



# MEMORANDUM

**DATE:** April 23, 2014

**TO:** Michael G. Herring, ICMA-CM  
City Administrator

**FROM:** James A. Eckrich, P.E. *JAE*  
Public Works Director/City Engineer

**RE:** Wilson Avenue Vacation Ordinance

In the early 1990s, the City of Chesterfield rerouted Wilson Avenue to a new signalized intersection at Clarkson Road. This resulted in a 1,050 foot stub of "Old" Wilson Avenue which dead ends just north of Clarkson Road. It appears that it was the intent of the City to vacate the stub portion of Wilson Avenue at that time, but the formal vacation of the right-of-way never occurred.

This matter was presented to the Planning and Public Works Committee at their meeting on March 13, 2013. At that time the Planning and Public Works Committee approved the pursuit of the right-of-way vacation and Volz Incorporated was hired to complete a Right-of-Way Vacation Exhibit and Legal Description. These documents are included in the proposed ordinance as exhibits "A" and "B".

Next, City Staff contacted all area utilities notifying them of the intent to vacate the Wilson Avenue Right-of-Way. Those utilities which maintain existing facilities within the area to be vacated have requested easement rights. The easement rights requested are included with the proposed ordinance as exhibits "C through F".

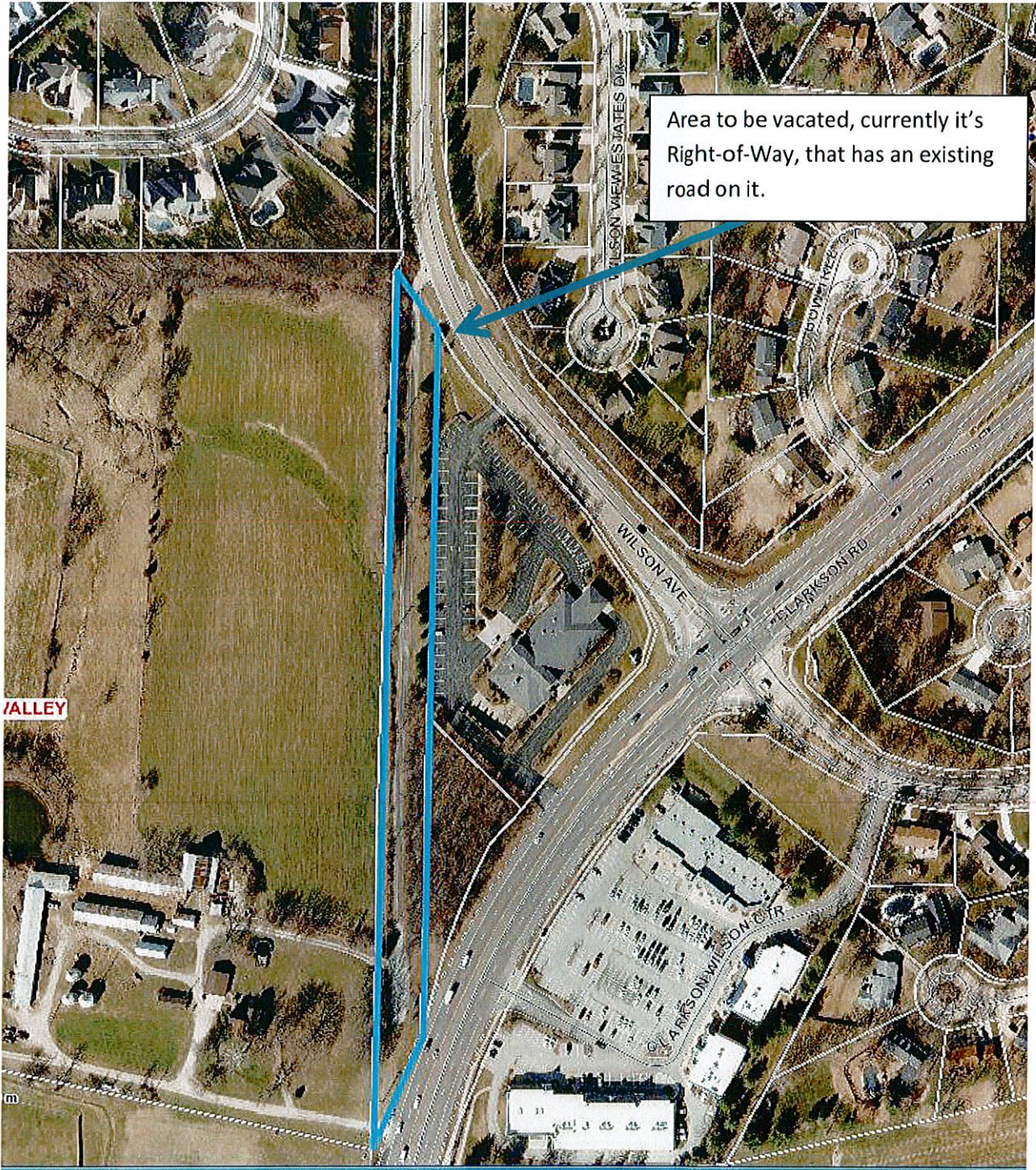
Adjacent property owners were sent multiple letters notifying them of the City's intent to vacate the public right-of-way. The owner of the vacant property at 2272 Clarkson never responded. The property owner at 2211 Clarkson, Buchholz Mortuary, responded but ultimately did not provide any comments regarding the right-of-way vacation. The property owner at 2153 Wilson Avenue was agreeable to the right-of-way vacation so long as he could maintain access to Wilson Avenue. A signed access easement which provides this right is included within the proposed ordinance as exhibit "G".

The City Attorney has reviewed the ordinance and easement exhibits.

## Action Recommended

The proposed ordinance should be forwarded to the Planning and Public Works Committee. Should the PPW Committee concur with staff's recommendation and approve the right-of-way vacation, the ordinance should be forwarded to City Council. If approved, staff would take all the necessary steps to vacate the old portion of Wilson Avenue, and record the utility and access easements.

*OK'd Jimmy 4/23/14*



Area to be vacated, currently it's Right-of-Way, that has an existing road on it.

VALLEY

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE VACATING A PORTION OF WILSON AVENUE IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 45 NORTH – RANGE 4 EAST IN THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI.**

**WHEREAS**, a portion of Wilson Avenue was relocated in the early 1990s as part of the Wilson Avenue Reconstruction Project, which resulted in a 1050 foot stub of “Old Wilson Avenue” that dead ends just north of Clarkson Avenue as depicted in Exhibit “A” and described in Exhibit “B”.

**WHEREAS**, adjacent property owners and utility companies having facilities within the vacated area have been notified of the City’s intent to vacate;

**WHEREAS**, the Public Services Department has reviewed the vacation and associated easements and has determined that said vacation and easements meet all applicable regulations and that the vacation and easements are in the best interest of the City of Chesterfield.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:**

Section 1. The City Council of the City of Chesterfield hereby approves the vacation of Wilson Avenue as depicted in Exhibit “A” and described in Exhibit “B”, which is attached hereto and made part of hereof. This portion of Wilson Avenue shall henceforth no longer be deemed or considered public right-of-way, and all rights and interests that exist or might exist from said public status are hereby extinguished and shall revert to those who, in law or in equity, are properly entitled thereto.

Section 2. The Mayor and City Clerk are authorized and directed to evidence the approval of this vacation by affixing their signatures and the Official Seal of the City of Chesterfield to a Certificate of Approval as required on said documents. This easement vacation is required to be recorded with the Saint Louis County Recorder of Deeds Office.

Section 3. The City Administrator is hereby authorized to grant easements herein marked exhibits “C through G” for Southwestern Bell Telephone Company (d/b/a AT&T Missouri), Union Electric Company (d/b/a Ameren Missouri), Charter Communications, Laclede Gas Company, Parcel ID 20T520130 (2153 Wilson Avenue), and their successors and assigns on, over, and under the entire vacated area before the vacation is completed.

