

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 191-13

AN ORDINANCE

authorizing a Second Supplemental Agreement with the Columbia Mall Transportation Development District relating to transportation improvements to the Stadium Boulevard corridor from Broadway to I-70; 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 Second Supplemental Agreement with the Columbia Mall Transportation Development District relating to transportation improvements to the Stadium Boulevard corridor from Broadway to I-70. The form and content of the agreement shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 2. 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

**SECOND SUPPLEMENTAL AGREEMENT
COLUMBIA MALL TRANSPORTATION DEVELOPMENT DISTRICT**

THIS SECOND SUPPLEMENTAL AGREEMENT TO THE INTERGOVERNMENTAL COOPERATION AGREEMENT (the "Second Supplement") is made and entered into this ____ day of July, 2013, by and between the City of Columbia, Missouri (the "City"), a municipal corporation and political subdivision of the State of Missouri, and its successors in interest and assigns, and the Columbia Mall Transportation Development District (the "District"), a political subdivision of the State of Missouri, and supplements and amends the Intergovernmental Cooperation Agreement dated as of October 1, 2007 (the "Original Agreement") and the First Supplemental Agreement ("First Supplement") dated as of September 10, 2009 between the City and the District. All capitalized terms not otherwise defined herein shall have the meanings as set forth in the Original Agreement.

WHEREAS, the District was formed to assist in the financing of certain improvements to Stadium Boulevard and adjacent streets, including the rearrangement of the Columbia Mall parking fields as set forth on **Exhibit B**. (the "Parking Reconstruction Project").

WHEREAS, the parties originally estimated that the Parking Reconstruction Project would cost \$935,000, and it now appears that the cost will be approximately \$1,114,000, excluding just compensation for any taking of private property; and

WHEREAS, the Original Agreement and First Supplement need to be amended so that the just compensation for any taking of private property for right-of-way is not charged to the Parking Reconstruction Project; and

WHEREAS, the City will agree to the increased cost on the Parking Reconstruction Project if the District will delay its right to issue its bonds as described herein and the parties agree that the tax will terminate sooner if the District will raise its sales tax to five-eighths of one percent (5/8%).

NOW, THEREFORE, be it agreed by and between the parties as follows:

1. **PAYMENT OF PARKING RECONSTRUCTION PROJECT BY CITY.** The City will pay the verified cost of the Parking Reconstruction Project which is estimated as shown on **Exhibit C**. The scope and nature of the Parking Reconstruction Project shall not be changed without the consent of the City. The District has a firm bid in hand from Emory Sapp & Sons in the estimated amount set forth in Exhibit C and will use best faith efforts to prevent any cost over-runs, but the parties acknowledge that unforeseen conditions or circumstances might result in the final cost exceeding the estimate. The District will requisition funds for the Parking Reconstruction Project using the form attached as **Exhibit D**. All work shall be bid, and awarded to the lowest bidder, unless the city consents to an award to a higher bidder.

2. **JUST COMPENSATION FOR TAKING OF PRIVATE PROPERTY.** The District agrees that the City has no further liability for parking lost to any Owner of property due to the Parking Reconstruction Project or the MODOT Transportation Project, nor shall the City have

any further liability for just compensation for any taking of private property in connection with the Transportation Project. .

3. AMENDMENT TO SECTION 1.1. Section 1.1 of the Original Agreement as amended by the First Supplement is hereby further amended by deleting the following from the definition of "Parking Reconstruction Project": "...do not exceed \$935,000. It is understood that the balance of the Owners' Compensable Losses over and above \$935,000 will be paid by the District and not by the City or MoDOT."

4. AMENDMENT TO SECTION 3.2. Section 3.2 of the Original Agreement as amended by the First Supplement is hereby further amended as follows:

Section 3.2. Application of Proceeds of TDD Sales Tax. The treasurer of the District shall deposit in the Operating Fund for payment of District Administrative Costs an amount which together with the prior transfer for the calendar year will equal the sum of \$43,500 less the amount on deposit in the Operating Fund at the close of the preceding calendar year as certified by the District to the City. On the first day (and if such day is not a Business Day, the next succeeding Business Day) of each calendar month during the term of this Agreement, the City will disburse the proceeds of the TDD Sales Tax on deposit in the TDD Sales Tax Fund as follows:

First, payment of costs of the Parking Reconstruction Project; and

Second, payment of engineering and other outstanding costs of the MODOT Transportation Project as set forth in **Exhibit A** (the "Transportation Project"); and

Third, the remainder shall be disbursed, together with the Corridor TDD Sales Tax Revenues and Shoppes TDD Sales Tax Revenues, in the following order of priority:

Payment of Transportation Project Costs and payment of the scheduled principal and interest on the TDD Obligations;

Transfer to the general fund of the City the amount necessary to fully reimburse the City for payment of City Administrative Costs;

Transfer to the treasurer of the District the amount necessary to reimburse the District Extraordinary Costs;

Fourth, after payment in full of the Transportation Project Costs, the TDD Obligations, the City Administrative Costs and the District Administrative Costs, all remaining funds shall be transferred to the treasurer of the District.

