



AGENDA
CHESTERFIELD CITY COUNCIL MEETING
Chesterfield City Hall
690 Chesterfield Parkway West
Monday, April 2, 2018
5:30PM

- I. CALL TO ORDER** – Mayor Bob Nation

- II. PLEDGE OF ALLEGIANCE** – Mayor Bob Nation

- III. MOMENT OF SILENT PRAYER** – Mayor Bob Nation

- IV. ROLL CALL** – City Clerk Vickie Hass

- V. APPROVAL OF MINUTES** – Mayor Bob Nation
 - A. Executive Session Minutes** – February 21, 2018
 - B. Executive Session Minutes** – March 19, 2018
 - C. City Council Meeting Minutes** – March 19, 2018

- VI. COMMUNICATIONS AND PETITIONS** – Mayor Bob Nation

- VII. INTRODUCTORY REMARKS** – Mayor Bob Nation
 - A. Tuesday, April 3, 2018** – Election Day, Don't forget to vote!
 - B. Wednesday, April 18, 2018** – Next City Council Meeting (7 pm)
 - C. Thursday, April 19, 2018** – Planning and Public Works Committee (5:45)

- VIII. APPOINTMENTS** – Mayor Bob Nation

IX. COUNCIL COMMITTEE REPORTS

A. Planning and Public Works Committee – Chairperson Guy Tilman, Ward II

1. Next Meeting – April 19, 2018 (5:45pm)

B. Finance and Administration Committee – Chairperson Tom DeCampi, Ward IV

C. Parks, Recreation and Arts Committee – Chairperson Randy Logan, Ward III

D. Public Health and Safety Committee – Chairperson Barry Flachsbart, Ward I

X. REPORT FROM THE CITY ADMINISTRATOR – Mike Geisel

A. First Amendment to the Contribution of Land Agreement with Chesterfield Village Inc., related to phase two of the Riparian Trail (**Roll Call Vote**)

XI. UNFINISHED BUSINESS – Mayor Bob Nation

XII. NEW BUSINESS – Mayor Bob Nation

XIII. LEGISLATION

XIV. LEGISLATION – PLANNING COMMISSION

XV. ADJOURNMENT

NOTE: City Council will consider and act upon the matters listed above and such other matters as may be presented at the meeting and determined to be appropriate for discussion at that time.

Notice is hereby given that the City Council may also hold a closed meeting for the purpose of dealing with matters relating to one or more of the following: legal actions, causes of action, litigation or privileged communications between the City's representatives and its attorneys (RSMo 610.021(1) 1994; lease, purchase or sale of real estate (RSMo 610.021(2) 1994; hiring, firing, disciplining or promoting employees with employee groups (RSMo 610.021(3) 1994; Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups (RSMo 610.021(9) 1994; and/or bidding specification (RSMo 610.021(11) 1994.



RECORD OF PROCEEDING

MEETING OF THE CITY COUNCIL OF THE CITY OF CHESTERFIELD AT 690 CHESTERFIELD PARKWAY WEST

MARCH 19, 2018

The meeting was called to order at 7:05 p.m.

Mayor Bob Nation led everyone in the Pledge of Allegiance and followed with a moment of silent prayer.

A roll call was taken with the following results:

PRESENT

ABSENT

Mayor Bob Nation
Councilmember Barry Flachsbart
Councilmember Barbara McGuinness
Councilmember Ben Keathley
Councilmember Guy Tilman
Councilmember Dan Hurt
Councilmember Randy Logan
Councilmember Tom DeCampi
Councilmember Michelle Ohley

APPROVAL OF MINUTES

The minutes of the February 5, 2018 Executive Session were submitted for approval. Councilmember Logan made a motion, seconded by Councilmember Tilman, to approve the February 5, 2018 Executive Session minutes. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

The minutes of the March 5, 2018 City Council meeting were submitted for approval. Councilmember Ohley made a motion, seconded by Councilmember Tilman, to approve the March 5, 2018 City Council minutes. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

COMMUNICATIONS AND PETITIONS

Councilmember Tilman offered thanks and expressed his appreciation to City staff and elected officials for their hard work and cooperation during his term as Councilmember. He also thanked the residents of Chesterfield for entrusting him to serve their interests.

Mr. Peter White, 16062 Hunters Way Drive, expressed opposition to the Clarkson Woods rezoning.

Mr. Dennis Ganahl, 15979 Woodlet Way Court, representing the Trustees of Clarkson Woods subdivision, expressed opposition to the Clarkson Woods rezoning.

Mayor Nation presented a Proclamation to members of the Chesterfield Historic and Landmark Preservation Committee (CHLPC) in recognition of the 200th year since the first reference to the “Chesterfield” community.

Mayor Nation presented Mrs. Rosie Bergh as the 2017 Citizen of the Year. For years, Mrs. Bergh has given generously of her time and talent through volunteerism.

TEMPORARY ADJOURNMENT - RECEPTION

Mayor Nation temporarily adjourned the meeting at 7:46 p.m., for those in attendance to join a reception for the Citizen of the Year.

The meeting was reconvened at 8:20 p.m.

INTRODUCTORY REMARKS

Mayor Nation announced that the General Municipal Election will be held on Tuesday, April 3 and urged everyone to vote.

Mayor Nation announced that the next meeting of City Council has been scheduled for Wednesday, April 18, at 7 p.m.

APPOINTMENTS

There were no appointments.

COUNCIL COMMITTEE REPORTS

Planning/Public Works Committee

Councilmember Guy Tilman, Chairperson of the Planning/Public Works Committee, reported that Bill No. 3190 (Riparian Trail – Transportation Alternative Funds Program Agreement) will be considered for adoption under the “Legislation” portion of the agenda.

Councilmember Tilman reported that Bill No. 3191 (P.Z. 01-2018 Clarkson Square) will be read for the first time under the “Legislation – Planning Commission” portion of the agenda.

Councilmember Tilman made a motion, seconded by Councilmember Logan, for approval of a contract with George Butler Associates, Inc. for design and construction engineering services for construction of the Riparian Trail from August Hill Drive to Old Chesterfield Road in an amount not to exceed \$284,200, funded by a transfer from General Fund – Fund Reserves.

Councilmember Tilman made a motion, seconded by Councilmember Flachsbart, to amend the main motion by adding the following:

only after the City Council has authorized execution of the First Amendment to the Contribution of Land Agreement with Chesterfield Village Incorporated, which will provide for the conveyance of properties facilitating the construction of phase two of the Riparian Trail, as provided for in the agreement with the Missouri Highways and Transportation Commission authorized under Bill No. 3190.

