

IN THE CIRCUIT COURT OF THE COUNTY OF JEFFERSON,
STATE OF MISSOURI

IN RE THE FORMATION OF THE ARNOLD)
RETAIL CORRIDOR TRANSPORTATION)
DEVELOPMENT DISTRICT,)
)
CITY OF ARNOLD, MISSOURI, *et al.*)
)
Petitioners,)
) Cause No. 07JE-CC01005
v.)
)
MISSOURI HIGHWAYS AND)
TRANSPORTATION COMMISSION,)
)
Respondent.)

MOTION TO MODIFY THE TRANSPORTATION PROJECT
PREVIOUSLY APPROVED BY THE DISTRICT VOTERS

COME NOW Petitioners, the City of Arnold, Missouri, the Arnold Triangle Transportation Development District and the Arnold Retail Corridor Transportation Development District, by and through counsel, and requests this Court to enter its order modifying the description of the Transportation Project (as defined herein) in order to conform to the language approved by the qualified voters of the District. In support of this motion, Petitioners state as follows:

1. On September 25, 2007, pursuant to Section 238.216 of the Missouri Transportation Development District Act, Sections 238.200 to 238.280 of the Revised Statutes of Missouri, as amended (the “Act”), Petitioners, the City of Arnold, Missouri, and the Arnold Triangle Transportation Development District filed their Petition for the Creation of a Transportation Development District (the “Petition”) with this Court regarding the formation of the Arnold Retail Corridor Transportation Development District (the “District”).

2. The Petition provided a general description of the project proposed to be undertaken by the District (collectively, the “Transportation Project”) as follows:

The Transportation Project consists of the design and construction of the following road improvements in and adjacent to the District: (1) a new connection road between Missouri Highway 141 and Michigan Avenue, (2) relocation of Church Road, (3) a new intersection

at Church Road, Missouri State Road and Old Lemay Ferry Road, (4) a new intersection at Church Road and Arnold Commons Drive (formerly known as Big Bill Road), (5) acceleration and de-acceleration lanes along the south side of Missouri Highway 141, (6) relocation of Arnold Commons Drive (formerly known as Big Bill Road), (7) landscaping and beautification of the intersection at Missouri Highway 141 and Interstate 55 and (8) improvements to Jeffco Boulevard, Missouri Highway 141 and other publicly accessible roadways, parking facilities and transportation-related improvements within the District.

The Transportation Project shall also include: (1) the costs associated with the development of a master road and transportation plan for the area in and adjacent to the District; (2) the costs associated with the operation and maintenance of the Transportation Project; (3) costs of right-of-way and other land acquisition, settlement and transfer, including relocation costs, taxes, surveys and other professional fees; (4) costs for demolition, earth work, erosion control, including paving, sanitary sewers, storm drainage, water systems and retention basins, provisions for the construction and/or relocation of utilities, including electric, gas, telephone, fiber optic cable, as well as landscaping, street lighting and environmental engineering and abatement; (5) costs for replacement of existing roadway surfaces, curbs and gutters, replacement or installation of sidewalks, traffic/pedestrian signalization, signage, street lighting and landscaping; (6) costs for legal and engineer's fees, construction cost financing, placement fees, interest, builder's risk insurance, design, engineering, development, project management, architect and contractor fees, as well as all other professional costs associated with the Transportation Project, including accounting and appraisal fees; and (7) the administrative, legal and accounting costs associated with the creation, administration and existence of the District and costs associated with the collection and enforcement of the TDD Sales Tax.

3. Pursuant to Section 238.216 of the Act and a Judgment and Order entered by this Court on December 7, 2007 (the "Election Order"), this Court called for a mail-in election to be held within the boundaries of the District for the qualified voters to consider the question regarding the creation of the District, the development of the Transportation Project and the imposition of the TDD Sales Tax (as defined in the Election Order) (the "Election").

4. Pursuant to the Election Order, the Circuit Court Clerk of Jefferson County published a Notice of Election and Procedures for Application to Obtain Ballot in the *Countian*, a newspaper of general circulation in Jefferson County, Missouri, once a week for two consecutive weeks beginning December 21, 2007, and ending December 28, 2007, which included a sample ballot. The Affidavit of Publication is attached hereto as Exhibit I.

