIGNATURE PAGE TO FOLLOW]

unreasonably withheld. Notwithstanding the foregoing, without the consent of the City: (a) Developer may assign this Amended and Restated Agreement, and its rights hereunder, to an Affiliated Entity, provided that (i) Developer shall remain jointly and severally liable with the assignee for the obligations contained in this Amended and Restated Agreement; (ii) Developer, and any assignee by accepting assignment of this Amended and Restated Agreement, expressly agrees to defend and indemnify City from any litigation arising out of the assignment; and (iii) written notice of the assignment, including the name of the assignee, is provided to City at least fifteen (15) business days prior to the effective date of such assignment.

24. **Power of the City.** Notwithstanding anything set forth in this Amended and Restated Agreement to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the City to act in its capacity as a public body. All financial obligations of the City shall be subject to future appropriation of the City in accordance with Applicable Laws and Requirements. Further, nothing herein shall relieve Developer from complying with all Applicable Laws and Requirements.

25. **Time.** Time is of the Essence in this Amended and Restated Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Amended and Restated Agreement requires their continued cooperation.

26. **Sovereign Immunity.** Nothing in this Amended and Restated Agreement shall constitute or be construed as a waiver of the City's governmental or official immunity or its officers or employees from liability or suit pursuant to Section 537.600 RSMo.

27. **Authorized Employees.** Developer acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Developer therefore covenants that it is not knowingly in violation of Section 285.530(1), RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on any project which is the subject of this Amended and Restated Agreement, and that its employees are lawfully eligible to work in the United States. Developer will execute an Immigration Law Compliance Affidavit in substantially the same form as attached hereto as Exhibit GF and will cause any person or entity performing work on the Infrastructure Project to confirm compliance with Section 285.530(1) and execute an Immigration Law Compliance Affidavit.

28. **Inspection.** Upon reasonable prior notice, the City may conduct such periodic inspections of the Project, including any applicable phase, as may be generally provided in the Applicable Law or for inspection thereof pursuant to comply with the terms of this Amended and Restated Agreement. The Developer shall not deny the City and its officers, employees, agents and independent contractors the right to inspect upon reasonable prior written request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of the Project or any applicable phase thereof.

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IN WITNESS WHEREOF, the Parties have duly executed and delivered this Amended and Restated Agreement as of the date first above written.

CITY OF COLUMBIA, MISSOURI ("City")

By: Mike Matthes, City Manager

ATTEST:

By: Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: Nancy Thompson, City Counselor

OPUS DEVELOPMENT COMPANY, L.L.C.  
("Developer")

By: David J. Menke, Vice President



State of Missouri )  
 ) ss.  
County of Boone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me personally appeared Mike Matthes, who, upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is an authorized agent for the City of Columbia, Missouri and that he has executed this document on behalf of said entity as the free act and deed of said entity, and that he is duly empowered by said entity to execute this document on said entity's behalf.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal at my office in Columbia, Missouri, the day and year first above written.

\_\_\_\_\_, Notary Public  
Commissioned in \_\_\_\_\_ County, MO

My commission expires \_\_\_\_\_.

State of Missouri )  
 ) ss.  
County of Boone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me personally appeared David J. Menke, who upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is a Vice President of Opus Development Company, L.L.C., that he executed the foregoing on behalf of said company, as the free act and deed of said company, and pursuant to the authority vested in him to execute the foregoing by the company, that the foregoing is binding in all respects upon said company, and that said company is duly empowered to enter into the foregoing.

IN TESTIMONY WHEREOF, I have hereunder set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_, Notary Public  
Commissioned in \_\_\_\_\_ County, MO

My commission expires \_\_\_\_\_.

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#### EXHIBIT A

##### Developer Tract

A TRACT OF LAND LOCATED IN THE SE 1/4 OF SECTION 12, TOWNSHIP 48 NORTH, RANGE 13 WEST, COLUMBIA, BOONE COUNTY, MISSOURI AND BEING PART OF LOTS 85, 86, AND ALL OF LOT 87 OF THE ORIGINAL TOWN, NOW CITY OF COLUMBIA AS RECORDED IN BOOK A, PAGE 335 AND DESCRIBED BY THE DEEDS RECORDED IN BOOK 3291, PAGE 110, BOOK 3179, PAGE 81, BOOK 3198, PAGE 15, BOOK 3179, PAGE 82, BOOK 1310, PAGE 670, BOOK 1072, PAGE 427, AND BOOK 3212, PAGE 168 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