A roll call vote was taken with the following results: Ayes – McGuinness, Logan, DeCampi, Tilman, Ohley, Flachsbart, Hurt and Keathley. Nays – None. Whereupon Mayor Nation declared the motion to amend passed.

A roll call vote was taken on the original motion, as amended, with the following results: Ayes – McGuinness, Logan, Flachsbart, Ohley, Hurt, Tilman, DeCampi and Keathley. Nays – None. Whereupon Mayor Nation declared the motion, as amended, passed.

Councilmember Tilman made a motion, seconded by Councilmember Flachsbart, to approve a budget amendment to fund the effort of updating the Comprehensive Plan and Travel Demand Model and transfer \$300,000 from General Fund – Fund Reserves. A roll call vote was taken with the following results: Ayes – Flachsbart, Hurt, McGuinness, Ohley, DeCampi, Keathley, Tilman and Logan. Nays – None. Whereupon Mayor Nation declared the motion passed.

Councilmember Tilman announced that the next meeting of this Committee has been scheduled for Thursday, March 22, at 5:45 p.m.

Finance and Administration Committee

Councilmember Tom DeCampi, Chairperson of the Finance and Administration Committee, indicated that he had no report this evening.

Parks, Recreation & Arts Committee

Councilmember Randy Logan, Chairperson of the Parks, Recreation & Arts Committee, made a motion, seconded by Councilmember Tilman, for approval of placement of the Creative Art Alliance public art piece “Saturday’s Distraction” at the Miracle Field location as designated by Staff. A voice vote was taken with a unanimous affirmative result and the motion was declared passed.

Public Health & Safety Committee

Councilmember Barry Flachsbart, Chairperson of the Public Health & Safety Committee, reported that this committee met on March 5, 2018 and discussed potential resolutions to the City’s deer population problem.

REPORT FROM THE CITY ADMINISTRATOR

City Administrator Mike Geisel reported that, in accordance with the Secretary of State’s recommendations and state statutes for records retention, Staff is to report on the destruction of records, and such destruction should be officially acknowledged by Council for the record. Councilmember Ohley made a motion, seconded by Councilmember Tilman, to authorize destruction of the records as recommended by City Clerk Vickie Hass in her memorandum dated March 6, 2018. A voice vote was taken with a unanimous affirmative result and motion was declared passed.

Mr. Geisel reported that Staff is recommending award of a contract for Schoettler Road Design Services. Based upon review of information provided by Director of Public Works/City Engineer Jim Eckrich, Mr. Geisel joined with him in recommending authorization for the City Administrator to enter into an Agreement with HR Green Incorporated for design and construction services necessary for the improvement of Schoettler Road in an amount not to exceed \$100,000. This project is fully funded by the Capital Projects Fund. Councilmember Hurt made a motion, seconded by Councilmember Tilman, to approve this recommendation. A roll call vote was taken with the following results: Ayes – Tilman, Logan, McGuinness, Hurt, Ohley, Flachsbart, Keathley and DeCampi. Nays – None. Whereupon Mayor Nation declared the motion passed.

Mr. Geisel reported that Staff is recommending award of a contract for Sidewalk Replacement Project A. Based upon review of information provided by Director of Public Works/City Engineer Jim Eckrich, Mr. Geisel joined with him in recommending authorization for the City Administrator to enter into an Agreement with Amcon Municipal Concrete in an amount not to exceed \$300,000. This project is fully funded by the Capital Projects Fund. Councilmember Ohley made a motion, seconded by Councilmember Flachsbart, to approve this recommendation. A roll call vote was taken with the following results: Ayes – Logan, DeCampi, Tilman, Ohley, Hurt, Flachsbart, McGuinness and Keathley. Nays – None. Whereupon Mayor Nation declared the motion passed.

Mr. Geisel reported that Staff is recommending award of a contract for Sidewalk Replacement Project B. Based upon review of information provided by Director of Public Works/City Engineer Jim Eckrich, Mr. Geisel joined with him in recommending authorization for the City Administrator to enter into an Agreement with Aztec Construction Specialties in an amount not to exceed \$200,000. This project is fully funded by the Capital Projects Fund. Councilmember Flachsbart made a motion, seconded by Councilmember Tilman, to approve this recommendation. A roll call vote was taken with the following results: Ayes – DeCampi, Flachsbart, Ohley, Keathley, Hurt, McGuinness, Tilman and Logan. Nays – None. Whereupon Mayor Nation declared the motion passed.

Mr. Geisel reported that, in order to close out the 2017 budget, several standard “housekeeping” adjustments need to be made. This is an annual process to re-appropriate existing contractual obligations as we cross fiscal years understanding that we utilize modified accrual accounting. These adjustments have no net impact on total expenditures, but amend the annual budget to reflect carry-over purchase orders and incorporate expenditures previously approved by Council. Councilmember DeCampi made a motion, seconded by Councilmember Flachsbart, to approve the recommended budget adjustments as provided in Finance Director Chris DesPlanques’ memorandum. A roll call vote was taken with the following results: Ayes – Hurt, Keathley, McGuinness, Logan, Flachsbart, Tilman, Ohley and DeCampi. Nays – None. Whereupon Mayor Nation declared the motion passed.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

LEGISLATION

BILL NO. 3190 Authorizes the City Administrator to execute a Transportation Alternative Funds Program Agreement with the Missouri Highways and Transportation Commission for construction of the Riparian Trail from August Hill Drive to Old Chesterfield Road (**Second Reading**) **Planning & Public Works Committee recommends approval**

Councilmember Tilman made a motion, seconded by Councilmember Flachsbart, for the second reading of Bill No. 3190.

Councilmember Tilman made a motion, seconded by Councilmember Flachsbart, to amend Bill No. 3190 to include the following language following the words “Exhibit A”:

only after the City Council has authorized execution of the First Amendment to the Contribution of Land Agreement with Chesterfield Village Incorporated, which will provide for the conveyance of properties facilitating the construction of phase two of the Riparian Trail, as provided for in the afore-stated agreement with the Missouri Highways and Transportation Commission agreement.

A voice vote was taken on the amendment with a unanimous affirmative result and the motion to amend was declared passed.