The District has and will continue to adopt a budget for each Fiscal Year during the term of this agreement which appropriates the TDD Sales Taxes Revenues collected during such Fiscal Year for application as provided in this **Section 3.2**. The District hereby covenants and agrees that the officer of the District at any time charged with the

responsibility of formulating budget proposals is hereby directed to include in the budget proposal submitted to the District Board of Directors for each Fiscal Year a request for an appropriation of the TDD Sales Taxes Revenues collected during such Fiscal Year net of the District's administrative costs for deposit in the TDD Sales Tax Fund. The District shall promptly deliver to the City a copy of its annual budget. If in any Fiscal Year the District Board of Directors fails to adopt a budget the budget for the prior Fiscal Year shall continue. Any funds appropriated as the result of such a request are pledged by the District to the City pursuant to this Agreement.

In the event the District Board of Directors has failed to adopt a budget by the first day of each fiscal year, the District shall be deemed to have adopted a budget for such fiscal year which provides for application of the TDD Sales Taxes collected in such fiscal year in accordance with the budget for the prior fiscal year.

5. AMENDMENT TO SECTION 3.5(b). Section 3.5 (b) of the Original Agreement as amended by the First Supplement is further amended to substitute the word "later" for the word "sooner".

6. AMENDMENT TO SECTION 3.6. Section 3.6 of the Original Agreement is amended as follows:

Section 3.6 No Repeal or Reduction of Rate of TDD Sales Tax. The District covenants and agrees that it will not repeal or reduce the rate of the TDD Sales Tax during the term of this Agreement. Furthermore, the District agrees it will submit to the qualified voters of the District a proposition to raise the District's Sales Tax to five-eighths of one percent (5/8%) for the remainder of the term of its pledge, as set forth in Section 3.7 of the Original Agreement. and reaffirms the pledge of the tax to cover the retirement of the MTFC Loan and the repayment of any city funds used by the City to pay the cost of the Parking Reconstruction Project. The City will not add any elements to the Transportation Project which would increase the demand on the District's tax unless [1] the District consents thereto, or [2] the City funds such increased demand through a source other than the District's tax.

7. AMENDMENT TO SECTION 5.2(c). Section 5.2(c) of the Original Agreement as amended by the First Supplement is further amended as follows:

(c) The District will design and construct the Parking Reconstruction Project which will be funded from Columbia Mall TDD Sales Tax Revenues as provided in the Original Agreement, as amended by the First Supplement and the Second Supplement.

8. AMENDMENT TO EXHIBIT A. Exhibit A of the Original Agreement is hereby amended by deleting and replacing Exhibit A with the new Exhibit A attached hereto and

9. FUTURE RESTATED AGREEMENT. The parties will memorialize this and such other amendments to the Original Agreement and First Supplement as are needed to eliminate obsolete provisions of both in a more formal restated agreement.

10. ORIGINAL AGREEMENT AND FIRST SUPPLEMENT. Except as amended hereby, all provisions of the Original Agreement and First Supplement shall remain in full force and effect.

11. EXECUTION IN COUNTERPARTS. This Second Supplement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[SIGNATURES ON FOLLOWING PAGES]

Executed by the District on _____, 2013.

**COLUMBIA MALL TRANSPORTATION
DEVELOPMENT DISTRICT**

[SEAL]

By: _____
Name: Rusty Strodman
Title: Executive Director

ATTEST:

Name: Becky Ziegler
Title: Secretary

APPROVED AS TO FORM:

Name: Michael T. White
Title: Counsel for Columbia Mall TDD

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF BOONE)

On this _____, before me appeared Rusty Strodman, to me personally known, who being by me duly sworn, did say that he is the Executive Director of the Board of Directors of the COLUMBIA MALL TRANSPORTATION DEVELOPMENT DISTRICT, a political subdivision organized and existing under the laws of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said District, and that said instrument was signed and sealed in behalf of said District by authority of its Board of Directors and said individual acknowledged said instrument to be the free act and deed of said District.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public – State of Missouri

[SEAL]

My commission expires: _____

EXHIBIT A

TRANSPORTATION PROJECT

A. Project Name:

Missouri Route 740 (Stadium Boulevard), Capacity and Safety Improvements - Missouri Department of Transportation Job Numbers: J5SO842, J5SO842B, and J5SO842C.