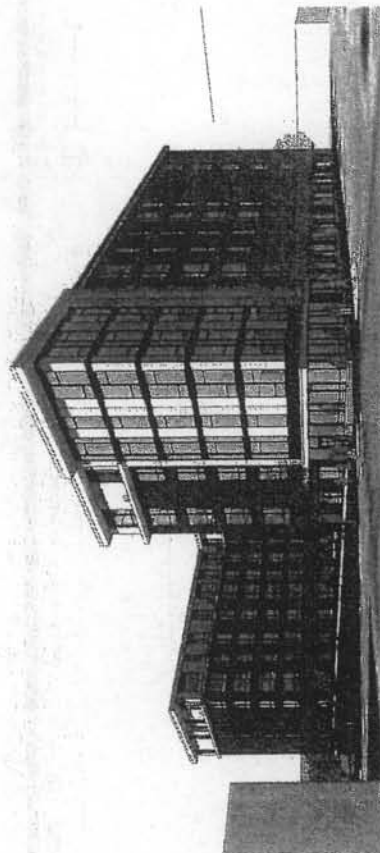
BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 87, N 88°48'55"W, 239.61 FEET TO THE SOUTHWEST CORNER SAID LOT 85; THENCE WITH THE WEST LINE OF SAID LOT 85, N 1°10'35"E, 142.22 FEET TO THE NORTHWEST CORNER OF LOT 85 AND THE SURVEY RECORDED IN BOOK 623, PAGE 597; THENCE S 88°50'15"E, 239.65 FEET TO THE NORTHEAST CORNER OF SAID LOT 87; THENCE S 1°11'40"W, 142.31 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.75 ACRES.

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#### EXHIBIT B

##### Conceptual Site Plan

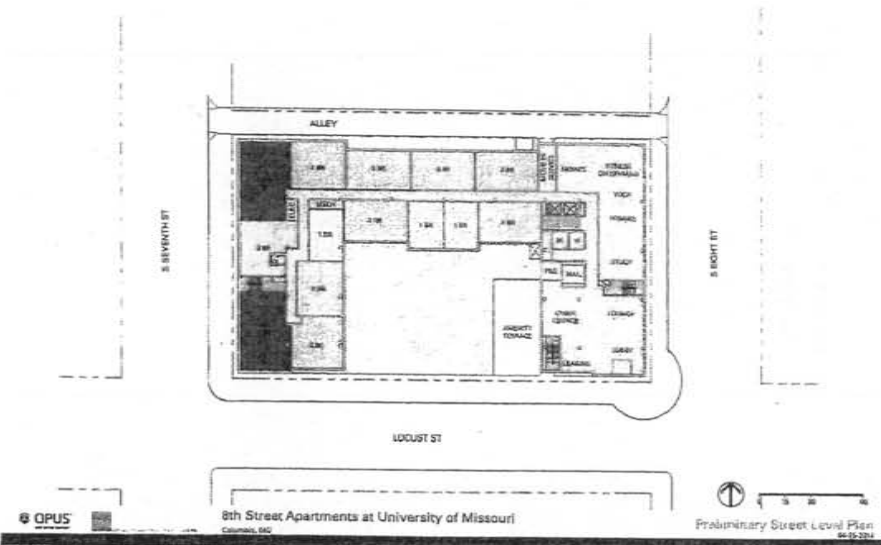
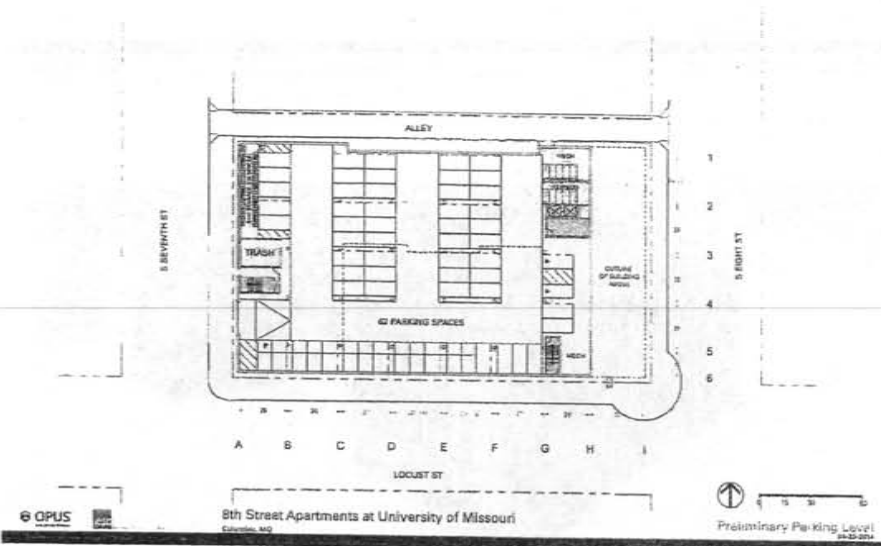
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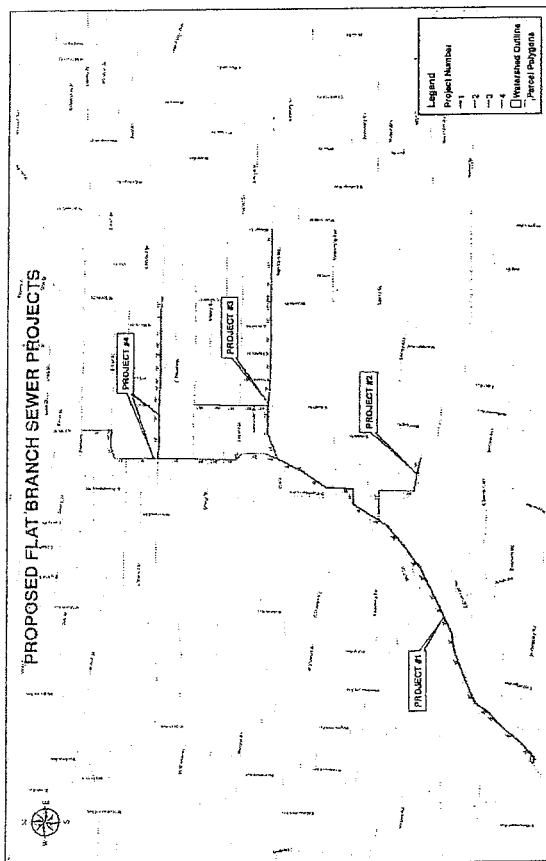