A voice vote was taken on the original motion for second reading of Bill No. 3190 with a unanimous affirmative result and the original motion was declared passed.

Bill No. 3190 was read for the second time. A roll call vote was taken for the passage and approval of Bill No. 3190 with the following results: Ayes – DeCampi, Tilman, Hurt, Ohley, McGuinness, Flachsbart, Keathley and Logan. Nays – None. Whereupon Mayor Nation declared Bill No. 3190 approved, passed it and it became **ORDINANCE NO. 2997**.

LEGISLATION – PLANNING COMMISSION

BILL NO. 3191 Repeals City of Chesterfield Ordinance 2169 and amends Ordinance 2020 relating to a “C-8” Planned Commercial District located on the west side of Clarkson Road at its intersection with Baxter Road (P.Z. 01-2018 Clarkson Square [1709 Clarkson Rd] Ordinance Amendment) (**First Reading**) **Planning Commission recommends approval**

Councilmember Tilman made a motion, seconded by Councilmember Ohley, for the first reading of Bill No. 3191. A voice vote was taken with a unanimous affirmative result and the motion was declared passed. Bill No. 3191 was read for the first time.

ADJOURNMENT

There being no further business to discuss, Mayor Nation adjourned the meeting at 8:44 p.m.

Mayor Bob Nation

ATTEST:

Vickie J. Hass, City Clerk

APPROVED BY CITY COUNCIL: _____



**Finance and Administration Committee
Record of Proceeding
March 12, 2018**

The Finance and Administration Committee met on Monday, March 12, 2018. Those in attendance included: Chairperson Tom DeCampi, Ward IV; Council Committee Member Barbara McGuinness, Ward I; Council Committee Member Ben Keathley, Ward II; Council Committee Member Randy Logan, Ward III; and City Administrator Mike Geisel. Those also in attendance included: Mayor Bob Nation; Councilmember Guy Tilman, Ward II; Councilmember Michelle Ohley, Ward IV and City Attorney Chris Graville; Public Works Director Jim Eckrich; Planning & Development Services Director Justin Wyse; Parks Recreation & Arts Director Tom McCarthy; CHLPC committee members Michael Kane and Jane Durrell.

Chairperson Tom DeCampi called the meeting to order at 5:31 p.m.

Approval of Minutes

Chairperson DeCampi asked if there were any comments or changes to the January 29, 2018 F&A Committee Minutes. Hearing none, Councilmember McGuinness made a motion, seconded by Councilmember Logan, to approve the January 29, 2018 minutes. A voice vote was taken with a unanimous affirmative result (4-0) and the motion was declared passed.

Per Unit Purchasing Policy

Finance Director Chris DesPlanques presented Chapter IV of the City of Chesterfield Purchasing Policy which details the purchasing procedures of the City of Chesterfield. Sections one through four of Chapter IV provide the framework for the actions necessary to approve purchases based upon the unit cost of commodities where appropriate. He further explained that per the City's policy, the F&A Committee is authorized to annually review and approve the list of commodities which may be purchased on a "unit cost" basis, and staff had prepared an updated list for their consideration.

Councilmember McGuinness made a motion, seconded by Councilmember Logan to approve the list of "Per Unit" purchase commodities as provided by staff. A voice vote was taken with a unanimous affirmative result (4-0) and the motion was declared passed.

Grant Process

City Administrator Mike Geisel explained that Council had directed that staff provide an explanation of the current procedures employed by staff to obtain grants. Mr. Geisel shared his memo dated 6/9/2015 which outlined the types and processes associated with seeking grants on behalf of the City. City Engineer\ Director of Public Works Jim Eckrich described the normal sequence of application, design, land acquisition, construction and reimbursement associated with most grant projects.

Councilmember Logan made a motion, seconded by Councilmember McGuinness directing staff to inform Council by electronic communication, at not less than a quarterly basis, advising them of grants being sought. A voice vote was taken with a unanimous affirmative result (4-0) and the motion was declared passed.

Insurance Renewals

City Administrator, Mike Geisel discussed his memorandum dated March 7, 2018, wherein he describes the various insurance coverages managed by the City and the role that the St. Louis Area Insurance Trust (SLAIT) performs as a broker on behalf of the City. Mr. Geisel requested that the F&A Committee affirm the City's practice of annual insurance renewals being an administrative process which does not require any separate approvals by City Council.

Councilmember McGuinness made a motion, seconded by Councilmember Logan to affirm the City's practices of using SLAIT and Daniel & Henry for brokerage and negotiation of insurance coverages, continuing the City's practice of annual renewals as an administrative function without requirement of separate or further individual Council action. A voice vote was taken with a unanimous affirmative result (4-0) and the motion was declared passed.

Chesterfield Historic and Landmark Preservation Committee Discussion

Councilmember Keathley stated that this agenda item needs no action and that the Planning and Public Works Committee should discuss committee functions with members of the CHLPC.

Councilmember DeCampi made a motion, seconded by Councilmember Keathley to postpone indefinitely. A voice vote was taken with a unanimous affirmative result (4-0) and the motion was declared passed.

Adjournment

The meeting was adjourned at 6:11 p.m.

Respectfully submitted:

Chris DesPlanques
Finance Director

Amanda Miller
Deputy City Clerk

Approved: _____

MEMORANDUM

DATE: March 6, 2018
TO: Mike Geisel, City Administrator
FROM: Chief Ray Johnson
SUBJECT: PUBLIC HEALTH & SAFETY COMMITTEE

The Public Health and Safety (PH&S) Committee met on Monday, March 5, 2018. Those in attendance included Chairperson Barry Flachsbart Councilmember - Ward I, Councilmember Guy Tillman, Ward II, Councilmember Michelle Ohley, Ward IV, Councilmember Barb McGuinness, Ward I, Chief Ray Johnson, City Administrator Mike Geisel and Erin Shank of the Missouri Department of Conservation. Several citizens were also in attendance

The meeting was called to order at 4:32 PM by Chairperson Barry Flachsbart.

I. Approval of Minutes – July 17, 2017

Councilman Tillman motioned and Councilmember Ohley seconded to approve the minutes of the July 17, 2017 meeting. The motion carried 3-0.

II. White Buffalo Inc. Deer Distance Sampling Population Survey

The Committee reviewed information provided in a summary report from White Buffalo to plan for any future action to control the deer population in the City of Chesterfield.

