

1 An ordinance recommended by the Board of Public Service to vacate a portion of air rights over a  
2 6.5 feet wide portion of Olive Street adjacent to 3651 Olive Street in City Block 2287 in the City of  
3 St. Louis, Missouri, as hereinafter described, and authorizing construction of a portion of a structure  
4 in the vacated area under certain terms and conditions.

5 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

6 **SECTION ONE:** Subject to the terms and conditions hereinafter set forth the “air rights” or  
7 “air space” above that portion of Olive Street Which is described as follows:  
8

9 Air right above a parcel of ground between elevations 123.00 and 158.00 (City of St.  
10 Louis Datum) being a portion of Olive Street, 60 feet wide, located adjacent to  
11 “Adjusted Lot 3645” of the BOUNDARY ADJUSTMENT PLAT OF 3641 & 3645  
12 OLIVE STREET TRACT”, as recorded in Plat Book 11302005 Page 127 of the City  
13 of St. Louis Records, and adjoining Block 2287 of the City of St. Louis and being  
14 more particularly described as follows:  
15

16 Beginning at the southwest corner of said “Adjusted Lot 3645” being  
17 also on the North line of Olive Street; thence along the North line of  
18 Olive Street South 60 degrees, 45 minutes 03 seconds East a distance  
19 of 78.00 feet; thence leaving said North line South 29 degrees 14  
20 minutes 57 seconds West a distance of 6.50 feet; thence along a line  
21 parallel to the North line of Olive Street North 60 degrees 45 minutes  
22 03 seconds West a distance of 78.00 feet; thence along the Southern  
23 prolongation of the West line of said “Adjusted Lot 3645” North 29  
24 degrees 14 minutes 57 seconds East a distance of 6.50 feet to the point  
25 of beginning.  
26

27 Shall be and is hereby vacated. Any right, title or interest owned or claimed by  
28 the  
29 City of St. Louis therein is hereby relinquished, except as herein provided.

30 **SECTION TWO:** The petitioner is The Curators of the University of Missouri. The  
31 proposed air rights vacation will allow the construction and maintenance of a new building in which  
32 the second and third floors will overhang the public right-of-way.

33 Notwithstanding any law or ordinance to the contrary, SECTIONS THREE and FOUR of this

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1 Ordinance, and Subsections 3, 6 and 10 of SECTION FIVE of this Ordinance shall not apply to any  
2 building owned and occupied by The Curators of the University of Missouri or the State of Missouri.

3 **SECTION THREE:** An appropriate application shall be filed with the Building Division  
4 and there shall be submitted detailed plans for the erection, construction and use of the buildings,  
5 structures and related facilities which are to be constructed over the areas described in Section One.

6 **SECTION FOUR:** Notwithstanding any provisions of the Revised Code of St. Louis or the  
7 Ordinances of the City of St. Louis to the contrary, the Board of Public Service and the Building  
8 Division are hereby authorized and directed to issue building permits for the erection, construction  
9 and use of buildings, structures and related facilities, as well as any future additions, alterations or  
10 improvements thereto and renewals and re-buildings thereof, in the areas vacated pursuant to the  
11 provisions of Section One hereof when the Building Division shall find that:

- 12 1. The proposed plans and specifications of such buildings, structures and related facilities  
13 are such that said buildings, structures and related facilities will be located within the  
14 boundaries of the areas vacated by Section One.
- 15 2. The proposed manner of construction pursuant to the proposed plans and specifications  
16 of such buildings, structures and related facilities shall be such as to not unduly interfere  
17 with traffic on the public right-of-way.
- 18 3. Materials proposed in the plans and specifications to be used in constructing the said  
19 buildings, structures and other facilities shall be such as are customarily used in projects  
20 of this type involving constructions over highway rights-of-way.

21 **SECTION FIVE:** The present owners and any successors and assigns of the ownership of  
22 the real property abutting the areas described in Section One shall be bound by the following terms  
23 and conditions:

- 24 1. To the extent permitted by law, they shall indemnify and hold harmless the City of St.

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- 1           Louis against any liability, loss or damage arising out of, or in connection with the  
2           construction, maintenance and occupancy of the buildings, structures and related  
3           facilities above the public right-of-way.
- 4           2.     All construction of and repair and maintenance to the exterior portions of the buildings,  
5           structures and related facilities above the public right-of-way shall be performed only at  
6           such times and by such methods as Board of Public Service shall specify in its  
7           encroachment permit, except in the case of an emergency.
- 8           3.     No advertising signs, displays or devices shall be placed above the public right-of-way  
9           unless approved by the Board of Public Service.
- 10          4.     No hazardous or unreasonably objectionable smoke, fumes, vapor or odor shall be  
11          permitted to descend to the grade line of the public right-of-way.
- 12          5.     All buildings, structures and related facilities over the public right-of-way shall be  
13          properly maintained so as to safeguard adequately said buildings, structures and related  
14          facilities against fire and other hazards.
- 15          6.     The City of St. Louis or its authorized agent shall have the reasonable right to enter into  
16          and inspect all buildings, structures and related facilities maintained over the public  
17          right-of-way.
- 18          7.     All buildings, structures and related facilities located over the public right-of-way shall  
19          comply with all regulations imposed by the City of St. Louis to protect against fire and  
20          other hazards which would impair the use and safety of the public right-of-way.
- 21          8.     In the use of the air space over the public right-of-way, all necessary and appropriate  
22          safeguards to protect the public right-of-way shall be provided.
- 23          9.     All construction in, and use of, the air space over the public right-of-way shall be in  
24          compliance with the rules, regulations and requirements established by the Department

1 of Street of the City of St. Louis.

2 10. Upon completion of the construction of the buildings, structures and related facilities  
3 contemplated hereby, the present owners or its successors and assigns shall furnish the  
4 City of St. Louis evidence of fire and extended coverage insurance and public liability  
5 insurance during the time the air space over the public right-of-way shall be occupied by  
6 the aforementioned buildings, structures or related facilities and such policies of  
7 insurance shall be in such reasonable amounts as set by Board of Public Service and  
8 shall contain a provision waiving subrogation against the City of St. Louis.

9 **SECTION SIX:** An affidavit stating that all conditions of this Ordinance have been  
10 accepted must be submitted to the Board of Public Service for acceptance One Hundred Twenty  
11 (120) days from the date of the signing of this Ordinance. If this affidavit is not submitted within the  
12 prescribed time the Ordinance will be null and void.

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