Section 4. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

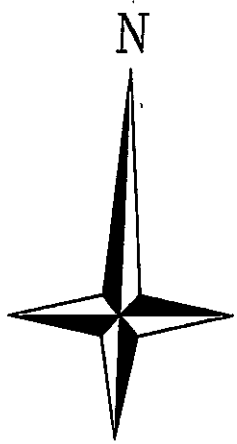
\_\_\_\_\_  
Mayor

ATTEST:

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

FIRST READING HELD \_\_\_\_\_

EXHIBIT "A"



Scale in Feet  
Scale: 1"=200'

PROPERTY N/F OF  
CLARKSON PROPERTY COMPANY  
D.B. 7277, PG. 1083  
LOC. NO. 20T520130

EAST LINE OF THE SW QUARTER  
OF THE NW QUARTER OF SECTION 21

WILSON (40' WIDE) ROAD  
1165.58'  
1050.35'

PROPERTY N/F OF  
BUCHHOLZ MORTUARIES, INC.  
D.B. 9743, PG. 870  
LOC. NO. 20T520097

CLARKSON ROAD (ROUTE 340)

PROPERTY N/F OF  
WILLIAM H. ERKER, JR., MARY G. LODES, AND  
CHARLES F. ERKER, TRUSTEES OF THE  
WILLIAM H. ERKER SR. REVOCABLE TRUST  
DATED OCTOBER 28, 2005  
D.B. 19885, PG. 1817  
LOC. NO. 20T520103

RELOCATED  
WILSON ROAD

RIGHT OF WAY LINE PER  
CAUSE NO. 588599  
D.B. 8625, PG. 577

RIGHT OF WAY LINE PER  
CAUSE NO. 588599  
D.B. 8625, PG. 577

S68° 20' 29" E  
R=1517.69'  
122.00'

EAST & WEST CENTERLINE OF SECTION 21

"MARQUETTE HIGH SCHOOL  
BOUNDARY ADJUSTMENT PLAT"  
P.B. 355, PG. 621

EXHIBIT "A"

INITIAL:

**RIGHT OF WAY VACATION PLAT**  
A TRACT OF LAND BEING PART OF WILSON ROAD  
IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER  
AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER  
OF SECTION 21, TOWNSHIP 45 NORTH - RANGE 4 EAST  
CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI

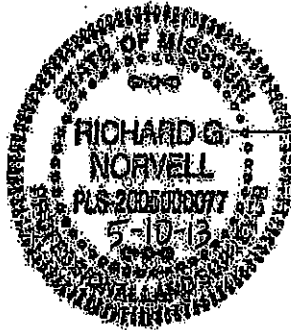
May 10, 2013

RGN

Re: Wilson Road Vacation  
11336-0

A tract of land being part of Wilson Road, 40 feet wide, in the Southeast Quarter of the Northwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 21, Township 45 North - Range 4 East, City of Chesterfield, St. Louis County, Missouri and being more particularly described as:

Beginning at the intersection of the East line of Wilson Road, 40 feet wide, with the Southwest line of relocated Wilson Road as described in Cause Number 588599 of the Circuit Court of St. Louis County, a copy of which is recorded in Book 8525 page 577 of the St. Louis County records, said point being also the Northernmost corner of property described in deed to Buchholz Mortuaries, Inc. recorded in Book 9743 page 810 of the St. Louis County records; thence Southwardly along the East line of Wilson Road, 40 feet wide, being also the West line of said Buchholz Mortuaries, Inc. property and the West line of property described in deed to William H. Erker, Jr., et al, recorded in Book 19685 page 1817 of the St. Louis County records, South 0 degrees 12 minutes 40 seconds West 1050.35 feet to a point in the West line of Clarkson Road as widened by said Cause Number 588599; thence Southwardly along said West line of Clarkson Road, along a curve to the left whose radius point bears South 68 degrees 20 minutes 29 seconds East 1517.69 feet from the last mentioned point, a distance of 122.00 feet to a point in the West line of Wilson Road, 40 feet wide; thence Northwardly along the West line of Wilson Road, 40 feet wide, North 0 degrees 12 minutes 40 seconds East 1165.38 feet to a point; thence South 89 degrees 47 minutes 20 seconds East 40.00 feet to the point of beginning and containing 44,218.94 square feet or 1.015 acres according to calculations by Volz Incorporated on May 8, 2013.



*Richard A. Norvell*

Richard G. Norvell, P.L.S.  
Professional Land Surveyor  
Mo. P.L.S. #2005000077

Exhibit C

UTILITY EASEMENT TO SOUTHWESTERN BELL TELEPHONE COMPANY (D/B/A  
AT&T MISSOURI)

1. EASEMENT CREATED. The City of Chesterfield, hereby creates a perpetual, non-exclusive utility easement on, over, and under the entire vacated area as depicted in Exhibit "A" and described in Exhibit "B" formerly known as Wilson Avenue to Southwestern Bell Telephone Company (d/b/a AT&T Missouri).
  
2. EASEMENT PROVISION. The terms of this easement are as follows:
  - a. PURPOSE. AT&T Missouri has existing facilities within the vacated area of Wilson Avenue. Therefore, a utility easement is reserved for AT&T Missouri on, over, and under the entire vacated area.
  
  - b. USE OF THE PROPERTY. All rights of the public in the land bearing rights-of-way traversed by the foregoing conditionally vacated alleys and streets are reserved to the City and public utilities including present and future users of utilities, governmental service entities and franchise holders, except such rights as are specifically abandoned or released herein. The City, utilities, governmental service entities and franchise holders shall have the right and access to go upon the land and occupation hereof within the easement for purposes associated with the maintenance, construction or planning of existing or future facilities, being careful not to disrupt or disturb the owners interests more than is reasonably required.
  
  - c. REMOVAL OF UTILITIES. The owner of vacated area shall have and hereby is given the right to have any or all the utility facilities removed by requesting such removal by the owner(s) in writing and by paying the agreed upon cost of such removal and such facilities shall not be relocated on any other portion of the vacated area without the written consent of the owner thereof.
  
3. SUCCESSORS IN INTEREST, RECORDATION. The provisions of this easement shall touch, concern and relate to the use of Parcel ID 20T520130: 2153 Wilson Avenue, Parcel ID 20T520097: 2211 Clarkson Road, and Parcel ID 20T520103: 2272 Clarkson Road which is intended to be a covenant and restriction running with the land. This document shall therefore, be recorded in the Deeds Records of St. Louis County, Missouri.

Signature Page

**GRANTEE:**

\_\_\_\_\_  
AT&T Missouri  
13075 Manchester Road  
Suite 301  
Des Peres, MO 63131

State of Missouri            )  
                                          ):SS.  
County of St. Louis        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**CITY OF CHESTERFIELD:**

\_\_\_\_\_  
Michael G. Herring  
City Administrator

State of Missouri            )  
                                          ):SS.  
County of St. Louis        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_



Exhibit D

UTILITY EASEMENT TO UNION ELECTRIC COMPANY (D/B/A AMEREN MISSOURI)

1. EASEMENT CREATED. The City of Chesterfield, hereby creates a perpetual, non-exclusive utility easement on, over, and under the entire vacated area as depicted in Exhibit "A" and described in Exhibit "B" formerly known as Wilson Avenue Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri").
  
2. EASEMENT PROVISION. The terms of this easement are as follows:
  - a. PURPOSE. Ameren Missouri has existing facilities within the vacated area of Wilson Avenue. Therefore, a utility easement is reserved for Ameren Missouri on, over, and under the entire vacated area.
  
  - b. USE OF THE PROPERTY. Ameren Missouri shall have the right to enter upon and occupy the property within the forty (40) foot wide right-of-way for purposes associated with the maintenance, construction, and planning of existing or future electric lines and associated facilities; provided that Ameren Missouri shall take commercially reasonable measures not to disrupt or disturb the owners' interests in the property. The owners shall not place any improvements upon, over, or under the surface of the property traversed by the forty (40) foot wide right-of-way that materially prevents Ameren Missouri from operating and maintaining its electric facilities in a safe and secure manner.
  
  - c. REMOVAL OF UTILITIES. The owner of vacated area shall have and hereby is given the right to have any or all the utility facilities removed by requesting such removal by the owner(s) in writing and by paying the agreed upon cost of such removal and such facilities shall not be relocated on any other portion of the vacated area without the written consent of the owner thereof.
  
3. SUCCESSORS IN INTEREST, RECORDATION. The provisions of this easement shall touch, concern and relate to the use of Parcel ID 20T520130: 2153 Wilson Avenue, Parcel ID 20T520097: 2211 Clarkson Road, and Parcel ID 20T520103: 2272 Clarkson Road which is intended to be a covenant and restriction running with the land. This document shall therefore, be recorded in the Deeds Records of St. Louis County, Missouri.