Councilmember Flachsbart noted the ongoing problems of deer/vehicle interactions and also the issues of property destruction associated with the deer population. The White Buffalo report estimated the deer population to be 40 deer per square mile. Erin Shank of the Missouri Department of Conservation commended the City on the survey and informed those present that the reported number of deer per square mile does not indicate overpopulation at this time and that archery is the recommended hunting solution in residential areas. She continued to report that sharp shooting is more efficient, but access to property is a problematic issue.

Councilmember Flachsbart suggested topography to identify an area for access for sharpshooting. Erin Shank agreed.

The Committee further discussed the possibility of additional counting methods including drones. Although the technology is available, there are FAA restrictions on the utilization of drones.

Councilmember Tillman noted that although trustees of subdivisions in Chesterfield were contacted regarding archery hunting on common ground, the contact was made without data. At this time, perhaps it would be time to solicit the trustees again with the presentation of the data now available. A citizen present asked if baiting would be allowed on properties that are currently approved in Chesterfield. Erin Shank replied that

it would require a special permit and a proposal to the Department of Conservation would be required.

It was also suggested that a three year deer census is needed for comparison. A count of those deer involved in vehicular accidents and also a count of dead deer on all roadways would help. Chief Johnson noted that vehicular accidents involving deer are already counted and agreed to have officers report dead deer found on the roadway.

A citizen present noted concerns regarding safety of residents when hunting on common ground. Councilmember Flachsbart reported that the overpopulation of deer destroys their own habitat and vehicular accidents involving deer are extremely dangerous. Another citizen asked for a more objective and exact numbers of deer to be culled from the herds.

Councilmember Flachsbart noted that the City of Chesterfield has a deer population problem but not a severe problem at this time.

Councilmember Flachsbart motioned to direct staff to identify deer population problem areas. Councilmember Tillman seconded.

During discussion, Councilmember Ohley asked how the staff could identify problem areas. City Administrator Geisel that the aerial topographical maps along with the report from White Buffalo would be the best way to determine the areas of over population. After discussion, the motion carried 3-0.

Councilmember Tillman motioned to direct staff to develop a process to maintain a yearly informational survey of the deer population along with recommendations and/or options for deer control. Councilmember Ohley seconded.

Chief Johnson asked for clarification of whom would be doing the yearly population survey: City staff, White Buffalo, or another vendor. Councilmember Flachsbart directed Chief Johnson to meet with Erin Shank and recommend the actual logistical process for an annual count. After discussion, the motion carried 3-0.

III. Metal Detectors

Councilmember McGuinness asked Chief Johnson how the recently installed metal detectors were working. Chief Johnson replied that they were working well, no problems noted.

IV. Adjournment

Having no further business, the meeting adjourned at 5:25 PM.

Memorandum

Department of Public Works



TO: Michael O. Geisel, P.E.
City Administrator

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

DATE: March 27, 2018

RE: Riparian Trail Grant– Transportation Alternative Program
First Amendment to Agreement with CVI

Please forward for inclusion
in City Council packet

On March 19, 2018 the City of Chesterfield City Council voted to move forward with the Riparian Trail project by adopting an ordinance approving a Transportation Alternatives Program (TAP) Agreement and authorizing the City Administrator to execute a contract with George Butler Associates (GBA) to complete the design of the Riparian Trail extension. These approvals were subject to City Staff finalizing an Agreement Amendment with Chesterfield Village Incorporated (CVI) for acquisition of the property necessary in order to construct the Riparian Trail.

In an effort to facilitate an Agreement Amendment with CVI, Mayor Nation, Councilmember Tilman, and City Administrator Geisel met with the attorney for CVI. Subsequent to the meeting, CVI responded with a modified proposal, which City Administrator Geisel summarized and shared with City Council. This modified proposal provided the framework for a revised Agreement Amendment, which is attached hereto. In summary, CVI has agreed that its development “credits” acquired through this property donation can only be used for development or redevelopment of the southwest quadrant of Chesterfield Village. CVI has also modified the reversionary provisions of “the Awakening”, limiting reversion rights only if the City opts to convey the property to a third party without CVI’s consent. Additionally, CVI has agreed to dedicate the right of way necessary to construct Burkhardt Place. CVI would not agree to a delay in the City’s acceptance of the Chesterfield Ridge Center Drive Bridge. However, the bridge must be brought to City standards, with all deficiencies addressed, prior to the City accepting the bridge.

The Agreement Amendment has been revised to reflect the above-described negotiations. Should the City Council vote to approve the Agreement Amendment, the exhibits and legal descriptions will be finalized. Additionally, CVI will begin to address the bridge deficiencies. Once these documents and bridge improvements

have been completed to the City's satisfaction, the necessary title work will be completed and the Agreement Amendment will be executed.

A clean version of the Agreement Amendment, as well as a highlighted version delineating the most recent changes, are attached for City Council's use in considering this matter.

Action Recommended

This matter should be forwarded to the City Council for consideration. Should the City Council desire to proceed with the Riparian Trail project, it should vote to authorize the Mayor to execute the Agreement Amendment with CVI, and to authorize the City Administrator to execute all other related necessary documents to facilitate closing. If the Agreement Amendment is approved, Staff will proceed with execution of the previously approved TAP Agreement and the engineering design services contract with GBA (once approved by MODOT).

Should there be any questions regarding this project, I would be happy to address those.

**FIRST AMENDMENT TO
AGREEMENT RE: CONTRIBUTION OF LAND TO THE CITY OF CHESTERFIELD,
MISSOURI
FOR ITS PARKS AND TRAILS SYSTEM**

THIS FIRST AMENDMENT TO AGREEMENT RE: CONTRIBUTION OF LAND TO THE CITY OF CHESTERFIELD, MISSOURI FOR ITS PARKS AND TRAILS SYSTEM (“Amendment”) made as of this ___ day of _____, 2018, (the “Effective Date”) by and between the CITY OF CHESTERFIELD, MISSOURI, a municipal corporation (“City”), and CHESTERFIELD VILLAGE INC., a Missouri corporation (“CVI”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement (as that term is defined below):

RECITALS

- A. City and CVI entered into that certain Agreement Re: Contribution of Land to the City of Chesterfield, Missouri for its Parks and Trail System dated August 2, 2010 (“Agreement”), whereby CVI agreed to contribute certain tracts of land to the City to become part of the City’s parks and trails system, and for the City to connect Lydia Hill Drive to August Hill Drive;
- B. CVI completed and City accepted such contributions;
- C. City has since completed the connection of Lydia Hill Drive to August Hill Drive;
- D. CVI now desires to contribute to the City additional tracts of land, Burkhardt Place Right of Way and a bridge not included in the Agreement;
- E. CVI further desires to contribute the Sculpture (as that term is defined in Section 1) to the City; and
- F. The parties now wish to amend the Agreement.

