

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

IN THE MATTER OF:

**KANSAS CITY DOWNTOWN STREETCAR
TRANSPORTATION DEVELOPMENT DISTRICT,**

**CITY COUNCIL OF THE
CITY OF KANSAS CITY, MISSOURI**

and

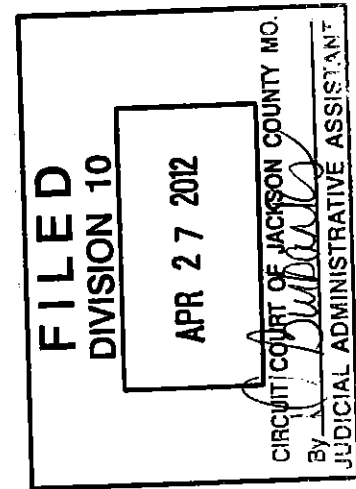
**BOARD OF COMMISSIONERS OF THE
PORT AUTHORITY OF KANSAS CITY, MISSOURI**

Petitioners,

v.

**KANSAS CITY AREA TRANSPORTATION
AUTHORITY, et al**

Respondents



Case Number: 1216-CV02419

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT RELATIVE TO CONDUCTING FORMATION ELECTION**

This matter, having come before the Court for a public hearing on the 17th day of April, 2012, and a judicial hearing on the 18th of April 2012, on the Amended Petition For The Formation of A Transportation Development District filed in this matter, and the parties of record having appeared through counsel, and after hearing and consideration of the public testimony, the parties' pleadings (including Stipulations of Fact agreed to by the parties and submitted to the Court) and argument, and consideration of the provisions of the Missouri Transportation Development District Act, § § 238.200 – 238.275, RSMo, as amended (the "Act"), and other applicable law, the Court, being satisfied in the premises that the allegations in the First Amended Petition are true, makes the following findings of fact and conclusions of law, and enters the following Judgment, and Order:

PROCEDURAL BACKGROUND

Petitioners commenced this case on February 6, 2012 by filing a Petition for the Formation of a Transportation Development District pursuant to the Act, and specifically section 238.207.5 of

the Act. By Order of the Court dated February 8, 2012, notice was published in the Kansas City Star once a week for four consecutive weeks, on February 11, 2012, February 18, 2012, February 25, 2012 and March 3, 2012, notifying the public of the filing of the Petition, advising of the dates set for the April 17, 2012 public hearing and the April 18, 2012 judicial hearing, and advising the public that pleadings in support or opposition to the Petition were to be filed with the Court no later than April 2, 2012. Timely responsive pleadings were filed by Respondents Missouri Highway and Transportation Commission and Kansas City Area Transportation Authority (collectively, the “**Respondents**”), and by Supporting Petitioners Kansas City Regional Transit Alliance, Streetcar Neighbors, Downtown Neighborhood Association, River Market Community Association, David Alan Johnson, Matthew A. Staub, and William Bruce Kirby. An Answer and Reply (the “**Opposition**”) was timely filed by U.S. Trust, Bank of America N.A., Trustee (“**U.S. Trust**”), opposing the relief sought by the Petition.

On April 12, 2012, the Court held a status conference with all counsel present, at which Petitioners requested to file a First Amended Petition, in order to adjust the Funding Proposal by reducing the maximum rates for the Property Assessments and the Surface Parking Assessment and allow for a Sales Tax rate of *up to* one percent (1%). All other parties consented, and agreed that their respective responsive pleadings would stand as their responsive pleading to the First Amended Petition. Thereafter, on April 12, 2012, Petitioners filed the First Amended Petition, and U.S. Trust dismissed their Opposition.