Signature Page

**GRANTEE:**

\_\_\_\_\_  
Ameren Missouri  
1901 Chouteau Avenue  
PO Box 66149  
St. Louis, MO 63166

State of Missouri            )  
                                          );SS.  
County of St. Louis         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**CITY OF CHESTERFIELD:**

\_\_\_\_\_  
Michael G. Herring  
City Administrator

State of Missouri            )  
                                          );SS.  
County of St. Louis         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

UTILITY EASEMENT  
CHARTER COMMUNICATIONS

Exhibit E

UTILITY EASEMENT TO CHARTER COMMUNICATION

1. EASEMENT CREATED. The City of Chesterfield, hereby creates a perpetual, non-exclusive utility easement on, over, and under the entire vacated area as depicted in Exhibit "A" and described in Exhibit "B" formerly known as Wilson Avenue to Charter Communications.
2. EASEMENT PROVISION. The terms of this easement are as follows:
  - a. PURPOSE. Charter Communications has existing facilities within the vacated area of Wilson Avenue. Therefore, a utility easement is reserved for Charter Communications on, over, and under the entire vacated area.
  - b. USE OF THE PROPERTY. Charter Communications shall have the right to enter upon and occupy the property within the forty (40) foot wide right-of-way for purposes associated with the maintenance, construction, and planning of existing or future cable lines and associated facilities; provided that Charter Communications shall take commercially reasonable measures not to disrupt or disturb the owners' interests in the property. The owners shall not place any improvements upon, over, or under the surface of the property traversed by the forty (40) foot wide right-of-way that materially prevents Charter Communications from operating and maintaining its cable facilities in a safe and secure manner.
  - c. REMOVAL OF UTILITIES. The owner of vacated area shall have and hereby is given the right to have any or all the utility facilities removed by requesting such removal by the owner(s) in writing and by paying the agreed upon cost of such removal and such facilities shall not be relocated on any other portion of the vacated area without the written consent of the owner thereof.
3. SUCCESSORS IN INTEREST, RECORDATION. The provisions of this easement shall touch, concern and relate to the use of Parcel ID 20T520130: 2153 Wilson Avenue, Parcel ID 20T520097: 2211 Clarkson Road, and Parcel ID 20T520103: 2272 Clarkson Road which is intended to be a covenant and restriction running with the land. This document shall therefore, be recorded in the Deeds Records of St. Louis County, Missouri.

UTILITY EASEMENT  
CHARTER COMMUNICATIONS

Signature Page

**GRANTEE:**

\_\_\_\_\_  
Charter Communications  
941 Charter Commons  
Town & Country, MO 63017

State of Missouri                    )  
                                                  ):SS.  
County of St. Louis                )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**CITY OF CHESTERFIELD:**

\_\_\_\_\_  
Michael G. Herring  
City Administrator

State of Missouri                    )  
                                                  ):SS.  
County of St. Louis                )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Exhibit F

UTILITY EASEMENT TO LACLEDE GAS COMPANY

1. EASEMENT CREATED. The City of Chesterfield, hereby creates a perpetual, non-exclusive utility easement on, over, and under the entire vacated area as depicted in Exhibit "A" and described in Exhibit "B" formerly known as Wilson Avenue to the Laclede Gas Company.
2. EASEMENT PROVISION. The terms of this easement are as follows:
  - a. PURPOSE. Laclede Gas Company has existing facilities within the vacated area of Wilson Road. Therefore, a utility easement shall be reserved for the Laclede Gas Company on, over, and under the entire vacated area.
  - b. USE OF THE PROPERTY. The right is hereby reserved by Laclede Gas Company to maintain its existing facilities in any of the vacated area and to occupy whatever portion of said area is deemed necessary with personnel and equipment as is necessary to inspect, repair, reconstruct, replace or remove said existing facilities. These reserved rights shall not be construed to permit the installation of any additional facilities in the vacated areas nor give Laclede Gas Company any rights other than those presently held.
  - c. REMOVAL OF UTILITIES. The owner of vacated area shall have and hereby is given the right to have any or all the utility facilities removed by requesting such removal by the owner(s) in writing and by paying the agreed upon cost of such removal and such facilities shall not be relocated on any other portion of the vacated area without the written consent of the owner thereof.
3. SUCCESSORS IN INTEREST, RECORDATION. The provisions of this easement shall touch, concern and relate to the use of Parcel ID 20T520130: 2153 Wilson Avenue, Parcel ID 20T520097: 2211 Clarkson Road, and Parcel ID 20T520103: 2272 Clarkson Road which is intended to be a covenant and restriction running with the land. This document shall therefore, be recorded in the Deeds Records of St. Louis County, Missouri.

UTILITY EASEMENT  
LACLEDE GAS COMPANY

Signature Page

**GRANTEE:**

\_\_\_\_\_  
Laclede Gas Company  
3950 Forest Park Ave.  
St. Louis, MO 63108

State of Missouri            )  
                                          ):SS.  
County of St. Louis        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**CITY OF CHESTERFIELD:**

\_\_\_\_\_  
Michael G. Herring  
City Administrator

State of Missouri            )  
                                          ):SS.  
County of St. Louis        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

ACCESS EASEMENT  
PARCEL ID 20T520130 (2153 Wilson Avenue)

Exhibit G

ACCESS EASEMENT TO PARCEL ID 20T520130 (2153 Wilson Avenue)

1. **EASEMENT CREATED.** The City of Chesterfield, hereby creates a perpetual, non-exclusive access easement to use a strip of land 40 (forty) feet wide as depicted in Exhibit "A" and described in Exhibit "B", formerly known as Wilson Avenue to access or 2153 Wilson Avenue from the public Wilson Avenue.
  
2. **EASEMENT PROVISION.** The terms of this easement are as follows:
  - a. **PURPOSE.** The easement is for providing access, including ingress and egress, to and from Parcel ID 20T520130 or 2153 Wilson Avenue.
  
  - b. **USE OF THE PROPERTY.** The owner or occupiers of Parcel ID 20T520097, 2211 Clarkson Road, and Parcel ID 20T520103, 2272 Clarkson Road, shall have the right to use their property, including the area described in the easement, for any lawful purpose so long as the owner or occupiers do not interfere with the use of the access and maintenance easement as granted by this easement or any other easement.
  
  - c. **MAINTENANCE AND REPAIRS.** Unless otherwise agreed upon between the owners of each property, the owner or occupiers of Parcel ID 20T520130 or 2153 Wilson Avenue shall at all times hereafter, be designated to have the responsibility to arrange for the driving surface within the easement area to be maintained, repaired and replaced, all so as to keep such area at all times in a safe and functional condition in order to allow the orderly passage of vehicles.
  
  - d. **TERMINATION.** In the event the property owner of Parcel ID 20T520130 determines that the access is no longer needed for the purposes set herein, the property owner of Parcel ID 20T520130 may terminate this Easement by notifying the City of Chesterfield, in writing, at least sixty (60) days prior to the date of such termination. Property owner of Parcel ID 20T520130 shall remove the existing paving, markings, and signage, and seed and straw the entire easement area before this Easement is officially terminated.
  
3. **SUCCESSORS IN INTEREST, RECORDATION.** The provisions of this easement shall touch, concern and relate to the use of Parcel ID 20T520130: 2153 Wilson Avenue, Parcel ID 20T520097: 2211 Clarkson Road, and Parcel ID 20T520103: 2272 Clarkson Road which is intended to be a covenant and restriction running with the land. This document shall therefore, be recorded in the Deeds Records of St. Louis County, Missouri.

ACCESS EASEMENT  
PARCEL ID 20T520130 (2153 Wilson Avenue)

Signature Page

**GRANTEE:**

Clarence Graeler

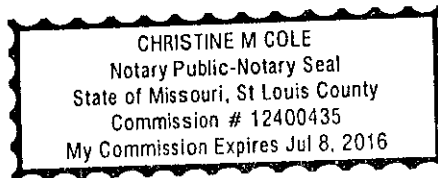
Mr. Clarence Graeler  
PARCEL ID 20T520130  
2153 Wilson Avenue

State of Missouri            )  
                                          ):SS.  
County of St. Louis        )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of April, 2014.

WITNESS my hand and official seal

Christine M Cole  
Notary Public  
My commission expires: 07-08-2016



**CITY OF CHESTERFIELD:**

\_\_\_\_\_  
Michael G. Herring  
City Administrator

State of Missouri            )  
                                          ):SS.  
County of St. Louis        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

WITNESS my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_