AGREEMENT

NOW, THEREFORE, the Agreement is hereby amended as follows:

- 1. Definitions. As used in this Amendment, the following terms shall have the following meanings.
 - A. “Additional Park and Trail Properties” means the following tracts of land, each depicted on Exhibit A attached hereto and incorporated herein by reference:
 - i. Parcel C121 Lot 2, containing approximately 1.0 acres, as described in Exhibit A-3.
 - ii. Parcel C220A, containing approximately 8.3 acres, as described in Exhibit A-5.
 - iii. A portion of Parcel C252W, containing approximately 3.3 acres, as described in Exhibit A-6.

- iv. A portion of Parcel C254W, containing approximately 2.5 acres, as described in Exhibit A-7.
 - v. Parcel C148C, containing approximately 0.5 acres, as described in Exhibit A-8.
 - vi. Parcel C254CS, containing approximately 1.4 acres, as described in Exhibit A-9.
 - B. “Bridge Property” means that certain portion of Chesterfield Ridge Center Drive, including its existing bridge, containing approximately 0.6 acres and as described in Exhibit A-15 and depicted on Exhibit A.
 - C. “Burkhardt Place” means the Burkhardt Place right-of-way as described in Exhibit B.
 - D. “Contributed Property” means the Additional Park and Trail Properties, Burkhardt Place, the Bridge Property, and the Sculpture.
 - E. “Sculpture” means the sculpture located on Parcel C121 Lot 2, known as The Awakening.
- 2. Amendments to the Agreement. Recital F of the Agreement is hereby amended by adding the Additional Park and Trail Properties to the definition of “Trail Property,” “Park Sites,” and “Park and Trail Properties.” Provided, however, that the additional deposits in the Space Account, the F.A.R. Account and the Canopy Account (all of which terms are defined in the Agreement) made as a result of the contribution of the Additional Park and Trail Properties pursuant to this Amendment shall only be used for developments or redevelopments in the Southwest Quadrant of Chesterfield Village as depicted on Exhibit C. The original deposits made pursuant to the Agreement prior to this Amendment shall be unaffected by this Amendment.
- 3. Additional Properties to be Contributed.
 - A. CVI shall at Closing (as defined below) convey the Contributed Property to the City.
 - B. Upon execution of this Amendment, CVI shall order a title insurance commitment from St. Louis Title, LLC (the “Title Company”) covering the Additional Park and Trail Properties, Burkhardt Place, and the Bridge Property, which commitment(s) shall be sent to City and to CVI upon issuance. Within fifteen (15) days following the receipt of the commitment by City, City shall notify CVI in writing of any objections it has to the titles, and CVI shall have fifteen (15) days thereafter to remove or otherwise satisfy City as to the objections raised. City will take title to the Additional Park and Trail Properties subject to the Conservation Easement encumbering all or portions of the Additional Park and Trail Properties as shown on and described in that certain instrument recorded in Plat Book 352, Pages 93 through 95 of the St. Louis County Records (the “Conservation Easement”). If City’s other objections are not satisfied within said fifteen (15) day period, City may terminate this Amendment, or waive its objections and accept all of the Additional Park

and Trail Properties, Burkhardt Place and the Bridge Property subject to the title exceptions, including the Conservation Easement (“Permitted Exceptions”). CVI will exercise commercially reasonable efforts (but shall not be obligated to expend any funds) to satisfy City’s objections.

- C. Title to the Additional Park and Trail Properties and the Bridge Property shall be marketable in fact, shall be conveyed by special warranty deed free of all liens and encumbrances, and shall be insured in a mutually agreeable amount by the Title Company, at CVI’s expense, subject only to existing utility easements, rights of way of record and Permitted Exceptions.
 - D. Title to the Sculpture shall be conveyed to the City by a bill of sale in a form satisfactory to the parties.
4. Limitation on Sculpture Relocation. The contribution of the Sculpture shall be subject to the condition that the Sculpture shall not, at any time, be sold, transferred, exchanged, loaned, disposed of, mortgaged, subjected to a security interest or moved to a location that is not owned by the City without CVI’s consent. If CVI does not consent upon written request by the City to do so then all of City’s right, title and interest in and to the Sculpture and Parcel C121 Lot 2 will automatically revert to CVI. The terms and conditions of this Section will be incorporated in the bill of sale for the sculpture and the deed for Parcel C121 Lot 2 and expressly survive Closing.
5. Conditions Precedent to Closing. Closing of the transactions described herein and the attendant rights and obligations of the parties hereto shall be conditioned upon the occurrence of each of the following events:
- A. CVI’s execution of a special warranty deed(s) conveying the Additional Park and Trail Properties and the Bridge Property to City, and City’s acceptance of the conveyance provided therein;
 - B. CVI’s execution of a bill of sale conveying the Sculpture to City, and City’s acceptance of the conveyance provided therein;
 - C. CVI’s execution of an instrument in a form satisfactory to the parties conveying Burkhardt Place to City and City’s acceptance of the conveyance provided therein; and
 - D. CVI and City agreeing in writing to the repairs that CVI must make or cause to be made, at its expense, to the bridge that is part of the Bridge Property.
6. Closing. Closing (“Closing”) of the transactions described in this Amendment by and between CVI and the City shall take place at the office of the Title Company at 10:00 a.m. on the thirtieth (30th) day following the date on which CVI and City enter into the written agreement contemplated by Section 5. D. above; if CVI and City do not enter into such written agreement within _____ (_____) days after the Effective Date than this Amendment shall terminate and be of no further force and effect.