Conceptual Design Perspective  
March 2014

8th Street Apartments at University of Missouri  
Columbia, MO

OPUS  
ARCHITECTS





# EXHIBIT F

## Form of Immigration Law Compliance Affidavit

STATE OF MISSOURI }  
COUNTY OF \_\_\_\_\_ } ss:

### AFFIDAVIT

(as required by Section 285.530, Revised Statutes of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE: Any person performing work or service of any kind or character for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM: Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY: A person acts knowingly or with knowledge,

- with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or
- with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN: An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who, being duly sworn, states on his/her oath or affirmation as follows:

- My name is \_\_\_\_\_ and I am currently the President of \_\_\_\_\_ (hereinafter "Contractor"), whose business address is \_\_\_\_\_, and I am authorized to make this Affidavit.
- I am of sound mind and capable of making this Affidavit, and am personally acquainted with the facts stated herein.
- Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and the City of Columbia: \_\_\_\_\_.
- Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.
- Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant saith not.

Signature of Affiant \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Notary Public \_\_\_\_\_

My Commission Expires:

## EXHIBIT E

### Utilities Estimates

#### Sanitary

Load = 1300 drainage fixture units (DFU)  
Service size = two 6" connections or one 8" connection  
Total gallons per day = 11,552  
Average gallons per minute = 8.0  
Peak gallons per minute = 32.1

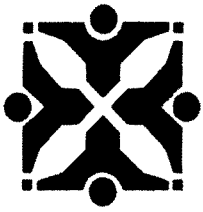
#### Domestic Water

Load = 210 gpm, 1000 water supply fixture units (WSFU)  
Service size = 3" pipe, 3" meter

Fire Protection: 4" to 6" connection, depending on pressure

#### Electrical

Load = total ~900KVA diversified  
Service size = One service @ 1200 A, 120Y/208V 3ph AND another @ 1600A to include house loads OR one service at 2,500A 120Y/208V 3ph



## CITY OF COLUMBIA, MISSOURI

Exhibit E

OFFICE OF CITY CLERK

July 31, 2014

TRANSMITTED VIA E-MAIL AND CERTIFIED MAIL

Mr. Jeremy Root  
2417 Beachview Drive  
Columbia, MO 65203

Re: Referendum Petition To Repeal Bill B130-14A, Ordinance No. 022071 – After Receipt of Supplementary Petition

Dear Mr. Root:

As required by Sections 130 and 131 of the Charter of the City of Columbia, Missouri, the purpose of this letter is to notify you that the supplementary referendum petition submitted by you on July 16, 2014 along with the original petition submitted by you on June 9, 2014 entitled "Referendum Petition To Repeal Bill B130-14A, Ordinance No. 022071" now contains the signatures of a sufficient number of City of Columbia registered voters.

Section 128 of the Charter of the City of Columbia, Missouri, requires the petition to be signed by registered voters of the city equal in number to at least twenty-five percent of the number of votes cast for council member-at-large at the last municipal election, which by my calculation comes to 3,209 signatures ( $12,835 \times 25\%$ ). With the assistance of the Boone County Clerk's Office, the City has determined the amended petition submitted by you contains signatures of 3,512 City of Columbia registered voters.

The certification and supporting documentation is attached for your reference. By providing you a copy of the certification, I am not making an opinion nor does the City waive, on behalf of itself or others, any rights or obligations it may have to claim or declare deficiencies in the form, content or subject matter of the petition, including but not limited to, any allegation or finding the substance of the ordinance relates to exercise of administrative powers by the City which are not subject to referendum under law.

I have also enclosed a copy of the letter I sent to the City Council, which summarizes how they should proceed per Section 133 of the Charter of the City of Columbia, Missouri.

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Re: Referendum Petition  
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If you have any questions or need additional information, please feel free to contact me at (573) 874-7208.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sheela Amin', with a stylized flourish at the end.

Sheela Amin  
City Clerk

Enclosures

cc: Josh Oxenhandler, Representative of the Petitioners