The Amended Petition proposes the formation of the District, to be wholly within Kansas City, Jackson County, Missouri, for the purpose of developing the following transportation project (the “**Project**”): the design, construction, ownership and/or operation of a downtown fixed rail streetcar line, and all elements thereof, including without limitation a maintenance facility, operating within the boundaries of, or serving and benefiting, the proposed District. The Amended Petition seeks an order of the Court that, among other things, would order the Court Administrator

of the Circuit Court of Jackson County, Missouri¹ to cause the question to be submitted to the Qualified Voters within the limits of the proposed District whether or not they will establish the District to develop the Project, on a date to be specified in the Court's Order (the "**Formation Election**").

The Court conducted a public hearing on April 17, 2012 as permitted (but not required) under the Act (the "**Public Hearing**"), and a judicial hearing on April 18, 2012 (the "**Judicial Hearing**"). At the Public Hearing, fourteen (14) persons testified, some as individuals and some in a representative capacity for certain groups or associations. Of the persons testifying, eleven (11) testified in support on behalf of themselves or in a representative capacity for certain groups or associations, and three (3) testified in opposition on their own behalf. At the Judicial Hearing, the parties to this action agreed upon certain stipulated facts as set forth in the Parties' Joint Stipulation of Facts filed in open Court on the record at the commencement of the Judicial Hearing. Counsel for Petitioners presented arguments to the Court in support of the Amended Petition, and elicited testimony from one witness, Mr. Bradley E. Tong. Upon the conclusion of the Judicial Hearing, the Court took the matter under advisement and requested that Petitioners submit Suggestions and a proposed order.

FINDINGS OF FACT

1. Petitioner City Council is the governing body of the City, acting in its official capacity. The City is a constitutionally chartered municipal corporation of the State of Missouri, with its principal place of business located at 414 East 12th Street, Kansas City, Missouri 64106, and is a local transportation authority within the meaning of § 238.202.1(4) of the Act. The proposed District lies entirely within the corporate limits of the City.

2. Petitioner Port Authority Board is the governing body of the Port Authority, acting in its official capacity. The Port Authority is a political subdivision of the State of Missouri, with its

¹ The Court Administrator is the officer that holds the position referred to as the Clerk of the Circuit Court in other Circuits, and within the meaning of the Act.

principal place of business located at 300 Wyandotte, Suite 100, Kansas City, Missouri 64105, and is a local transportation authority within the meaning of § 238.202.1(4) of the Act.

3. Respondent KCATA is a political subdivision of the State of Missouri and an “Interstate Transportation Authority” within the meaning of § 92.400, RSMo, as amended.

4. Respondent Commission is the state agency constitutionally responsible for constructing and maintaining the Missouri highway system, and is a required respondent to the Petition by virtue of § 238.207.5(3)(c) of the Act.

5. The City has adopted a resolution calling for the joint establishment of the District with the Port Authority. A copy of the resolution adopted by the City is attached to the Petition as Exhibit A and incorporated herein by reference.

6. The Port Authority has adopted a resolution calling for the joint establishment of the District with the City. A copy of the resolution adopted by the Port Authority is attached to the Petition as Exhibit B and incorporated herein by reference.

7. A specific description of the proposed District’s boundaries, and a map illustrating such boundaries, are attached to the Petition as Exhibit C-1 and Exhibit C-2, respectively, and incorporated herein by this reference. The area of the District is contiguous within the meaning of the Act.

8. Petitioners propose that the District will (a) undertake, or cause to be undertaken, the design, construction, ownership and/or operation of a downtown fixed rail streetcar line, and all elements thereof, including without limitation a maintenance facility, constituting a “public mass transportation system” (as such term is defined in the Act) operating within the boundaries of, or serving and benefiting, the proposed District (the “Project”), and (b) obtain, participate in, or otherwise assist in the financing of the costs of the Project. The route of the Project is expected to run generally along Main Street between Pershing Road on the south and the River Market area on the north, as shown on Exhibit D, attached to the Petition and incorporated herein by reference. The

specific route within the District, and the specific location of embark/disembark points, remain subject to refinement or alteration following further engineering.

9. Petitioners' Funding Proposal is set out in section 14 of the Petition, which is incorporated herein by reference.

10. At the Judicial hearing, substantial evidence was presented regarding proposed funding mechanisms for the project. It specifically demonstrated the increase in sales taxes, and property taxes that would be ordered by the category of property. Although the funding, when descending to specifics, is somewhat complex, it can best be summarized by a chart utilized by the Petitioners, and referenced in this Judgment at page 9.

11. Publication as required by § 238.212 of the Act has been made, as evidenced by the affidavits of publication filed in this matter.

12. There is at least one (1) registered voter residing in the District.

13. The Project proposed to be undertaken by the District is not intended to be merged into the state highways and transportation system under the jurisdiction of the Commission.

14. The proposed District is located wholly within Kansas City, Jackson County, Missouri.

15. The Court heard live testimony from an expert witness, Mr. Bradley E. Tong, regarding the private benefits that have been derived from a modern streetcar public mass transportation system such as the Project. These included increased property values, lower vacancy rates, enhanced pace of development and redevelopment, and increased housing stock. While the Court recognizes that every city is different, the Court concludes that the properties within the proposed District will derive substantial benefit from the Project greater than the investment represented by the Property Assessments and Surface Parking Assessments, and the Court finds that the properties within the proposed District will be specially benefitted by the Project.

LEGAL ANALYSIS

Section 238.210 of the Act requires the Court to make certain determinations and findings as a precondition to calling the Formation Election, specifically:

- (a) that the Amended Petition is not legally defective;
- (b) that the proposed District is not illegal or unconstitutional;
- (c) that the Respondents have been duly served with process in this action;
- (d) that the proposed funding methods and mechanisms are neither illegal nor unconstitutional; and
- (e) that the proposed District is not an undue burden on any owner of real property within the District and is not unjust or unreasonable;

The Court will address each of these preconditions individually.

1. The Amended Petition is not legally defective

As noted previously, this Amended Petition was filed under section 238.207.5 of the Act. Section 238.207.5(2) of the Act provides that the proposed district area must be contiguous (and recognizes expressly that “property separated only by public streets, easements or rights-of-way...shall be considered contiguous”). Review of the proposed boundary of the District, as contained in the Amended Petition and its exhibits, shows that this requirement is satisfied.

Section 238.207.5(3) of the Act lists the contents required of a petition. Those requirements are listed below verbatim from the Act, along with the corresponding portion of the Amended Petition that satisfies each such requirement in parentheses and bold italics:

(3) The petition shall set forth:

(a) That the petitioner is the governing body of a local transportation authority acting in its official capacity; or, if the petition was filed by obtaining the signatures of not less than fifty registered voters in each of two or more counties, it shall set forth the name, voting residence, and county of residence of each individual petitioner (See paragraphs 1 and 2 of the Amended Petition);

(b) The name of each local transportation authority within the proposed district. The resolution of the governing body of each local transportation authority calling for the joint establishment of the district shall be attached to the petition (See paragraphs 1, 2, 3, 5 and 6, and Exhibit A and Exhibit B, of the Amended Petition);

(c) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority (See paragraphs 3 and 4 of the Amended Petition²);

(d) A specific description of the proposed district boundaries including a map illustrating such boundaries (See paragraph 9 and Exhibit C-1 and Exhibit C-2 of the Amended Petition);

(e) A general description of each project proposed to be undertaken by the district, including a description of the approximate location of each project (See paragraph 10 of the Amended Petition);

(f) The name of the proposed district (See paragraph 11 of the Amended Petition);

(g) The number of members of the board of directors of the proposed district (See paragraph 12 of the Amended Petition);

(h) A request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a transportation development district to develop the projects described in the petition (See the Amended Petition's prayer for relief);

(i) A proposal for funding the district initially, pursuant to the authority granted in sections 238.200 to 238.275, together with a request that the imposition of the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; provided, however, the funding method of special assessments may also be approved as provided in subsection 1 of section 238.230 (See paragraphs 13 and 14 of the Amended Petition); and

(j) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable (See paragraph 17 of the Amended Petition).

2. The proposed District is not illegal or unconstitutional

None of the persons testifying in opposition to the District, and none of the remaining parties to the proceeding, have asserted specifically that the proposed District itself is illegal or unconstitutional. However, to the extent concerns over the Funding Proposal or the statutory definition of a "qualified voter" that were expressed at the Public Hearing (as discussed in section 4 below) could be construed as an assertion that the proposed District itself is illegal or

² The address of each Respondent was contained as part of the caption to the original Petition to form the District, but was removed from the caption on the amended Petition for simplicity after the two Respondents had filed responsive pleadings.

unconstitutional, the Court incorporates herein by reference the discussion in section 4 below explaining why the proposed funding methods and mechanisms are neither illegal nor unconstitutional.

3. *The Respondents have been duly served with process in this action*

This is not in dispute and all Respondents have appeared through counsel and filed responsive pleadings.

4. *The proposed funding methods and mechanisms are neither illegal nor unconstitutional*

Petitioners have thoroughly briefed the applicable constitutional issues including an analysis of equal protection and the right to vote. That briefing convinces the Court that the statute generally as well as this project particularly, is constitutional on its face and as applied.

Although not raised in pleading form by any party, comments were made by members of the public at the public hearing suggesting a concern relative to the fact that property owners who were not residents of the proposed district would not have the ability to vote on this proposition. It is not a violation of the Missouri Constitution for the Missouri Legislature to enact a voting regime that does not extend to nonresident property owners the power to vote with respect to the formation of the proposed District and eventually its revenue sources, even if nonresident property owners will be affected by the outcome. Article VIII, Section 2 of the Missouri Constitution provides, in pertinent part:

All citizens of the United States... over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if the election is one for which registration is required if they are registered within the time prescribed by law, or if the election is one for which registration is not required, if they have been residents of the political subdivision in which they offer to vote for thirty days next preceding the election for which they offer to vote....

MO. CONST. art VIII, § 2. See also sections 115.133 and 115.137, RSMo.

In summary, the voting procedures provided for in the statute have been utilized in a variety of governmental contexts in the past, and do not run afoul of the United States or Missouri Constitutions.

5. The proposed District is not an undue burden on any owner of real property within the District and is not unjust or unreasonable.

While not expressly stated as such, the content of the testimony of those three individuals who testified in opposition to the Amended Petition touched on this required Court finding.

At the Judicial Hearing, counsel for Petitioner City Council of Kansas City, Missouri explained the proposed assessments on the record, and presented the following mathematical analysis of the assessment formula:

COMMERCIAL REAL PROPERTY WITH A TAX MARKET VALUE OF \$1,000,000	
Property Tax Liability \$30,168.96	Property Assessment \$1,536.00
Effective Rate Approx. 3%	Effective Rate Approx. 0.15%
RESIDENTIAL REAL PROPERTY WITH A TAX MARKET VALUE OF \$200,000	
Property Tax Liability \$3,036.50	Property Assessment \$266.00
Effective Rate Approx. 1.5%	Effective Rate Approx. 0.13%
CITY REAL PROPERTY WITH A TAX MARKET VALUE OF \$1,000,000	
Property Tax Liability \$0	Property Assessment \$3,328.00
Effective Rate N/A	Effective Rate Approx. 0.33%
TAX EXEMPT PROPERTY WITH A TAX MARKET VALUE OF \$500,000	
Real Property Tax Liability \$0	Property Assessment \$256.00
Effective Rate N/A	Effective Rate Approx. 0.05%
TAX EXEMPT PROPERTY WITH A TAX MARKET VALUE OF \$1,000,000	
Real Property Tax Liability \$0	Property Assessment \$896.00
Effective Rate N/A	Effective Rate Approx. 0.09%
SURFACE PAY PARKING LOT WITH 50 PAY PARKING SPACES	
Supplemental Property Assessment \$2,737.50	Equivalent to a commercial improvement with a tax market value of approx. \$1,782,226.00

Unquestionably, any proposal under Chapter 287 that is eventually approved by the voters may well create a burden on residents and property owners. A common sense interpretation of the

statute suggests that the Court, based upon all of the evidence as a whole, must determine whether or not the proposal in question creates an excessive or unfair burden on a particular property owner. Missouri Courts, in considering the issue of “undue burden,” have looked at whether an individual property owner’s burden was unduly disproportionate to that of other property owners.

In *Mound City, ex rel. and to Use of Kee, v. Melvin*, 205 S.W. 254 (Mo. App. 1918), the court stated that it would be an “undue burden” for a property owner to pay the entire cost of an assessment that benefitted all in common. *See id.* at 257 (finding no undue burden and stating that “if by reason of circumstances, it costs more to build a walk in front of a particular lot than in front of others of the same width, this particular excess is distributed throughout all of the tracts benefited by the continuous improvement as a whole, instead of making one property owner bear an undue burden in paying for an improvement that was beneficial to all in common.”). The court in *Fay v. City of Springfield*, 94 F. 409 (W.D. Mo. 1899), emphasized the same principle, stating that “[t]he whole burden of such tax cannot be placed upon a single lot on the ground that the whole is not greater than the betterment of such lot, unless the other lots on the street derive no benefit therefrom.”

In this case, the Court is not presented with a Funding Proposal that would impose on a single property owner the entire burden of a project that benefits all, nor is it a situation where it can be said that the burden is distributed in a grossly disproportionate manner. This assessment will be borne ratably by property owners in proportion to their properties’ values, and for that reason it does not impose *an undue burden on any property owner*. In addition, the components of the Funding Proposal include sources other than the Property Assessments and the Surface Parking Assessments to pay costs of the Project. The Funding Proposal includes District revenue generated by (a) the proposed City Property Assessments (representing a contribution from the citizenry as a whole, since that is what City funds are), (b) the proposed Sales Tax (paid by the public at large, including patrons from the greater metropolitan area and beyond) and (c) other operating activities. In addition, it is proposed (although outside the Amended Petition) that approximately one-fourth (1/4)

of the costs of the Project would be funded through a potential \$25 Million grant being sought from the U.S. government. Based on the applicable case law interpreting the phrase “undue burden”, the Funding Proposal does not violate this requirement of the Act.

The Court must also determine whether the Funding Proposal is “unjust or unreasonable”. Considering the effective rates of the proposed Property Assessments, which range from approximately five one-hundredths of one percent (0.05%) of tax market value to approximately thirty-three one-hundredths of one percent (0.33%) of tax market value, the Court is not prepared to conclude that the Property Assessments are unjust or unreasonable. The owner of a commercial property valued at One Million Dollars (\$1,000,000) would pay approximately One Thousand Five Hundred Forty Dollars (\$1,540) per year if the maximum rate were to be applied. Over twenty-five (25) years, this totals Thirty-Eight Thousand Five Hundred Dollars (\$38,500.00) or three and eighty-five one hundredths of one percent (3.85%) of tax market value. Both the Residential and Tax Exempt Property Assessments have effective rates lower than that for the Commercial Property Assessment and thus the same conclusion pertains to those Property Assessments.

The Surface Parking Assessment, which is applicable only to Surface Pay Parking Lots, is intended by Petitioners to account for the lower Property Assessments attributable to Surface Pay Parking Lots. The dollar amount of that Surface Parking Assessment is not unjust or unreasonable, and shifting some reasonably small portion of the costs of the Project that would otherwise be borne by improved properties to these underutilized parcels creates a more equitable distribution of the costs of the Project.

CONCLUSIONS OF LAW

1. Jurisdiction is proper in this Court pursuant to Section 238.207.1 of the Act.
2. Venue is proper in this Court pursuant to Section 238.207.1 of the Act, in that the District lies entirely within Jackson County, Missouri.
3. The only timely filed objection to the Petition has been dismissed voluntarily.
4. The Court hereby finds and certifies that:

- (a) All Respondents in this action have been duly served with process;
- (b) The Amended Petition is not legally defective and the proposed District is not illegal or unconstitutional;
- (c) The District is not an undue burden on any owner of property within the District and is not unjust or unreasonable; and
- (d) Neither the Funding Proposal nor any part thereof is illegal or unconstitutional.

CONCLUSION

The Missouri Legislature, through Chapter 287, provides a mechanism to establish a Transit Development District (TDD). This statutory structure has been used multiple times within the State of Missouri. *See, for example*, North Kansas City Light Rail TDD, established 11/04/08; Independence's Thirty-Ninth Street TDD, established 4/25/02; Arnold Retail Corridor TDD, established 3/11/08; US 36/I-72 TDD, established 6/3/05; *and* Chesterfield Valley TDD, established 12/20/05. Further, the testimony revealed that similar mechanisms have been used throughout the United States. The initial judicial role, relative to this statute, is solely to determine whether or not the petitioners have completed the tasks necessary to consider a "formation election." In addition, the Court, in a global or general way must determine whether or not the proposed project suffers from significant legal or constitutional impediments. In making this conclusion, the Court is required to give deference to the Legislature. *See generally Sch. Dist. of Kan. City v. State*, 317 S.W.3d 599, 604 (Mo. 2010); *MO. Prosecuting Attys. & Circuit Attys. Ret. Sys. V. Pemiscot Co.*, 256 S.W.3d 98 (Mo. 2008); *United C.O.D. v. State*, 150 S.W.3d 311 (Mo.2004); *Bd. of Educ. of City of St. Louis v. State*, 47 S.W.3d 366 (Mo. 2008). The role of the Court is neither to endorse nor condemn the project itself, but merely to determine whether or not the petitioners have performed the necessary tasks to order the first of two elections, before any public dollars are spent. In this

particular case, it is clear to the Court that the petitioners have met their burden, and done so without running afoul of any legal or constitutional impediments.

ORDER AND JUDGMENT

THEREFORE, pursuant to § 238.210.2 of the Act, it is hereby **ORDERED AND ADJUDGED THAT**

1. The Court certifies the First Amended Petition for voter approval, and calls a mail-in election pursuant to § 238.216 of the Act as further ordered herein;

2. The Court Administrator of the Circuit Court of Jackson County, Missouri (the “**Court Administrator**”) shall cause to be submitted by mail-in ballot to the “Qualified Voters” (as defined in the Act) within the limits of the proposed District, in accordance with the schedule and procedure set out in section 3 below, the question whether or not they will establish the District to develop the Project, which shall be submitted to the Qualified Voters through the ballot question (the “**Ballot**”) in the form attached hereto as **Exhibit A** and incorporated herein by reference;

3. The election called by this Order (the “**Formation Election**”) shall be conducted in accordance with the following schedule and procedures:

(a) Individuals that are Qualified Voters at the time of application for a Ballot shall have from 8:00 am Monday, April 30, until 5:00 pm on Tuesday May 22, 2012 to apply to the Court Administrator for a Ballot. Application for a Ballot shall be conducted in accordance with § 238.216.2 of the Act using the form of Application attached hereto as **Exhibit B** and incorporated herein by reference;

(b) Petitioners shall give notice of the Formation Election, substantially in the form attached hereto as **Exhibit C** and incorporated herein by reference, by publication in a newspaper of general circulation, four (4) times, each at least five (5) days apart, the last of which shall be published no later than May 17, 2012;