7. Charitable Donation. In accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, CVI understands it has the right to receive compensation for the Contributed Property, as determined by an appraisal, and hereby waives the right to compensation and pro rata tax adjustment. The parties agree that an amount equal to the fair market value of the Contributed Property shall be characterized as a charitable contribution from CVI to City, and that CVI may, in its discretion, deduct the value of the Contributed Property on its income tax returns in accordance with federal statutes and regulations. In furtherance thereof, CVI shall, at its sole cost and expense, order an appraisal (the "Appraisal") from an appraiser (the "Appraiser") of CVI's choosing certified and/or licensed by the State of Missouri to determine the current fair market value of the Contributed Property (the "Appraised Value"), and upon receipt of a copy of the Appraisal, City shall provide CVI an acknowledgement (the "Donee Acknowledgement") on Form 8283 (Rev. December 2006) – Noncash Charitable Contributions of the Department of Treasury, Internal Revenue Service ("Form 8283"). City shall not be required to sign and deliver the Donee Acknowledgement unless (i) Form 8283 has been fully completed and signed by both CVI and the Appraiser, and (ii) City is reasonably satisfied that the Donee Acknowledgement is in compliance with federal statutes and regulations.
8. As-Is. City has or, prior to Closing, will conduct its own independent inspection of the Contributed Property. CVI disclaims and City acknowledges that no warranties or representations of any kind or character, either express or implied, have been or are being made by CVI or relied upon by City with respect to the maintenance, repair, condition, design or marketability of the Contributed Property, or any portion thereof, including, without limitation, (a) any implied or express warranty of fitness for a particular purpose, (b) the compliance of the Contributed Property with governmental regulations, and (c) any environmental matter, it being the express intention of CVI and City that the Contributed Property will be transferred to and accepted by City in its present condition and state of repair, subject to the provisions of Section 5. D. above "as is" and "where is", with all faults. City represents that it is relying solely on its own expertise and that of City's consultants in accepting the Contributed Property. Further, City, for City and City's successors and assigns, hereby releases CVI from and waives any and all claims and liabilities against CVI for, related to, or in connection with, any environmental or physical condition at the Contributed Property, including, but not limited to, claims and/or liabilities relating to (in any manner whatsoever) any hazardous substances (as defined in applicable federal, state and/or local statutes, laws, ordinances, rules and regulations) in, at, about or under the Contributed Property.
9. Acknowledgement of Waivers. City acknowledges and agrees that the waivers, releases and other provisions contained in Section 8 above were a material factor in CVI's agreement to contribute the Contributed Property to City, and that CVI is unwilling to contribute the Contributed Property to City unless CVI is released as expressly set forth above. City, with City's counsel, has fully reviewed the disclaimers and waivers set forth in this Amendment, and understands their significance and effect thereof. The terms and conditions of this Section will expressly survive Closing.
10. Ratification. City and CVI hereby ratify and confirm the Agreement as modified hereby and affirm that the Agreement remains in full force and effect.

11. Conflicting Provisions. If there is any conflict between the terms of this Amendment and the terms of the Agreement, this Amendment shall control.
12. Execution. This Amendment may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. For purposes of this Amendment, a facsimile or email signature shall be deemed an original signature.
13. Authority. CVI represents to the City that execution of this Amendment has been duly authorized by its board of directors, and City represents to CVI that execution of this Amendment has been duly authorized by an ordinance passed by the City Council of the City.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

CVI: CHESTERFIELD VILLAGE INC., a Missouri corporation

By: _____
Ami E. Kutz, Vice President

Date: _____

CITY: CITY OF CHESTERFIELD, MISSOURI, a municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this ____ day of _____, 2017, before me appeared Ami E. Kutz, to me personally known, who, being duly sworn did say that she is the Vice President of CHESTERFIELD VILLAGE INC., a corporation of the State of Missouri, and that said instrument was signed in behalf of said corporation, by authority of its Board of Directors; and said Ami E. Kutz acknowledged said instrument to be the free act and deed of said corporation.

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

Notary Public

My Commission Expires:

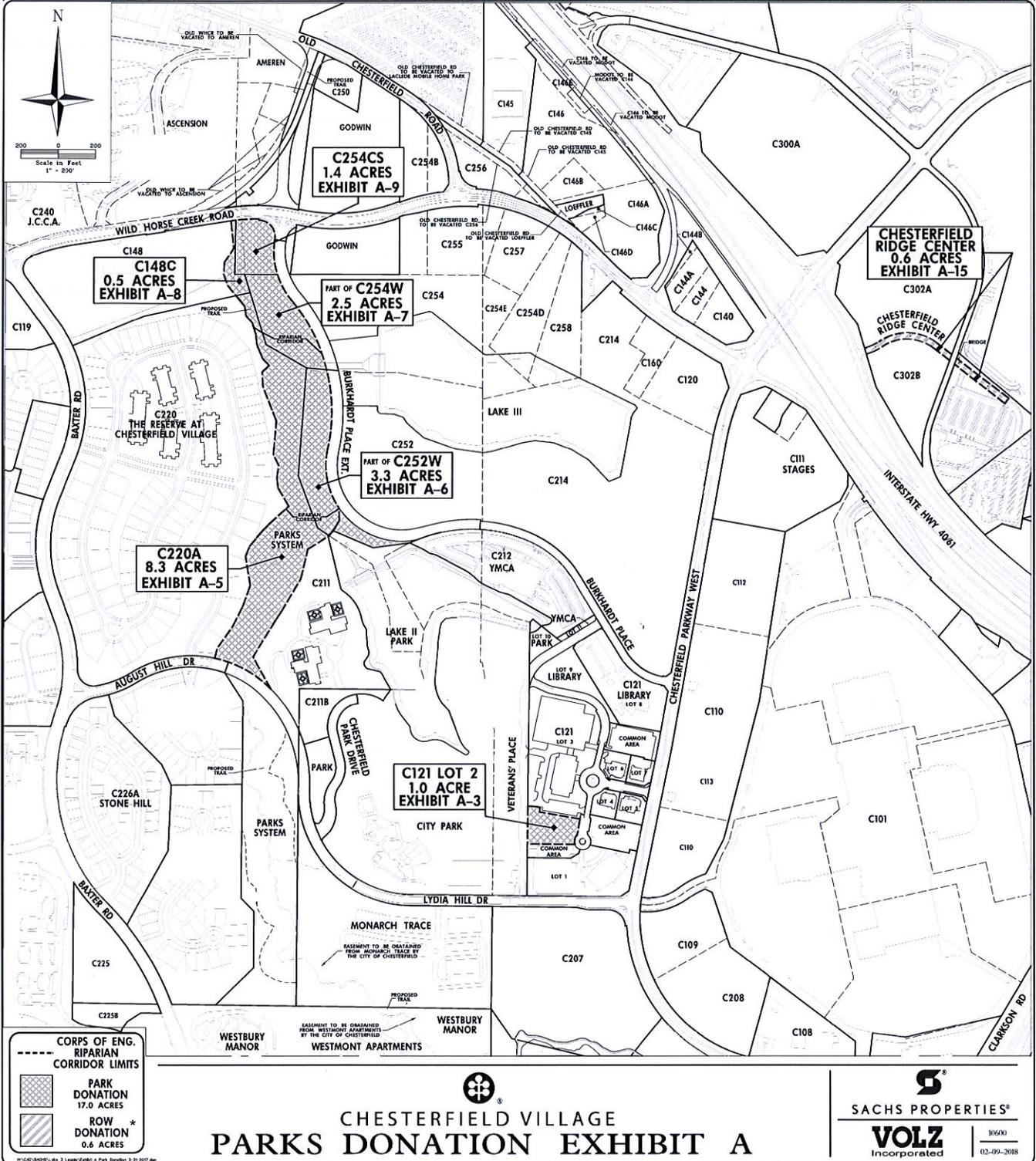
STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this ____ day of _____, 2017, before me appeared _____, to me personally known, who, being duly sworn did say that she/he is the _____ of the CITY OF CHESTERFIELD in the State of Missouri, a municipal corporation, and that said instrument was signed in behalf of said City, by authority of its City Counsel; and said _____ acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

