Open Citizen Comment Procedure

1) Public Hearings – Any citizen is allowed to ask questions and/or make comments during any public hearing scheduled for a particular issue.

2) “Citizen Communication” – Public comment can be provided on any item on the agenda or on issues affecting the City not on the agenda. Public comments should generally be limited to 3-5 minutes. Citizens are encouraged (but not required) to contact City Administration one week prior to the meeting, preferably in writing, to be placed on the agenda. Doing so provides Council an opportunity to give consideration to the issue/comment.

Rolla City Council Meeting
Monday, June 18, 2018
901 North Elm Street
City Hall Council Chambers
6:30 P.M.

COUNCIL PRAYER
Ministerial Alliance

PLEDGE OF ALLEGIANCE
Councilman Steven Jung

I. PUBLIC HEARINGS
   A) Ordinance Rezoning 1150 S. Bishop Ave. from M-1 (Light Manufacturing District) to C-2 (General Retail District) (Brown) – (City Planner James Shields) – First Reading (final reading requested)
   B) Ordinance Amending Certain Provisions of the Planning & Zoning Code Pertaining to Nonconforming Uses, Exceptions - (City Planner James Shields) – First Reading

II. SPECIAL PRESENTATIONS
   A) Update on Rolla/Phelps County Senior Center – Ms. Joanne Zap & Mr. Greg Stratman

III. OLD BUSINESS
   A) Ordinance Authorizing the Mayor to Enter into a Contract with Donald Maggi, Inc., for Project 437-TAP Grant ADA, Phase II – (Public Works Director Steve Hargis) – Final Reading

IV. NEW BUSINESS
   A) Motion Authorizing Staff to Revisit Update of Building Codes – (Interim Community Development Director Steve Flowers) - Motion
   B) Review of the Proposed Budget for the Forum Plaza Community Improvement District – (City Administrator John Butz) – Motion
   C) Ordinance Re-adopting Public Officials Personal Financial Disclosure Ordinance – (City Administrator John Butz) – First Reading

V. CLAIMS and/or FISCAL TRANSACTIONS
   A) Motion Awarding Bid for a Pierce Custom 107 Foot Aerial Ladder Truck, and; a Resolution Authorizing the Mayor to Enter into a Contract for Same – (Fire Chief Ron Smith) – Motion/Resolution
VI. **MAYOR/CITY COUNCIL COMMENTS**  
A) **Motion** Appointing Councilwoman Jody Eberly as the Council’s Representative on the Airport Advisory Committee (July 2020) – **Motion**

VII. **CITIZEN COMMUNICATION**  
A) Open Citizen Communication

VIII. **COMMENTS FOR THE GOOD OF THE ORDER**

IX. **CLOSED SESSION**  
Pursuant to RSMo. 610.021, the Rolla City Council will discuss the following in Closed Session:  
A) **Real Estate**

X. **ADJOURNMENT**
DEPARTMENT: Community Development ACTION REQUESTED: First Reading/Public Hearing

SUBJECT: A request to rezone the parcel that is identified by its Phelps County Assessor Account Number of 10724, which is also known as 1150 S. Bishop Avenue, from the Light Manufacturing District (M-1) to the General Retail District (C-2).

MEETING DATE: 06-18-2018

GENERAL INFORMATION:
CASE NUMBER: ZON18-04 SUBMISSION DATE: 05-25-2018
LEGAL AD DATE: 05-31-2018 300 FOOT NOTICE: 05-30-2018

APPLICANT: William Erisman of Ozarks Tents & Fireworks is the agent of this proposal on behalf of the owner of the property and applicant, Deanna L. Brown.

LOCATION: The parcel subject to this proposal (the subject parcel) the parcel that is identified by its Phelps County Assessor Account Numbers 10724 (See Figure 1 for a general location map and Figure 2 for a site map). The subject parcels consist of a fractional part of Lot 5 of the Parkview Subdivision and fractional parts of the southwest quarter of Section 14, Township 37 North, Range 8 West. The subject parcels are located about 315 feet south of the intersection of Basswood Street and South Bishop Avenue (i.e. U.S. Highway 63).

CURRENT USE, ZONING, AND FLUM DESIGNATION: The subject parcel was located within the Light Manufacturing District (M-1) at the time of its annexation in 1998. In 2003, the first business license was issued to Garner Refrigeration & Heating, Inc. for the use of “heating and air-conditioning sales and service, including customized sheet metal fabrication as an accessory use”, which is not permitted in M-1. This business and use is currently operating on the subject parcel. The Future Land Use Map (FLUM) designation of the subject parcel is Community Commercial. A seasonal business of a fireworks stand has been proposed to locate on the subject parcel this upcoming Fourth of July season.

PROJECT DESCRIPTION & HISTORY: The proposal is to rezone the subject parcel in order to permit two uses that are currently not permitted. It appears that zoning approval of the business license for Garner Refrigeration & Heating, Inc. was given in 2003. According to the Finance Department’s records, the business claimed that it was established in 1985, before it was annexed. If this is true, the land use is legal nonconforming. This rezone was prompted by the agent, who came to the Finance Department to apply for a business license for the operation of a fireworks stand on the subject parcel. Firework stands are specifically listed under the “Uses Permitted” list of the General Retail District (C-2) as “Seasonal businesses; such as fireworks stands, Christmas tree lots...and other similar outlets that are temporary uses”. A C-2 zoning would eradicate the nonconforming use status of the current use and permit the proposed use to locate on the parcel this summer.

I.A.1.
ANALYSIS:
SITUATION: To the north of the subject parcel is a small strip mall with a few businesses including a pharmacy and furniture store. To both the west and south sides of the subject parcel are two single-family houses, one on each side. However, abutting the west side of subject parcel, and in between the single-family home to the west and the subject parcel, is a parcel that is zoned C-2 and appears to be part of the small strip mall’s premises that contains a driveway and an outbuilding. The zoning to the north is C-2; to the south is R-R; to the west, the zoning consists of the Single-Family District (R-1) and C-2; and to the east, the zoning consists of the Highway Commercial District (C-3), which is the location of Lions Club Park (See Figure 3 for a zoning and FLUM map).

INTENT OF THE COMPREHENSIVE PLAN AND CONTIGUOUSNESS: Under “Land Use Policies” in Rolla 2020, Rolla’s Comprehensive Plan Update (2005), it is stated that commercial areas should be designated according to their role and function in the region and that “Three commercial designations are recognized depending on the area’s scale, purpose, location and intensity of use…[including] Community Commercial (generally includes the C-2 and C-3 commercial zoning districts)…”. In this sense, the subject parcels are categorized with the appropriate FLUM category to be zoned C-2. In addition, the subject parcel is surrounded by C-2 or C-3 except to the south. Even though R-R exists to the south, the FLUM category is Community Commercial. The Community Commercial FLUM Category is intended to accommodate “Shopping areas providing a variety of general merchandise, grocery, apparel, appliances, hardware, lumber, and other household goods, may be anchored by larger national chain”. Not only are the parcels in the area that front U.S. 63 zoned C-2, but commercial uses have located there and continue to locate hear successfully. In this sense, it could be said that, perhaps, at one time the area was industrial, but that conditions have changed in such a way that the market has determined that the location would be best utilized as commercial. The FLUM category implies that the community’s goals align with this market tendency.

LAND USE COMPATIBILITY: According to the “Purpose” section of C-2 (Sections 42-189 and 42-192 of the Rolla Planning and Zoning Code), the district is intended to be located on arterial roads due to the need for businesses within these zones to be highly visible and accessible to the regional community. Thus, from this respective, C-2 is an appropriate zoning for this location. The surrounding single-family homes were existing at the time of annexation, which was a time at which some form of manufacturing use was located on the subject parcel, which is most likely why it was annexed as such. This rezoning proposal does not induce possible incompatibilities. Rather, the approval of this rezoning would not only align the current use with an appropriate zoning for the area, but would also prevent new potentially noxious uses permitted in M-1 from locating next to single-family homes.

VEHICULAR AND PEDESTRIAN TRAFFIC: Vehicular and pedestrian safety would most likely not be substantially affected by the rezoning because the use of the subject parcel is not changing. Even if the use changed to a different C-2 use in the future that produced more traffic, C-2 is meant to be located on arterial roads, which are designed to handle high traffic locations by maximizing traffic flow and, ideally, minimizing safety issues associated with high traffic flow through limited access and other traffic-calming and incident-reducing strategies. In addition, the...
size of the subject parcel will limit the intensity of the potential commercial activity on the subject parcel due to the limited amount of parking it can accommodate.

**PUBLIC & INTERNAL COMMENTS:** No protest petitions or comments have been filed to this department. No internal comments were made.

**ACTION REQUIRED:** Unanimously, the Planning and Zoning Commission recommends approval. The action requested from the City Council is to conduct the first reading of and the public hearing on an ordinance that would approve the applicant’s proposal to rezone the parcel that is identified by its Phelps County Assessor Account Numbers of 10724, which is also known as 1150 S. Bishop Avenue, from the Light Manufacturing District (M-1) to the General Retail District (C-2). In addition, the agent has requested a first and final reading of this ordinance because waiting until July 2 would make it so that his firework stand could not operate for at least the first three days of the 8-day period that fireworks are permitted to be sold in Rolla. See Figure 4 for the first and final reading request letter.
BROWN REZONE: Proposal + History

- Proposal
  - Rezone from the Light Manufacturing District (M-1) to the General Retail District (C-2).
  - In order to allow current use and temporary future use of a fireworks stand (permitted in C-2+C-3, but not M-1)
  - Limited time to sell fireworks in Rolla, will request 1st + Final

- History: Annexed as M-1 in 1998, 1st business license was issued in 2003, never rezoned to permit use.

06/12/2018 - Rolla's Planning & Zoning Commission Meeting
Figure 3, ZON18-04, Zoning and FLUM Map
To whom it may concern:
Rolla City Council,

We have had a firework tent in Rolla for the last two years. We arranged for a new location for the 2018 season. I called city hall to check firework dates in the city and give the address to make sure it was Zoned correctly and was told that yes, it is zoned C2, all the businesses in that area on Hwy 63 were C2. We entered into a signed agreement with the land/business owner, Garner Refrigeration on south Hwy 63, to set up a firework tent on her parking lot.

We secured insurance and licensing for that address, paid fulfillment fees etc. which must be done well in advance to meet all requirements. We have purchased our fireworks for this location which are non refundable.

Upon visiting City Hall with my final paperwork I was told by the Zoning office that there was a zoning problem. The land in question is Zoned Manufacturing. I spoke with the landowner (Deanna Garner) and she is in agreement to rezone her property from Manufacturing to C2 to not only allow our stand but to make her business in compliance also. They do no manufacturing on site and it should have been changed when they bought the land. We are asking that the council will accept this request and grant an immediate decision on this matter.

We are definitely on a time crunch and can’t wait for a second meeting. It is impossible to secure a new location along with all of the permits the state requires in time for firework sales this season because their application date is over.

Thank you for kindly considering our request.

William Erisman
Ozark Tents and Fireworks
12595 Bay Leaf lane Rolla Mo 65401
573 201-4776

For Garner Heating & Air
ORDINANCE NO. ______

AN ORDINANCE THAT REZONES THE PARCEL THAT IS IDENTIFIED BY ITS
PHELPS COUNTY ASSESSOR ACCOUNT NUMBER OF 10724, WHICH IS ALSO
KNOWN AS 1150 S. BISHOP AVENUE, FROM THE LIGHT MANUFACTURING
DISTRICT (M-1) TO THE GENERAL RETAIL DISTRICT (C-2). (BROWN)

WHEREAS, an application for a rezoning was duly filed with the Community
Development Department May 25, 2018, requesting that the City of Rolla rezone the parcel that is
identified by its Phelps County Assessor Account Number of 10724, which is also known as 1150
South Bishop Avenue, from the Light Manufacturing District (M-1) to the General Retail District
(C-2); and

WHEREAS, a public notice was duly published on May 31, 2018, in the Rolla Daily News
that in accordance with law provided notice that a public hearing on said proposal would be held
at Rolla City Hall, 901 North Elm Street, Rolla, Missouri, at 6:30 P.M.; and

WHEREAS, the City of Rolla Planning and Zoning Commission met on June 12, 2018 at
5:30 P.M. and recommended that the City Council approve the proposed ordinance; and

WHEREAS, the Rolla City Council, during its meeting held on June 18, 2018, conducted
a public hearing on and the first reading of this rezoning ordinance; and

WHEREAS, after consideration of all the facts, opinions, and evidence offered to the City
Council at the hearing by those citizens favoring the said change of zoning and by those citizens
opposing said change, the City Council found the proposals would promote the public health,
safety, morals, and general welfare of the City of Rolla, Missouri, and would be for the best interest
of said City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF ROLLA, MISSOURI AS FOLLOWS:

SECTION 1: That the Rolla Planning and Zoning Code, Ordinance No. 3414, which is
Chapter 42 of the Code of the City of Rolla, Missouri, and a code that, in accordance with the
Comprehensive Plan, divides the City of Rolla into zoning districts; controls the regulation and
restriction of the erection, construction, reconstruction, alteration or use of buildings, structures,
or land within such districts; and controls the number, shape, and area of such zoning districts on
the Official Zoning Map, is hereby amended by amending the zoning classification of the
following described property from the Light Manufacturing District (M-1) to the General Retail
District (C-2):
A fractional part of Lot 5 of Parkview Subdivision, Rolla, Missouri, and a fractional part of the Southwest Quarter of Section 14, Township 37 North, Range 8 West of the 5th P.M. described as follows: Beginning at the Northwest Corner of Lot 5 of said Parkview Subdivision; thence South 0° 55' 20" East, 63.30 feet along the West line of said Lot 5 to the Southeast corner of a parcel described in Phelps County Deed Records at Document NO. 9308138, thence South 88° 20' 00" West, 3.03 feet; thence South 1° 09' 20" East, 49.40 feet; thence South 85° 12' 30" East, 255.77 feet to the Easterly line of the aforesaid Lot 5; thence North 8° 29' 50" East, 23.10 feet, South 81° 28' 40" East, 50.04 feet, and North 8° 15' 50" East, 96.97 feet all along said Easterly line of Lot 5; thence North 85° 56' 40" West, 321.50 feet to the point of beginning. Above tract is derived from survey R-9198, dated May 26, 2000, by Elgin Surveying & Engineering, Inc., said survey being recorded in Phelps County Surveyor's Records Book "J", page S-6548.