5. On or about December 19, 2007, Petitioner, the City of Arnold Missouri, caused the Notice of Election and Procedures for Application to Obtain Ballot to be mailed to every property owner (i.e., each potential voter) within the District.

6. Any qualified voter who properly applied for a ballot pursuant to the procedures established by the Act and the Election Order and set forth in the Notice of Election and Procedures for Application to Obtain Ballot, was mailed an Official Ballot (the “Ballot”), the form of which was approved by the Election Order. A copy of the Ballot is attached hereto as Exhibit II.

7. On March 11, 2008, the votes cast at the Election were duly canvassed as provided by law, and it was found and declared that more than a simple majority of the qualified voters of the District voting at said Election on said proposition voted in favor of the creation of the District, the development of the Transportation Project (as described in the Ballot) and the imposition of the TDD Sales Tax.

8. The description of the portion of the Transportation Project relating to “improvements to Jeffco Boulevard, Missouri Highway 141 and other publicly-accessible roadways, parking facilities and transportation-related improvements” contained in the Notice of Election and Procedures for Application to Obtain Ballot and in the Ballot approved by the qualified voters of the District was slightly different than the description contained in the Petition (as shown in Exhibit III).

9. Pursuant to Section 238.210 of the Act, the Court has continuing jurisdiction to enter such orders as are required for the administration of the District after its formation.

10. Section 238.257(4) of the Act provides that the board of directors of any transportation development district “may modify the project previously approved by the district voters, if the modification is approved by the commission and, where appropriate, a local transportation authority.”

11. The City of Arnold, Missouri, and the Arnold Triangle Transportation Development District, as the local transportation authorities, have approved the modification of the Transportation Project to conform to the language approved by the voters of the District and are not opposed to the entry of an order modifying the description of the Transportation Project as provided herein.

12. Respondent, Missouri Highways and Transportation Commission, **[**approves the modification of the Transportation Project to conform to the language approved by the voters of the District**]** and is not opposed to the entry of an order modifying the description of the Transportation Project as provided herein.

WHEREFORE, for all of the above reasons, Petitioners respectfully requests that this Court enter its order modifying the description of the portion of the Transportation Project relating to “improvements to Jeffco Boulevard, Missouri Highway 141 and other publicly-accessible roadways, parking facilities and transportation-related improvements” to conform to the description approved by the qualified voters of the District.

Respectfully submitted,

GILMORE & BELL, P.C.

By: _____
Shannon W. Creighton #52465
One Metropolitan Square, Suite 2000
St. Louis, Missouri 63102
(314) 436-1000
(314) 436-1166 (Facsimile)

Attorneys for Petitioners the City of Arnold, Missouri,
the Arnold Triangle Transportation Development
District and the Arnold Retail Corridor Transportation
Development District

ROBERT SWEENEY, ESQ.

By: _____
Robert Sweeney, #38322
9806 Big Bend Road
Kirkwood, Missouri 63122
(314) 821-9882
(314) 436-1166 (Facsimile)

Attorneys for Petitioner the City of Arnold, Missouri

SO ORDERED:

Judge

_____, 2021.

EXHIBIT I

**AFFIDAVIT OF PUBLICATION OF NOTICE OF ELECTION AND PROCEDURES
FOR APPLICATION TO OBTAIN BALLOT**

AFFIDAVIT OF PUBLICATION

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STATE OF MISSOURI }
JEFFERSON COUNTY } ss.

Before the undersigned, a Notary Public, personally appeared Amanda R. Passmore, Asst Director Public Notice of THE COUNTIAN, of Jefferson County, Missouri; who, being duly sworn under oath, say that THE COUNTIAN has complied with all of the provisions of the laws of this state regulating newspapers and the publication of legal notices, and is qualified to publish the annexed notice or advertisement, and that it was published in THE COUNTIAN for two issues the first publication being on the 21st day of December, 2007 and the last publication being on the 28th day of December, 2007 wit:

12/21/2007, 12/28/2007

**NOTICE OF ELECTION AND
PROCEDURES
FOR APPLICATION TO
OBTAIN BALLOT**

**NOTICE OF SPECIAL
ELECTION**

Notice is hereby given that ballots will be mailed on Tuesday, January 29, 2008, to any qualified voter who applies for a ballot pursuant to the procedures below, on the proposition contained in the following sample ballot:

**SAMPLE BALLOT
SPECIAL ELECTION
PROPOSITION TDD
(Mail-In Election)**

Shall the Arnold Retail Corridor Transportation Development District (the "TDD") be organized within a portion of the City of Arnold, Missouri (as more specifically described on Exhibit A attached hereto) for the purpose of funding the design and construction of the following road improvements in and adjacent to the District: a new connection road between Missouri Highway 141 and Michigan Avenue, relocation of Church Road, a new intersection at Church Road, Missouri State Road and Old Lemay Ferry Road, a new intersection at Church Road and Arnold Commons Drive (formerly known as Big Bill Road), acceleration and de-acceleration lanes along the south side of Missouri Highway 141, relocation of Arnold Commons Drive (formerly known as Big Bill Road); landscaping and beautification of the intersection at Missouri Highway 141 and Interstate 55; improvements to Jeffco Boulevard, Missouri Highway

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141 and other publicly-accessible roadways, parking facilities and transportation-related improvements benefiting the District; and other administrative and maintenance costs of the District and be authorized to impose a district-wide sales tax at the rate of up to one percent (1%) for a period not to exceed forty (40) years for the purpose of funding the transportation project?

YES
NO

INSTRUCTIONS TO VOTERS: If you are in favor of this proposition, place an X in the box opposite "YES." If you are opposed to this proposition, place an X in the box opposite "NO."

Please return your ballot in the enclosed self-addressed envelope to the office of the Circuit Court Clerk of Jefferson County by mail or hand delivery no later than 5:00 p.m. on March 11, 2008.

PROCEDURES FOR APPLICATION TO OBTAIN BALLOT

Pursuant to Section 238.216.2 of the Missouri Transportation Development District Act, Sections 238.200 to 238.275 of the Revised Statutes of Missouri, as amended, application for a ballot shall be conducted as follows:

- (a) Only qualified voters shall be entitled to apply for a Ballot.
- (b) Each voter shall apply for a Ballot with the Circuit Court Clerk of Jefferson County.
- (c) Each voter applying for a Bal-

AFFIDAVIT OF PUBLICATION

lot shall provide:

(i) the property owner's name, address, mailing address, and phone number;

(ii) if the property owner is not an individual, the name and phone number of the individual who is authorized to vote on behalf of the entity;

(iii) if the property owner is not an individual, the authorized individual's basis of legal authority to vote on behalf of the entity (which shall be determined by the entity's articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote; provided that, if the entity has no such mechanism, the entity's vote shall be cast as determined by a majority of the persons who run its day-to-day affairs);

(iv) an authorized signature; and

(v) evidence that such property owner is entitled to vote, which shall consist of a tax receipt, deed or other document which evidences ownership, and identifies the real property by location.

(d) No voter shall apply for a Ballot later than January 2, 2008.

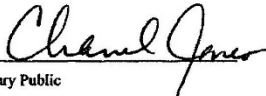
DATED: December 21, 2007.

Circuit Court Clerk of
Jefferson County
10132431 Jeff Co., Dec. 21, 2007


Amanda R. Passmore

Subscribed and sworn to before me this 28th day of Dec., 2008
(SEAL)

NOTARY SEAL
Chanel Jones, Notary Public
St. Louis County, State of Missouri
My Commission Expires 8/8/2010
Commission Number 06397721



Notary Public

EXHIBIT II

COPY OF OFFICIAL BALLOT

OFFICIAL BALLOT

SPECIAL ELECTION

PROPOSITION TDD

(Mail-In Election)

Shall the Arnold Retail Corridor Transportation Development District (the "TDD") be organized within a portion of the City of Arnold, Missouri (as more specifically described on Exhibit A attached hereto) for the purpose of funding the design and construction of the following road improvements in and adjacent to the District: a new connection road between Missouri Highway 141 and Michigan Avenue, relocation of Church Road, a new intersection at Church Road, Missouri State Road and Old Lemay Ferry Road, a new intersection at Church Road and Arnold Commons Drive (formerly known as Big Bill Road), acceleration and de-acceleration lanes along the south side of Missouri Highway 141, relocation of Arnold Commons Drive (formerly known as Big Bill Road); landscaping and beautification of the intersection at Missouri Highway 141 and Interstate 55; improvements to Jeffco Boulevard, Missouri Highway 141 and other publicly-accessible roadways, parking facilities and transportation-related improvements benefitting the District; and other administrative and maintenance costs of the District and be authorized to impose a district-wide sales tax at the rate of up to one percent (1%) for a period not to exceed forty (40) years for the purpose of funding the transportation project?