My Commission Expires:



*Cross-hatched area does not include Burkhardt Place ROW donation. Burkhardt Place donation to be determined by legal description prepared by Volz Inc.

HIGHLIGHTED VERSION – SHOWING MOST RECENT CHANGES

**FIRST AMENDMENT TO
AGREEMENT RE: CONTRIBUTION OF LAND TO THE CITY OF CHESTERFIELD,
MISSOURI
FOR ITS PARKS AND TRAILS SYSTEM**

THIS FIRST AMENDMENT TO AGREEMENT RE: CONTRIBUTION OF LAND TO THE CITY OF CHESTERFIELD, MISSOURI FOR ITS PARKS AND TRAILS SYSTEM (“Amendment”) made as of this ___ day of _____, 2018, (the “Effective Date”) by and between the CITY OF CHESTERFIELD, MISSOURI, a municipal corporation (“City”), and CHESTERFIELD VILLAGE INC., a Missouri corporation (“CVI”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement (as that term is defined below):

RECITALS

- A. City and CVI entered into that certain Agreement Re: Contribution of Land to the City of Chesterfield, Missouri for its Parks and Trail System dated August 2, 2010 (“Agreement”), whereby CVI agreed to contribute certain tracts of land to the City to become part of the City’s parks and trails system, and for the City to connect Lydia Hill Drive to August Hill Drive;
- B. CVI completed and City accepted such contributions;
- C. City has since completed the connection of Lydia Hill Drive to August Hill Drive;
- D. CVI now desires to contribute to the City additional tracts of land, Burkhardt Place Right of Way and a bridge not included in the Agreement;
- E. CVI further desires to contribute the Sculpture (as that term is defined in Section 1) to the City; and
- F. The parties now wish to amend the Agreement.

AGREEMENT

NOW, THEREFORE, the Agreement is hereby amended as follows:

- 1. Definitions. As used in this Amendment, the following terms shall have the following meanings.
 - A. “Additional Park and Trail Properties” means the following tracts of land, each depicted on Exhibit A attached hereto and incorporated herein by reference:
 - i. Parcel C121 Lot 2, containing approximately 1.0 acres, as described in Exhibit A-3.
 - ii. Parcel C220A, containing approximately 8.3 acres, as described in Exhibit A-5.

- iii. A portion of Parcel C252W, containing approximately 3.3 acres, as described in Exhibit A-6.
 - iv. A portion of Parcel C254W, containing approximately 2.5 acres, as described in Exhibit A-7.
 - v. Parcel C148C, containing approximately 0.5 acres, as described in Exhibit A-8.
 - vi. Parcel C254CS, containing approximately 1.4 acres, as described in Exhibit A-9.
 - B. “Bridge Property” means that certain portion of Chesterfield Ridge Center Drive, including its existing bridge, containing approximately 0.6 acres and as described in Exhibit A-15 and depicted on Exhibit A.
 - C. “Burkhardt Place” means the Burkhardt Place right-of-way as described in Exhibit B.
 - D. “Contributed Property” means the Additional Park and Trail Properties, Burkhardt Place, the Bridge Property, and the Sculpture.
 - E. “Sculpture” means the sculpture located on Parcel C121 Lot 2, known as The Awakening.
2. Amendments to the Agreement. Recital F of the Agreement is hereby amended by adding the Additional Park and Trail Properties to the definition of “Trail Property,” “Park Sites,” and “Park and Trail Properties.” Provided, however, that the additional deposits in the Space Account, the F.A.R. Account and the Canopy Account (all of which terms are defined in the Agreement) made as a result of the contribution of the Additional Park and Trail Properties pursuant to this Amendment shall only be used for developments or redevelopments in the Southwest Quadrant of Chesterfield Village as depicted on Exhibit C. The original deposits made pursuant to the Agreement prior to this Amendment shall be unaffected by this Amendment.
3. Additional Properties to be Contributed.
 - A. CVI shall at Closing (as defined below) convey the Contributed Property to the City.
 - B. Upon execution of this Amendment, CVI shall order a title insurance commitment from St. Louis Title, LLC (the “Title Company”) covering the Additional Park and Trail Properties, Burkhardt Place, and the Bridge Property, which commitment(s) shall be sent to City and to CVI upon issuance. Within fifteen (15) days following the receipt of the commitment by City, City shall notify CVI in writing of any objections it has to the titles, and CVI shall have fifteen (15) days thereafter to remove or otherwise satisfy City as to the objections raised. City will take title to the Additional Park and Trail Properties subject to the Conservation Easement encumbering all or portions of the Additional Park and Trail Properties as shown on and described in that certain instrument recorded in Plat Book 352, Pages 93 through 95 of the St. Louis County Records (the “Conservation Easement”). If

City's other objections are not satisfied within said fifteen (15) day period, City may terminate this Amendment, or waive its objections and accept all of the Additional Park and Trail Properties, Burkhardt Place and the Bridge Property subject to the title exceptions, including the Conservation Easement ("Permitted Exceptions"). CVI will exercise commercially reasonable efforts (but shall not be obligated to expend any funds) to satisfy City's objections.