Subject to Easements and Restrictions existing or of record. Subject to a Sight Line Easement reserved by Gary W. Heavin and Janet S. Heavin by Warranty Deed recorded in Document 2008-5947.

SECTION 3: This ordinance shall be in full force and effect from and after the date of its passage and approval. Building permits may not be issued by the Community Development Department until the rezoning process has been completed by the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI AND APPROVED BY THE MAYOR THIS 18th DAY OF JUNE 2018.

APPROVED:

ATTEST:

Mayor

City Clerk

APPROVED AS TO FORM:

City Counselor
CITY OF ROLLA
CITY COUNCIL AGENDA

DEPARTMENT: Community Development ACTION REQUESTED: First Reading/Public Hearing

SUBJECT: An ordinance amending Divisions 1, 15, 17, 18, 19, and 21 of Article III, which is known as the Rolla Planning and Zoning Code, of Chapter 42 of the Rolla City Code by deleting, adding, and amending language that pertains to provisions related to nonconforming uses and other exceptions. (Nonconforming Uses, Exceptions)

MEETING DATE: 06-18-2018

GENERAL INFORMATION:
CASE NUMBER: TXT18-05 SUBMISSION DATE: 05-14-2018
LEGAL AD DATE: 05-26-2018 300 FOOT NOTICE: NA

APPLICANT: The Community Development Department on behalf of the City of Rolla.

PROJECT DESCRIPTION: The applicant requests to modify the language of the current version of the Rolla Planning and Zoning Code (the Code) that pertains to nonconforming uses and other exceptions to the complete conformance to the Code. These changes were prompted, in most part, by issues presented to our department by the public, appraiser, and real estate agents about the limitations and prohibitions on rebuilding and adding on to nonconforming buildings. These revisions also eradicate many contradictions, clarify duties and applicability, and simplify language, which should result in better customer service.


GUIDE TO ORDINANCE:

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NONCONFORMING USES - BACKGROUND: Nearly all zoning ordinances permit uses that were lawfully established prior to the passage of an ordinance that made them unlawful to continue to exist. The term "nonconforming uses" is a generic term that refers to all of the following nonconforming situations: (1) nonconforming buildings (e.g. when a building does not conform to setbacks), (2) conforming uses of a nonconforming building, (3) nonconforming uses of conforming structures, and (4) nonconforming uses of land. Certain consequences concerning the termination and expansion of nonconformities may depend on these classifications. Distinguishing between nonconforming lots and buildings is not always clear and may lead to illogical conclusions and the circumventing of valid minimum lot requirements (Juergensmeyer, 2013).

Protection of existing uses were an important goal from zoning's inception. There were many reasons for this. One reason was that zoning was meant to control new development and maintain that control, not necessarily to change existing development. Another reason was that cumulative use zoning (land uses permitted in the less intense zone are permitted in the more intense zone, but not vice versa) was an easier concept for opposition to accept. For example, it was difficult to convince the opposition to zoning that a corner store in a single-family neighborhood was in conflict with public health and safety. Related to this reason was the fact that the constitutionality of zoning, in its early days, was in doubt and arguing that existing uses had to be eliminated would have made the argument that it was constitutional much less convincing (Juergensmeyer, 2013).

NONCONFORMING USES - LIMITATIONS: While lawful nonconforming uses are tolerated, it is understood that eventually they will come into conformance when practicable and reasonable. The way this is encouraged is by placing limitations on nonconforming uses. Usually, limitations are applied to change of use, on repairs and alterations, on rebuilding in the event of catastrophe, and abandonment of use (Juergensmeyer, 2013).

CHANGE OF USE (See Sections 23-26 and 27 of the Ordinance): Generally, lawfulness of a nonconforming use is lost with a change of use, but some ordinances may allow for some flexibility, such as permitting a change of use to a less intensive nonconforming use (Juergensmeyer, 2013). Rolla's current code prohibits use expansions/extensions and increases of intensity (also volume) of use (Section 42-247.4 (a), Section 42-247.4 (b)). In regards to change of use, Section 42-247.2(d) of the current code allows changes to similar uses. This provision is in contradiction with Section 42-247.4 (a), which states no changes in use are permitted. In addition, current code (Section 42-255.4(a) and Section 42-255.4(b)) allows the Board of Adjustment (BOA) to permit a change of use to another nonconforming use that is of equal intensity or less and to permit the extension of a nonconforming use in a building.

The proposed revisions, specifically Subsection 42-247(b)(1) and Subsection 42-247(b)(2) of the proposed code, simplify the language pertaining to the prohibitions on use expansions/extensions and increases of intensity (volume) of use, and corrects the contradiction pertaining to changes of use by prohibiting all changes of use. In addition, Subsection 42-247(c) and Subsection 42-247(d) of the proposed code reiterates the BOA’s abilities to permit change/expansion of use.

REPAIRS AND ALTERATIONS (See Sections 23-26 and 21-22 of the Ordinance): Most ordinances allow some repairs to nonconforming uses and if not, courts will usually uphold the right to do so because there is a general policy to keep buildings in good repair. The degree to
which repairs are made is usually limited to only modest repairs. Many times, the repairs will be limited by a maximum percentage of assessed value of the building. These values sometimes have little relation to actual costs and change over time, which can result in regulations that are difficult or unfair to enforce. Alterations and structural repairs are usually prohibited because they are thought to prolong the life of the nonconforming use. Some ordinances allow alterations that are necessary to the safety of the structure or otherwise required by law (Juergensmeyer, 2013).

Rolla’s current code prohibits structural alterations, except when required by “law or ordinance”, but additions, enlargements, and moving are not permitted (Subsection 42-247.2(a), Subsection 42-247.2(b), and Subsection 42-247.4(a)). In addition, remodeling of conforming structures that are devoted to nonconforming uses is prohibited, but construction activities are permitted that would result in remodeling (e.g. replacement of walls/fixtures), which begs the question of whether or not the prohibition of remodeling is actually enforceable (Subsection 42-247.4(c)). In the end, staff recommends to simplify and maintain the prohibitions on such construction activities and create provisions that are clear and enforceable. The proposal is to simplify the language, but still maintain prohibitions on enlargements, additions, moving, and structural changes and to maintain exceptions for structural alterations and repairs that are required “by building, fire, or health codes for human health and safety”, but eradicate references to remodeling for nonconforming use of conforming structures (See Subsection 42-247(b)(3) of the proposed code). Lastly, an exemption from such limitations is given to single-family and two-family homes that are used as such that permits them to be added to, reconstructed, expanded, and structurally altered, except when such activity would increase any nonconforming aspect of the structure. This exemption is given in light of the fact that many families have much of their wealth invested in their homes and may not be aware that their home may be nonconforming during purchase. With this exemption, appraisals will not be affected by the nonconforming status and families will not be prohibited from enhancing their investments.

The topic of limitations on the repair and alterations of nonconforming uses applies to the changes proposed to the nonconforming sign section of the current zoning ordinance. Regulations of nonconforming signs (Section 42-244.9 of the current code) are in a different part of the Code than the remainder of the nonconforming regulations under Division 19, Signs. The proposed language for Division 19 (Subsection 42-247(a)) explicitly notifies the reader that signs are structures that are regulated by separate nonconforming regulations. This is proposed to decrease the likelihood of confusion and litigation over which regulations should apply to signs. The current nonconforming sign language is unclear. Subsection 42-244.9(d) states that all nonconforming signs must be removed by June 1, 2013, while the remainder of the Section states all the ways in which a nonconforming sign may exist lawfully. The intention of this section, in the opinion of staff, is that while in the past there was more leniency towards the abolition of such signs, at some point in time, the Council decided that such signs must be removed, regardless of the type of construction activity that was being performed on them. However, the enforcement mechanism was not put into place to abolish such signs. In light of this, the proposed language (Section 42-244.9) allows for some leniency, but leans toward termination and inserts an enforcement method. The enforcement method is to refuse sign permits, new or existing, unless the nonconforming sign is removed or altered to conform to current regulations. In addition, structural alterations are not permitted and if structural alteration is needed to maintain structural integrity, it is stated that the sign shall be removed. Some of the leniency of the current code was integrated into the proposed
language. Namely, in regard to on-premise signs: sign face changes, minor modifications, and repairs may be made if the sign has not been abandoned (i.e. not used for a year or more).

**DESTRUCTION** (See Sections 23-26 and 27 of the Ordinance): If destruction is involuntary and partial, ordinances often allow a building or structure to be rebuilt (Juergensmeyer, 2013). Rolla’s current code is like most in that it defines substantial destruction as 75% of the replacement cost (Subsection 42-247.2(c)). Because replacement cost is difficult to fairly determine, the proposed language of Subsection 42-247(b)(6) is recommended, which permits the restoration and rebuilding of involuntarily destroyed buildings if it is rebuilt or restored within two years and if no nonconforming aspect of the use or structure is increased. This allows for substantially damaged nonconforming buildings to be rebuilt instead of just partially damaged buildings, but still limits the time and extent to which it can be rebuilt and continued. In addition, because there was never a need for Subsection 42-255.5(e), which permits the BOA to allow reconstruction of involuntarily destroyed homes, it was eliminated.

**ABANDONMENT OR DISCONTINUANCE** (See Sections 23-26 of the Ordinance): Typically, abandonment of a nonconforming use will result in the loss of lawful nonconforming status. Most courts require proof of an intent to abandon. However, such an approach is often criticized because it may incentivize property owners to commit perjury, because it is hard for courts to deal with subjective intentions, and because it is very difficult for a municipality, who carries the burden of proof, to prove. Some states will presume intent with the passage of a certain amount of time of nonuse (no evidence was found that Missouri is one of those states). However, some ordinances provide that a nonconforming use ceases or is discontinued if it is left vacant or unused for a period of time (6 months and a year are common). Many courts see discontinuance as a separate type of designation and will not require proof of intent (Juergensmeyer, 2013).

Rolla’s current code declares a nonconforming use abandoned when equipment and furnishings have been removed for more than one year, when a structure or land has been vacant and remains unoccupied for more than a year, and when a conforming use commences on the property (Subsection 42-247.e). Current code also states that nonconforming structures that are abandoned for one year shall not any longer be used for any purpose (Subsection 42-247.3). Because abandonment was never meant to deal with nonconforming structures, and because it is impractical to keep track of internal furnishings and equipment, and because it is more likely that intent is not needed if a municipality uses the idea of discontinuance instead of abandonment, the language staff proposes eliminates the above mentioned subsections and inserts one subsection (Subsection 42-247(b)(2)) that states that nonconforming uses that are discontinued (defined as one year of continued nonuse or vacancy) lose their lawful nonconforming use status.

**NONCONFORMING USES—OTHER**: Definitions related to nonconforming uses and were amended in a way that eliminated contradictions between them and the provisions that utilize those terms. The term “Lot” was amended in a way that ensures the definition of “Lot” in Article II, Subdivisions, does not contradict it. See Sections 3-4 of the Ordinance for changes to definitions.

See Sections 1-2 and 5-6 of the Ordinance for references to the following analysis. Section 42-139, *Regulated Activities*, is, in essence, a guide to the instances when the provisions of the zoning ordinance are enforced. The proposed revisions to this section were conducted in a way that
ensures that the language in this section is consonant with the language in each of the Sections and Divisions to which it refers. Some parts of this section were consolidated. In addition, the proposed Subsection 42-139(b) lists the types of activities that shall receive an official land use review that will be kept on file. This helps to clarify when a thorough examination of a proposal is needed to ensure the Code is enforced and when a simple examination can be done through the building permit process. This new subsection also clarifies that a record should be kept of such a land use review. Section 42-142, General Provisions, is similar in function to Section 42-139 and was revised in a similar fashion as Section 42-139.

**NONCONFORMING PARKING**: When a use changes or is increased in intensity within an existing structure, the lot should be able accommodate any increased parking that is induced by such a change in use or intensity. Similarly, if an addition to an existing building is constructed, the parking spaces required may increase as well. Thus, additions should be dependent on the ability for a lot to accommodate the parking requirement increase induced by such an addition. However, in the opinion of staff, there are instances where an existing building should not be obligated to increase parking with a change of use or an increase in the intensity of use. It should be noted that land use review for change of use proposals have been customarily substituted with the Community Development Department approving what is called a “zoning inspection” for business licenses. If the building footprint of a building, which has existed for at least five years, is not increased and the lot is fully built-out with parking (i.e. cannot construct more parking without reducing its building footprint or required landscaping), and a change of use (or an increase in use intensity) that results in higher parking requirements than the lot can accommodate is requested, it is staff’s opinion that the zoning inspection for a business license should not be denied. The reasoning for this conclusion is as follows. As time goes on and the market shifts, a building may become more desirable to a different type of business or tenant than it was originally planned to attract. If this were the case, it would not be in the best interest of the City’s economic development potential to disqualify a certain building from being the home to a new business based on a lack of parking. This argument is supported by the recent planning trends around the country where many cities have eliminated parking minimums and replaced them with parking maximums. Many cities have realized that the current market will determine how much parking is needed and it is the city’s job to regulate other aspects of parking that reduce harm, such as layout, pedestrian access, and location. In regards to the market determining the need for parking, it can be said that if a business does not think the premises on which it would like to be located has enough parking, they will likely pick another location. In addition, at different times in history and in different parts of the city, the tendency for people to drive less is different. Thus, the business should be able to take all of this into consideration when determining where he/she/they will locate their business. The proposed language (Subsection 42-239.8) can be found in Sections 17-18 of the attached Ordinance. Before this proposal, there were no references to how parking should be addressed for new uses within and additions to existing buildings. The five-year minimum clause of the new nonconforming parking language to qualify for this exception is proposed in order to prevent a developer from claiming the building is intended for a land use that requires little parking and immediately changing its use to a use that requires more parking after building permits are issued. The new code also exempts seasonal temporary uses from parking requirements because it would be unreasonable for a temporary use to find a site that has extra parking, especially since very few if any of these sites exist. Lastly, Sections 42-239.7 and 42-241 were slightly revised (See Section

\( \text{I. B.5.} \)
3-4 and 15-16 of the Ordinance) to correct a contradiction between the two revisions, which was
that one made an exception to R-R districts for having paved driveways and the other did not.

EXCEPTIONS TO YARD REGULATIONS (See Sections 7-14 of the Ordinance): Subsection
42-210.1 of the current code lists exceptions to front yard regulations, but the correct interpretation
of Subsection 42-210.1(a)(1)+(2) is not clear. However, it is agreed that new buildings on streets
with existing buildings should be permitted to reduce the required front yard setback to align with
the existing buildings. When frontages are aligned or close to aligning on a street, the better the
spatial definition there is, which in turn provides continuity, a sense of place, and a better
pedestrian experience. By allowing the fronts to align, we allow developers to help preserve the
traditional urban form of the street and or area. Section 42-210.4 of the proposed code in Section
11 and 12 of the attached Ordinance is the revised, more simple and clear, version of the exception
that has already existed in our code prior to this proposal and puts a maximum limit of five-foot
front setbacks on interior lots and ten-foot front setbacks on corner lots. Other than that
clarification, Subsections 42-210.1 through 42-210.4 were reorganized to ensure the provision was
listed under the appropriate subsection.

Section 42-210.5 of the current code pertains exceptions to required yard regulations. No major
changes are proposed for this section. The main purpose of revising this section was to clarify,
simplify, and reduce reducing contradictions, such as the fact that canopies were permitted to
encroach only so far into the required yards in one subsection, but at the same time was allowed
to encroach the right-of-way inn another subsection. The amount to which open porches, balconies,
stoops, terraces, and bay windows may encroach the required front yards was slightly increased
for R-R and R-1 and moderately increase for all other residential districts. The reason for this is
that using percentages as oppose to a set number of feet is more appropriate because setbacks may
change in the future and using a set amount of feet would not account for this change and because
the higher density zones are meant to be more urban in form, which means that porches and such
should be closer to the sidewalk than R-1 or R-2 dwellings.

PUBLIC & INTERNAL COMMENTS: No protest petitions or official comments have been
filed to this department. No internal comments were made.

ACTION REQUIRED: Unanimously, the Planning and Zoning Commission recommends
approval. The action requested from the City Council is to conduct the first reading of and the
public hearing on an ordinance that would amend Divisions 1, 15, 17, 18, 19, and 21 of Article III,
which is known as the Rolla Planning and Zoning Code, of Chapter 42 of the Rolla City Code by
deleting, adding, and amending language that pertains to provisions related to nonconforming uses
and other exceptions.
ORDINANCE NO. _____

AN ORDINANCE AMENDING DIVISIONS 1, 15, 17, 18, 19, AND 21 OF ARTICLE III, WHICH IS KNOWN AS THE ROLLA PLANNING AND ZONING CODE, OF CHAPTER 42 OF THE ROLLA CITY CODE BY DELETING, ADDING, AND AMENDING LANGUAGE THAT PERTAINS TO PROVISIONS RELATED TO NONCONFORMING USES AND OTHER EXCEPTIONS. (NONCONFORMING USES, EXCEPTIONS)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI AS FOLLOWS:

SECTION 1. Section 42-139, Regulated Activities, of Division 1 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

a. Territorial Application of Regulations: The regulations and restrictions in this Article shall apply to all buildings, structures, and land uses within the corporate limits of the City of Rolla, unless otherwise exempted or grand-fathered by other provisions of this Article.

b. Application to New Uses of Existing Structures: If a use of any building or structure is hereafter changed to another use, then the new use must comply with the use regulations of this Article, but the establishment of a new use does not require an existing building or structure to conform to the lot size, open space or bulk regulations of this Article.

c. Application for Expansion and Enlargement: If any building or structure is expanded or enlarged after the effective date of this Article:
   1. The entire building or structure shall comply with the use regulations of this Article;
   2. Any expansions or enlargements of a building or structure shall comply with the bulk and open space regulations of this Article, and
   3. The off-street parking facilities shall not be reduced below the minimum requirements applicable to a similar new building, structure or use.

d. Application to Existing Uses, Buildings and Structures: Any use, building or structure that does not conform to the regulations of this Article, but were lawful and conforming when established or constructed, may continue subject to the restrictions under Division 20, Section 42-247 pertaining to non-conforming uses.

e. Application to Existing Variances, Special Exceptions and Use Permits: Variances, special exceptions and use permits granted prior to the effective date of this Article shall remain valid provided the use authorized has been established. However, no such building, structure or use shall be altered, changed or expanded unless a conditional use permit has been granted pursuant to Section 42-234.
f. Application to Open Land Uses: If any use of open land is established or if any use of open land is changed to another use after the effective date of this Article, such new use shall comply with all of the regulations of this Article. (Ord. 3414)

SECTION 2. Section 42-139, Regulated Activities, of Division 1 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

a. Territorial Application of Regulations: The regulations and restrictions in this Article shall apply to all buildings, structures, and land uses within the corporate limits of the City of Rolla, unless otherwise exempted or grandfathered by other provisions of this Article.

b. Land Use Review: The following types of requests will be reviewed for compliance with Chapter 42 of the Rolla City Code and a record shall be kept in the Community Development Department that indicates the findings and conclusions of such land use reviews:

1. New Commercial Buildings and Additions to or Expansions of Commercial Buildings

2. New Industrial Buildings and Additions to or Expansions of Industrial Buildings

3. New Multi-family Buildings and Additions to or Expansions of Multi-family Buildings

4. Change of Use, Increase of Intensity of Use, and Establishment of a New Use

5. Home Occupation Applications

6. Sign Applications

Land use actions that are reviewed by City Council such as rezonings, subdivisions, lot consolidations, lot reconfigurations, planned unit developments, conditional use permits and other land use actions also require land use review and record-keeping. All of the other applications of the regulations of Chapter 42 of the Rolla City Code that are not explicitly listed above shall be enforced through the building permitting process, unless, at the discretion of the Community Development Director, land use review is needed. The above-listed types of requests and other land use reviews may require the applicant to submit applications and additional information as reasonably needed before approving such a land use review.

c. Application to Change of Use, Increase of Intensity of Use, and Establishment of a New Use: A zoning inspection for a business license that results in a change
of use (as listed in the permitted/conditional use lists of each district, not as described in building codes), increase of intensity of use, or the establishment of a new use shall only be approved if the use and parking regulations of this Article are met. Regardless of application for a business license, a change of use, increase of intensity of use, or the establishment of a new use is permitted only when the provisions of this Article are met. Unless exempted by other provisions of this Article, no building permits shall be issued until the use and parking regulations and standards are met.

d. Application for Expansions, Additions, and Enlargements: Unless otherwise exempted by provisions of this Article, any expansion of, addition to, or enlargement of an existing structure must conform to the provisions of this Article, including parking requirements and standards. Otherwise, no building permits shall be issued. If an existing building is located on a lot that does not conform to minimum lot size and width requirements, the building shall not be expanded, or receive additions, nor shall the lot receive additional primary or accessory structures.

e. Application to Existing Uses, Buildings and Structures: Any use, building, or structure that does not conform to the regulations of this Article, but were lawful and conforming when established or constructed, may continue, but shall be subject to the limitations of Division 20, which pertain to nonconforming uses, and any other exemptions or limitations provided by this Article.

f. Application to Existing Variances, Special Exceptions, Conditional Use Permits, and Planned Unit Developments: Any exceptions or alternative development standards granted through Variances, Special Exceptions, Conditional Use Permits, and Planned Unit Developments remain valid until otherwise made invalid by any provision of this Article or other method authorized by the City Council of Rolla.

SECTION 3. Section 42-141, Definitions, of Division 1 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

Alteration, structural: Any change in a supporting member of a building.

Bulk requirements: Standards that control the height, lot coverage, and location of structures.

Lot: Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of these regulations, having not less than the minimum area required by these regulations for a lot in the district in which such land is situated, and having its principal frontage on a street or such other means of
access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit or certificate of occupancy for a building on such land.

*Non-conforming building:* A building or structure or portion thereof lawfully existing at the time this Article became effective, which was designed, erected, or structurally altered for a use that does not conform with the use regulations of the district in which it is located.

*Non-conforming use:* A use which lawfully occupied a building or land at the time this article became effective and which does not conform with the use regulations of the district in which it is located.

*Setback lines:* Setback lines of a property are those lines that locate the building on a lot with respect to the property lines.

*Structure:* Anything constructed or erected that requires location on the ground or attached to something having a location on the ground.

*Use:* The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

**SECTION 4.** Section 42-141, **Definitions,** of Division I of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

*Alteration, structural:* Any alteration to any component of a structure that supports any vertical load in addition to its own weight.

*Bulk requirements:* Bulk requirements (synonymous with bulk regulations) provide a zoning envelope for buildings by horizontal measurement. Such regulations include setbacks, minimum street frontage, maximum lot coverage, and minimum lot size.

*Lot:* An undivided tract or parcel of land that is under one ownership, has frontage on a street or access to a street, and is designated as a separate tract of land by identifying its boundaries by a lot number or letter on a duly approved and recorded subdivision or by a metes and bounds description on a recorded instrument prior to November 1, 1973.

*Nonconforming structure:* A building or structure or portion thereof that was lawfully erected, but does not conform to height, setback, and bulk regulations.

*Nonconforming use:* A lawfully established use of land, a building, or a structure that does not conform to the current Planning and Zoning Code.
Setback: The mandatory minimum or maximum distance between a lot line and an elevation of a building or the closest point of a structure that is not a building, unless otherwise indicated.

Structure: A building or other object that has been constructed or erected on the ground or attached to or on top of another object or building. Walkways and driveways located on the ground are not considered structures.

Land Use: The purpose for which land, a structure, a building, or part thereof is being used. The term does not refer to building code categorization of use. Rather, the land use should be listed in the permitted/conditional use lists of each district in this Article or be similar to one of those uses listed. If the use cannot be found, the use should be added to the list through a code interpretation request.

SECTION 5. Section 42-142, General Provisions, of Division 1 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

a. Permitted Uses: No building or structure shall be built, moved, expanded or enlarged after the effective date of this Article, and no building, structure or land shall be used, occupied or designed for use or occupancy after the effective date of this Article except in a manner that is permitted by this Article. Existing uses authorized as a special use permit may be continued, but shall not be permitted to expand or change use, except to bring the use into compliance with this Article for the respective zoning district.

b. Lot Size Requirements: Except as permitted in Section 42-247, no building or structure, or part thereof, existing on the effective date of this Article shall be built, moved, expanded or enlarged, and no vacant land as of the effective date of this Article, shall be used, occupied or designed for occupancy:
   1. On a lot which is smaller in area than the minimum lot area required in the zoning district in which the building, structure, or land is located, or
   2. On a lot which is narrower than the minimum required lot width; or
   3. On a lot which is shallower than the minimum required lot depth.

c. Bulk Regulations: No building or structure, or part thereof, existing at the effective date of this Article, shall be built, moved, expanded or enlarged and no vacant land at the effective date of this Article shall be used, occupied or designed for occupancy:
   1. So as to exceed the maximum lot coverage percentage or the maximum height for the zoning district in which the building or structure is located, or
   2. So as to provide any setback or front, side or rear yards that are less than the requirement specified for the respective zoning district.

d. Buffer Yard Requirements: All buildings, structures, and uses shall provide and landscape the buffer-yards required under the requirements of this Article.

e. Customary Home Occupations: No home occupation shall hereafter be established, altered or enlarged in any residential district unless it is allowed as
f. **Accessory Structures or Uses**: No accessory building, structure use, as defined in Section 42-204 shall hereafter be built, moved, established or enlarged unless such accessory building, structure or use is permitted.

g. **Signs**: No sign shall be built after the effective date of this Article, and no existing sign shall be moved or remodeled, unless such sign complies, or will thereafter comply, with the restrictions imposed by Section 42-244.

h. **Off-Street Parking**: No building or structure shall be built or moved after the effective date of this Article unless the minimum off-street parking spaces are provided in accordance with Section 42-239.

i. **Number of structures on a lot**: Not more than one (1) principal building shall be located on the same lot in the R-R, R-1, R-2, GI, C-O, C-1, C-2, C-3, CC, M-1 or M-2 zoning districts. In mobile home parks, self-service storage facilities, and in the R-3 Multi-Family District, any number of buildings or structures may be established on a single lot as long as other provisions of this or any other Article of the Rolla City Code is satisfied. (Ord. 3493, §1; Ord. 3611, §2)

j. **Reserved**.

k. **No Public Water or Sewer**: No use, which requires potable water or sewerage disposal to operate, shall be established on a parcel of less than three (3) acres, unless both public water and public sewer are provided. (Ord. 3414; Ord. 3493, §1; Ord. 3611, §2; Ord. 4398, §§3-4)

SECTION 6. Section 42-139, General Provisions, of Division 1 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

a. **Permitted Uses**: Unless otherwise exempt, no building, structure, or land shall be used or occupied or designed for use or occupancy after the effective date of this Article in a way that is not permitted by this Article.

b. **Lot Size, Bulk, and Height Requirements**: Unless otherwise exempt, and as of the effective date of this Article, no building or structure or part thereof shall be built, moved, expanded, added to, or enlarged, and no vacant land shall be used or occupied on a lot that does not conform to minimum lot size, lot width, and lot depth requirements.

c. **Buffer-Yard Requirements**: All buildings, structures, and uses shall provide and landscape the buffer-yards required under the requirements of this Article. No new construction, including additions, parking construction, and placement or construction of accessory or additional primary structures, shall be permitted in such buffer-yards.

d. **Customary Home Occupations**: No home occupation shall hereafter be established, altered, or enlarged in any residential district unless it is allowed as a use and complies with the conditions and restrictions imposed by Section 42-207.
e. **Accessory Structures or Uses:** No accessory building, structure, or use, as defined in Section 42-204, shall hereafter be built, moved, established, or enlarged unless such accessory building, structure, or use is permitted.

f. **Signs:** No sign shall be built after the effective date of this Article, and no existing sign shall be moved or remodeled, unless such sign complies, or will thereafter comply, with the restrictions imposed by Section 42-244.

g. **Off-Street Parking:** No building or structure shall be built, added to, expanded, or moved after the effective date of this Article unless the minimum off-street parking spaces are provided on the premises and in accordance with Section 42-239. Unless otherwise exempted by other provisions of this article, a change of use, an expansion of use, or an increase in a current use’s intensity shall trigger the site to conform to current parking requirements and standards.

h. **Number of structures on a lot:** Not more than one principal building shall be located on the same lot in the R-R, R-1, R-2, GI, C-O, C-1, C-2, C-3, CC, M-1 or M-2 zoning districts. In mobile home parks, self-service storage facilities, and in the R-3 and R-3B Multi-Family Districts, any number of buildings or structures may be established on a single lot as long as the other provisions of this or any other Article of the Rolla City Code is satisfied. (Ord. 3493, §1; Ord. 3611, §2)

i. **Reserved.**

j. **No Public Water or Sewer:** No use, which requires potable water or sewerage disposal to operate, shall be established on a parcel of less than three (3) acres, unless both public water and public sewer are provided. (Ord. 3414; Ord. 3493, §1; Ord. 3611, §2; Ord. 4398, §§3-4)

**SECTION 7.** Section 42-210.1, **Front Yard Regulations,** of Division 15 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

All property shall have a front yard not less than prescribed by this Article. Where front yard setback of existing buildings fronting the same street is less or greater than the required front yard setback, any building or structure hereafter erected or structurally altered or enlarged shall conform to such established setback as follows:

a. On interior lots where the frontage is located between two (2) intersecting streets:
   1. The front yard setback line shall not be less than the average setback of the two (2) adjacent developed lots fronting the same street; or
   2. If only one (1) adjacent lot is developed, the setback shall not be less than the average between the existing adjacent building and the minimum required front yard setback of the vacant lot, or
b. Where a residential building is located in a commercial district, the setback required in the residential district shall apply;
c. Existing buildings with front yard setbacks greater than fifty (50) feet shall be figured at fifty (50) feet when determining the average setback line; and
d. Off-street parking spaces located in the front yard of property zoned for residential use shall be limited to hard surfaced driveways and/or parking areas.

(Ord. 3414)

SECTION 8. Section 42-210.1, **Front Yard Regulations**, of Division 15 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

All property shall have a front yard not less than prescribed by this Article, except for the following instances:

1. Meets the criteria described in Subsection 42-210.4(a)

2. If permitted by a variance, special exception, or an approved Planned Unit Development

3. Where an irregular shaped lot has more area than required for its particular district, lot width may be computed including the most usable portion satisfying the minimum area requirements

4. Where a residential building is located in a commercial district, the setback required in the residential district shall apply

SECTION 9. Section 42-210.2, **Side Yards – Corner Lots**, of Division 15 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

The side yard requirement for a corner lot shall be not less than one-half (1/2) the required front yard setback or ten (10) feet minimum, whichever is larger. This provision shall apply only to the side yard adjoining a street. Existing buildings with a front yard setback greater than fifty (50) feet shall be calculated at fifty (50) feet when determining the average setback line. (Ord. 3414; Ord. 3566, §3)

SECTION 10. Section 42-210.2, **Side Yards – Corner Lots**, of Division 15 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

The required side yard for a corner lot shall be one-half of the required front yard setback for that particular lot or a minimum of ten feet, whichever is larger. This provision shall apply only to the side yard adjoining a street. (Ord. 3414; Ord. 3566, §3)
SECTION 11. Section 42-210.4, Exception to Yard Regulations, of Division 15 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

a. Where compliance with the yard regulations cannot reasonably be accomplished because of irregular shaped lots or hillside lots, the Board of Adjustment may modify such regulations.

b. Where an irregular shaped lot has more area than required for its particular district, lot width may be computed including the most usable portion satisfying the minimum area requirements. (Ord. 3414)

SECTION 12. Section 42-210.4, Exception to Yard Regulations, of Division 15 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

a. Where buildings exist on adjacent lots (lots that are near, but not necessarily abutting) that front the same street as an empty lot, the required setback for new buildings on the empty lot may be reduced to align with the frontages of the other adjacent existing buildings rather than the provisions of this Article. However, in the usage of this provision, no front or street-side side setback shall be reduced to less than five feet for interior lots and less than ten feet for corner lots. If the required setback is reduced in this manner, the structure will be considered to be conforming to the setback provisions of this article and will not be given the status of a nonconforming structure.

b. Where compliance with the yard regulations cannot reasonably be accomplished because of irregular shaped lots or hillside lots, the Board of Adjustment may modify such regulations.

c. Where an irregularly shaped lot has more area than required for its particular district, lot width may be computed at the most usable portion of the lot. (Ord. 3414)

SECTION 13. Section 42-210.5, Permitted Projections and Structures in Required Yards, of Division 15 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

The following projections may be located in a required yard:

a. Cornices, eaves, gutters, belt courses, sills, awnings, canopies or other similar architectural features, shall not extend or project into a required side yard more than two (2) feet and shall not extend or project into a required front or rear yard more than three (3) feet;

b. Open fire escapes shall not extend or project into any front, side or rear yard more than four (4) feet;
c. Open stairways or balconies, not covered by a roof or a canopy, shall not extend or project into a required rear yard more than three (3) feet, and such balconies shall not extend into the required front yard more than three (3) feet;

d. Enclosing or temporarily enclosing of porches, steps, platforms, carports, landing places and outside open stairways which extend into minimum required yards is prohibited;

e. Any fence or hedge in the front yard shall comply with the provisions of Section 42-211.1.

f. Fixed awnings, canopies and marquees shall be located at least eight (8) feet above a sidewalk and shall not project closer than two (2) feet to the curb;

g. One-story bay windows shall not project more than thirty (30) inches into a yard;

h. Chimneys may project thirty (30) inches or less into yard, provided that such projection does not reduce the width of a side yard to less than three (3) feet;

i. Statuary, arbors and trellises;

j. Flag poles;

k. Signs, as permitted in this Article; and

l. Open porches, platforms, and carports that do not extend above the first floor of the building shall not project more than ten (10) feet into any yard provided that said projection shall be at least ten (10) feet from the rear or front lot line, three (3) feet from the side lot line on interior lots and five (5) feet from the side lot line adjacent to the street on corner lots. (Ord. 3414)

SECTION 14. Section 42-210.5, Permitted Projections and Structures in Required Yards, of Division 15 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

The following projections may be located in a required yard:

a. Cornices, eaves, gutters, belt courses, sills, and other similar architectural features, shall not extend into a required side yard by more than two feet and shall not extend into a required front or rear yard by more than three feet.

b. Awnings, arcades, canopies, marquees, and galleries are permitted to encroach the sidewalk to within two feet of the curb, but must clear the sidewalk vertically by at least eight feet.

c. Open (i.e. no roofs or cover) fire escapes and open stairways not associated with a porch shall be permitted to extend into a required rear or side yard by no more than 50% of the required yard’s depth (open stairways associated with a porch or balcony will be considered part of the porch) and open handicapped ramps are permitted in 100% of all yards.
d. In R-1 and R-R, bay windows and unenclosed balconies, porches, stoops, and terraces shall be permitted to extend into the required front yard or into the required street-side side yard of a corner lot by no more than 50% of the yard’s depth.

e. In any residential district that is not R-R or R-1, bay windows and unenclosed balconies, porches, stoops, and terraces shall be permitted to extend into the required front yard or into the required street-side side yard of a corner lot by no more than 80% of the yard’s depth, but no such projection shall be closer than five feet to the front lot line of an interior lot and closer than ten feet to the street-side side lot line or front lot line of a corner lot. In addition, all components of such a structure or projection shall be contained within the lot.

f. If porches, steps, platforms, carports, landing places, and other similar projections extend into minimum required yards, they shall not be enclosed or temporarily enclosed nor shall the open sides be blocked by such contraptions as shades.

g. Any fence, hedge, statuary, arbors, or trellises in the front yard shall comply with the provisions of Section 42-211.1.

h. If a chimney is set back from any side lot line by at least three feet, chimneys may project thirty inches or less into any yard.

i. Flag poles.

j. Signs, as permitted in this Article.

k. If an open carport is at least ten feet from the rear or front lot line and three feet from all side lot lines, a carport that does not extend above the first floor of the building is permitted to extend up to ten feet into any yard. This provision does not apply to closed carports.

SECTION 15. Section 42-239.7, Location of Parking Facilities, of Division 17 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

No motor vehicle or trailer shall be parked in the required front yard of a lot or tract in any Residential District or a lot or tract used for residential purposes in any other District, excluding lots or tracts in the R-R Rural Residential District, except on a driveway or an impervious surface leading to a required off-street parking space(s). (Ord. 3414)
SECTION 16. Section 42-239.7, Location of Parking Facilities, of Division 17 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

Except for parking facilities that have been approved through cooperative parking plans, parking spaces and driveways shall be fully contained on the same premises as the building or land use it is required to serve. Shared driveways and other types of driveways may be used if each lot using another lot for access has been issued the appropriate access easement(s) that allow them to cross another’s property.

SECTION 17. Division 17 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding Section 42-239.8 and issuing the following title to said Section:

Nonconforming Parking and Applicability

SECTION 18. Section 42-239.8, Nonconforming Parking and Applicability, of Division 17 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

The exceptions to and the applicability of parking regulations and standards is as follows:

a. Unless otherwise exempt, new buildings and land uses shall conform to all current parking regulations and standards.

b. A zoning inspection for a business license that results in a change of use (as listed in the permitted/conditional use lists of each district, not as described in building codes), increase of intensity of use, or the establishment of a new use shall only be approved if, in addition to the use regulations being met, the current parking regulations and standards are met. However, lots with buildings that have existed for at least five years (determined by final inspection date or County Assessor information) shall not be required to increase the number of parking spaces that such requests may induce if the lot or parcel is fully built-out with parking (i.e. cannot construct more parking without reducing its building footprint or required landscaping). No zoning inspections for business licenses shall be approved by the Community Development Department, nor shall any sign permits be issued, nor shall the approval of a final building inspection be given until the parking is installed.

c. Requests for additions and expansions to existing structures and for the construction or placement of new primary and accessory buildings shall not be permitted if the lot on which such buildings exist are not able to accommodate the increased parking requirements that are induced by such requests. If the lot or parcel is not fully built-out with parking, it must come into conformance with parking regulations and standards before building permits for such additions are finalized.

I. B. 18.
d. A temporary seasonal use, such as snow cone stands and fireworks stands shall not be required to provide additional parking spaces to the parking spaces that are already located on the parcel on which it would be located, if that lot is fully built-out with parking.

SECTION 19. Section 42-241, Parking Area Surface, of Division 17 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

Every parking and/or driving surface area shall be paved with an all-weather surface. Such requirement shall only apply to areas used for parking or on-site traffic circulation. The exits and entrances shall be approved by the City Engineer. Driving surfaces shall be constructed to meet the requirements of existing or developed soil conditions of the site. These areas shall be constructed with a crushed stone base course and an asphaltic concrete wearing surface. Both courses must be compacted to a density of not less than ninety-five (5) percent of the standard compacting test. In lieu thereof, the parking and/or driving surface area may be constructed of a Portland concrete wearing course. As a minimum, the pavements shall meet the requirements of cul-de-sac as outlined in the current City design standard manual. The developer shall be responsible for determining any site soil conditions and the selection of the pavement used. If weather conditions limit the completion of the parking lot at the time of the issuance of a certificate of occupancy, the owner may, with the approval of the City Engineer, post a performance bond with the City to guarantee the completion of this work.

(Ord. 3414; Ord. 3611, §7; Ord. 3748, §11)

SECTION 20. Section 42-241, Parking Area Surface, of Division 17 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

Except for accepted gravel, driving surfaces in the Rural Residential District, every parking and/or driving surface area shall be paved with an all-weather surface. Such requirement shall only apply to areas used for parking or on-site traffic circulation. The exits and entrances shall be approved by the City Engineer. Driving surfaces shall be constructed to meet the requirements of existing or developed soil conditions of the site. These areas shall be constructed with a crushed stone base course and an asphaltic concrete wearing surface. Both courses must be compacted to a density of not less than ninety-five (5) percent of the standard compacting test. In lieu thereof, the parking and/or driving surface area may be constructed of a Portland concrete wearing course. As a minimum, the pavements shall meet the requirements of cul-de-sac as outlined in the current City design standard manual. The developer shall be responsible for determining any site soil conditions and the selection of the pavement used. If weather conditions limit the completion of the parking lot at the time of the issuance of a certificate of occupancy, the owner may, with the approval of the City Engineer, post a performance bond with the City to guarantee the completion of this work. (Ord. 3414; Ord. 3611, §7; Ord. 3748, §11)
SECTION 21. Section 42-244.9, Non-conforming Signs, of Division 18 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

a. All signs, which have been lawfully erected, shall be deemed to be legal and lawful signs and may be maintained in good condition subject to the provisions of this Article.

b. Non-conforming signs, which become deteriorated or dilapidated, other than by vandalism, to the extent that over sixty (60) percent of the market value they would have if they had been maintained in good repair is lost, must be removed within sixty (60) days or brought into compliance with the provisions of this Article. Nonconforming signs that are damaged, to the extent that sixty (60) percent or less of their physical value is lost, must be repaired within sixty (60) days from the date of notification by the City, or removed. Non-conforming signs, which are damaged by vandalism to the extent that over sixty (60) percent of their physical value is lost, must be restored within ninety (90) days, removed, or brought into compliance. Nonconforming signs abandoned or discontinued for a period of one (1) year shall be removed at the owner's expense. A sign shall be considered abandoned or discontinued if the services or products advertised are no longer available at the destination, or by the directions indicated on the sign, or if the sign no longer has an advertising message other than the name of the sign owner on any part of the sign.

c. Non-conforming signs may be structurally repaired, but such signs shall not be moved, repaired, enlarged, or increased in height. Non-conforming signs that are enlarged or increased in height in violation of this Article shall be removed immediately.

d. A non-conforming sign shall not be relocated or replaced, except when such relocation or replacement shall bring the sign into compliance with this Article. Non-conforming signs that are relocated in violation of this Article shall be removed immediately.

e. Detached signs, billboards, and on-premise attached signs lawfully in existence on June 1, 1999, including such signs existing pursuant to variances granted by the Board of Adjustment, which do not conform to the provisions of this Article, shall be removed, altered or replaced so as to conform to the provisions of this Article no later than June 1, 2013.

f. The sign face of a non-conforming sign may be altered if the sign face is not thereby enlarged. (Ord. 4068, §4)

g. Signs which are non-conforming because of their illumination shall be brought into compliance with this Article within sixty (60) days after the effective date of this Article. Non-conforming temporary signs shall also be brought into compliance within sixty (60) days. (Ord. 4068, §4)

h. In cases of doubt or on a specific question raised whether a non-conforming sign exists, it shall be a question of fact decided by the Codes Administrator, and subject to appeal to the Board of Adjustment. (Ord. 3414) (Ord. 4068, §4)
SECTION 22. Section 42-244.9, Non-Conforming Signs, of Division 18 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

a. All nonconforming attached and detached on-premise signs, including such signs existing pursuant to variances granted by the Board of Adjustment before June 1, 1999, shall, at the owner’s expense, be removed or altered/moved in a way that brings the sign into conformance with the provisions of this Article before receiving any sign permits for existing or proposed signs with the one following exception. If the nonconforming sign has not been discontinued and the sign face is not enlarged, minor modifications and repairs may be made and the sign face may be altered or changed, but the sign shall not be moved unless moving the sign will allow it to into conformance with this Article. In addition, no structural alterations may be made to an on-premise sign. If structural alteration is needed to maintain structural integrity, the sign shall be removed and no building or sign permits shall be issued until its removal. A sign shall be considered discontinued if, for one year, the services or products advertised are no longer available at the destination or if the sign no longer has an advertising message other than the name of the sign owner on any part of the sign (Beginning dates of discontinuance can be validated by identifying the termination date of business licenses). (Ord. 4068, §4)

b. If the sign face of a nonconforming, off-premise sign is not enlarged, minor modifications and repairs may be made and the sign face may be altered or changed, but the sign shall not be moved unless moving the sign will allow it to into conformance with this Article. In addition, no structural alterations shall be permitted. If structural alteration is needed to maintain the sign’s structural integrity, the sign shall be removed and no building or sign permits shall be issued until its removal.

c. In cases of doubt or on a specific question raised whether a nonconforming sign exists, it shall be a question of fact decided by the Codes Administrator, and subject to appeal to the Board of Adjustment. (Ord. 3414) (Ord. 4068, §4)

SECTION 23. Division 19, NON-CONFORMING BUILDING AND USE REGULATIONS, of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting all of the following Sections:

Section 42-247.1, Section 42-247.2, Section 42-247.3, Section 42-247.4, and Section 42-247.5

SECTION 24. Section 42-247, Purpose, of Division 19 of Article III of Chapter 42 of the Rolla City Code is hereby amended by amending the title of Section 42-247 to the following title:

Nonconforming Buildings and Structures

I. B.21.
SECTION 25. Section 42-247, Nonconforming Buildings and Structures, which was formally entitled “Purpose”, of Division 19 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

The purpose of this Division is to recognize the legitimate interests of those who have lawfully established structures, buildings, or uses which are now non-conforming by permitting such non-conformities to be continued. The following regulations, however, are designed to prevent the expansion or extension of such non-conforming structures, buildings, or uses and to enhance the probability that such non-conformities will eventually be made to conform to the provisions of this Article. (Ord. 3414)

SECTION 26. Section 42-247, Nonconforming Buildings and Structures, of Division 19 of Article III of Chapter 42 of the Rolla City Code is hereby amended by adding the following language:

a. Except as limited below and except for nonconforming signs, any structure or lawful use of any structure or land or part thereof that exists at the time of the adoption of this Article or an amendment thereto may be continued notwithstanding the fact that it may not conform to the provisions of this Article. The term ‘structure’ includes accessory structures. Proof of lawful establishment must be provided by those who wish to continue such nonconformance. Signs abide by separate nonconforming structure regulations, which can be found in Subsection 42-244.9.

b. The following limitations apply to maintaining lawful nonconforming status:

1. an expansion or increase in intensity of a nonconforming use of land or structure or part thereof;

2. a change of use or a discontinuance of a nonconforming use of land or a structure or part thereof;

   i. discontinuance of a use is defined as continuous vacancy or nonuse of land or structures or part thereof for a period of one year;

3. reconstruction, enlargements, additions, expansions, or structural alteration of a nonconforming structure, except for structural alterations that are required by building, fire, or health codes for human health and safety;

   i. structural alteration is defined as any alteration to any component of a structure that supports any vertical load in addition to its own weight;

   ii. the modification of existing buildings is permitted by right if such changes result in greater conformance with the specifications of this Article;
4. structures that exist on lots that do meet minimum lot size and width requirements render such structures nonconforming and, in turn, shall not be permitted to receive expansions or additions and the lots shall not be permitted to receive additional accessory or primary structures;

5. nonconforming structures shall not be moved unless they are moved in a way that reconciles all nonconforming aspects of the structure that can be reconciled by moving the structure;

6. a nonconforming structure that is damaged by fire, tornado, or other catastrophe shall be permitted to be restored or rebuilt and used again as previously, provided that building permits for such restoration or reconstruction are issued within two years of the date of the catastrophe and are diligently prosecuted to completion and that the rebuilding or restoration following the catastrophe does not increase any nonconforming aspect of the original structure or use.

Exemption: Where reconstruction, alteration, extension, addition, or structural change to a single-family or two-family residential structure used for residential purposes does not increase any nonconforming aspect of the use or structure, a variance from the Board of Adjustment is not required for said alteration, reconstruction, addition, or structural change. Enlargements, expansions, and additions (including adding accessory structures) are not permitted if the lot does not meet minimum lot size and width requirements.

From the time of public notification for the adoption of the provisions of this division and afterward, the above limitations and other provisions of this Division will apply to all requests for building permits; to all change/establishment/increase of use requests, which includes such requests through the zoning approval of business license applications; and any other request that require land use review or building permits.

c. The Board of Adjustment, after a public notice and a public hearing, may grant a special exception to allow a legal nonconforming use to be changed to any other use permitted in the zoning district in which the nonconforming use is allowed, provided the proposed use is not more intense than the existing use in terms of traffic generation and other impacts on surrounding property.

d. The Board of Adjustment, after public notice and a public hearing, may grant a variance to allow a preexisting nonconforming use or structure to be expanded if, in the opinion of the Board, such expansion will not be more objectionable to or detrimental to the character of the neighborhood than the original preexisting nonconforming use or structure.
SECTION 27. Section 42-255.5, Variances, of Division 21 of Article III of Chapter 42 of the Rolla City Code is hereby amended by deleting the following language:

e. A variance to permit the reconstruction of a non-conforming building which has been destroyed or damaged by fire or other casualty, or act of God or the public enemy, to the extent that the cost of restoration does not exceed seventy five (75) percent of completely reconstructing the building.


APPROVED:

ATTEST: Mayor

City Clerk

APPROVED AS TO FORM:

City Counselor
Phelps County Senior Center
Proposed Annual Operating Budget and Expenses

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<td><strong>Total Revenue</strong></td>
<td><strong>$344,446</strong></td>
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| Net Difference                                | -0-            |
Conceptual Design

Approximately 13850 sq/ft
CITY OF ROLLA
CITY COUNCIL AGENDA

DEPARTMENT HEAD: Steve Hargis

ACTION REQUESTED: Ordinance Final Reading

ITEM/SUBJECT: Project #437 – TAP Grant ADA Phase II

BUDGET APPROPRIATION: $207,000.00

DATE: 06/18/18

**********************************************************

COMMENTARY:

City staff asked for and received bids for Project #437 – TAP Grant ADA Phase II. Council approved the $213,418.62 bid from Donald Maggi, Inc. at the June 04, 2018 council meeting pending MoDot approval. We have now received approval from MoDot.

Staff is requesting final reading of the ordinance authorizing the Mayor to enter into the contract with Donald Maggi, Inc. for $213,418.62.
Dear Darin Pryor

The Missouri Department of Transportation (MoDOT) concurs with the recommendation to award this project to Donald Maggi, Inc., with a low bid of $213,418.62. MoDOT's External Civil Rights have approved the DBE participation submitted by the awarded bidder to fulfill the DBE Goal of 0%.

After executing the contract, please submit an electronic copy of the following documents to your MoDOT district contact:

- Final Plans Package given to Bidders (include all addenda that were issued)
- Fully Executed Contract
- Payment Bond, Performance Bond
- Insurance Certificate
- Signed Worker Eligibility Verification Affidavit
- Signed E-Verify Memorandum of Understanding (MOU)
- Certification Regarding Affirmative Action signed by prime contractor (only if NOT utilizing MoDOT's Federal Project Bid Proposal Boilerplate)

MoDOT will grant the authority to issue the Notice To Proceed after these documents have been reviewed. The fully executed contract must be the same version that was shown in the bid proposal and must include all signatures, etc.

The itemized proposal is used in preparing a formal project agreement with FHWA. Upon FHWA's approval, a copy of the summary of estimated cost will be furnished for your use. You will then be able to submit invoices for reimbursement.

Please contact your district representative at http://www.modot.ora/business/manu als/LPAContacts.htm to coordinate the scheduling of a pre-construction conference or if you have any questions regarding the required submittals.

Sincerely,

Julie Stotlemeyer, P.E.
Assistant State Design Engineer - LPA
(573)526-6997

Please do not respond to this automated email. Forward the email, with your questions or concerns to LPASubmit@modot.mo.gov
ORDINANCE NO. __________

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND DONALD MAGGI, INC., FOR TAP 5200(918), PROJECT #437.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI, AS FOLLOWS:

Section 1: That the Mayor of the City of Rolla, Missouri be and is hereby authorized and directed to execute on behalf of the City of Rolla, Missouri an agreement between the City of Rolla, Missouri and Donald Maggi, Inc., for TAP 5200(918), Project #437, a copy of said agreement being attached hereto and marked Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI AND APPROVED BY THE MAYOR THIS 18th DAY OF JUNE 2018.

APPROVED:

__________________________________________
MAYOR

ATTEST:

__________________________________________
CITY CLERK

APPROVED AS TO FORM:

__________________________________________
CITY COUNSELOR
CONTRACT AGREEMENT

THIS AGREEMENT, made and entered into this ______ Day of __________ by and between the City of Rolla, Missouri, Party of the First Part and hereinafter called Owner, and Don Maggi, Inc. Party of the second Part and hereinafter called the Contractor.

WITNESSETH:

THAT WHEREAS, the Owner has caused to be prepared, in accordance with law, specifications, plans, and other Contract Documents for the work herein described, and has approved and adopted said documents, and has caused to be published and advertised for and in connection with the construction of “ADA ACCESSIBILITY IMPROVEMENTS, PHASE II, ROLLA PROJECT 437, FEDERAL AID PROJECT TAP 5200 (918)”, in complete accord with the Contract Documents and the said plans and specifications; and

WHEREAS, the said Contractor, in response to such advertisement, has submitted to the Owner, in the manner and at the time specified, a sealed proposal in accordance with the terms of said advertisement; and

WHEREAS, the Owner, in the manner prescribed by law, has publicly opened, examined and canvassed the proposals submitted in response to the published invitation therefore, and as a result of such canvass has determined and declared the aforesaid Contractor to be lowest and best bidder for the said work and has duly awarded to the said Contractor a contract therefore, for the sum or sums named in the Contractor’s proposal, a copy thereof being attached to and made a part of this contract.

NOW THEREFORE, in consideration of the compensation to be paid to the Contractor and of the mutual agreement herein contained, the parties to these presents have agreed and hereby agree, the Owner for itself and its successors, and the Contractor for itself, himself, or themselves, or its, his or their successors and assigns, or its, his, or their executors and administrators, as follows:

ARTICLE I. That the Contractor shall (a) furnish all tools, equipment, supplies, superintendent, transportation, and other construction accessories, services and facilities; (b) furnish all materials, supplies, and equipment specified and required to be incorporated in, and form a permanent part of the completed work except the items specified to be furnished by the Owner; (c) provide and perform all necessary labor, and (d) in a good, substantial, and workmanlike manner, and in accordance with the provisions of the General Conditions and the Special Conditions of the Contract, which are attached hereeto and made a part hereof, and in conformity with the Contract Plans and Specifications designated and identified therein, execute, construct, and complete all work included in, and covered by the Owner’s official award of this Contract to the said Contractor, such award being based on the acceptance by the Owner of the Contractor’s proposal, for the construction of “ADA ACCESSIBILITY IMPROVEMENTS, PHASE II - ROLLA PROJECT 437, FEDERAL AID PROJECT TAP 5200 (918)”. 

IV. A. 4.
It is further stipulated that not less than the prevailing hourly rate of wages as found by the Department of Labor and Industrial Relations of the State of Missouri, or determined by the Court of Appeal shall be paid to all workers performing work under this Contract.

ARTICLE II. Contractor acknowledges that Section 285.530, R.S.Mo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Contractor therefore covenants that it is not knowingly in violation of Subsection 1 of Section 285.530, R.S.Mo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully eligible to work in the United States.

ARTICLE III. Occupational Safety and Health Administration (OSHA)

Safety Training:

Contractor shall provide a ten (10) hour Occupational Safety and Health Administration (OSHA) construction safety program for all employees who will be on-site at the project. The construction safety program shall include a course in construction safety and health that is approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program as required by Section 292.675, R.S.Mo.

Contractor shall require its on-site employees to complete a construction safety program within sixty (60) days after the date work on the project commences.

Contractor acknowledges and agrees that any of Contractor’s employees found on the project site without the documentation of the successful completion of a construction safety program shall be required to produce such documentation within twenty (20) days, or will be subject to removal from the project.

Contractor shall require all of its subcontractors to comply with the requirements of this Section and Section 292.675, R.S.Mo.

Notice of Penalties for Failure to Provide Safety Training

Pursuant to Section 292.675, R.S.Mo, Contractor shall forfeit to City as a penalty two thousand five hundred dollars ($2,500.00), plus one hundred dollars ($100.00) for each on-site employee employed by Contractor or its Subcontractor, for each calendar day, or portion thereof, such on-site employee is employed without the construction safety training required in Safety Training section of Article III above.

The penalty described in above subsection A of this section shall not begin to accrue until the time periods described in Sections B and C Safety Training of Article III above have elapsed.

Violations of Article III – Safety Training above and imposition of the penalty described in this Section shall be investigated and determined by the Missouri Department of Labor and Industrial Relations.
ARTICLE IV. That the Contractor shall construct and complete the work designated and described in the foregoing proposal and attached specifications in accordance with the Notice to Bidders, Instruction to Bidders, Proposal, Bond, General Conditions, Special Conditions, Technical Specifications, Drawings, Addenda, and other component parts of the Contract Documents hereto attached, all of which documents from the Contract and are as fully a part hereto as if repeated verbatim herein.

ARTICLE V. That the Owner shall pay to the Contractor for the performance of the work described as follows: Complete construction of the improvements in accordance with plans and specifications; and the Contractor will accept as full compensation therefore, the sum (subject to adjustment as provided by the Contract) of $2,134,186.20 for All work covered by and included in the contract award and designated in the foregoing Article I. Payment therefore shall be made in the manner provided in the General Conditions attached hereto.

ARTICLE VI. That the Contractor shall begin assembly of materials and equipment within ten (10) days after receipt from the Owner of executed copies of the Contract. The Contractor must have the project completed by August 3, 2018.

It is further stipulated that in the event that the Contractor fails in the performance of the work specified and required to be performed within the period of time specified, the Contractor shall pay the Owner, as and for liquidated damages, and not as a penalty, the sum of seven hundred dollars ($700.00) per calendar day that the Contractor shall be in default.

ARTICLE VII. Before the final payment can be made to the Contractor on the project, the Contractor must complete a return the Affidavit Compliance with the Prevailing Wage Law form furnished at the end of the Special Conditions sections.

ARTICLE VIII. Before the final payment can be made on the project to the Contractor, the Contractor must complete and return the Contractor’s Affidavit Regarding Settlement of Claims form furnished at the end of the Special Conditions section.

ARTICLE IX. This Contract will not be binding and effective until confirmed by the Owner.
IN WITNESS-WHEREOF: The parties have executed this Contract as of the day and year first above written.

CITY OF ROLLA, MISSOURI

BY ____________________________
Mayor, Owner, Party of the First Part

STATE OF MISSOURI )
SS )
County of Phelps )

On this ______ day of ____________, before me appeared ____________________________, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the City of Rolla, Missouri, a municipal corporation, and the seal affixed to said instrument is the corporate seal of said municipal corporation and that said instrument is the corporate seal of said municipal corporation and that said instrument was signed under authority of the City Council of the City of Rolla, Missouri; and the said ____________________________ Acknowledged said instrument to be the free act and deed of said municipal corporation.

My commission expires: ____________________

Notary Public

STATE OF MISSOURI )
SS )
County of Phelps )

On this ______ day of ____________, before me appeared ____________________________, to me personally known, who, being by me duly sworn, did say that (s)he is the ____________________________ of ____________________________, and that the seal affixed to said instrument is the corporate seal of said corporation by authority of its board of directors; and the said ____________________________ acknowledged said instrument to be the free act and deed of said corporation.

My commission expires: ____________________

Notary Public
ITEM/SUBJECT: Request to Revisit Building Code Adoption

BUDGET APPROPRIATION (IF APPLICABLE) DATE: June 18, 2018

COMMENTARY:

In May 2008, a committee was established by Council to review the 2006 International Codes. On November 3, 2008, the committee unanimously recommended consideration of amending Chapter 6 of the Rolla City Code pertaining to building regulations and adoption of the 2006 International Codes. After some discussion, a motion was made and seconded to table consideration of the ordinance. It is the request of the staff of the Community Development and Fire Departments to reconsider the building code adoption and possibly adopting a newer edition as determined by staff of the IBC (International Building Code) and corresponding ICC (International Code Council) code.

The request is to allow staff, under the direction of the Building Code Administrator and the Fire Chief, to review the code editions, determine which edition would best fit the community, and bring this to council for approval.

The International Codes are developed with several goals in mind: safeguard public health, safety, and welfare, and provide for the safety of firefighters/emergency responders.

ICC’s codes are drafted and updated by code officials and building professionals to incorporate cost-saving building innovations and new sustainable materials into the codes as they are updated.

Please keep in mind it is not staff’s intent to burden contractors with unnecessary regulations and hardships and creating higher construction costs. In actuality, new code adoption is proven to the contrary. It is the intent of staff to provide the citizens of Rolla with up-to-date construction practices, safer buildings, and allow for newer sustainable materials not available under the current code.

Updated codes not only save lives but also save money:

1. Codes enhance economic development through utilization of state-of-the art technology in materials research, design and construction practices, and risks/hazards to the public in buildings and structures.
2. Codes streamline the building regulatory system through a single family of codes that brings consistency and compatibility to multiple layers of requirements at the international, federal, state, and local levels.
3. Building codes minimize long-term cost, meaning that when a disaster strikes, buildings sustain less damage, the cost associated with rebuilding, and human-life are minimized.
4. Energy efficiency represents cost-savings that pay for themselves several times over and updating codes means achieving the latest standards in energy efficiency.

5. Building and fire safety codes are a small price to pay when it comes to protecting the lives of loved ones.

6. Water is becoming an increasingly scarce commodity, especially in rural and developing areas. Plumbing and green codes ensure water is not wasted, thus saving on water bills and sparing needed infrastructure.

7. Structures built to code are built right the first time. No costs for endless renovations or repairs, which often disrupt productivity in the home or workplace.

Proposals to significantly modify the updating process are being championed by a few who feel that it has not served their interests. Complaints being raised about issues, which a few interests have about a few provisions of one code, must not result in adversely impacting the public protection afforded by the complete set of codes.

Any delay on code adoption after jurisdictional review has a negative impact on the ISO ratings of communities, which Rolla is currently non-rated. Delay also hinders the ability of designers and builders to take advantage of the latest technology, and for the safety, health, and welfare of our citizens to be afforded protection based on the latest knowledge and industry standards is fundamental.

An up-to-date code maintains compatibility with Federal laws and mandates, especially in the areas of energy conservation, accessibility, and swimming pool safety.

Remember that the proposed updated codes consist of a series of codes which protect the public by regulating both commercial and residential buildings, and addresses not only fire protection and structural issues, but also electrical, plumbing and mechanical systems as well as accessibility and energy conservation.

Staff’s objective is to adopt the newest version of the ICC codes that will have the least amount of impact on the contractors and developers while providing for the safety and welfare of our citizens, bringing Rolla’s ISO rating up and being more in line with the neighboring communities’ codes.
II. PUBLIC HEARINGS

(A) Ordinance Amending Chapter 6 of the Rolla City Code Pertaining to Building Regulations and Adoption of the 2006 International Building Code: Community Development Director John Petersen recalled that approximately a year ago the City Council appointed a committee to review the 2006 International Codes. Over a six-month period, the committee met over eight times and has unanimously recommended the code as outlined in the agenda materials. Mr. Petersen expressed appreciation to the members of the committee for their service. He then turned the floor over to Codes Administrator Brian Epstein who highlighted the committee’s recommendations. Mr. Epstein reported the committee’s consensus was to recommend approval of the proposed ordinance to the City Council in order to maintain the current ISO (Insurance Services Office) rating.

Mayor Jenks pointed out the statement, included in the agenda commentary, about the ISO rating benefitting the consumer by possibly providing additional discounts in home insurance rates, is not true. He said it may have an impact on the construction of a major building, but as far as fire protection is concerned, it would not have an affect.

Following some Council discussion, a motion was made by Magdits and seconded by Williams to table consideration of the ordinance amending Chapter 6 of the Rolla City Code pertaining to building regulations and adoption of the 2006 International Building Code.

After further Council discussion, Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the proposed ordinance to amend Chapter 6 of the Rolla City Code pertaining to building regulations and the adoption of the 2006 International Building Code.

Mr. Jim Larson, 11025 Emerald Ridge, Rolla, Missouri, told the Council that he just learned of the public hearing this afternoon. He also mentioned that he was only aware of one of the committee meetings. Mr. Larson asked the Council not to approve the new building codes until it is necessary. He said the City should delay approving the new building codes because of the rough economy. He pointed out that it would only cost more to the public if it were approved.

Mr. Tom Sager, 8 Laird Avenue, suggested the contractors be notified of building code meetings either through e-mail or through the City’s web site.
II. PUBLIC HEARINGS (continued)

(A) Ordinance Amending Chapter 6 of the Rolla City Code Pertaining to Building Regulations and Adoption of the 2006 International Building Code: Mr. Mark Williams, a Rolla contractor and member of the Building Codes Review Committee, said the committee decided to submit the proposed ordinance to the Council for discussion. He noted there are some concrete and plumbing issues that need to be discussed further. Mr. Williams stated that he believes the suggestion to table consideration of the ordinance for a year is a good idea.

No one else present addressed the Council. Mayor Jenks then closed the public hearing. He added that although the public hearing has been closed, he said he wants to keep the dialogue open because this is an issue that affects the citizens of Rolla.

Following some Council discussion, a voice vote on the motion to table consideration of the ordinance amending Chapter 6 of the Rolla City Code pertaining to building regulations and adoption of the 2006 International Building Code showed twelve ayes, zero nays, and zero absent. Motion carried.
## ROLLA ADOPTED BUILDING CODE AS COMPARED TO MISSOURI CITIES COMPARABLE IN SIZE

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Current Adopted Building Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kirksville</td>
<td>17592</td>
<td>2015 ICC</td>
</tr>
<tr>
<td>Hannibal</td>
<td>17707</td>
<td>2012 ICC</td>
</tr>
<tr>
<td>Farmington</td>
<td>17881</td>
<td>2015 ICC</td>
</tr>
<tr>
<td>Creve Coeur</td>
<td>18072</td>
<td>2009 ICC Plan on Updating Next Year</td>
</tr>
<tr>
<td>Manchester</td>
<td>18183</td>
<td>2009 ICC Getting Ready to Update</td>
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<tr>
<td>Ozark</td>
<td>18867</td>
<td>2012 ICC</td>
</tr>
<tr>
<td>Rolla</td>
<td>19904</td>
<td>2000 ICC</td>
</tr>
<tr>
<td>Warrensburg</td>
<td>19932</td>
<td>2012 ICC (Getting Ready to Adopt 2018)</td>
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<tr>
<td>Raymore</td>
<td>20107</td>
<td>2012 ICC</td>
</tr>
<tr>
<td>Nixa</td>
<td>20502</td>
<td>2012 ICC</td>
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</table>
## CODE ADOPTION HISTORY FOR THE CITY OF ROLLA

<table>
<thead>
<tr>
<th>CODE</th>
<th>EDITION</th>
<th>DATE ADOPTED</th>
<th>ORDINANCE</th>
</tr>
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<td>10/30/1969</td>
<td>1504</td>
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<td>1654</td>
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<td>05/04/1988</td>
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<td>ICC</td>
<td>2000</td>
<td>01/21/2003</td>
<td>3549</td>
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</tbody>
</table>
DEPARTMENT HEAD: John Butz, City Administrator

ACTION REQUESTED: Review

ITEM/SUBJECT: Review of the Proposed Budget for the Forum Plaza Community Improvement District

BUDGET APPROPRIATION (IF APPLICABLE) N/A

DATE: June 18, 2018

COMMENTARY:

Attached is a rather simple budget for the Forum Plaza CID – a renovation project of the 1970’s Forum Plaza – that is supported by a 1 cent CID tax overlay. The CID Board, made up of 3 representatives of the development and 2 representatives, of the City (Mayor and City Administrator) actually approves the budget (October 1 fiscal year), but the CID statutes require submittal and review by the City Council (no action taken).

The CID provided $4 million of the $14 million project to eliminate and reverse blight conditions. The 1 cent CID tax will run through 2039 unless paid off sooner. The Developers are pleased with the project and the progress made.
May 21, 2018

City Clerk
City of Rolla, Missouri
901 North Elm Street
Rolla, MO 65401

Re: The Forum Plaza Community Improvement District (the “District”)

To Whom It May Concern:

On behalf of The Forum Plaza Community Improvement District and as required by the Missouri Community Improvement District Act Sections 67.1401-67.1571 of the Revised Statutes of Missouri, we submit for review and comment by City Council, the proposed budget for the District covering fiscal year 2019 (October 1, 2018 through September 30, 2019).

Very truly yours,

Christina Hall
Paralegal Assistant
THE FORUM PLAZA COMMUNITY IMPROVEMENT DISTRICT
OCTOBER 1, 2018 – SEPTEMBER 30, 2019 BUDGET (FY-2019)

BUDGET MESSAGE:

The Forum Plaza Community Improvement District (the “District”) was formed as a political subdivision of the State of Missouri on December 15, 2014, by virtue of an ordinance approved by the City Council of Rolla, Missouri. The stated purpose of the District is to provide funds for building construction of public improvements within the District, cleaning and maintenance services to public areas in order to improve the appearance and image within the District. The District adopted a fiscal year of October 1 to September 30.

Estimated 2019 Budget

Expenses:
Operating Expenses $15,000.00
City Administrative Fee $1,000.00
Developer Reimbursement $184,000.00
Total Projected Expenses: $200,000.00

Income:
Sales Tax $200,000.00
Total Projected Income: $200,000.00
### Rolla, MO

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<th>Date Interest since</th>
<th>Check Reimbursement</th>
<th>Last Reduction to Principal</th>
<th>Principal Balance</th>
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<th>End Date</th>
<th>Interest Rate</th>
<th>Interest for Time Period</th>
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<td>3,949,689.27</td>
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<td>3,949,689.27</td>
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<tr>
<td>Totals</td>
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<td>331,091.98</td>
<td>50,310.73</td>
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<td>331,091.98</td>
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</tbody>
</table>

Current Principal Balance: 3,949,689.27
Current Interest Rate: 0.025
Current Interest Per Diem: 270.53

Notes:
* Per Contract interest is 2.5%
* Collections to run through 2039 unless the principal is collected prior to that time.
DEPARTMENT HEAD:  John Butz  ACTION REQUESTED:  First Reading
City Administrator

SUBJECT:  Consider an Ordinance Re-Adopting Procedure to Disclose Potential
Conflicts of Interest

BUDGET APPROPRIATION:  N/A  DATE:  June 18, 2018

*******************************************************

COMMENTARY:  The attached ordinance is one that must be adopted at least every
two years or the more stringent State rules for disclosure will apply.  The main gist of
this ordinance is the requirement that the City Administrator, Mayor, Finance Director,
and the Utilities General Manager must annually file financial disclosure reports with
the State.  If the State rules were followed, all Council members plus the Rolla
Municipal Utilities board would need to file this same report.  Additionally, all the
Council members must disclose any financial dealings with the City.  Please contact
me should you have any questions.  Thank you for your consideration.

Recommendation:  First reading of the proposed ordinance.
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY OF ROLLA, MISSOURI, REPEALING SECTION 2-237 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, A PROCEDURE TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST AND SUBSTANTIAL INTERESTS FOR CERTAIN MUNICIPAL OFFICIALS AND ENACTING A NEW SECTION IN LIEU THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI AS FOLLOWS:

Section 1: That Section 2-237 of the Code of the City of Rolla, Missouri, relating to procedure to disclose potential conflicts of interest and substantial interests for certain municipal officials is hereby repealed.

Section 2: That there is hereby enacted Section 2-237 of the Code of the City of Rolla, Missouri, as follows:

Section 2-237. Procedure to disclose potential conflicts of interest and substantial interests for certain municipal officials.

The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public gave confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the City of Rolla.

The Mayor or any member of the City Council who has a substantial personal or private interest, as defined by state law, in any bill shall disclose on the records of the City Council the nature of his interest and shall disqualify himself from voting on any matters relating to this interest.

The Mayor, each City Council member, the City Administrator, the City Finance Director, and the General Manager of the Rolla Municipal Utilities shall disclose the following information by May 1 if any such transactions were engaged in during the previous calendar year.
a. For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars ($500), if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the City of Rolla, Missouri and other than transfers for no consideration to the City of Rolla, Missouri; and

b. The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars, if any, that any business entity in which such person had substantial interest, had with the City of Rolla, Missouri, other than payment of any tax, fee or penalty due to the City of Rolla, Missouri, or transaction involving payment for providing utility service to the City of Rolla, Missouri, and other than transfers for no consideration to the City of Rolla, Missouri.

c. The Mayor, the City Administrator, City Finance Director and General Manager of Rolla Municipal Utilities also shall disclose by May 1 for the previous calendar year the following information:

1. The name and address of each of the employers of such person from whom income of one thousand dollars or more was received during the year covered by the statement;

2. The name and address of each sole proprietorship that he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was partner or participant; the name and address of each partner or co-participant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the Secretary of State; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partnership units; and the name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

3. The name and address of each corporation for which such person served in the capacity of a director, officer or receiver.

The reports, in the attached format, shall be filed with the City Clerk and with the State Ethics Commission prior to January 1 of each year. The reports shall be available for public inspection and copying during normal business hours.
The financial interest statements shall be filed at the following times, but no person is required to file more than one financial interest statement in any calendar year:

a. Each person required to file a financial interest statement appointed to office shall file the statement within thirty days of such appointment or employment;

b. Every other person required to file a financial interest statement shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31; provided that any member of the City Council may supplement the financial interest statement to report additional interest acquired after December 31 of the covered year until the date of filing of the financial interest statement.

This Ordinance shall be filed with the State Ethics Commission as follows: The City Clerk shall transmit a certified copy of said Ordinance prior to September 15, 2018.

This ordinance shall be in full force and effect from and after the date of its passage and approval and shall remain in effect until amended or repealed by the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI, AND APPROVED BY THE MAYOR THIS 18th DAY OF JUNE 2018.

APPROVED:

________________________
MAYOR

ATTEST:

________________________
CITY CLERK

APPROVED AS TO FORM:

________________________
CITY COUNSELOR
On May 21, 2018, the City Council authorized the City of Rolla Fire & Rescue to solicit bids for a new 107 foot Aerial Ladder Truck through the Houston Galveston Area Council Buy Program (HGAC).

The City Clerk’s Office opened bids on June 12, 2018. The City of Rolla received one bid from Pierce Manufacturing Inc. (Schuhmacher Fire Equipment).

Pierce Manufacturing Inc: $1,140,902.00
2600 American Drive
Appleton, WI, 54912

In addition, the bid specification requested a payment schedule to reflect a pre-pay option. Pierce Manufacturing proposed “If total prepay is made within 30 days of order”.

Pierce Manufacturing Inc: $1,095,997.73
2600 American Drive
Appleton, WI, 54912
$44,904.30 savings.

Our previous discussions with the manufacturer considered a 50% pre-pay options. After opening the bid we requested they provide an additional option:

Pierce Manufacturing Inc: $1,117,113.20
2600 American Drive
Appleton, WI, 54912
$23,788.80 savings

The vehicle will be purchased through a twelve year lease purchase. A finance package will be presented at the July 16, 2018 City Council meeting. We anticipate this new 107’ aerial ladder truck to be approximately $130,000 per year. The payments will begin in the 2018 – 2019 budget.

Fire Administration recommends a motion to accept the bid of $1,117,113.20 from Pierce Manufacturing Inc. for a 107’ Aerial Ladder Truck through the Houston/Galveston Area Council Buy Program (HGAC).
RESOLUTION NO. ____________

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN PURCHASE AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI, AND PIERCE MANUFACTURING, INC., FOR THE PURCHASE OF A 107 FOOT AERIAL LADDER FIRE TRUCK.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI, AS FOLLOWS:

Section 1: That the Mayor of the City of Rolla, Missouri be and is hereby authorized and directed to execute on behalf of the City of Rolla, Missouri a certain purchase agreement between the City of Rolla, Missouri and Pierce Manufacturing, Inc., a copy of said agreement being attached hereto and marked Exhibit A.

Section 2: That this resolution shall be in full force and effect from and after the date of its passage and approval.


APPROVED:

__________________________
MAYOR

ATTEST:

__________________________
CITY CLERK

APPROVED AS TO FORM:

__________________________
CITY COUNSELOR
PROPOSAL FOR FURNISHING FIRE APPARATUS

June 11, 2018

City of Rolla
Office of City Clerk
901 North Elm St.
Rolla, MO 65401

The undersigned is prepared to manufacture for you, upon an order being placed by you, for final acceptance by Pierce Manufacturing, Inc., at its home office in Appleton, Wisconsin, the apparatus and equipment herein named and for the following prices:

One Pierce Custom 107 Ft. Ascendant Aerial On A Velocity Chassis Per Specifications & Proposal. $1,140,902.00

If Total Prepay Is Made Within 30 Days Of Order, The Amount Will Be $1,095,997.73

Per HGAC Schedule

Total $1,095,997.73

Said apparatus and equipment are to be built and shipped in accordance with the specifications hereto attached, delays due to strikes, war, or intentional conflict, failures to obtain chassis, materials, or other causes beyond our control not preventing, within about 200 working days after receipt of this order and the acceptance thereof at our office at Appleton, Wisconsin, and to be delivered to you at Appleton, WI.

The specifications herein contained shall form a part of the final contract, and are subject to changes desired by the purchaser, provided such alterations are interlined prior to the acceptance by the company of the order to purchase, and provided such alterations do not materially affect the cost of the construction of the apparatus. The proposal for fire apparatus conforms with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of bid, and with all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus as published at the time of bid, except as modified by customer specifications. Any increased costs incurred by first party because of future changes in or additions to said DOT or NFPA standards will be passed along to the customers as an addition to the price set forth above.

Unless accepted within 30 days from date, the right is reserved to withdraw this proposition.

Pierce Manufacturing, Inc.

By: AUTHORIZED SALES REPRESENTATIVE
John G. Schuhmacher

Revised: 09/28/2011
To: City of Rolla  
Fire Department Bid  
9th & Elm Streets  
Rolla, MO 65401  

To Whom It May Concern:  

1. The City of Rolla Fire & Rescue is receiving bids for a new 107 foot aerial ladder truck. The bidder may request a copy of the bid specification by contacting Ron Smith, Fire Chief at (573)364-3989.  

2. The undersigned, having familiarized himself with the "Instructions to Bidders", the form of this "Bid Proposal" and the 107 foot ladder specification document, hereby proposes to furnish the fire apparatus specified at the following price(s):  

<table>
<thead>
<tr>
<th>Description</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>107 Foot Aerial Ladder</td>
<td>$1,140,902.00</td>
</tr>
</tbody>
</table>

**TOTAL BID**  
$1,140,902.00  

*If Total Prepay Is Made Within 30 Days Of Order, The Amount Will Be $1,095,997.73  

3. Bidder agrees to furnish the service as specified above at the price(s) specified above within 200 days from the award of bids by the City of Rolla.  

4. Bidder must agree to use the Houston/Galveston Buy Program.  

5. Bidder must provide the City of Rolla with optional pre-build payment amount and list discount amount if pre-build payment made within 30 days of acceptance of the bid.  

6. In submitting this bid, the bidder understands the City of Rolla reserves the right to reject or accept any and/or all bids or any portion thereof.  

Name of Bidder: Pierce Mfg.  
Address: 2600 American Dr., Appleton, WI 54913  
Phone: 920-832-3000  
Submitted By: John G. Schuhmacher Title: President  
Date: June 11, 2018  

[Signature] A. H.
Instructions to Bidders

Bids must be submitted on the “Bidder’s Proposal” form only. Bids will be accepted until 11 a.m., Wednesday, June 12, 2018 in the office of the City Clerk, 901 North Elm Street, Rolla, Missouri 65401, at which time they will be opened. Bids may be mailed to the City Clerk at P.O. Box 979, Rolla, MO 65402. Bids must be submitted in a sealed envelope, properly identified as Fire Department Bid.

Attached to the Bid Proposal shall be any applicable information or specification sheets, properly filled out, for the items bid.

1. The Bid must be filed with the City Clerk prior to the announced bid opening date and time.

2. The City of Rolla reserves the right to accept or reject any and/or all bids.

3. It will be the City’s intent to accept low competent bid if it meets specifications and conditions.

4. Bidders are advised that the City of Rolla shall consider prior substandard goods or prior substandard service delivery or excessive distance to the City as a criterion for bid rejection.

5. Bids equal in cost and specifications may go to the local bidder (given they meet all other conditions).

6. All bids shall meet or exceed specifications.

7. Alternate bids may be considered, providing all specification differences are clearly indicated and contain justification statements. The City of Rolla shall be the sole judge as to the suitability of the service or equipment offered for the intended purpose from the alternate bid.

8. Any exceptions to these terms or conditions or deviations from written specifications shall be shown in writing and attached to the Bidder’s Proposal.

9. Bidders are cautioned to verify their proposal before submission as requests for amendments, withdrawals or proposals, if received by the City after the time specified for opening, will not be considered.

10. In the event of discrepancies between Bidder’s “Per Unit” price quotation and “Extended Total” quotation, the “Per Unit” quotation shall prevail.

11. Bidders must be factory authorized dealers for the equipment, service and parts of the items they are bidding.

12. Local bidders shall be defined as bidders in Rolla and the area surrounding Rolla for a five-mile radius from the city limits.

13. Successful bidder will be required to have the appropriate City of Rolla business license.
This Purchase Agreement (together with all attachments referenced herein, the “Agreement”), made and entered into by and between Pierce Manufacturing Inc., a Wisconsin corporation (“Pierce”), and City of Rolla Missouri, a Municipality in Missouri (“Customer”) is effective as of the date specified in Section 3 hereof.

1. Definitions.
   a. “Product” means the fire apparatus and any associated equipment manufactured or furnished for the Customer by Pierce pursuant to the Specifications.
   b. “Specifications” means the general specifications, technical specifications, training, and testing requirements for the Product contained in the Pierce Proposal for the Product prepared in response to the Customer’s request for proposal.
   c. “Pierce Proposal” means the proposal provided by Pierce attached as Exhibit C prepared in response to the Customer’s request for proposal.
   d. “Delivery” means the date Pierce is prepared to make physical possession of the Product available to the Customer.
   e. “Acceptance” The Customer shall have fifteen (15) calendar days of Delivery to inspect the Product for substantial conformance with the material Specifications; unless Pierce receives a Notice of Defect within fifteen (15) calendar days of Delivery, the Product will be deemed to be in conformance with the Specifications and accepted by the Customer.

2. Purpose. This Agreement sets forth the terms and conditions of Pierce’s sale of the Product to the Customer.

3. Term of Agreement. This Agreement will become effective on the date it is signed and approved by Pierce’s authorized representative pursuant to Section 22 hereof (“Effective Date”) and, unless earlier terminated pursuant to the terms of this Agreement, it will terminate upon the Customer’s Acceptance and payment in full of the Purchase Price.

4. Purchase and Payment. The Customer agrees to purchase the Product specified on Exhibit A for the total purchase price of $1140902.00 (“Purchase Price”). Prices are in U.S. funds.

5. Future Changes. Various state or federal regulatory agencies (e.g. NFPA, DOT, EPA) may require changes to the Specifications and/or the Product and in any such event any resulting cost increases incurred to comply therewith will be added to the Purchase Price to be paid by the Customer. In addition, any future drive train upgrades (engine, transmission, axles, etc.), or any other specification changes have not been calculated into our annual increases and will be provided at additional cost. To the extent practicable, Pierce will document and itemize any such price increases for the Customer.

6. Agreement Changes. The Customer may request that Pierce incorporate a change to the Products or the Specifications for the Products by delivering a change order to Pierce, provided, however, that any such change order must be in writing and include a description of the proposed change sufficient to permit Pierce to evaluate the feasibility of such change (“Change Order”). Within [seven (7) business days] of receipt of a Change Order, Pierce will inform the Customer in writing of the feasibility of the Change Order, the earliest possible implementation date for the Change Order, of any increase or decrease in the Purchase Price resulting from such Change Order, and of any effect on production scheduling or Delivery resulting from such Change Order. Pierce shall not be liable to the Customer for any delay in performance or Delivery arising from any such Change Order. A Change Order is only effective when counter-signed by Pierce’s authorized representative.

7. Cancellation/Termination. In the event this Agreement is cancelled or terminated by a party before completion, Pierce may charge a cancellation fee. The following charge schedule based on costs incurred may be applied: (a) 10% of the Purchase Price after order is accepted and entered by Pierce; (b) 20% of the Purchase Price after completion of approval drawings, and; (c) 30% of the Purchase Price upon any material requisition. The cancellation fee will increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. Pierce endeavors to mitigate any such costs through the sale of such Product to another purchaser; however Customer shall remain liable for the difference between the Purchase Price and, if applicable, the sale price obtained by Pierce upon sale of the Product to another purchaser, plus any costs incurred by Pierce to conduct any such sale.

8. Delivery, Inspection and Acceptance. (a) Delivery. Delivery of the Product is scheduled to be within __ months of the Effective Date of this Agreement, F.O.B. Pierce’s plant, Appleton, Wisconsin. Risk of loss shall pass to Customer upon Delivery. (b) Inspection and Acceptance. Upon Delivery, Customer shall have fifteen (15) days within which to inspect the Product for substantial conformance to the material Specifications, and in the event of substantial non-conformance to the

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material Specifications to furnish Pierce with written notice sufficient to permit Pierce to evaluate such non-conformance ("Notice of Defect"). Any Product not in substantial conformance to material Specifications shall be remedied by Pierce within thirty (30) days from the Notice of Defect. In the event Pierce does not receive a Notice of Defect within fifteen (15) days of Delivery, Product will be deemed to be in conformance with Specifications and Accepted by Customer.

9. Notice. Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

Pierce Manufacturing, Inc.
Director of Order Management
2600 American Drive
Appleton WI 54912
Fax (920) 832-3080

Customer
City of Rolla Missouri

10. Standard Warranty. Any applicable Pierce warranties are attached hereto as Exhibit B and made a part hereof. Any additional warranties must be expressly approved in writing by Pierce’s authorized representative.

a. Disclaimer. OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PIERCE, ITS PARENT COMPANY, AFFILIATES, SUBSIDIARIES, LICENSORS OR SUPPLIERS, THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES, MAKE ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE PRODUCTS PROVIDED HEREUNDER OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, AND THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. STATEMENTS MADE BY SALES REPRESENTATIVES OR IN PROMOTIONAL MATERIALS DO NOT CONSTITUTE WARRANTIES.

b. Exclusions of Incidental and CONSEQUENTIAL DAMAGES. In no event shall Pierce be liable for consequential, incidental or punitive damages incurred by Customer or any third party in connection with any matter arising out of or relating to this Agreement, or the breach thereof, regardless of whether such damages arise out of breach of warranty, tort, contract, strict liability, statutory liability, indemnity, whether resulting from non-delivery or from Pierce’s own negligence, or otherwise.

11. Insurance. Pierce maintains the following limits of insurance with a carrier(s) rated A- or better by A.M. Best:

- **Commercial General Liability Insurance:**
  - Products/Completed Operations Aggregate: $1,000,000
  - Each Occurrence: $1,000,000

- **Umbrella/Excess Liability Insurance:**
  - Aggregate: $25,000,000
  - Each Occurrence: $25,000,000

The Customer may request: (x) Pierce to provide the Customer with a copy of a current Certificate of Insurance with the coverages listed above; (y) to be included as an additional insured for Commercial General Liability (subject to the terms and conditions of the applicable Pierce insurance policy); and (z) all policies to provide a 30 day notice of cancellation to the named insured

12. Indemnity. The Customer shall indemnify, defend and hold harmless Pierce, its officers, employees, dealers, agents or subcontractors, from any and all claims, costs, judgments, liability, loss, damage, attorneys’ fees or expenses of any kind or nature whatsoever (including, but without limitation, personal injury and death) to all property and persons caused by, resulting from, arising out of or occurring in connection with the Customer’s purchase, installation or use of goods sold or supplied by Pierce which are not caused by the sole negligence of Pierce.

13. Force Majeure. Pierce shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond Pierce’s control which make Pierce’s performance impracticable, including but not limited to civil wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of government, delays in transportation, inability to obtain necessary labor supplies or manufacturing facilities, allocation

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Y. A. 7.
regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy or terrorism, failure of transportation, epidemics, quarantine restrictions, failure of vendors (due to causes similar to those within the scope of this clause) to perform their contracts or labor troubles causing cessation, slowdown, or interruption of work.

14. **Default.** The occurrence of one or more of the following shall constitute a default under this Agreement: (a) the Customer fails to pay when due any amounts under this Agreement or to perform any of its obligations under this Agreement; (b) Pierce fails to perform any of its obligations under this Agreement; (c) either party becomes insolvent or become subject to a bankruptcy or insolvency proceedings; (d) any representation made by either party to induce the other to enter into this Agreement is false in any material respect; (e) the Customer dissolves, merges, consolidates or transfers a substantial portion of its property to another entity; or (f) the Customer is in default or has breached any other contract or agreement with Pierce.

15. **Manufacturer's Statement of Origin.** It is agreed that the manufacturer's statement of origin ("MSO") for the Product covered by this Agreement shall remain in the possession of Pierce until the entire Purchase Price has been paid. If more than one Product is covered by this Agreement, then the MSO for each individual Product shall remain in the possession of Pierce until the Purchase Price for that Product has been paid in full. In case of any default in payment, Pierce may take full possession of the Product, and any payments that have been made shall be applied as payment for the use of the Product up to the date of taking possession.

16. **Independent Contractors.** The relationship of the parties established under this Agreement is that of independent contractors and neither party is a partner, employee, agent, or joint venturer of or with the other.

17. **Assignment.** Neither party may assign its rights and obligations under this Agreement unless it has obtained the prior written approval of the other party.

18. **Governing Law; Jurisdiction.** Without regard to any conflict of laws provisions, this Agreement is to be governed by and under the laws of the state of Wisconsin.

19. **Facsimile Signatures.** The delivery of signatures to this Agreement by facsimile transmission shall be binding as original signatures.

20. **Entire Agreement.** This Agreement shall be the exclusive agreement between the parties for the Product. Additional or different terms proposed by the Customer shall not be applicable, unless accepted in writing by Pierce's authorized representative. No change in, modification of, or revision of this Agreement shall be valid unless in writing and signed by Pierce's authorized representative.

21. **Conflict.** In the event of a conflict between the Customer Specifications and the Pierce Proposal, the Pierce Proposal shall control. In the event there is a conflict between the Pierce Proposal and this Agreement, the Pierce Proposal shall control.

22. **Signatures.** This Agreement is not effective unless and until it is approved, signed and dated by Pierce Manufacturing, Inc.'s authorized representative.

Accepted and agreed to:

**PIERCE MANUFACTURING, INC.**

Name: ___________________________
Title: ___________________________
Date: ___________________________

**CUSTOMER: City of Rolla Missouri**

Name: ___________________________
Title: ___________________________
Date: ___________________________

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EXHIBIT A

PURCHASE DETAIL FORM
Pierce Manufacturing, Inc.
Director of Order Management
2600 American Drive
Appleton WI 54912
Fax (920) 832-3080

Date: ______________________________

Customer Name: City of Rolla Missouri

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<th>Body Type</th>
<th>Price per Unit</th>
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</table>

[Insert any trade-in or applicable discounts here.] If total prepay is made within 30 days of order the amount will be $1,095,997.73

Warranty Period: per proposal

Training Requirements: per proposal

Other Matters: [Insert any performance bonds, penalties, etc.]

This contract is available for inter-local and other municipal corporations to utilize with the option of adding or deleting any Pierce available options, including chassis models. Any addition or deletion may affect the unit price.

Payment Terms: Net upon delivery or prepaid

[NOTE: If deferred payment arrangements are required, the Customer must make such financial arrangements through a financial institution acceptable to Pierce.] All taxes, excises and levies that Pierce may be required to pay or collect by reason of any present or future law or by any governmental authority based upon the sale, purchase, delivery, storage, processing, use, consumption, or transportation of the Product sold by Pierce to the Customer shall be for the account of the Customer and shall be added to the Purchase Price. All delivery prices or prices with freight allowance are based upon prevailing freight rates and, in the event of any increase or decrease in such rates, the prices on all unshipped Product will be increased or decreased accordingly. Delinquent payments shall be subject to a carrying charge of 1 1/2 percent per month or such lesser amount permitted by law. Pierce will not be required to accept payment other than as set forth in this Agreement. However, to avoid a late charge assessment in the event of a dispute caused by a substantial nonconformance with material Specifications (other than freight), the Customer may withhold up to five percent (5%) of the Purchase Price until such time that Pierce substantially remedies the nonconformance with material Specifications, but no longer than sixty (60) days after Delivery. If the disputed amount is the freight charge, the Customer may withhold only the amount of the freight charge until the dispute is settled, but no longer than sixty (60) days after Delivery. Pierce shall have and retain a purchase money security interest in all goods and products now or hereafter sold to the Customer by Pierce or any of its affiliated companies to secure payment of the Purchase Price for all such goods and products. In the event of nonpayment by the Customer of any debt, obligation or liability now or hereafter incurred or owing by the Customer to Pierce, Pierce shall have and may exercise all rights and remedies of a secured party under Article 9 of the Uniform Commercial Code (UCC) as adopted by the state of Wisconsin.
DETAIL FORM AS THOUGH EACH PROVISION WERE SEPARATELY SET FORTH HEREIN, EXCEPT TO THE EXTENT OTHERWISE STATED OR SUPPLEMENTED BY PIERCE MANUFACTURING INC. HEREIN.

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EXHIBIT B
WARRANTY

PER PROPOSAL