B. Location:

Along Missouri Route 740 (Stadium Boulevard), from the north I-70 outer road, including I-70/740 interchange, to Route TT/ Broadway. The project is located within the city limits of Columbia and within the boundary of the Columbia Area Transportation Study Organization (CATSO) which is the identified Metropolitan Planning Organization (MPO) for the Columbia metropolitan area. This project has been approved by the Columbia MPO and is included on the current Transportation Improvement Program (TIP) for the region. A map showing the conceptual Transportation Project improvements in the corridor is attached as Schedule 1.

C. Project Description:

1. Improvements to Missouri Route 740 (Stadium Boulevard), the interchange at I-70, and Route TT within the City of Columbia, including widening existing Missouri Route 740 from a five-lane, undivided roadway to a six-lane divided roadway with a median sufficiently wide enough to accommodate dual-left turn lanes at the intersections, as well as new traffic signal systems and interconnection of at least the following seven locations:
 - a. North I-70 outer road;
 - b. Westbound on/off ramps to I-70;
 - c. Eastbound on/off ramps to I-70;
 - d. Bernadette Drive;
 - e. Worley Street;
 - f. Ash Street; and
 - g. Route TT/Broadway.
2. Improvements to all of the intersecting city streets described above so that improved traffic flow and safety can be accomplished, including turn lane additions, geometric improvements, access management techniques, roadway widening for Fairview Road from Worley Street north to Bernadette Drive.
3. Modifications and safety improvements to the interchange ramps and a diverging diamond interchange.
4. Improvements to Bernadette Drive to include the following:
 - a. Reconstructing this roadway into a seven-lane roadway from Stadium Boulevard west to Knipp Street;
 - b. Reconstructing this roadway from Knipp Street to west of Hutchens Drive, Bernadette Drive into as a five-lane roadway;

- c. Reconstructing this roadway from west of Hutchens Drive, Bernadette Drive into a four-lane roadway;
 - d. Closing the Columbia Mall driveway next to Wendy's and modifying the access as well as the internal circulation system and the parking layout;
 - e. Closing the Columbia Mall driveway at the northwest corner of Dillard's and modifying the access near Dillard's as well as the internal circulation system and parking layout;
 - f. Closing the Columbia Mall driveway between Hutchens Drive and Bernadette Place;
 - g. Constructing a new driveway opposite Knipp Street;
 - h. Constructing a new driveway opposite Hutchens Drive;
 - i. Constructing a new driveway opposite Bernadette Place, and modifying the internal circulation system and the parking layout;
 - j. Installing a new traffic signal at the Hutchens Drive intersection;
 - k. Installing a new traffic signal at the Knipp Street intersection;
 - l. Widening and improving Bernadette Street on the east side of Stadium Boulevard to the Beverly Street intersection; and
 - m. Widening of Beverly Street at the intersection of Beverly and Bernadette intersection including a tapered section of pavement north on Beverly Street.
5. Improvements to Worley Street to include the following:
 - a. Reconstructing Worley Street to a five-lane roadway from Stadium Boulevard to the Columbia Mall driveway;
 - b. Upgrading the traffic signal at the mall driveway;
 6. Improvements to Stadium Boulevard to include the following:
 - a. Widening Stadium Boulevard from the current four lanes to six lanes adjacent to the mall;
 - b. Adding a single right-turn lane and dual left-turn lanes on each approach at Bernadette Drive;
 - c. Adding a single right-turn lane on each approach and dual left-turn lanes on the northbound approach at Worley Street;
 7. Upgrading and improving traffic surveillance and control equipment, adaptive control computerized signal systems to provide an integrated traffic control system with signal interconnect to provide for better traffic progression along Stadium Boulevard.
 8. Obtaining engineering and traffic studies, all signal installations and associated hardware, lighting, signage, pavement marking, cost of utilities, maintaining traffic during construction, utility relocations and computer hardware and software upgrades for the New Projects.
 9. Improvements for Ash Street intersection at Stadium Boulevard to include reconstructing the Ash Street intersection and constructing a right-in/right-out at the Buckner Street access connection to Stadium Boulevard, and widening Ash Street to provide additional storage for turning lanes.

10. Improvements to Stadium Boulevard at the 1-70 Interchange to include widening and upgrading Stadium Boulevard and entrance and exit ramps and side-road intersections between and including the north frontage road and south frontage roads at 1-70.
11. Improvements to Stadium Boulevard and West Broadway intersection to include widening and upgrading Stadium Boulevard at the intersection of West Broadway and reconstructing and widening West Broadway to provide sufficient storage lanes for turning traffic and reconstructing some entrances along West Broadway.