- (c) Ballots shall be mailed by the Court Administrator via United States first class mail, postage prepaid, on June 19, 2012 to Qualified Voters who timely applied for a Ballot;
- (d) Mail-in voted Ballots shall be returned to the Court Administrator's office by mail or hand delivery no later than 5:00 p.m. on July 31, 2012;
- (e) The Court Administrator shall transmit all voted Ballots to a team of at least four (4) judges, with an equal number from each of the two major political parties (the "**Election Judges**"). Prior to July 15, 2012, the Court shall by subsequent Order select the Election Judges from lists compiled by the election authority, after the parties to this matter have been provided notice and an opportunity to be heard thereon. Upon receipt of the voted Ballots, the Election Judges shall verify the authenticity of the Ballots, canvass the votes, and certify the results. Certification by the Election Judges shall be final and shall be immediately transmitted to the Court. Any Qualified Voter who voted in such election may contest the result in the same manner as provided in chapter 115, RSMo;
- (f) The Court Administrator shall maintain a list, updated weekly, of the name and address of each individual that has applied for a Ballot (the "**Application List**"), and shall after review of such application note on the Application List whether such individual's application satisfied the requirements of section 238.222 of the Act. The Court Administrator shall also note on the Application List those Qualified Voters who have returned purportedly-voted Ballots. The Application List shall be an open record under Chapter 610, RSMo; and
- (g) The costs of the Formation Election shall be borne by the City, subject to reimbursement from the District, in the event the District is organized through the Formation Election.

4. In the event that the Election Judges certify that the Ballot was approved through the Formation Election, then:

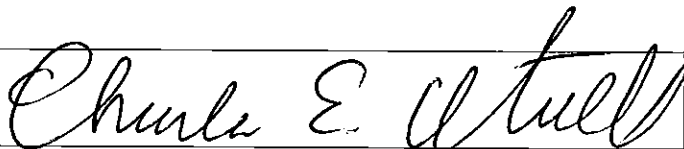
(a) The District shall automatically and without further order of this Court be deemed and considered properly, duly and lawfully organized, and the name of the District will be The Kansas City Downtown Streetcar Transportation Development District;

(b) The Board of Directors of the District shall be comprised of four persons, to wit: the person then at the time serving as the Mayor of Kansas City, Missouri, the person then at the time serving as the Chair of the Port Authority, one person designated by the governing body of Kansas City, Missouri and one person designated by the governing body of the Port Authority of Kansas City, Missouri. Such initial appointment(s) may be made prior or subsequent to the certification by the Election Judges of the results of the Formation Election, but in any event no later than August 31, 2012. Advisors to the Board may be appointed as provided in section 238.220 of the Act;

(c) The first meeting of the Board of Directors of the District shall be held at Kansas City, Missouri City Hall, at a time and date set by the Mayor of the City, in a notice given to the Chair of the Port Authority and the other members of the Board of Directors at least seventy-two (72) hours prior to the time called by the Mayor for such meeting. Such notice may be transmitted electronically, via email or facsimile, or by hand delivery; and

(d) Approval of the Project shall vest exclusively with the City, which has jurisdiction over and will become owner of the Project, subject to the District or the City entering into all necessary agreements with the Commission and acquiring from the Commission all necessary permits to provide for the construction, maintenance and ownership of the portions of the Project that will be located on the surface and airspace of the right of way that is within the state highway system and subject to the District and the City developing the Project in a manner compatible with the current operation and maintenance and future development of the state highway system.

IT IS SO ORDERED.

APRIL 26, 2012		
DATE		THE HONORABLE CHARLES E ATWELL

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was duly delivered
by fax or email on APRIL 26, 2012 to:


BOYCE NEAL RICHARDSON, Attorney for Petitioner, 2800 COMMERCE TOWER, 911 MAIN STREET,
KANSAS CITY, MO 64105

DOUGLAS SCOTT STONE, Attorney for Petitioner, 700 W 47TH STREET, SUITE 1000, KANSAS CITY, MO
64112

MARK REED COULTER, Attorney for Plaintiff, 300 WYANDOTTE, SUITE 100, KANSAS CITY, MO 64105

JEROME DEAN RIFFEL, Attorney for Respondent, 2345 GRAND, SUITE 2800, KANSAS CITY, MO 64108
(816) 292-2001,

ARDITA ROARK, Attorney for Respondent, 12050 COUNTY RD 4040, HOLTS SUMMIT, MO 65043


Law Clerk or JAA, Division 10