YES

NO

INSTRUCTIONS TO VOTERS: If you are in favor of this proposition, place an X in the box opposite "YES." If you are opposed to this proposition, place an X in the box opposite "NO."

Please return your ballot in the enclosed self-addressed envelope to the office of the Circuit Court Clerk of Jefferson County by mail or hand delivery no later than 5:00 p.m. on March 11, 2008.

DATED: _____, 2008.

Authorized signature

Printed name

If voter not an individual, printed name of entity

Address of voter

Mailing address of voter (if different)

YOU MUST COMPLETE THE AFFIDAVIT ON THE OPPOSITE SIDE OF THE ENVELOPE ADDRESSED TO THE CIRCUIT COURT CLERK FOR YOUR BALLOT TO BE COUNTED.

EXHIBIT A TO OFFICIAL BALLOT

PROPERTY OWNER	PARCEL NUMBER	PROPERTY ADDRESS	CITY	STATE	ZIP CODE
JEFFCO ESTATE CORP	014.020.03001003.01	215 ARNOLD CROSSROADS	ARNOLD	MO	63010
FIRST BAPTIST CHURCH ARNOLD	019.030.02001026.	2012 MISSOURI STATE RD	ARNOLD	MO	63010
FIRST BAPTIST CHURCH ARNOLD	019.030.01001035.	2012 MISSOURI STATE RD	ARNOLD	MO	63010
FIRST BAPTIST CHURCH ARNOLD	019.030.01003026.01	2063 STECKEL	ARNOLD	MO	63010
FIRST BAPTIST CHURCH ARNOLD	019.030.01001037.	2012 MISSOURI STATE RD	ARNOLD	MO	63010
DRURY INN	014.020.03001007.A	1201 DRURY LN	ARNOLD	MO	63010
DRURY PETROLEUM INC	014.020.03001010.	1155 BIG BILL RD	ARNOLD	MO	63010
DENNY'S	014.020.03001007.B	1203 DRURY LANE	ARNOLD	MO	63010
WALMART REAL EST BUS TRUST 555	019.029.02002001.01	2201 MICHIGAN AVE	ARNOLD	MO	63010
WATER TOWER LLC	019.029.02002001.07A	1201-1261 WATER TOWER PLAC	ARNOLD	MO	63010
WATER TOWER DEV & VALCOUR DEV	019.029.02002001.06				
WATER TOWER DEV & VALCOUR DEV	019.029.02002001.03				
WATER TOWER LLC	019.029.02002001.07B	1233 JEFFCO	ARNOLD	MO	63010
KOHLS DEPARTMENT STORES INC	019.029.02002001.04	2159 MICHIGAN AVE	ARNOLD	MO	63010
WESTERN OIL INC	014.020.03001009.	1205 BIG BILL RD	ARNOLD	MO	63010
GLOSS	019.030.01001028.01	1623 BIG BILL RD	ARNOLD	MO	63010
MCDONALDS CORP (24-635)	014.020.03001005.	130 ARNOLD CROSSROADS	ARNOLD	MO	63010
CNL NET LEASE FUNDING 2001 LP	014.020.03003016.S	1204 BIG BILL RD	ARNOLD	MO	63010
JACK N THE BOX	014.020.03003031.	1220 BIG BILL RD	ARNOLD	MO	63010
LONG JOHN SILVERS	019.029.02002001.A	1247 JEFFCO	ARNOLD	MO	63010
CROMER DONNA M	019.029.02002001.B	1275 JEFFCO	ARNOLD	MO	63010
HALE WILLIAM S & PAMELA	019.029.02002003.5.	1175 JEFFCO	ARNOLD	MO	63010
STEAK N SHAKE INC	019.029.02002035.01	1163 JEFFCO	ARNOLD	MO	63010
ARNOLD CHURCH OF CHRIST	014.020.03001006.	3064 CROSSROAD	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002047.	2267 SCOTT DR	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002054.	2340 ARNOLD DR	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002053.	2346 ARNOLD DR	ARNOLD	MO	63010
TOJA LTD INC	019.029.02002052.	2354 ARNOLD DR	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002049.	2364 ARNOLD DR	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002048.	2376 ARNOLD DR	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002048.01	2382 ARNOLD DR	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002057.	2355 ARNOLD DR	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002058.	2377 ARNOLD DR	ARNOLD	MO	63010
WATER TOWER DEVELOPMENT LLC	019.029.02002055.	EMPTY LOT			
PROPERTY OWNER	PROPERTY DESCRIPTION				
THE ARNOLD TRIANGLE DEVELOPMENT, L.L.C.	Lots 1 through 7, Lots 10 through 14, 17, 18, 19, 21 and that portion of Lot 15 north of the right-in-				
DIERBERGS ARNOLD, LLC	right-out access to State Highway 141, all of such lots being lots in Arnold Commons Plat Two				
MOSS ENTERPRISE, INC.	Lots 8 and 9 of Arnold Commons Plat One, recorded in plat book 242 pages 16 and 17				
	Lot 16 of Arnold Commons Plat Two				



**ARNOLD CENTRAL RETAIL/COMMERCIAL AREA
REGIONAL TRANSPORTATION DEVELOPMENT DISTRICT PLAN**

ARNOLD,
08.019

MISSOURI
08.13.07

****BETTER SCAN OF THIS PAGE TO BE INSERTED****

EXHIBIT III

DESCRIPTION OF THE TRANSPORTATION PROJECT¹

The Transportation Project consists of the design and construction of the following road improvements in and adjacent to the District: (1) a new connection road between Highway 141 and Michigan, (2) relocation of Church Road, (3) a new intersection at Church Road, Missouri State Road and Old Lemay Ferry Road, (4) a new intersection at Church Road and Big Bill Road, (5) acceleration and deceleration lanes along the south side of Highway 141, (6) relocation of Big Bill Road, (7) landscaping and beautification of the intersection at Highway 141 and Interstate 55 and (8) improvements to Jeffco Boulevard, Highway 141 and other publicly accessible roadways, parking facilities and transportation-related improvements ~~within~~ benefitting the District.

The Transportation Project shall also include: (1) the costs associated with the operation and maintenance of the Transportation Project; (2) costs of right-of-way and other land acquisition, settlement and transfer, including relocation costs, taxes, surveys and other professional fees; (3) costs for demolition, earth work, erosion control, including paving, sanitary sewers, storm drainage, water systems and retention basins, provisions for the construction and/or relocation of utilities, including electric, gas, telephone, fiber optic cable, as well as landscaping, street lighting and environmental engineering and abatement; (4) costs for replacement of existing roadway surfaces, curbs and gutters, replacement or installation of sidewalks, traffic/pedestrian signalization, signage, street lighting and landscaping; (5) costs for legal and engineer's fees, construction cost financing, placement fees, interest, builder's risk insurance, design, engineering, development, project management, architect and contractor fees, as well as all other professional costs associated with the Transportation Project, including accounting and appraisal fees; and (6) the administrative, legal and accounting costs associated with the creation, administration and existence of the District and costs associated with the collection and enforcement of the TDD Sales Tax.

¹ Stricken language was contained in the Petition. Double underlined language was contained in the Notice of Election and Procedures for Application to Obtain Ballot and in the Ballot and approved by the District voters.

CERTIFICATE OF SERVICE

I hereby certify that a true, correct and complete copy of the above document, originally signed by the undersigned, was filed with the Court's electronic filing system on _____, 2021.

Shannon W. Creighton, #52465
Gilmore & Bell, P.C.
Attorneys for Petitioners the City of Arnold,
Missouri, the Arnold Triangle Transportation
Development District and the Arnold Retail
Corridor Transportation Development District