EXHIBIT B – Parking Reconstruction Project

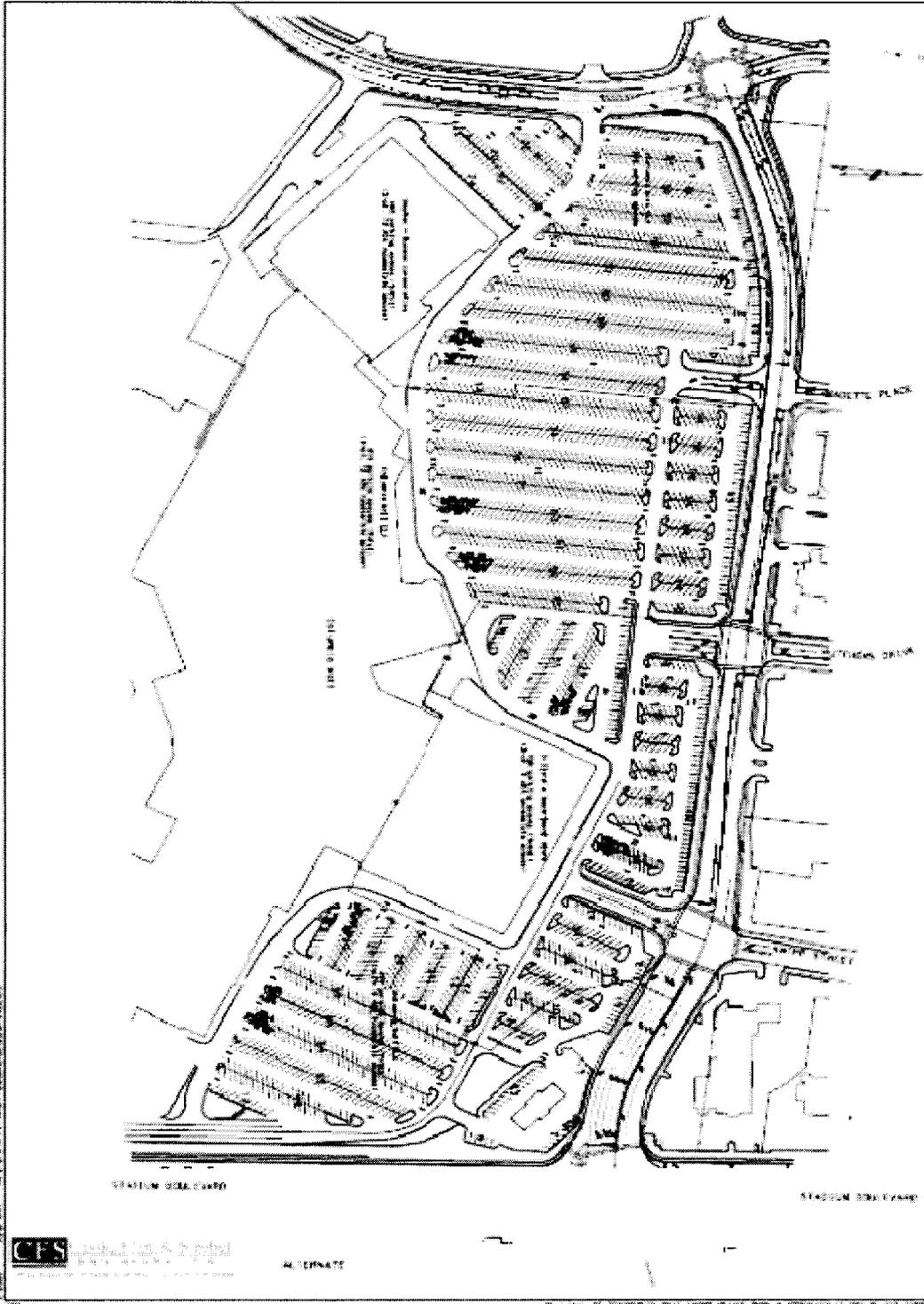


EXHIBIT C – Estimated Costs

Cost of construction	857,000
Inspection during construction	118,250
Separate plans, specs, and bid docs	47,732
Construction management @ 5%	32,000
Contingency, legal and accounting	<u>59,000</u>
Total	1,113,982

EXHIBIT D - WRITTEN REQUEST FOR DISBURSEMENT
FROM THE PARKING PROJECT FUND

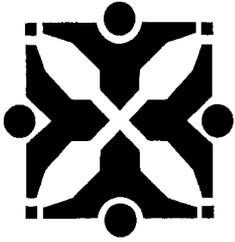
Request No. _____ Date: _____

To: City of Columbia, Missouri:

Pursuant to Section 5.2[c] of the Intergovernmental Cooperation Agreement between the District and the City dated October 1, 2007 (the "IGA") as amended, the undersigned requests payment of the costs and/or expenses described below from the funds available per Article IV of the IGA for the Parking Reconstruction Project as defined in Section 1.1 of the IGA as amended and hereby states and certifies as follows:

1. The Date and Number of this Request are as set forth above.
2. Terms in this Request have the meanings/definitions specified in the Original Agreement and the First Amendment and Second Amendment...
3. The names/addresses of the persons, firms or companies to whom the payments requested hereby are due, or are to be due, the amounts to be paid, the general classification and description of the costs and/or expenses and the dollar amounts for each requested item are set forth on Attachment I to this Request.
4. To the undersigned's knowledge, these costs and expenses have been incurred and are presently due and payable, or will in the near future be incurred and due and payable, and are reasonable on market terms costs and expenses that are payable or reimbursable to the undersigned pursuant to the IGA..
5. To the undersigned's knowledge, each item listed on Attachment I has not previously been paid or reimbursed and no part thereof has been included in any other Disbursement Request previously filed with the City or otherwise reimbursed or paid to the undersigned by the City.
6. To the undersigned's knowledge, there has not been filed with or served upon the undersigned or any of its affiliates, any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or company to receive payment of any of the items listed on Attachment I.
7. Pursuant to Section 238.252 R.S.Mo., any construction contract exceeding \$5,000 or purchase of personal property exceeding \$1,000 for which payment or reimbursement is requested under the IGA has been competitively bid and awarded to the lowest and best bidder.

By: _____
Rusty Strodtman, Executive Director
Columbia Mall Transportation Development
District



Source: Law 

Agenda Item No:

To: City Council
From: City Manager and Staff 

Council Meeting Date: July 1, 2013

Re: Columbia Mall TDD Second Supplemental Agreement

EXECUTIVE SUMMARY:

Staff has prepared an ordinance that would authorize the City Manager to execute a Second Supplemental Agreement with the Columbia Mall TDD in connection with financing of the Stadium Boulevard/Route 740 project along with the Mall parking lot reconstruction necessitated by the Stadium Boulevard improvements.

DISCUSSION:

The Columbia Mall TDD was created in 2007 and, at that time, the City entered into an Intergovernmental and Cooperation Agreement dated October 1, 2007 relating to the construction and financing of various projects related to the District, including the Stadium Boulevard/Route 740 project improvements. The original agreement was amended by the First Supplemental Agreement on September 10, 2009 in order to define the rights and responsibilities of the parties related to the parking reconstruction project and establish a budget for the project.

Since execution of the First Supplemental Agreement, the Columbia Mall TDD has obtained bids from contractors to construct the project and has determined the cost of construction has increased from the estimated amount of \$935,000 (included as a maximum in the First Supplemental Agreement) to an estimated cost of \$1,114,000, excluding right-of-way costs.

In addition, in 2009, the City entered into a cooperative and cost participation agreement, direct loan agreement and promissory note with the Missouri Highways and Transportation Commission (MHTC) in the amount of \$8,200,000 in connection with the Stadium corridor project. These agreements commit the City for all loan payments to the state. While it is projected that there will be sufficient TDD sales tax revenues to make the loan payments, it is the City's responsibility to make up any shortfall.

The Second Supplemental Agreement would allow the Columbia Mall TDD to remove the cap of \$935,000 as the allowed cost for its parking reconstruction costs in the First Supplemental Agreement. In exchange, the TDD has agreed to seek an increase in the TDD sales tax rate from 1/2 cent to 5/8 cent plus remove the expiration date of the sales tax to ensure all of the City's out-of-pocket expenditures (including repayment of the MHTC loan) are reimbursed. The amendment will provide assurance to the City that its costs for the Stadium Corridor Project will be reimbursed prior to expiration of the TDD revenues from the Columbia Mall TDD.

FISCAL IMPACT:

Since TDD sales taxes are projected to pay for this project, no fiscal impact is anticipated.

VISION IMPACT:

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

13.3 Goal: A network of safe roadways in and around the City will provide sustainable, efficient mobility to vehicular travel and other modes in a complimentary manner.

SUGGESTED COUNCIL ACTIONS:

Passage of the ordinance.

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?	Yes
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	13.3
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 #	