- C. Title to the Additional Park and Trail Properties and the Bridge Property shall be marketable in fact, shall be conveyed by special warranty deed free of all liens and encumbrances, and shall be insured in a mutually agreeable amount by the Title Company, at CVI's expense, subject only to existing utility easements, rights of way of record and Permitted Exceptions.
 - D. Title to the Sculpture shall be conveyed to the City by a bill of sale in a form satisfactory to the parties.
4. Limitation on Sculpture Relocation. The contribution of the Sculpture shall be subject to the condition that the Sculpture shall not, at any time, be sold, transferred, exchanged, loaned, disposed of, mortgaged, subjected to a security interest or moved to a location that is not owned by the City without CVI's consent. If CVI does not consent upon written request by the City to do so then all of City's right, title and interest in and to the Sculpture and Parcel C121 Lot 2 will automatically revert to CVI. The terms and conditions of this Section will be incorporated in the bill of sale for the sculpture and the deed for Parcel C121 Lot 2 and expressly survive Closing.
5. Conditions Precedent to Closing. Closing of the transactions described herein and the attendant rights and obligations of the parties hereto shall be conditioned upon the occurrence of each of the following events:
- A. CVI's execution of a special warranty deed(s) conveying the Additional Park and Trail Properties and the Bridge Property to City, and City's acceptance of the conveyance provided therein;
 - B. CVI's execution of a bill of sale conveying the Sculpture to City, and City's acceptance of the conveyance provided therein;
 - C. CVI's execution of an instrument in a form satisfactory to the parties conveying Burkhardt Place to City and City's acceptance of the conveyance provided therein; and
 - D. CVI and City agreeing in writing to the repairs that CVI must make or cause to be made, at its expense, to the bridge that is part of the Bridge Property.
6. Closing. Closing ("Closing") of the transactions described in this Amendment by and between CVI and the City shall take place at the office of the Title Company at 10:00 a.m. on the thirtieth (30th) day following the date on which CVI and City enter into the written agreement contemplated by Section 5. D. above; if CVI and City do not enter into such written agreement within _____

(_____) days after the Effective Date than this Amendment shall terminate and be of no further force and effect.

7. Charitable Donation. In accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, CVI understands it has the right to receive compensation for the Contributed Property, as determined by an appraisal, and hereby waives the right to compensation and pro rata tax adjustment. The parties agree that an amount equal to the fair market value of the Contributed Property shall be characterized as a charitable contribution from CVI to City, and that CVI may, in its discretion, deduct the value of the Contributed Property on its income tax returns in accordance with federal statutes and regulations. In furtherance thereof, CVI shall, at its sole cost and expense, order an appraisal (the "Appraisal") from an appraiser (the "Appraiser") of CVI's choosing certified and/or licensed by the State of Missouri to determine the current fair market value of the Contributed Property (the "Appraised Value"), and upon receipt of a copy of the Appraisal, City shall provide CVI an acknowledgement (the "Donee Acknowledgement") on Form 8283 (Rev. December 2006) – Noncash Charitable Contributions of the Department of Treasury, Internal Revenue Service ("Form 8283"). City shall not be required to sign and deliver the Donee Acknowledgement unless (i) Form 8283 has been fully completed and signed by both CVI and the Appraiser, and (ii) City is reasonably satisfied that the Donee Acknowledgement is in compliance with federal statutes and regulations.
8. As-Is. City has or, prior to Closing, will conduct its own independent inspection of the Contributed Property. CVI disclaims and City acknowledges that no warranties or representations of any kind or character, either express or implied, have been or are being made by CVI or relied upon by City with respect to the maintenance, repair, condition, design or marketability of the Contributed Property, or any portion thereof, including, without limitation, (a) any implied or express warranty of fitness for a particular purpose, (b) the compliance of the Contributed Property with governmental regulations, and (c) any environmental matter, it being the express intention of CVI and City that the Contributed Property will be transferred to and accepted by City in its present condition and state of repair, **subject to the provisions of Section 5. D.** above "as is" and "where is", with all faults. City represents that it is relying solely on its own expertise and that of City's consultants in accepting the Contributed Property. Further, City, for City and City's successors and assigns, hereby releases CVI from and waives any and all claims and liabilities against CVI for, related to, or in connection with, any environmental or physical condition at the Contributed Property, including, but not limited to, claims and/or liabilities relating to (in any manner whatsoever) any hazardous substances (as defined in applicable federal, state and/or local statutes, laws, ordinances, rules and regulations) in, at, about or under the Contributed Property.
9. Acknowledgement of Waivers. City acknowledges and agrees that the waivers, releases and other provisions contained in Section 8 above were a material factor in CVI's agreement to contribute the Contributed Property to City, and that CVI is unwilling to contribute the Contributed Property to City unless CVI is released as expressly set forth above. City, with City's counsel, has fully reviewed the disclaimers and waivers set forth in this Amendment, and understands their significance and effect thereof. The terms and conditions of this Section will expressly survive Closing.

10. Ratification. City and CVI hereby ratify and confirm the Agreement as modified hereby and affirm that the Agreement remains in full force and effect.
11. Conflicting Provisions. If there is any conflict between the terms of this Amendment and the terms of the Agreement, this Amendment shall control.
12. Execution. This Amendment may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. For purposes of this Amendment, a facsimile or email signature shall be deemed an original signature.
13. Authority. CVI represents to the City that execution of this Amendment has been duly authorized by its board of directors, and City represents to CVI that execution of this Amendment has been duly authorized by an ordinance passed by the City Council of the City.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

CVI: CHESTERFIELD VILLAGE INC., a Missouri corporation

By: _____
Ami E. Kutz, Vice President

Date: _____

CITY: CITY OF CHESTERFIELD, MISSOURI, a municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this ____ day of _____, 2017, before me appeared Ami E. Kutz, to me personally known, who, being duly sworn did say that she is the Vice President of CHESTERFIELD VILLAGE INC., a corporation of the State of Missouri, and that said instrument was signed in behalf of said corporation, by authority of its Board of Directors; and said Ami E. Kutz acknowledged said instrument to be the free act and deed of said corporation.

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

Notary Public

My Commission Expires:

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this ____ day of _____, 2017, before me appeared _____, to me personally known, who, being duly sworn did say that she/he is the _____ of the CITY OF CHESTERFIELD in the State of Missouri, a municipal corporation, and that said instrument was signed in behalf of said City, by authority of its City Counsel; and said _____ acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

My Commission Expires: