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, July 16, 2018
901 North Elm Street
City Hall Council Chambers
6:30 P.M.

COUNCIL PRAYER
Ministerial Alliance

PLEDGE OF ALLEGIANCE
Councilwoman Tiffany Henry

I. PUBLIC HEARINGS
A) Ordinance Rezoning a 0.99-acre Portion of Tract A of the Joyner Estates Subdivision (aka 1335 Thomas Drive) from Rural Residential District (R-R) to Single-Family District (R-1) (Moutray) - (City Planner James Shields) – First Reading

II. SPECIAL PRESENTATIONS

III. OLD BUSINESS
A) Ordinance Amending Certain Provisions of the Planning & Zoning Code Pertaining to Nonconforming Uses, Exceptions – (City Planner James Shields) - Final Reading

IV. NEW BUSINESS
A) Ordinance Consolidating Lots 2 and 3 & North 35 Feet of Lot 4 of Block 5, Frisco Subdivision (Equinox) – (City Planner James Shields) – First Reading
B) Resolution Proposing to Change Name of Part of Eagleson Dr. to Silverstone Drive – (City Planner James Shields) - Motion
C) Ordinance Amending Section 27-89 of the Rolla City Code Pertaining to Stop Intersections – (Public Works Director Steve Hargis) – First Reading
D) Ordinance Calling for Special Bond Election - Sewerage System Revenue Bonds – (City Administrator John Butz) – First Reading
E) Ordinance Authorizing the Mayor to Execute an Asset Purchase Agreement with Ameren Transmission Company of Illinois – (Rolla Municipal Utilities General Manager Rodney Bourne) – First Reading
F) Ordinance Reconfiguring the Boundary Lines of Four Deeded Parcels Located in Joyner Estates Subdivision and the Wild Horse Run Plat No. 1 Subdivision (Moutray) – (City Planner James Shields) – First Reading
V. CLAIMS and/or FISCAL TRANSACTIONS

VI. MAYOR/CITY COUNCIL COMMENTS
   A) Motion Appointing Councilman Steven Jung to the Finance Audit Committee – Motion

VII. CITIZEN COMMUNICATION
   A) Sign Ordinance Concerns
   B) 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:
       None.

X. ADJOURNMENT
CITY OF ROLLA
CITY COUNCIL AGENDA

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

SUBJECT: A request to rezone a 0.99-acre portion of Tract A of the Joyner Estates Subdivision, which is also known as 1335 Thomas Drive, from the Rural Residential District (R-R) to the Single-Family District (R-1).

(Moutray)
MEETING DATE: 07-16-2018

GENERAL INFORMATION:
CASE NUMBER: ZON18-06
LEGAL AD DATE: 06-23-2018
SUBMISSION DATE: 06-18-2018
300 FOOT NOTICE: 06-26/27-2018

APPLICANT: Norman A. & Dora E. Moutray own three of the four parcels subject to this proposal. Those three parcels are identified by their addresses of 311, 313, and 315 Traci Dawn Drive. Ginger D. Koller & Paul A. Joyner own the other parcel subject to this proposal (1335 Thomas Drive). The agent and surveyor for this project is Christopher Ferguson.

LOCATION: The parcels subject to this proposal (the subject parcels) are the four deeded parcels that are identified by their Phelps County Assessor Account Numbers of 10954.01, 10654.47, 10954.20, and 10954.19. The subject parcels consist of part of Tract A of the Joyner Estates Subdivision, all of Lot 65 and Lot 66 of Wild Horse Run Plat No. 1, and a fractional part of the southwest quarter of the northwest quarter of Section 24, Township 37 North, Range 8 West. The subject parcels are located at the intersection of Thomas Drive and Traci Dawn Drive inside of the southern border of the City of Rolla, Missouri (See Figure 1 for a General Location Map).

SITUATION, CURRENT USE, ZONING, & FLUM: The area (about a ¼ of a mile radius around the subject parcels) was initially placed in the Rural Residential (zoning) District (R-R) when it was annexed in the late 90s, but was mostly rezoned to the Single-Family District (R-1) in conjunction with the Wild Horse Run Subdivisions and the Joyner Estates Subdivision. However, Tract A of the Joyner Estates Subdivision was never zoned to R-1. Surrounding the Wild Horse Run and Joyner Estates Subdivisions are large parcels zoned R-R, some of which are vacant and others that have a single-family home located on it. Apart from a short strip of land that was given the Medium-High Density Residential Future Land Use Map (FLUM) designation along Rolla Street, the area has been given the Low Density Residential FLUM designation.

PROJECT DESCRIPTION: The applicant proposes to rezone a portion of the parcel, as currently configured, that is identified as 1335 Thomas Lane from R-R to R-1 (See Figure 2 for a zoning map). This rezone is being proposed in conjunction with a lot reconfiguration proposal. The parcel identified as 1335 Thomas Lane will convey approximately 0.99 acres to the parcels identified as 311, 313, and 315 Traci Dawn Drive. In the end, the three properties located on Traci Dawn Drive will extend their backyards by 136 feet. The tract of land to be rezoned is currently located at 1335 Thomas Lane. However, if the lot reconfiguration is approved through the subdivision process, the tract of land to be rezoned will be fully contained within the parcels identified as 311, 313, and 315 Traci Dawn Drive. Staff does not recommend approving the rezone.
without approving the lot reconfiguration proposal because it would create a split-zoned lot. The purpose of this rezone is to ensure that the elongated lots only need to meet the minimum lot requirements of R-1, not R-R. Without the rezone, the elongated lots (as 311, 313, and 315 Traci Dawn Drive) would become split-zoned lots (half R-R, half R-1). Split-zoned lots must conform to the bulk regulations of the zoning district that covers a portion of that lot with the most restrictive bulk regulations. The lots to be elongated would not meet the minimum lot requirements of R-R. Thus, staff recommended rezoning the portion of land to be conveyed from R-R to R-1 in order for the elongated lots to meet minimum lot requirements.

ANALYSIS:

HISTORY & FLAG LOTS: In 2001, the 75-lot subdivision entitled Wild Horse Run Plat No. 1 was approved. The two most western subject parcels along Traci Lane were created through the above-mentioned subdivision. Tract A of the Joyner Estates subdivision and 315 Traci Dawn Drive were created through other means. In 2011, Moutray was sold 315 Traci Dawn Drive without going through the subdivision process. Tract A was created through the approved recording of the Joyner Estates subdivision plat map. It is suspected that the illegal lot split that created 315 Traci Dawn Drive created a flag lot out of Tract A of Joyner Estates. Flag lots are lots that consist of an access portion that does not contain enough frontage to be considered conforming to the lot requirements and a building portion. Flag lots may be created initially by a subdivision if, in part, the access portion is at least 40 feet wide and no deeper than 250 feet (See Sec. 42-26.6(8)). Tract A of Joyner Estates did meet the minimum requirements for a flag lot and was recognized through said plat. However, flag lots may not be further subdivided into additional lots without road construction that corrects the lack of frontage. Since this proposal does not create new lots nor does it adjust lot lines in a way that would increase or decrease the length and width of the access portion of the existing flag lot, the subdivision requirements pertaining to flag lots are not violated by this proposal.

INTENT OF THE COMPREHENSIVE PLAN: The R-R zoning district and the Rural Residential FLUM designation are intended to be comprised of large-lot, very low density, single-family housing uses and located in rural settings on the urban fringe (Rolla 2020, p.65; Rolla Planning and Zoning Book, Section 42-168). The R-1 zoning district is similar to the intent and characteristics of the Low Density Residential FLUM designation. The Low Density Residential FLUM designation is “generally found in urban-scale subdivisions with typical individual lots that about one-quarter of an acre in size” (Rolla 2020, p.71). The current FLUM designation is consistent with the proposed zoning of R-1. In addition, the size and character of the proposed elongated lots is more aligned with the intent of the R-1 district than the R-R district.

LAND USE COMPATIBILITY: The permitted land uses of R-1 and R-R are identical. The conditional uses for both zones are identical, except that the following conditional uses are allowed in the R-R district and not allowed in the R-1 district: (1) Veterinarian services; (2) Customary agricultural activities; and (3) Parks, camp areas, recreation areas, and resorts. By zoning the northern portions of the elongated parcels R-1, the zoning of the neighborhood will be more aligned with the uses permitted in majority of the neighborhood and reduce the potential for less compatible R-R conditional uses, such as certain agricultural activities, from being located there.
**PUBLIC & INTERNAL COMMENTS:** No protest petitions have been filed to this department and only the daughter of a nearby owner inquired about the case. There were no internal comments.

**ACTION REQUIRED:** Unanimously, the Planning and Zoning Commission recommended the approval of the proposal with the condition that is stated below. The action requested from the City Council is to conduct the first reading of and the public hearing on the applicant’s proposal to rezone a 0.99-acre portion of Tract A of the Joyner Estates Subdivision, which is also known as 1335 Thomas Drive, from the Rural Residential District (R-R) to the Single-Family District (R-1). If approved, staff recommends that the following condition be added to the ordinance:

A condition of the approval of this ordinance is that a recorded deed conveyancing the above-described property to Norman A. & Dora E. Moutray shall be submitted to the Community Development Department within 60 days of the approval of this ordinance, a point in time after which this ordinance will become null and void if no such deed is submitted.
Parcels subject to rezone: current configuration of 1335 Thomas Dr. and the future configurations of 311-315 Traci Dawn Dr.

Area to be rezoned from R-R to R-1

Figure 2, ZON18-06, Zoning Map
ORDINANCE NO. 3414

AN ORDINANCE THAT REZONES A 0.99-ACRE PORTION OF TRACT A OF THE JOYNER ESTATES SUBDIVISION, WHICH IS ALSO KNOWN AS 1335 THOMAS DRIVE, FROM THE RURAL RESIDENTIAL DISTRICT (R-R) TO THE SINGLE-FAMILY DISTRICT (R-1).

WHEREAS, an application for a rezoning was duly filed with the Community Development Department June 18, 2018, requesting that the City of Rolla rezone a 0.99-acre portion of Tract A of the Joyner Estates Subdivision, which is also known as 1335 Thomas Drive, from the Rural Residential District (R-R) to the Single-Family District (R-1); and

WHEREAS, a public notice was duly published on June 23, 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 July 10, 2018, at 5:30 P.M. and recommended that the City Council approve the proposed ordinance with one condition; and

WHEREAS, the Rolla City Council, during its meeting held on July 16, 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 Official Zoning Map in a way that will change the designation of the following described property from the Rural Residential District (R-R) to the Single-Family District (R-1):

I. A. 6.
A parcel of land being part of Tract A of Joyner Estates as recorded in Plat Cabinet “D”, as Slide 331 and situated in The Southwest Quarter of the Northwest Quarter of Section 24 in Township 37 North, Range 8 West, Phelps County, Missouri and more particularly described as:

Commencing at the southeast corner of Lot 3 of the aforementioned Joyner Estates, thence along the south line of said Tract A, North 89 degrees 44 minutes 20 seconds East a distance of 100.00 feet to the Point of Beginning, thence along the following courses:

North 00 degrees 15 minutes 40 seconds West, 136.00 feet;
North 89 degrees 44 minutes 20 seconds East, 320.00 feet;
South 00 degrees 15 minutes 40 seconds East, 136.00 feet;

Thence South 89 degrees 44 minutes 20 seconds West, 320.00 feet to the Point of Beginning and containing 43,520 square feet (0.9991 acres) more or less.

SECTION 2: A condition of the approval of this ordinance is that a recorded deed conveying the above-described property to Norman A. & Dora E. Moutray shall be submitted to the Community Development Department within 60 days of the approval of this ordinance, a point in time after which this ordinance will become null and void if no such deed is submitted.

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.


APPROVED:

__________________________
Mayor

ATTEST:

__________________________
City Clerk

APPROVED AS TO FORM:

__________________________
City Counselor
SUBJECT: An ordinance amending Article III, which is known as the Rolla Planning and Zoning Code, of Chapter 42 of the Rolla City Code by amending language that pertains to provisions related to nonconforming uses and other exceptions.

MEETING DATE: 07-16-2018

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

PROJECT DESCRIPTION: The applicant requests to modify the language 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 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.

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

<table>
<thead>
<tr>
<th>Sec. in Code</th>
<th>Title</th>
<th>Sec. of Ord.</th>
</tr>
</thead>
<tbody>
<tr>
<td>42-139</td>
<td>Regulated Activities</td>
<td>1-2</td>
</tr>
<tr>
<td>42-141</td>
<td>Definitions</td>
<td>3-4</td>
</tr>
<tr>
<td>42-142</td>
<td>General Provisions</td>
<td>5-6</td>
</tr>
<tr>
<td>42-210.1</td>
<td>Front Yard Regulations</td>
<td>7-8</td>
</tr>
<tr>
<td>42-210.2</td>
<td>Side Yards – Corner Lots</td>
<td>8-9</td>
</tr>
<tr>
<td>42-210.4</td>
<td>Exceptions to Yard Regulations</td>
<td>11-12</td>
</tr>
<tr>
<td>42-210.5</td>
<td>Permitted Projections and Structures in Required Yards</td>
<td>13-14</td>
</tr>
<tr>
<td>42-239.7</td>
<td>Location of Parking Facilities</td>
<td>15-16</td>
</tr>
<tr>
<td>42-239.8</td>
<td>Nonconforming Parking and Applicability</td>
<td>17-18</td>
</tr>
<tr>
<td>42-241</td>
<td>Parking Area Surface</td>
<td>19-20</td>
</tr>
<tr>
<td>42-244.9</td>
<td>Non-conforming Signs</td>
<td>21-22</td>
</tr>
<tr>
<td>42-247</td>
<td>NON-CONFORMING BUILDING AND USE REGULATIONS</td>
<td>23-25</td>
</tr>
<tr>
<td>42-255.5</td>
<td>Variances</td>
<td>27</td>
</tr>
</tbody>
</table>
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. 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. One reason for this was that zoning was meant to control new development, 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.

**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.

**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. Rolla’s current code prohibits use expansions/extensions and increases of intensity 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 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. The degree to which repairs are made is usually limited to only modest repairs. 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.

Rolla’s current code prohibits structural alterations, except when required by “law or ordinance”, but additions, enlargements, and moving are not permitted. 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). 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. 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 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 regards 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. Rolla’s current code is like most in that it defines substantial destruction as 75% of the replacement cost. 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, 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. 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 unpractical to keep track of internal furnishings and equipment, 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. 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.

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. 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. Thus, the business should be able to take all of this into consideration when determining where he/she/they will locate their business. 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.
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 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.

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 in another subsection.

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 final reading of an ordinance that would amend Article III, which is known as the Rolla Planning and Zoning Code, of Chapter 42 of the Rolla City Code by amending language that pertains to provisions related to nonconforming uses and other exceptions.
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 I 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 I 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 1 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, or 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
a use and complies with the conditions and restrictions imposed by Section 42-207.

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 42-142, 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 Division 18.

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 Division 17. 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 provide 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, terraces, and their eaves 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, terraces, and their eaves 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.
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 (95) 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 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)
SECION 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 Subsections:


**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
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 not 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 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
A request to, through the subdivision process, consolidate Lot 2, Lot 3, and the north 35 feet of Lot 4 of Block 5 of the Frisco Subdivision into one 0.29-acre lot.

APPLICANT: The parcels subject to this proposal (the subject parcels) are owned by Spring Properties, LLC. Barbara Wilkins is the registered agent of this LLC and signed the application. The agent and surveyor for this project is Jason Lortz of Lortz Surveying.

LOCATION: The parcels subject to this proposal (the subject parcels) are the two deeded parcels that are identified by their Phelps County Assessor Account Numbers of 6406 and 6407. The subject parcels consist of Lots 2, 3, and part of Lot 4 of Block 5 of the Frisco Subdivision. The subject parcels are located approximately 40 feet south of the intersection of Missouri Avenue and Ozark Street in the City of Rolla, Missouri (See Figure 2 for Site Map).

CURRENT USE/ZONING & BULK INFORMATION: The subject parcels are vacant and within the Multi-Family District (R-3). While the subject parcels do not currently meet minimum lot size or width requirements of the R-3 district, the consolidated lot will.

PROJECT DESCRIPTION & PROCESS: The applicant proposes to consolidate the subject parcels into one 0.29-acre lot in order to prepare it for new multi-family development. There are no details about this new development given. The lot will be about 115 feet wide and 110 feet deep. With all other things being equal, the new lot will have enough square footage to accommodate five multi-family units. The proposal is not subject to parkland dedication requirements, land development permit requirements, or requirements for storm water detention. No parcels are being reduced in size or width and the consolidated lot will meet the minimum area and width requirements of R-3. Public Works submitted a memo that commented on the first draft of the applicants plat map (See Figure 4 for said memo). Rolla Municipal Utilities had no comments on the case. Staff has received the second draft and no more revisions are requested (See Figure 3 for a snapshot of the final draft of the Final Plat Map).

PUBLIC COMMENTS: No protest petitions or comments have been filed to this department.

ACTION REQUIRED: The action requested from the City Council is to conduct the first reading of the applicant’s proposal to consolidate Lot 2, Lot 3, and the north 35 feet of Lot 4 of Block 5 of the Frisco Subdivision into one 0.29-acre lot.
Figure 2, SUB18-06, Site Map
Figure 3, SUB18-06, First Draft of Plat Map

LOT 1
0.29 ACRES

Lot 13
Lot 12
Lot 11
Lot 10
Lot 2
Lot 3
Lot 4
OCEAN STREET

EXISTING CONCRETE CURB & GUTTER

EXISTING HOUSE

POWERED 1969 BOAT

EAST LINE SETBACK LINE

N89°52'33"E 100.98'

0'

IV. A4.
Memo

TO: Community Development
FROM: Everett Briggs/Public Works Staff
Cc: Jason Loritz, SH, DP, DJ, DF, TF, AM and File
DATE: June 19, 2018
SUBJECT: Final Plat Review of Spring Properties Second Addition

The public works staff has completed review of the above referenced plat and except for the following finds it to be in accordance with City of Rolla, Missouri Subdivision codes:

1) Due to the size of this subdivision a Land Development Permit will not be required. However, all Best Management Practices (BMP’s) should be used to insure that sediment does not leave the construction site.
2) This is a re-subdivision of an existing subdivision and therefore a fee in lieu of Storm Water Detention facilities would not be due.
3) The out boundary of the tract as labeled meets closure requirements.
4) The Pope property labeled Lot 7 is actually Lot 1.
5) The former Lots 2, 3 and 4 need to be labeled.
6) Dimension arrows need to be added to the out boundary bearing and distance calls shown on the plat.
7) The out boundary of this plat needs to be tied to the underlying Frisco Subdivision with a measured distance.
8) According to the city’s GIS the structure at 1605 Ozark Street appears to encroach on this plat. This structure needs to be located in the field and shown on this plat along with the other topo being shown.
9) The Kirkbridge property labeled Lot 3 is actually Lot 5.
10) Need to drop John Petersen as Community Development Director and add Steve Flowers as Interim Community Development Director.
11) Need to add the title Director of Parks to Floyd Jernigan’s signature block.
12) The Rolla city codes can be accessed online at www.rollacity.org and then click on the city ordinance button.
ORDINANCE NO. _________

AN ORDINANCE TO, THROUGH THE SUBDIVISION PROCESS, CONSOLIDATE LOT 2, LOT 3, AND THE NORTH 35 FEET OF LOT 4 OF BLOCK 5 OF THE FRISCO SUBDIVISION INTO ONE 0.29-ACRE LOT. (EQUINOX)

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

Section 1: An ordinance to, through the subdivision process, consolidate Lot 2, Lot 3, and the north 35 feet of Lot 4 of Block 5 of the Frisco Subdivision into one 0.29-acre lot.

Section 2: That 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 revised plat has been filed with the Phelps County Recorder of Deeds and, if required, development plans for public improvements have been approved by the Public Works Director.


APPROVED:

__________________________
Mayor

ATTEST:

__________________________
City Clerk

APPROVED AS TO FORM:

__________________________
City Counselor
DEPARTMENT: Community Development
ACTION REQUESTED: Resolution

SUBJECT: A resolution to initiate the process by which the City of Rolla would change the name of the street that begins at the intersection of Vichy Road and the area between the northeast sides of Lot 1 and Lot 2 of the Arwood Hills No. 1 Subdivision and ends at the rim of the cul-de-sac that connects Lot 1, Lot 3, and Lot 4 of the Rolla Skilled Nursing Home Facility Plat No. 2 from Eagleson Drive to Silverstone Drive.

MEETING DATE: 07-16-2018

GENERAL INFORMATION:
CASE NUMBER: STR18-01
LEGAL AD DATE: NA
SUBMISSION DATE: 06-11-2018
300 FOOT NOTICE: NA

APPLICANT: The only property’s address affected by the proposed street name change (the subject parcel) is owned by Rolla SNF LLC and is located at 2735 Eagleson Drive. Greg Spence is the registered agent of this LLC and is one of the owners of the Silverstone Place Skilled Nursing & Rehabilitation Center, which is located on the subject parcel. Greg Spence is the applicant of this proposal.

LOCATION: The streets subject to this ordinance (the subject street) was dedicated through the Arwood Hills No. 1 Subdivision (the approximate 240 feet of ROW that connects Vichy Road to the Rolla Skilled Nursing Home Facility Plat No.2) and through the Rolla Skilled Nursing Facility Plat No. 2 (a 0.19 Acre cul-de-sac that consists of the end of the Eagleson Drive that connects Vichy Road to Lot 1, Lot 3, and Lot 4 of the Rolla Skilled Nursing Home Facility Plat No. 2).

PROJECT DESCRIPTION: When Eagleson Drive was first dedicated through the Arwood Hills No. 1 Subdivision, it was intended to be a loop that began at the intersection of Vichy Road and the area between the northeast sides of Lot 1 and Lot 2 the Arwood Hills No. 1 Subdivision and ended at the intersection of Vichy Road and the area between the northeast sides of Lot 6 and Lot 7 of the Arwood Hills No. 1 Subdivision. Shortly after Arwood Hills No. 1 was platted, the idea of the loop was abandoned and all that would remain of Eagleson Drive were the ends of the loop where they transected with Vichy road. Because of this, two Eagleson Drives exist today. The Eagleson Drive that is to have its name changed begins at the intersection of Vichy Road and the area between the northeast sides of Lot 1 and Lot 2 the Arwood Hills No. 1 Subdivision and extends to the southwest (See Figure 1 for the street location). The other Eagleson Drive that is to remain named Eagleson Drive begins at the intersection of Vichy Road and the area between the northeast sides of Lot 6 and Lot 7 of the Arwood Hills No. 1 Subdivision and extends to the northwest along the fronts of Lots 7-9 and through Lots 27-30 of the Arwood Hills No. 1 Subdivision and ends at Lot 1 of the Rolla Skilled Nursing Home Facility Plat No.2.

The applicant has agreed to apply for the street name change upon the City’s recommendation. The City recommends this street name change in order to prevent confusion for emergency first
responders and others from turning down the wrong Eagleson Drive because it could possibly cause the first responders to unnecessarily prolong their response time to an emergency. In addition, such a street name change would help prevent the visitors of the nursing home from taking a wrong turn, which causes unnecessary traffic in the Arwood Hills subdivision.

After such a resolution (See Figure 2) passes, the resolution would be posted in the newspaper for one week. If within four weeks after such publication a majority of the resident property owners along the line of such street do not file with the City Clerk their written protest against such proposed change of name, the City Council shall consider an ordinance to name the street described above as Silverstone Drive.

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

ACTION REQUIRED: The action requested from the City Council is to approve or deny a resolution that, if approved, would initiate the process by which the City of Rolla would change the name of the street that begins at the intersection of Vichy Road and the area between the northeast sides of Lot 1 and Lot 2 of the Arwood Hills No. 1 Subdivision and ends at the rim of the cul-de-sac that connects Lot 1, Lot 3, and Lot 4 of the Rolla Skilled Nursing Home Facility Plat No. 2 from Eagleson Drive to Silverstone Drive.
Figure 1, STR18-01, Street Location

NURSING FACILITY PLAT No. 1
Rolla, MO

THE EAGLESON DRIVE THAT WILL HAVE ITS NAME CHANGED TO SILVERSTONE DRIVE

IV. B.3.
RESOLUTION NO. _____


(EAGLESON TO SILVERSTONE DRIVE)

WHEREAS, the Greg Spence of Rolla SNF, LLC has requested the name change of the street that begins at the intersection of Vichy Road and the area between the northeast sides of Lot 1 and Lot 2 of the Arwood Hills No. 1 Subdivision and ends at the rim of the cul-de-sac that connects Lot 1, Lot 3, and Lot 4 of the Rolla Skilled Nursing Home Facility Plat No. 2.

WHEREAS, the Planning and Zoning Commission met on July 10, 2018, and recommended changing the name of said section of Eagleson Drive to Silverstone Drive.

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

SECTION 1: That after consideration, the City Council has approved the request to change the name of said section of Eagleson Drive to Silverstone Drive.

SECTION 2: That this resolution shall be published for a period of at least one week to provide notice of the proposed street name change.

SECTION 3: That if within four weeks after such publication a majority of the resident property owners along the line of such street do not file with the City Clerk their written protest against such proposed change of name, the City Council shall consider an ordinance to name the street described above as Silverstone Drive.

SECTION 4: That this resolution shall be in full force and effect from and after the date of its passage and approval.


APPROVED:

ATTEST: __________________________

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY COUNSELOR
CITY OF ROLLA
CITY COUNCIL AGENDA

DEPARTMENT HEAD: STEVE HARGIS ACTION REQUESTED: Ordinance
First Reading

ITEM/SUBJECT: Stop and Yield Ordinance

BUDGET APPROPRIATION (IF APPLICABLE) $

DATE: 07/16/18

COMMENTARY:

The Engineering staff and the traffic division have been updating our traffic regulations and adding them to our (GIS) geographic information system. This is the completed update for stops and yields.

Staff recommends approval.
Revisions to Section 27-89 Stop and Yield – June 5, 2018

Delete:
Cedar Street (Yield), at 1st Street (Change Yield Sign to Stop Sign)
County Road 2076, at Hy Point North (Part of CR renamed Hy Point Terrace)
St. John’s Parkway, at Bridge School Road, at Martin Springs Drive (Renamed Mercy Parkway)
Walker Avenue, at Ridgeview Road (Delete Stop Signs for smoother traffic flow)

Add:
Cedar Street, at 1st Street (Change Yield Sign to Stop Sign)
Country Hills Court (new street), at Old St James Road – (Add Stop Sign)
Dana Renee Drive, at Thomas Drive (Add Stop Sign)
Durwood Boulevard (new street), at Highway V (Add Stop Sign)
Hy Point Terrace, at Hy Point North (Add Stop Sign)
Miner Circle, at State Street (Add Stop Sign)
Parkside Avenue (new street), at Old St James Road (Add Stop Sign)
Perrot Boulevard (new street), at Highway V (Add Stop Sign)
Mercy Parkway, at Bridge School Road, Martin Springs Drive (Renamed to Mercy Parkway)
Westside Drive, at Sally Road (Add Stop Sign)
Section 27-89 Stop Intersections

Cedar Street, at First Street - Yield Sign replaced by Stop Sign

Yield Sign replaced by Stop Sign
Country Hills Court, at Old St. James Road - Stop Sign added

Stop Sign added here
Section 27-89 Stop Intersections
Crinoidal Court, at White Columns Road
Street Vacation -Stop Sign deleted

A portion of Crinoidal Court is being vacated per Rolla Investors No. 1 Subdivision

Proposed Multi-Family Units

Rolla Investors No. 1 Subdivision

Delete Stop Sign
Section 27-89 Stop Intersections

Durwood Boulevard, at Highway V - Stop Sign added

Stop Sign added here

Hy Point Industrial Park North Plat No. 3

Hy Point Terrace

HY POINT NORTH

HIGHWAY V

BOULEVARD

DURWOOD
Dana Renee Drive, at Thomas Drive - Stop Sign added

Stop Sign added here
Section 27-89 Stop Intersections

With the City Council passage of Hy Point Industrial Park North Plat No. 3, (Ordinance 4340 4/3/17) a portion of CR 2076 has been renamed to Hy Point Terrace.

Delete - CR 2076, at Hy Point North

Add - Hy Point Terrace, at Hy Point North
Section 27-89 Stop Intersections

Miner Circle, at State Street - Stop Sign added

Stop Sign added here
Section 27-89 Stop Intersections

Parkside Avenue, at Old St. James Road -
Stop Sign to be added

Stop Sign to be added here
Section 27-89 Stop Intersections

Perrot Boulevard, at Highway V - Stop Sign added

Stop Sign added here
St. John's Parkway has been renamed Mercy Parkway Ordinance 4078 4/01/13
Delete - St. John's Parkway, at Bridge School Road, at Martin Springs Drive
Add - Mercy Parkway, at Bridge School Road, at Martin Springs Drive

Road renamed from St. John's Parkway to Mercy Parkway.
Section 27-89 Stop Intersections

Walker Avenue, at Ridgeview Road
Stop Signs deleted to improve traffic flow
ORDINANCE NO. _________

AN ORDINANCE AMENDING SECTION 27-89 OF THE GENERAL ORDINANCES OF THE CITY OF ROLLA, MISSOURI, KNOWN AS THE CODE OF THE CITY OF ROLLA, MISSOURI, PERTAINING TO STOP INTERSECTIONS.

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

Section 1: That Section 27-89, Stop intersections - Enumerated generally, of the General Ordinances of the City of Rolla, Missouri, known as the Code of the City of Rolla, Missouri is hereby amended by deleting the following: (Ord. 4197)

Sec. 27-89. Stop intersections - Enumerated generally.

The driver of a vehicle shall cause his vehicle to come to a full and complete stop before entering the intersections named below, and he shall then proceed cautiously, yielding the right of way to any pedestrian within any crosswalk adjacent to the intersection and to any vehicle either in the intersection or approaching so closely thereto, when not required to stop, as to constitute an immediate hazard. At those intersections labeled "Yield," the driver of a vehicle shall yield the right of way to any vehicle in either the intersection or approaching so closely thereto, when not required to stop, as to constitute an immediate hazard.

Cedar Street, at First Street (Yield)

County Road 2076, at Hy Point North

St. John's Parkway, at Bridge School Road, at Martin Springs Drive

Walker Avenue, at Ridgeview Road

Section 2: That Section 27-89, Stop intersections - Enumerated generally, of the General Ordinances of the City of Rolla, Missouri, known as the Code of the City of Rolla, Missouri is hereby amended by adding the following:

Sec. 27-89. Stop intersections - Enumerated generally.

The driver of a vehicle shall cause his vehicle to come to a full and complete stop before entering the intersections named below, and he shall then proceed cautiously, yielding the right of way to any pedestrian within any crosswalk adjacent to the intersection and to any vehicle either in the intersection or approaching so closely thereto, when not required to stop, as to constitute an
immediate hazard. At those intersections labeled "Yield," the driver of a vehicle shall yield the right of way to any vehicle in either the intersection or approaching so closely thereto, when not required to stop, as to constitute an immediate hazard.

**Cedar Street**, at First Street

**Country Hills Court**, at Old St. James Road

**Dana Renee Drive**, at Thomas Drive

**Durwood Boulevard**, at Highway V

**Hy Point Terrace**, at Hy Point North

**Miner Circle**, at State Street

**Parkside Avenue**, at Old St. James Road

**Perrot Boulevard**, at Highway V

**Mercy Parkway**, at Bridge School Road, at Martin Springs Drive

**Westside Drive**, at Sally Road

**Section 3:** That this ordinance shall be in full force and effect from and after the date of its passage and approval.


APPROVED

ATTEST:________________________________________________________________________

MAYOR

______________________________________________________________________________

CITY CLERK

APPROVED AS TO FORM:

______________________________________________________________________________

CITY COUNSELOR
ITEM/SUBJECT: Ordinance Calling for Special Bond Election — Sewerage System Revenue Bonds

BUDGET APPROPRIATION (IF APPLICABLE) $25-27 Million DATE: July 16, 2018

COMMENTARY:

In 2011 the City entered into a Voluntary Compliance Agreement (VCA) with MoDNR to provide full treatment of our peak (wet weather) flows and enhanced disinfection and treatment of the discharge points from our three permitted sewage treatment plants. The VCA provided a 10-year plan to reduce inflow & infiltration (I&I) into our sewer collection system and to get value out of treatment plant improvements made in 2006 which provided primary (not full) treatment of peak weather flow. In addition, we received MoDNR approval to complete an Integrated Management Plan that evaluates, plans, and incorporates all elements of wastewater and stormwater needs in the 2021/2022 cycle. Total project costs are estimated at $25 – 27 million.

The improvements are required by DNR/EPA but funding is only done through Sewer User Fees. A new fee structure was adopted by City Council in December 2017 that established a Service Availability Fee of $3/household meter growing to $12/household meter over the next four years. The SAF is designed to cover the operating and maintenance cost of the sewer collection system. The variable rate component of the sewer charge is volume based ($5.35/1,000 gallons of water) is the revenue stream needed to maintain and operate the three sewer treatment facilities serving the Rolla community. It is that rate which will cover the Sewerage System Revenue Bond.

The City is currently in the due diligence phase of the DNR State Revolving Fund (SRF) which provides low interest financing for such improvements. The SRF requires a voter approved revenue bond (planned for November 6th) but will provide interest savings of approximately $6.5 million over the 20-year life of the bond.

Recommendation: First Reading of Ordinance of Special Bond Election Sewerage System Revenue Bonds up to $27,750,000.
# City of Rolla, Missouri

$27.750 Million Financing Amount  
Revenue Bonds through SRF vs Certificate of Participation Comparison  

July 12, 2018

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Interest Rate *</th>
<th>Average Annual Debt Service</th>
<th>Total Debt Service for 20 Years</th>
<th>Advantages</th>
<th>Disadvantages</th>
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<td>Revenue Bonds Issued Through SRF Program</td>
<td>1.85%</td>
<td>$1,672,576</td>
<td>$33,451,515</td>
<td>Interest rate less volatile</td>
<td>More vigorous DNR Process</td>
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<td>Certificates of Participation</td>
<td>3.75%</td>
<td>$1,996,969</td>
<td>$39,939,375</td>
<td>Easier DNR process requirements</td>
<td>Interest rate more volatile</td>
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</table>

* Based on current interest rates
AN ORDINANCE CALLING A SPECIAL BOND ELECTION IN THE CITY OF ROLLA, MISSOURI, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF SAID CITY THE FOLLOWING PROPOSITION, TO-WIT: SHALL THE CITY OF ROLLA, MISSOURI, ISSUE ITS SEWERAGE SYSTEM REVENUE BONDS IN THE AMOUNT OF $27,750,000 FOR THE PURPOSE OF EXTENDING AND IMPROVING THE SEWERAGE SYSTEM OF SAID CITY, INCLUDING IMPROVEMENTS TO THE SYSTEM'S WASTEWATER TREATMENT PLANTS, THE COST OF OPERATION AND MAINTENANCE OF SAID SEWERAGE SYSTEM AND THE PRINCIPAL OF AND INTEREST ON THE SEWERAGE SYSTEM REVENUE BONDS TO BE PAYABLE SOLELY FROM THE REVENUES-derived BY SAID CITY FROM THE OPERATION OF ITS SEWERAGE SYSTEM; DESIGNATING THE TIME OF HOLDING SAID ELECTION; PRESCRIBING THE FORM OF NOTICE OF SAID ELECTION AND THE FORM OF BALLOT TO BE USED THEREAT; AUTHORIZING THE CITY CLERK TO GIVE NOTICE OF SAID ELECTION; AND DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR CERTAIN CAPITAL EXPENDITURES IN CONNECTION WITH IMPROVEMENTS TO THE CITY'S SEWERAGE SYSTEM.

WHEREAS, the City of Rolla, Missouri, owns and operates its sewerage system; and

WHEREAS, the City Council of said City hereby finds that it is necessary to improve and extend said sewerage system, the total estimated costs thereof being in the amount of $27,750,000;

WHEREAS, the City Council of said City desires to submit to the qualified voters of said City the proposition hereinafter set forth; and

WHEREAS, the City Council of said City desires to declare its intent to reimburse itself for certain capital improvements to said sewerage system from the proceeds of bonds or other obligations issued by or on behalf of the City.

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

Section 1. That it is hereby found and determined that it is advisable and in the interests of the City to extend and improve the sewerage system of the City.

Section 2. That an election be, and the same is, hereby ordered to be held in the City of Rolla, Missouri, on Tuesday, November 6, 2018, for the purpose of submitting to the qualified voters of said City the following proposition, to-wit:

Shall the City of Rolla, Missouri issue its sewerage system revenue bonds in the amount of $27,750,000 for the purpose of extending and improving the sewerage system of said city, including improvements to the system's wastewater treatment plants, the cost of operation and maintenance of said sewerage system and the principal of and interest on the sewerage system revenue bonds to be payable solely from the revenues derived by said City from the operation of its sewerage system?

Section 3. That the City Clerk is hereby authorized and directed to notify the Clerk of the County Commission of Phelps County of the adoption of this ordinance no later than 5:00 p.m. on Tuesday, August 28, 2018, and include in said notification all of the terms and provisions required by Chapter 115 of the Revised Statutes of Missouri, as amended, including a certified copy of the legal notice of election. Said
election shall be held and conducted and the result thereof shall be canvassed in all respects in conformity with the Constitution and laws of the State of Missouri, and in accordance with appropriate ordinances adopted by the City Council of the City of Rolla, Missouri.

Section 4. That the Notice of Election and ballots to be used at said election shall be in substantially the following form:

NOTICE OF BOND ELECTION
CITY OF ROLLA, MISSOURI

Notice is hereby given to the qualified voters of the City of Rolla, Missouri, that the City Council of said City has called a bond election to be held in said City on Tuesday, November 6, 2018, commencing at 6:00 a.m. and closing at 7:00 p.m., on the proposition contained in the following sample ballot:

OFFICIAL BALLOT
SPECIAL BOND ELECTION
CITY OF ROLLA, MISSOURI

Tuesday, November 6, 2018

Shall the City of Rolla, Missouri issue its sewerage system revenue bonds in the amount of $27,750,000 for the purpose of extending and improving the sewerage system of said city, including improvements to the system's wastewater treatment plants, the cost of operation and maintenance of said sewerage system and the principal of and interest on the sewerage system revenue bonds to be payable solely from the revenues derived by said City from the operation of its sewerage system?

YES ☐ NO ☐

INSTRUCTIONS TO VOTERS: If you are in favor of the question, place an X in the box opposite “YES.” If you are opposed to the question, place an X in the box opposite “NO.”

SPOILED BALLOT: If the voter accidentally spoils his ballot or makes an error he may return it to an election judge and receive another. (Section 115.439 of the Revised Statutes of Missouri, as amended)

The polling places for all qualified voters of the City of Rolla, Missouri will be:

Done by order of the City Council this _____ day of __________, 2018.

[Signature]
City Clerk of the City of Rolla, Missouri
Section 5. The City has incurred capital expenditures in connection with improvements to the City's sewerage system and may incur additional capital expenditures in connection with the Project on and after the date hereof. The City intends to reimburse itself for such expenditures with the proceeds of bonds or other obligations to be issued by or on behalf of the City (the "Obligations"). The maximum net proceeds of Obligations expected to be issued for the Project will be $27,750,000.

Section 6. That this ordinance shall be in full force and effect from and after its passage and approval.

* * * * *
PASSED by the City Council of the City of Rolla, Missouri and APPROVED by the Mayor, this ______ day of ________, 2018.

________________________________________________________
Mayor

(SEAL)

ATTEST:

________________________________________________________
City Clerk

APPROVED AS TO FORM:

________________________________________________________
City Counselor
Re: Special Bond Election for the City of Rolla, Missouri

Dear Sir/Madam:

In accordance with Section 115.125 of the Revised Statutes of Missouri, as amended, prior to August 28, 2018, the City of Rolla, Missouri (the "City") notified the Clerk of the County Commission of Phelps County that the City Council of the City, by Ordinance adopted on ________, 2018, called a bond election to be held in the City on Tuesday, November 6, 2018. The legal Notice of Bond Election as delivered to me is attached, in accordance with the provisions of Section 115.125 of the Revised Statutes of Missouri, as amended.

As a result of such notification, we published the legal Notice of Bond Election in accordance with the provisions of Section 115.1272 of the Revised Statutes of Missouri, as amended, and the conduct of the election was held in accordance with the provisions of Chapter 115 of the Revised Statutes of Missouri, as amended.

If you have any questions, please let us know.

_________________________
Clerk of the County Commission of Phelps County

(SEAL)
NOTICE OF BOND ELECTION
CITY OF ROLLA, MISSOURI

Notice is hereby given to the qualified voters of the City of Rolla, Missouri, that the City Council of said City has called a bond election to be held in said City on Tuesday, November 6, 2018, commencing at 6:00 a.m. and closing at 7:00 p.m. local time, on the question contained in the following sample ballot:

OFFICIAL BALLOT
SPECIAL BOND ELECTION
CITY OF ROLLA, MISSOURI

Tuesday, November 6, 2018

Shall the City of Rolla, Missouri issue its sewerage system revenue bonds in the amount of $27,750,000 for the purpose of extending and improving the sewerage system of said city, including improvements to the system's wastewater treatment plants, the cost of operation and maintenance of said sewerage system and the principal of and interest on the sewerage system revenue bonds to be payable solely from the revenues derived by said City from the operation of its sewerage system?

YES ☐

NO ☐

INSTRUCTIONS TO VOTERS: If you are in favor of the question, place an X in the box opposite “YES.” If you are opposed to the question, place an X in the box opposite “NO.”

SPOILED BALLOT: If the voter accidentally spoils his ballot or makes an error he may return it to an election judge and receive another. (Section 115.439 of the Revised Statutes of Missouri, as amended.)
The polling places for all qualified voters of the City of Rolla, Missouri will be:

Done by order of the City Council this ____ day of ___________, 2018.

/s/ Carol Daniels
City Clerk of the City of Rolla, Missouri
CERTIFICATION

I, Carol Daniels, City Clerk of the City of Rolla, Missouri, do hereby state that the attached Notice of Bond Election was duly authorized by the City Council of the City of Rolla, Missouri on __________, 2018.

______________________________
City Clerk of the City of Rolla, Missouri
SUBJECT: Consider an Ordinance Authorizing the Mayor to Execute Certain Agreements related to the sale of RMU's 138kV Transmission Assets

BUDGET APPROPRIATION: N/A	DATE: July 16, 2018

COMMENTARY: The Rolla Board of Public Works has completed negotiations with Ameren Transmission Company of Illinois for the sale of certain 138kV transmission assets owned and operated by RMU. These assets include poles, 138kV insulators and conductor, underlying property rights, optical ground wire, along with 138kV structures and bus work in RMU's Alfermann Substation.

The attached Asset Purchase Agreement and ancillary agreements are the culmination of two Request for Proposals held over the last two years and a competitive bidding process. The Board of Public Works chose the company they believe has the lowest risks for RMU and the highest degree of project success/completion.

The primary driver of this sale is to improve reliability and strengthen the transmission grid in Phelps County in conjunction with other planned Ameren improvements. Other benefits include further rate stabilization or reductions, mitigate future regulatory/operational risks associated with these facilities and re-investment in our local electric infrastructure.

As requested, a public presentation regarding this proposed asset sale will be made at the July 16, 2018 City Council meeting where additional details regarding the proposed transaction will be shared with the public. A public hearing regarding this proposed sale and to gather feedback from the community will be held at the City Council's regular August 6, 2018 meeting.

All documents have been reviewed by either special counsel Nixon-Peabody or local RMU counsel. We still expect some minor housekeeping, primarily with a few schedules or exhibits, but the bulk of the language is agreed upon.

RMU will own and maintain these assets until the financial closing takes place and the assets become part of Ameren's network facilities which is currently scheduled for late 2020.

The attached Ordinance would authorize the Mayor to execute the agreements which the Rolla Board of Public Works has unanimously approved.

The Rolla Board of Public Works and RMU Management recommend approval.

Please contact me should you have any questions. Thank you for your consideration.

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

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE AN ASSET PURCHASE AGREEMENT AND ANCILLARY AGREEMENTS NECESSARY TO COMPLETE THE TRANSACTION, BY AND BETWEEN THE CITY OF ROLLA, MISSOURI, ACTING BY AND THROUGH ITS BOARD OF PUBLIC WORKS ("SELLER"), AND AMEREN TRANSMISSION COMPANY OF ILLINOIS ("BUYER").

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 an Asset Purchase Agreement and ancillary agreements necessary to complete the transaction, by and between the City of Rolla, Missouri, acting by and through its Board of Public Works ("seller"), and Ameren Transmission Company of Illinois ("buyer"). A copy of said agreement being attached hereto and marked Exhibit A.


APPROVED:

________________________
MAYOR

ATTEST:

________________________
CITY CLERK

APPROVED AS TO FORM:

________________________
CITY COUNSELOR
History

- Discussions originated on possible sale of select RMU Assets in 2014/2015 followed by a Request for Proposals.
- The Rollo Board of Public Works (Board) and City Council approved a Letter of Intent for execution with a private company for one solution in early 2017.
- This company failed to get required internal approvals which allowed an Investor Owned Utility (IOU) to begin discussions with RMU in 2017.
- These discussions progressed and in late Fall 2017, a 2nd Request for Proposals was issued.
- Four Respondents submitted proposals which were quickly narrowed down to two proposals.
- Staff began discussions/negotiations with both bidders in December 2017.

History

- Special Board meetings to interview final bidders were held on January 11, 2018. Upon completion, the Board authorized Staff to complete final negotiations with Ameren Transmission Company of Illinois (Ameren).
- January 23, 2018 - Board approved a Term Sheet with Ameren with a recommendation for City Council to approve and authorize RMU GM to execute.
- February 5, 2018 - Rollo City Council concurred with the Rollo Board of Public Works and approved the Term Sheet with Ameren.
- Over the last few months, Ameren and RMU Staff have completed the creation of several documents pertaining to the sale with only minor housekeeping issues remaining.

History

- These documents were reviewed by the Rollo Board of Public Works at their June 26, 2018 meeting and the Board approved the documents with a recommendation for City Council to approve utilizing their normal approval process.
- On July 2, 2018, Rollo City Council was presented the documents and gave preliminary approval subject to a Public Presentation, Public Hearing and their otherwise normal approval process.
- A Public Presentation is scheduled for July 16, 2018 with a possible first reading of an ordinance authorizing the sale.
- A Public Hearing is tentatively scheduled for August 6, 2018 with a possible second reading and vote.

What Assets?

138 kV lines, optical ground wire, weathered steel poles and underlying structures. RMU will still operate 34.5kV and 12.47kV lines on these structures. RMU will lease strands of fiber optic cable in the CPCW.

What Assets?

138 kV dead end structures and bus work at Altermann Substation. RMU will grant an easement to Ameren to access, modify and operate this equipment in Altermann.
What are we selling?

- 138kV transmission lines and partial transfer of underlying easements
- RMU retains rights to operate 34kV and 12kV assets on these poles
- 138kV structures in Allermann Substation, RMU retains ownership of bulk transformers, 34kV equipment and control building
- Ameren will have access in Allermann Substation for Ameren to own/operate their equipment

Why?

- Increase in RMU Reliability when combined with Ameren's other planned improvements in Phelps County
- Part of a larger project benefiting AFCI and Sho-Map-Power
- Reduces Regulatory and Operational Risk for RMU
  - Future NERC requirements
  - Future maintenance of these structures/facilities
  - Transmission Assets are not insurable. Reduces RMU's future risk of damage due to natural or man-made events
- Eliminates Electric Department Debt Service

Benefit to RMU Customers

- Improve reliability and strengthen transmission grid in Phelps County
- Rate stabilization or reductions
- Mitigate future risks
- Re-investment in local Electric Infrastructure

Possible Use of Funds

- Replenish Electric Department Reserves
- Formalize Power Cost Adjustment into a rate reduction or other rate reduction considerations
- Formal Cost of Service Study, with particular attention to Industrial/Power Service Rates
- Infrastructure/Technology Upgrades
  - Lighting well/telegraph/2 transmission Power Line rehabilitation
  - Substation upgrades
  - 15kV/1kV conversions
  - Physical Security Improvements
  - Cyber Security/Intrusion Detection
  - Undergrounding of selected Overhead lines
  - Cofiring
  - Automated Meter Reading System
  - Outage Management System

Documents For Approval

- Asset Purchase Agreement
- Wholesale Connection Agreement
- Facilities Use License Agreement
- Fiber License Agreement
- Assignment of Easement Agreement and Reservation of Rights
- Allermann Substation Easement

Next Steps

- July 16, 2018
  - Public Presentation of Proposed sale and Redacted Agreement
  - 1st Reading, Ordinance to authorize Appraisal of all the Asset Purchase Agreement and Ancillary Agreements
- August 6, 2018
  - Public Hearing
  - 2nd Reading, Ordinance to Approve Asset Purchase Agreement and Ancillary Agreements
- End of 2018 - Receipt of Regulatory Approvals
- 2019/2020 - Construction of Ameren Facilities
- December 2020 - Networking Project Completion and Casing
Questions
ASSET PURCHASE AGREEMENT

by and between

THE CITY OF ROLLA, MISSOURI, ACTING BY AND THROUGH ITS BOARD OF PUBLIC WORKS

("SELLER")

and

AMEREN TRANSMISSION COMPANY OF ILLINOIS

("BUYER")

Dated as of

[AUGUST] __, 2018
ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the “Agreement”) is made and entered into as of this ___ day of [August], 2018 (“Execution Date”), by and between The City of Rolla, Missouri, acting by and through its Board of Public Works (sometimes referred to as Rolla Municipal Utilities or RMU), a municipal corporation of the State of Missouri (“Seller”), and Ameren Transmission Company of Illinois, an Illinois corporation (“Buyer”) (Seller and Buyer each individually a “Party,” and collectively, the “Parties”).

RECITALS

WHEREAS, Seller (a) owns two (2) 138kV transmission lines, both emanating from the Alfermann Substation, with one being 2.83 miles in length and connecting to Ameren Missouri’s 138kV transmission line running between the Osage Substation and the Clark Substation, and the other being 4.75 miles in length and connecting to Ameren Missouri’s 138kV transmission line running between the Maries Substation and the Rivermines Substation, along with the optical ground wire (“OPGW”) and other structures and equipment and assets associated with the above described 138kV transmission lines and OPGW (collectively, the 138kV transmission lines, OPGW, structures, equipment, and assets associated therewith are collectively referred to as the “Seller 138kV Assets”), and (b) holds certain rights to real property upon which the Seller 138kV Assets are located, including, without limitation the Easement Rights (as defined in Section 1.3) (collectively, the “Associated Property Rights”);

WHEREAS, Buyer, subject to receipt of favorable federal and state regulatory approvals, intends to (a) construct a new greenfield 138kV substation consisting of a five-position ring bus configuration located within close proximity to Ameren Missouri’s 138kV double circuit transmission line (the “Greenfield Substation”), and (b) interconnect the Seller 138kV Assets with the Greenfield Substation, placing the interconnected assets into service and reclassifying the same as a networked transmission project (the “Project”) under the control of the Midcontinent Independent System Operator (“MISO”);

WHEREAS, Buyer desires to purchase from Seller, and Seller is willing to sell, assign and grant to Buyer, all of Seller’s right, title and interest in the Seller 138kV Assets and the Associated Property Rights, under the terms and conditions of this Agreement; and

WHEREAS, simultaneously with the execution of this Agreement, the Parties are entering into (a) an easement assignment and reservation of rights agreement (the “Easement Assignment Agreement”) providing Buyer and Seller the easements and related property rights for the use by Buyer of the Seller 138kV Assets and the continued and contemporaneous use by Seller of the Excluded Assets; (b) a fiber licensing agreement (the “Fiber Licensing Agreement”) providing for a license to be granted by Buyer to Seller for Seller’s use of the OPGW being acquired by Buyer as part of the Seller 138kV Assets; (c) a facility use license agreement (the “Facility Use License Agreement”) providing for Buyer’s operation and maintenance of the Seller 138kV Assets, including structures and poles, and also providing certain pole sharing terms for Seller’s operation of the Excluded Assets, including Seller’s electric distribution lines, and stipulating there will be no pole sharing fees to be charges to Seller, each dated as of the Execution Date, and not effective until the Closing Date, and each subject to amendment as provided for in Section 7.1; and (d) a wholesale connection agreement in substantially the same terms as Exhibit A (the “Wholesale Connection Agreement”) defining the new delivery points between Buyer and Seller within the Alfermann Substation, stipulating that Seller will not be subject to payments for “Wholesale Distribution Service” (as such term is defined in the Wholesale Connection Agreement), dated and effective as of the Closing Date, subject to revision as provided for in Section 7.1 (the Easement Assignment Agreement(s), the Fiber Licensing Agreement, the Facility Use License Agreement, and the Wholesale Connection Agreement are collectively referred to as the “Ancillary Agreements”).
NOW, THEREFORE, in consideration of the mutual promises, covenants, agreements, representations and warranties contained in this Agreement, and other good and valuable consideration, the Parties agree as follows:

ARTICLE I
PURCHASE AND SALE OF ASSETS

1.1. Purchase and Sale of Seller 138kV Assets. Upon the terms and subject to the conditions in this Agreement, at the Closing (as defined in Article II below) Seller shall sell, transfer, convey, assign and deliver to Buyer, and Buyer shall purchase, assume and acquire from Seller, all of Seller’s right, title and interest in and to the Seller 138kV Assets. The Seller 138kV Assets shall be more fully and particularly identified and described on Schedule 1 attached hereto and incorporated herein by reference. Except as provided in Section 1.2 below, all questions regarding whether a particular item of property is within the definition of “Seller 138kV Assets” shall be resolved by reference to Schedule 1 which shall be final and binding on the Parties.

1.2. Excluded Assets. Notwithstanding anything to the contrary contained herein, nothing in this Agreement or Schedule 1 will constitute or be construed as conferring on Buyer, and Buyer is not acquiring any right, title or interest in or to the assets that are described on Schedule 2 attached hereto and incorporated herein by reference (collectively, the “Excluded Assets”), all of which are being specifically excluded from the definition of “Seller 138kV Assets”, and the sale contemplated by this Agreement. In the event of any conflict between Schedule 1 and Schedule 2, the provisions of Schedule 2 shall govern and control.

1.3. Transfer and Grant of Associated Property Rights. At Closing, Seller shall grant or assign to Buyer, to the extent assignable, the Associated Property Rights, including, without limitation, the easements (the “Easement Rights”) (subject to the reservation of the rights of Seller and Seller’s licensees or permittees to construct, reconstruct, repair, remove, patrol, inspect, operate and maintain any Excluded Assets, including Seller’s electric transmission and/or distribution lines on the pole or poles supporting Seller 138kV Assets on any easements, rights-of-way or communications facilities) set forth on Schedule 3 attached hereto and incorporated herein by reference.

1.4. Reservation of Certain Rights by Seller. Notwithstanding anything to the contrary contained herein, nothing in this Agreement or Schedule 3 will constitute or be construed as conferring on Buyer, and Buyer is not acquiring, any right, title or interest in or to the rights of Seller and Seller’s licensees, or permittees to construct, reconstruct, repair, remove, patrol, inspect, operate and maintain any Excluded Assets, including Seller’s electric distribution lines on the pole or poles supporting the Seller 138kV Assets on any easements, rights-of-way, communication facilities or on the Associated Property Rights, including, without limitation, the Easement Rights (collectively, the “Reserved Rights”).

1.5. Transfer of Permits, Licenses, etc. Where portions of the Seller 138kV Assets are located upon or across any railroad property or public highway, street or other public right of way, Seller shall assign and transfer, to the extent assignable and transferable, any right, permit or license for location of, or crossing by, the Seller 138kV Assets, upon such lands, at no cost to Seller, (collectively, the “Permits”) in an appropriate form and manner as may be necessary or required by the grantor of any such Permits. The Permits which shall be assigned or transferred to Buyer, if assignable or transferable, are set forth on Schedule 4 attached hereto and incorporated herein by reference. Seller agrees to cooperate with Buyer to obtain all necessary approval or consent from any applicable railroad company, public authority or any other grantor, required for assignment of the Permits, at no cost to Seller. Should any existing Permits be deemed non-transferrable or otherwise denied transfer by any applicable railroad company, public authority, or other grantor of such Permits, Buyer shall obtain any subsequent or replacement right, permit or license for the relevant location, crossing or operation of the Seller 138kV Assets (“New Permits”). All
costs, expenses and fees associated with the assignment of any of the Permits or the acquisition of any New Permits shall be the sole responsibility of Buyer.

1.6. Assumption of Obligations. On the Closing Date, Buyer will assume and be responsible and liable for all obligations and liabilities relating to, arising from or associated with the ownership, occupancy, possession, use or operation of the Seller 138kV Assets, Associated Property Rights, Permits and any New Permits from and after the Closing Date, including but not limited to: (a) all obligations, liabilities or costs relating to, arising from or associated with operating, maintaining, replacing, rebuilding or reconstructing the Seller 138kV Assets; (b) all obligations or liabilities under any amendments, modifications, extensions or renewals of any Permits; (c) all obligations to comply with, and all liabilities relating to, arising from or associated with the Permits, New Permits and any other permits, licenses, exemptions, allowances and approvals obtained or required in connection with the Seller 138kV Assets; and (d) all obligations or liabilities relating to, arising from or associated with any environmental compliance or remediation required by any governmental authority, including any court, applicable to the Seller 138kV Assets, Associated Property Rights, Permits and/or the New Permits. For the avoidance of doubt, Buyer shall have no responsibility to maintain and shall not assume any liability for any 12kV or 34.5kV underbuild assets supported off the Seller 138kV Assets or any communications equipment owned by Seller that connects to the OPGW. The Parties' obligations with respect to the operation and maintenance of the Seller 138kV Assets after the Closing Date shall be described in further detail in the Facility Use License Agreement.

1.7. Purchase Price. The purchase price ("Purchase Price") for the Seller 138kV Assets, Associated Property Rights and Permits shall be Fourteen Million, Two Hundred and Fifty Thousand Dollars ($14,250,000).
2.2. Closing Deliveries by Seller. At the Closing, Seller shall deliver to Buyer the following:

2.2.1 The Wholesale Connection Agreement in the form attached as Exhibit A, duly-executed on behalf of Seller;

2.2.2 A bill of sale in the form attached as Exhibit B, which shall assign Seller’s rights, title, interests and claims, whether realty or personalty, in and to the Seller 138kV Assets, free and clear of all liens and encumbrances, duly-executed on behalf of Seller (the “Seller Bill of Sale”);

2.2.3 An assignment and assumption agreement in the form attached as Exhibit C, duly-executed on behalf of Seller (the “Assignment and Assumption Agreement”);

2.2.4 All necessary and proper assignments and/or other instruments of conveyance to convey the Permits in an appropriate form and manner as may be necessary or required by the grantor of any such Permits, to the extent assignable;

2.2.5 All necessary and proper assignments and/or other instruments of conveyance to convey the Associated Property Rights (including, without limitation, the Easement Rights), to the extent assignable, to Buyer free and clear of all mortgages, liens, claims, charges, security interests and other encumbrances of any nature whatsoever;

2.2.6 A certified copy of the ordinance authorizing the consummation of the transactions contemplated herein from the Rolla City Council;

2.2.7 A certificate that Seller’s representations and warranties contained in this Agreement are true and correct, in all material respects, as of the Closing Date executed by the General Manager of Seller;

2.2.8 The third-party consents to the transaction contemplated hereby, which consents are listed on Schedule 7 (collectively, the “Seller Third-Party Consents”); and

2.2.9 Such other evidence of the performance of all the covenants and the satisfaction of all conditions required of Seller by this Agreement at or prior to the Closing, as Buyer or its counsel may reasonably require.

2.3. Closing Deliveries by Buyer. At the Closing, Buyer shall deliver to Seller the following:

2.3.1 The unpaid balance of the Purchase Price in cash by electronic funds transfer to an account designated by Seller;

2.3.2 The Wholesale Connection Agreement in the form attached as Exhibit A, duly-executed on behalf of Buyer;

2.3.3 A bill of sale in the form and manner attached hereto as Exhibit D pursuant to which Buyer shall quit claim to Seller any interests or claims of Buyer in and to the Excluded Assets and Reserved Rights, duly-executed on behalf of Buyer (the “Buyer Bill of Sale” and together with the Seller Bill of Sale, the “Bills of Sale”);

2.3.4 The Assignment and Assumption Agreement duly-executed on behalf of Buyer;

2.3.5 Certified copies of applicable board resolutions authorizing the consummation of the transactions contemplated herein, as or if required by any regulatory authority with jurisdiction over the sale of the Seller 138 kV Assets;
2.3.6 A certificate that Buyer’s representations and warranties contained in this Agreement are and correct true, in all material respects, as of the Closing Date executed by an officer of Buyer;

2.3.7 The third-party consents to the transaction contemplated hereby, which consents are listed on Schedule 8 (collectively, the “Buyer Third-Party Consents”); and

2.3.8 Such other evidence of the performance of all of the covenants and satisfaction of all the conditions required of Buyer by this Agreement at or before the closing as Seller or its counsel may reasonably require.

ARTICLE III
REPRESENTATIONS, WARRANTIES AND DISCLAIMERS OF SELLER

3.1. Representations and Warranties of Seller. Except as set forth in the specific Section number of the Seller Disclosure Schedule (as defined herein) that corresponds to the specific Section number of each representation and warranty set forth in this Article Ill, Seller hereby represents and warrants to Buyer as follows, each of which is true and correct on the Execution Date:

3.1.1 Absence of Undisclosed Liabilities. Seller does not have any liabilities or obligations (whether accrued, absolute, contingent or otherwise) which are or, to Seller’s knowledge, after due inquiry, might become a charge against the Seller 138kV Assets or Associated Property Rights to be transferred, assigned and conveyed hereunder.

3.1.2 Absence of Undisclosed Environmental Conditions. Seller has not received an uncured environmental violation notice from any governmental authority, including any court, relating to the Seller 138kV Assets or Associated Property Rights and to Seller’s knowledge there have been no discharges, spills, leaks or other actions that could give rise to an environmental violation notice from any governmental authority, including any court, relating to the Seller 138kV Assets or Associated Property Rights.

3.1.3 Title to Seller 138kV Assets and Associated Property Rights. Seller has good and marketable title to all Seller 138kV Assets and Associated Property Rights to be sold or conveyed to Buyer under this Agreement. All the Seller 138kV Assets and Associated Property Rights will be transferred at the Closing free and clear of all mortgages, liens, claims, charges, security interests, and other encumbrances of any nature whatsoever, including any liens, claims or encumbrances described in Section 7.6 hereof. Title to the Seller 138kV Assets and the Associated Property Rights, along with the Permits, comprise all rights that are currently owned or used by Seller that are necessary for Seller to operate and maintain the Seller 138kV Assets.

3.1.4 Interest in Easement Rights. Seller has an assignable right and interest in and to the Easement Rights to be assigned and transferred to Buyer, and such Easement Rights will be assigned and transferred to Buyer at Closing, free and clear of all mortgages, liens, claims, charges, security interests, and other encumbrances of any nature whatsoever.

3.1.5 Authority, Consents and Enforceability. The execution, delivery and performance by Seller of this Agreement and each Ancillary Agreement, the Assignment and Assumption Agreement and the Seller Bill of Sale provided for herein have been duly authorized and approved by all necessary municipal action required on the part of Seller. Assuming due authorization, execution and delivery of this Agreement on the part of Buyer, this Agreement constitutes a valid and binding obligation of Seller, enforceable in accordance with its terms.
3.1.6 **Proceedings.** Seller has not, during the past five years, received any notice of and there are no pending or, to Seller’s knowledge, threatened condemnation or similar proceedings for assessment or collection of taxes, impact fees or special assessments relating to any of the Associated Property Rights, and no condemnation or eminent domain proceeding or other such similar proceeding against any of the Associated Property Rights is pending or threatened.

3.1.7 **Condition of Assets.** All of the Seller 138kV Assets are in good operating condition, ordinary wear and tear excepted, and have been maintained in accordance with Good Utilities Practices.

3.1.8 **Taxes.** Seller is a political subdivision of the State of Missouri and is not subject to any federal, state, or local Tax. There are no liens with respect to Taxes on any of the Seller 138 kV Assets or Associated Property Rights. There are no pending or threatened audits, investigations, disputes, notices of deficiency, claims, or other actions or proceedings for or relating to any Taxes of Seller which would reasonably be expected to result in (a) any liens on the Seller 138kV Assets or Associated Property Rights or (b) material liability of Buyer for any Tax.

3.2. **Disclaimer of Seller.** Other than as expressly represented in Section 3.1 of this Agreement, Seller makes no representation or warranties of any kind or nature whatsoever. Seller expressly disclaims any and all implied warranties with respect to the Seller 138kV Assets, Associated Property Rights and Permits.

**ARTICLE IV**
**REPRESENTATIONS AND WARRANTIES OF BUYER**

4.1. **Representations and Warranties of Buyer.** Except as set forth in the specific Section number of the Buyer Disclosure Schedule (as defined herein) that corresponds to the specific Section number of each representation and warranty set forth in this Article IV, Buyer hereby represents and warrants to Seller as follows, each of which is true and correct on the Execution Date:

4.1.1 **Authority, Consents and Enforceability.** The execution, delivery and performance by Buyer of this Agreement and each Ancillary Agreement, the Assignment and Assumption Agreement and the Buyer Bill of Sale provided for herein have been duly authorized and approved by all necessary corporate action required on the part of Buyer. Assuming due authorization, execution and delivery of this Agreement on the part of Seller, this Agreement constitutes a valid and binding obligation of Buyer, enforceable in accordance with its terms.

4.1.2 **Buyer’s Assumption.** Except as otherwise expressly provided herein, Buyer understands and agrees it is acquiring the Seller 138kV Assets and Associated Property Rights “AS IS WHERE IS” on the Closing Date, and in their condition on the Closing Date, and that Buyer is relying solely on its own examination of the Seller 138kV Assets, Associated Property Rights and Permits.

4.1.3 **Financial Ability.** Buyer has the financial ability to consummate the transactions and assume the obligations contemplated by this Agreement.

**ARTICLE V**
**CERTAIN COVENANTS AND AGREEMENTS**

5.1. **Modifications.**

5.1.1 To meet the requirements of current laws, regulations or codes, and Buyer’s standard operating procedures, Seller grants Buyer reasonable access and license to perform additions,
upgrades, improvements and other modifications (collectively the “Modifications”), at Buyer’s expense, to the Seller 138kV Assets. The Modifications may include, without limitation: (a) replacement, upgrading and other alterations to components of the Seller 138kV Assets to facilitate interconnection with Ameren Missouri transmission lines; (b) addition of certain facilities upon the site where the Alfermann Substation is located; (c) construction of a control building on the site where the Alfermann Substation is located, with Buyer owning such building and being responsible for its upkeep and maintenance upon completion; and (d) modification of existing fencing, or construction of new fencing, to enclose portions of the Seller 138kV Assets with new assets constructed by Buyer. Buyer shall prepare, implement and enforce rules necessary for the safe, efficient and proper prosecution of the Modifications. Buyer covenants and agrees that it shall provide and pay for all items or services necessary for the proper execution and completion of the Modifications, whether temporary or permanent, and whether or not incorporated or to be incorporated into the Modifications, including, all design, engineering, procurement, installation unloading and construction services, all administration, management, training and coordination, all start-up, commissioning and testing services, all labor, materials, construction aids, equipment, supplies, insurance, permits, licenses, inspections, tools, machinery, storage and transportation, and all other items, facilities and services. Buyer will perform all managerial, supervisory and administrative services that may be necessary to ensure the proper and timely completion of all such activities which form a part of the Modifications. As such, Buyer agrees that it will be ultimately responsible for the proper and timely completion of the entirety of the Modifications, whether performed by Buyer or by any employee or contractor of Buyer. In the event that any employee or contractor of Buyer fails to perform any portion of the Modifications in accordance with this Agreement, Buyer is responsible therefor and hereby binds itself to promptly and diligently correct such failure in accordance with this Agreement, at no cost or expense to Seller.

5.1.2 Buyer shall not interfere with the conduct of Seller’s operations and Seller’s use of the Seller 138kV Assets and Associated Property Rights until the first to occur of the Closing or, if applicable, Buyer’s satisfaction of its obligations in Section 5.1.6, and shall otherwise be in accordance with the terms of this Agreement. The Parties shall cooperate and coordinate the performance of the Modifications by Buyer with the requirements and operations of Seller. Buyer shall carry out the Modifications so as not to interfere with access to, use and occupation of, public or private roads and footpath or to properties whether in possession of Seller or any other person.

5.1.3 Buyer shall repair any damages caused by it to the Seller 138kV Assets (or to any other assets of Seller) occurring during the Modifications, be responsible for any injury to persons or property caused by it during the making of the Modifications, maintain the Modifications in accordance with Good Utility Practice, and at all times comply with any Federal, state and local laws, regulations and ordinances applicable to the Modifications and the Seller 138kV Assets, including, without limitation, ensuring any Modifications are designed, constructed and performed in compliance with all Federal, state and local laws, regulations and ordinances. Buyer shall cause the Seller 138kV Assets or any other assets of Seller damaged by Buyer to be repaired, replaced or reconstructed to substantially the same general condition, character and use as existed immediately prior to such damage or destruction.

5.1.4 Each of the Parties shall notify the other immediately if: (a) such Party is served notice of violation of any law, regulation or ordinance or permit that relate to any aspect of the Modifications; (b) proceedings are commenced which could lead to revocation of any permits that relate to the Modifications; (c) any permits relating to the Modifications are revoked; or (d) such Party becomes aware that the Modifications are not in compliance with law.

5.1.5 Until the first to occur of the Closing or if applicable, Buyer’s satisfaction of its obligation in Section 5.1.6, Buyer shall maintain (a) a policy of commercial general liability insurance, including products/completed operations, with combined single limits, per occurrence, of not less than $1,000,000 for bodily injury, including death and property damage, insuring against any injury or damage
to persons or property that may result from Buyer's use or access to the Seller 138kV Assets, including the making of the Modifications, (b) worker's compensation insurance with statutory limits and employer's liability insurance with limits of not less than $1,000,000 each accident/disease, and (c) excess liability insurance with a limit of not less than $2,000,000 per occurrence (such insurance shall be excess over items (a) and (b) listed above in this Section 5.1.1. Buyer shall have Seller named as additional insured under the above listed insurance policies and Buyer shall provide Seller with certificates of insurance evidencing such insurance coverage, including, without limitation, an additional insured endorsement. The above-required coverages may be satisfied by the use of primary policies, excess policies or a combination of both. Buyer shall be entitled to self-insure any or all of the above insurance coverages.

5.1.6 In the event Closing does not occur, and this Agreement is terminated in accordance with Article X, then (a) Buyer shall remove all Modifications which are readily removable, restore the Seller 138kV Assets, as near as may be practicable, to their condition prior to the Modifications, and all non-readily removable Modifications shall be and become the property of Seller, at no cost or expense to Seller; and (b) if termination is by Buyer pursuant to Section 10.1.2(a), then Seller shall reimburse Buyer an amount equal to lesser of: (i) Buyer's actual out of pocket costs incurred in making the non-readily removable Modifications or (ii) the fair market value (as determined by the Parties in good faith) of all non-readily removable Modifications. Buyer's right of access to the Seller 138kV Assets or to Seller's property or other assets shall terminate upon Buyer's completion of its removal and restoration obligations.

5.2 Cost Reimbursement.

5.2.1 Reimbursement for Modifications to Excluded Assets or Facilities Owned by Seller. For regulatory and operational requirements, Buyer may request Seller to make modifications to the Excluded Assets or other facilities owned by Seller, Buyer shall reimburse Seller for all such costs reasonably incurred by Seller. Buyer estimates the costs of such modifications will be less than $100,000, and if such costs exceed $100,000 Buyer will advance the excess to Seller after such excess costs are estimated. Buyer shall reimburse Seller for all costs incurred by Seller under this Section 5.2.1 within ten (10) days of the date of invoice provided by Seller to Buyer.

5.2.2 Relocation of Seller's Distribution Lines. The Parties acknowledge and agree that to the extent any of Seller's distribution lines are required to be relocated due to the construction of the Project, Buyer shall be responsible for all such relocation costs.

5.3 Regulatory Approvals; The Project.

5.3.1 From and after the Execution Date until the Closing Date, Buyer shall use its reasonable best efforts to promptly, at its sole cost, seek the Required Regulatory Approvals listed on Schedule 5 and all regulatory approvals necessary for the construction of the Project, which approvals are listed on Schedule 9 (the "Project Required Approvals"). Seller shall provide all reasonable cooperation and assistance requested by Buyer in connection with obtaining the Required Regulatory Approvals and the Project Required Approvals, including, but not limited to, supporting Buyer's federal and state regulatory filings by providing testimony and supporting Buyer's public meetings. The costs, expenses and fees for all Required Regulatory Approvals and Project Required Approvals and all other registrations, filings and submissions, including, without limitation, all costs and expenses associated with Seller's cooperation hereunder, shall be the sole responsibility of Buyer.

5.3.2 Buyer shall make the filings listed on Schedule 5 (Required Regulatory Approvals) and Schedule 9 (Project Required Approvals) of this Agreement as promptly as practicable after the Execution Date, and in any event, no later than the date set forth on Schedule 5 for each Required Regulatory Approval and Schedule 9 for each Project Required Approval.
5.3.3 Buyer shall use commercially reasonable efforts to obtain an option, exercisable upon Buyer's receipt of the Required Regulatory Approvals, to purchase the parcel known as Phelps County Parcel No. 03.409.00 (or a similar and adequate tract of land) from the Rolla Community Development Corporation as promptly as practicable after the Execution Date on terms acceptable to Buyer and shall use commercially reasonable efforts to complete construction of the Greenfield Substation on such parcel, and complete all improvements, modifications and other work reasonably necessary to interconnect the Seller 138kV Assets with the Greenfield Substation and commission these assets as the Project no later than December 31, 2020.

5.4. Conduct Business in Ordinary Course and Equipment Documentation. From and after the Execution Date until the Closing Date, Seller shall (a) utilize the Seller 138kV Assets and Associated Property Rights in the usual, regular and ordinary course substantially in the same manner as prior to the Execution Date; and (b) maintain the books and records relating to the Seller 138kV Assets in the usual, regular and ordinary course substantially in the same manner as prior to the Execution Date. At Closing, or as soon thereafter as available to Seller, Seller shall provide to Buyer any drawings, schematics, surveys, operating manuals or guides, manufacturers' warranties, or other records or documentation requested by Buyer that is related to the ownership, operation, maintenance or repair of any of the Seller 138kV Assets.

5.5. No Encumbrances. Seller shall not further mortgage, pledge or otherwise encumber any of the assets to be assigned or sold to Buyer hereunder, except with Buyer's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

5.6. Casualty Loss. If, prior to the Closing Date, all or any portion of the Seller 138kV Assets are damaged or destroyed by a fire or other casualty producing a material loss, and (a) such loss (in excess of any applicable deductible) is covered by Seller's insurance, and (b) the Seller 138kV Assets can be repaired and restored to good operating condition in all material respects, then upon Seller's receipt of such insurance proceeds, Seller shall cause the Seller 138kV Assets to be repaired, replaced or reconstructed to substantially the same general condition, character and use as existed immediately prior to such damage or destruction by the Fall Apart Date (subject to an extension of the Fall Apart Date pursuant to Section 10.1.2).

5.7. Material Adverse Events. Seller shall promptly advise Buyer in writing of any matters arising or discovered after the Execution Date which, if existing or known on or before the Execution Date would reasonably have a material and adverse effect on the Seller 138kV Assets, Associated Property Rights and/or Permits, considered as a whole (a "Material Adverse Event"); provided, however, that none of the following, in and of themselves, shall be or will be deemed to constitute, and none of the following shall be taken into account in determining whether there has been a Material Adverse Event: (a) any change or effect that is generally applicable to (i) the industries and markets in which Seller operates, or (ii) domestic or international economics, regulatory, political or social conditions; (b) any change or effect resulting from changes in law or in the authoritative interpretations thereof; (c) any change or effect resulting from any acts of terrorism or war or changes imposed by a governmental entity associated with additional security to address concerns of terrorism; (d) any change or effect resulting from any tornado, flood, earthquake or other natural; (e) any change or effect resulting from any action or inaction by Buyer, or approved or consented to by Buyer; (f) any change or effect resulting from any action required to be taken pursuant to this Agreement; (g) any change or effect that is generally applicable to the international, national, regional or local electric industry, including changes in local wholesale or retail markets for electric power, or international, national, regional or local electric transmission systems or operations thereof; (h) any change or effect that has been cured by Seller, except, in the case of clauses (a)(i), (a)(ii), (b), (c), (d) and (g) to the extent such changes or conditions disproportionately affect the Seller 138kV Assets or construction of the Project, taken as a whole, relative to other participants in the industry in which Seller operates; or (i) any change or effect resulting from the Modifications.
5.8. **Post-Closing Matters.** Following the Closing Date, Seller agrees that it shall provide to Buyer such records associated with the Seller 138kV Assets and Associated Property Rights as may reasonably be requested by Buyer and each Party agrees that, upon request from the opposite Party, it shall execute and deliver to the other such further written instruments as may be reasonably necessary to complete or evidence the transactions contemplated herein.

5.9. **NERC Compliance.** As of the Closing Date, (a) as between Seller and Buyer, Buyer shall be responsible for compliance with all applicable reliability standards promulgated by NERC with respect to the Seller 138kV Assets and Associated Property Rights, and (b) as between Buyer and NERC, Buyer shall be responsible for compliance with all applicable reliability standards promulgated by NERC with respect to the Seller 138kV Assets and Associated Property Rights, subject to any applicable grace periods.

5.10. **Tax Matters.**

5.10.1 All transfer, documentary sales, use, value-added, gross receipts, stamp, registration, or similar transfer Taxes and fees (collectively “Transfer Taxes”) incurred in connection with the transfer and sale of the Seller 138kV Assets and Associated Property Rights as contemplated by the terms of this Agreement, including all recording or filing fees and other similar costs of Closing that may be imposed, payable, collectible, or incurred in connection with this Agreement and the transactions contemplated hereby and payable to any local, state, or federal tax agency of the United States, shall be paid by Buyer. Buyer and Seller shall cooperate in the timely making of all Tax returns as may be required to comply with applicable laws.

5.10.2 Each Party will provide Tax information or Tax documents reasonably requested by the other Party. Each Party will promptly notify the other of any claim for Taxes asserted by a taxing authority with jurisdiction over either Party. With respect to any claim arising out of a form or return signed by a Party to this Agreement, the signing Party may control the response to and settlement of the claim, but the other Party may participate to the extent it may be liable.

5.11. **Supplemental Disclosure.**

5.11.1 Between the Execution Date and the Closing Date, Seller may update or supplement the Seller Disclosure Schedule, and Buyer may update or supplement the Buyer Disclosure Schedule, to reflect new developments between the Effective Date and the Closing Date with respect to their representations and warranties, and shall provide the other Party with any updates to the Seller Disclosure Schedule, or Buyer Disclosure Schedule, a the case may be, on a quarterly basis; provided, however, that subject to Section 5.11.2 below, the delivery of any such supplemented or updated disclosure shall not (a) affect the determination of (i) whether the conditions to Closing set forth in Section 7.5 have been satisfied or waived, (ii) whether and to what extent there is any right to indemnification under Article IX, or (iii) whether and to what extent there is a right to termination under Article X, or (b) otherwise limit or affect the rights and remedies available to the Parties hereunder.

5.11.2 If such supplemented or updated Seller Disclosure Schedule, or Buyer Disclosure Schedule, as the case may be, delivered pursuant to Section 5.11.1 reflects any event occurring or arising at any time between the Execution Date and the Closing Date, unless the disclosing Party is entitled to provide the other Party with a termination notice pursuant to Section 10.1.2(a), or Section 10.1.3(a), as the case may be, and actually provides the other Party with such termination notice within thirty (30) days after delivery by Seller of such updated Seller Disclosure Schedule, or by Buyer of such updated Buyer Disclosure Schedule, (a) Buyer, in the case of an updated Seller Disclosure Schedule, or Seller, in the case of an updated Buyer Disclosure Schedule, shall be deemed to have waived its right to terminate this Agreement or prevent the consummation of the transactions contemplated by this Agreement as a result of any of the disclosures in such updated Seller Disclosure Schedule or updated Buyer Disclosure Schedule,
and to have accepted the updated Seller Disclosure Schedule, or updated Buyer Disclosure Schedule, and (b) the delivery of an updated Seller Disclosure Schedule, or updated Buyer Disclosure Schedule, shall be deemed to have cured any misrepresentation or breach of warranty that might have existed hereunder by reason of such event and no Indemnified Party (as defined herein) shall have any indemnification rights under Article IX for any such event.

ARTICLE VI
CONFIDENTIALITY

6.1. Confidentiality. Buyer and Seller acknowledge that they are subject to a Non-Disclosure Agreement dated August 7, 2017 by and between Seller and Ameren Services Company, a Missouri corporation, as agent for, inter alia, Buyer, which covers the transactions contemplated by this Agreement. Each of Seller and Buyer agree that they will continue to be bound by the terms of said Non-Disclosure Agreement and, notwithstanding Paragraph 9 thereof, neither Seller nor Buyer will terminate said Non-Disclosure Agreement, or cause same to be terminated, prior to the first to occur of the Closing under this Agreement or the termination of this Agreement under Article X hereof.

ARTICLE VII
CONDITIONS TO OBLIGATIONS OF BUYER

The obligations of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, on or before the Closing Date, of each and every one of the following conditions, any or all of which may be waived, in whole or in part, by Buyer.

7.1. Ancillary Agreements. The Ancillary Agreements shall have been amended, or, in the case of the Wholesale Connection Agreement, revised, to the extent necessary, to reflect, to the Parties' mutual satisfaction: (a) any material factual developments with respect to the use of the Seller 138kV Assets or construction of the Project occurring after the Execution Date that requires an amendment or revision to an Ancillary Agreement; or (b) any change in law rendering a provision of an Ancillary Agreement to be illegal or invalid (each a "Development" and collectively, the "Developments"); provided, however, (i) only those provisions impacted by a Development shall be amended and all other provisions shall not be revised or affected thereby; (ii) the Parties agree to replace or revise any provision subject to a Development with a provision that will achieve, to the extent possible, the economic, business and other purposes of such provision impacted by a Development; (iii) in the event a Development, or a series of Developments taken together, constitute a Material Adverse Event, such Development or series of Developments shall not affect Buyer's ability to terminate this Agreement pursuant to Section 10.1.2(b) hereof but shall relieve Buyer of any obligation to revise or replace any affected provision of any Ancillary Agreement; provided, however, prior to relieving Buyer of any obligation to revise or replace any affected provision of any Ancillary Agreement or any such termination by Buyer pursuant to Section 10.1.2(b), the Parties shall have negotiated in good faith the terms of the replacements or revisions to the affected Ancillary Agreement for a period of thirty (30) days; and (iv) in the event a Development or a series of Developments taken together, do not constitute a Material Adverse Event, but Seller and Buyer cannot agree upon the terms of the replacements or revisions to the affected Ancillary Agreement, then either Party may send written notice to the other Party of a dispute ("Dispute Notice") and the Parties shall attempt in good faith to resolve any dispute set forth in the Dispute Notice by negotiation and consultation between executive officers of each Party and, in the event that such dispute is not resolved on an informal basis within thirty (30) days after one Party delivers a Dispute Notice to the other Party, either Party may submit the dispute to any mutually agreed to mediation service for mediation by providing to the mediation service a joint, written request for mediation, setting forth the subject of the dispute and the relief requested. In the event the procedure set forth in clause (iii) above is initiated, the Parties agree that they shall cooperate with one another in
selecting a mediation service, shall cooperate with the mediation service and with one another in selecting a neutral mediator and in scheduling the mediation proceedings, shall each use commercially reasonable efforts in participating in the mediation, and shall share equally the mediator’s fees and expenses and the costs incidental to the mediation.

7.2. Greenfield Substation. Buyer shall have purchased the parcel known as Phelps County Parcel No. 03.409.00 (or a similar and adequate tract of land) from the Rolla Community Development Corporation on terms acceptable to Buyer, completed construction of the Greenfield Substation on such parcel, and reasonably completed all improvements, modifications and other work necessary to interconnect the Seller 138kV Assets with the Greenfield Substation and commission these assets as the Project.

7.3. Project Classification and Control. The Project shall have been classified as “Network Transmission Facilities” using the FERC 7 Factor Test, as determined by FERC or Missouri Public Service Commission. The Project shall also have been successfully commissioned and placed into service under MISO control.

7.4. Governmental and Other Third Party Consents and Approvals. Seller and Buyer shall have received the Required Regulatory Approvals (Schedule 5), the Seller Third-Party Consents (Schedule 7), the Buyer Third-Party Consents (Schedule 8), the Project Required Approvals (Schedule 9).

7.5. Representations and Warranties True at Closing. The representations and warranties made by Seller under this Agreement (as supplemented or qualified by the disclosures in any amended Ancillary Agreement) shall be true and correct, in all material respects, on the Closing Date with the same force and effect as though such representations and warranties had been made on and as of such date, except for changes contemplated by this Agreement.

7.6. No Material Adverse Event. From the Execution Date to the Closing Date, no Material Adverse Event shall have occurred and be continuing.

ARTICLE VIII
CONDITIONS TO OBLIGATIONS OF SELLER

The obligations of Seller to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, on or before the Closing Date, of each and every one of the following conditions, any or all of which may be waived, in whole or in part, by Seller.

8.1. Representations and Warranties True at Closing. The representations and warranties made by Buyer under this Agreement (as supplemented or qualified by any disclosure in any amended Ancillary Agreement) shall be true and correct, in all material respects, on the Closing Date with the same force and effect as though such representations and warranties had been made on and as of such date, except for changes contemplated by this Agreement.

8.2. Performance of Obligations. Buyer shall have duly performed all the obligations, acts and undertakings to be performed by it on or prior to the Closing Date.

8.3. Governmental and Other Third Party Consents and Approvals. Seller and Buyer shall have received the Required Regulatory Approvals (Schedule 5), the Seller Third-Party Consents (Schedule 7), the Buyer Third-Party Consents (Schedule 8) and the Project Required Approvals (Schedule 9).
ARTICLE IX
SURVIVAL; INDEMNIFICATION

9.1. Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is twelve (12) months after the Closing Date. All covenants and agreements of the Parties contained herein shall survive the Closing until fully performed. Any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching Party to the breaching Party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

9.2. Indemnification by Seller. Subject to the other terms and conditions of this Article IX, including, without limitation, Section 9.2.4, from and after the Closing Date, Seller shall indemnify and defend Buyer and its representatives (collectively, the “Buyer Indemnitees”), to the extent permitted by law, against and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all losses, damages, liabilities, deficiencies, proceedings, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees and the cost of enforcing any right to indemnification hereunder (collectively “Losses”) incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, with respect to or by reason of:

9.2.1 any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement, the Ancillary Agreements or in any certificate delivered by or on behalf of Seller pursuant to this Agreement, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

9.2.2 any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seller pursuant to this Agreement, the Ancillary Agreements or any certificate delivered by or on behalf of Seller pursuant to this Agreement; or

9.2.3 any action or proceeding made or brought by any person who is not a Party or an affiliate of a Party or a representative of a Party (a “Third Party Claim”) to the extent based upon, resulting from or arising out of Seller’s ownership, use or operation of the Seller 138kV Assets, the Associated Property Rights, the Permits or the Excluded Assets on or prior to the Closing Date.

9.2.4 Notwithstanding the foregoing, Seller’s obligations to indemnify under this Section 9.2 shall at all times remain subject to any limitations imposed upon the authority of a municipal corporation and political subdivision to provide indemnification under Missouri law, and shall not constitute a waiver of Seller’s sovereign immunity, and said obligations shall arise only after full observance and compliance with the provisions of, and shall not in any way waive the right of Seller to assert a defense founded in sovereign immunity, or founded in compliance with the provisions of, Article VI, Section 23, and Article VI, Section 25, of the Missouri Constitution.

9.3. Indemnification by Buyer. Subject to the other terms and conditions of this Article IX, Buyer shall indemnify and defend Seller and its representatives (collectively, the “Seller Indemnitees”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to or by reason of:
9.3.1 any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement or any Ancillary Agreement or in any certificate delivered by or on behalf of Buyer pursuant to this Agreement, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

9.3.2 any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement, the Ancillary Agreements or any certificate delivered by or on behalf of Buyer pursuant to this Agreement; or

9.3.3 any Third Party Claim based upon, resulting from or arising out of Buyer’s ownership, use or operation of the Seller 138kV Assets, the Associated Property Rights or the Permits after the Closing Date.

9.4. Limitations.

9.4.1

9.4.2 No Indemnifying Party shall have any indemnity obligations for consequential, incidental, indirect, special or punitive damages, including any claims for damages based on lost revenues or profits, however caused or on any theory.

9.5. Indemnification Procedures. The Party making a claim under this Article IX is referred to as the “Indemnified Party”, and the Party against whom such claims are asserted under this Article IX is referred to as the “Indemnifying Party”.

9.5.1 Third Party Claims. If any Indemnified Party receives notice of the assertion or commencement of any Third Party Claim against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnifying Party shall give the Indemnifying Party reasonably prompt written notice thereof, but in any event not later than [30] calendar days after receipt of such notice of such Third Party Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume
the defense of any Third Party Claim at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel, and the Indemnified Party shall cooperate in good faith in such defense; provided, that the Indemnifying Party shall not have the right to defend or direct the defense of any such Third Party Claim that seeks an injunction or other equitable relief against the Indemnified Party. In the event that the Indemnifying Party assumes the defense of any Third Party Claim, it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right to participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party’s right to control the defense thereof. The fees and disbursements of such counsel shall be at the expense of the Indemnified Party, provided, that if in the reasonable opinion of counsel to the Indemnified Party, (a) there are legal defenses available to an Indemnified Party that are different from or additional to those available to the Indemnifying Party; or (b) there exists a conflict of interest between the Indemnifying Party and the Indemnified Party that cannot be waived, the Indemnifying Party shall be liable for the reasonable fees and expenses of counsel to the Indemnified Party in each jurisdiction for which the Indemnified Party determines counsel is required. If the Indemnifying Party elects not to compromise or defend such Third Party Claim, fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, or fails to diligently prosecute the defense of such Third Party Claim, the Indemnified Party may pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. Seller and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

9.5.2 Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party, except as provided in this Section 9.4.2. If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnifying Party fails to consent to such firm offer within [ten] days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnifying Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense of such Third Party Claim, it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

9.5.3 Direct Claims. Any action by an Indemnified Party on account of a Loss which does not result from a Third Party Claim (a “Direct Claim”) shall be asserted by the Indemnified Party giving the Indemnifying Party reasonably prompt written notice thereof, but in any event not later than [30] days after the Indemnified Party becomes aware of such Direct Claim. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have [30] days after its receipt of such notice to respond in writing to such Direct Claim. The Indemnifying Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give
rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party's investigation by giving such information and assistance (including access to the Indemnified Party's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such 30 day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

9.6. Payments. Once a Loss is agreed to by the Indemnifying Party or finally adjudicated to be payable pursuant to this Article IX, the Indemnifying Party shall satisfy its obligations within 15 days of such final, non-appealable adjudication by wire transfer of immediately available funds. The Parties hereto agree that should an Indemnifying Party not make full payment of any such obligations within such 15 day period, any amount payable shall accrue interest from and including the date of agreement of the Indemnifying Party or final, non-appealable adjudication to but excluding the date such payment was made, at a rate per annum equal to 6%. Such interest shall be calculated daily on the basis of a 365 day year and the actual number of days elapsed.

9.7. Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the Parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

9.8. Exclusive Remedies. From and after the Closing, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims (other than claims arising from fraud, criminal activity or willful misconduct on the part of a Party in connection with the transactions contemplated by this Agreement, or a breach of a Seller Fundamental Representation or Buyer's Fundamental Covenant) for any breach of any other representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article IX. In furtherance of the foregoing, each Party waives, to the fullest extent permitted under law, any and all rights, claims and causes of action for any breach of any other representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other Party hereto and their respective representatives arising under or based upon any law, except pursuant to the indemnification provisions set forth in this Article IX. Nothing in this Section 9.7 shall limit any Party's right to seek and obtain any equitable relief to which such Party shall be entitled or to seek any remedy on account of any Party's fraudulent, criminal or intentional misconduct or a breach of a Seller Fundamental Representation or Buyer's Fundamental Covenant.

ARTICLE X
TERMINATION

10.1. Termination. This Agreement may be terminated at any time prior to the Closing:

10.1.1 by the mutual written consent of Seller and Buyer;

10.1.2 by Buyer by written notice to Seller if: (a) Buyer is not then in material breach of any provision of this Agreement or any Ancillary Agreement and there has been a breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Seller pursuant to this Agreement or any Ancillary Agreement that would give rise to the failure of any of the conditions specified in Article VIII and such breach, inaccuracy or failure has not been cured by Seller within ninety (90) days of Seller’s receipt of written notice of such breach from Buyer; or (b) any of the conditions set forth in Article VII shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled
by June 30, 2021 (the “Fall Apart Date”), unless such failure shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing; provided, however, such Fall Apart Date shall be automatically extended for such number of months, not more than twelve (12) as may be reasonably necessary, (i) if all of the Project Required Approvals and the Required Regulatory Approvals have not been obtained by June 30, 2021, for Buyer to obtain such approvals so long as Buyer has not breached any of its covenants in this Agreement in any manner that shall have proximately contributed to the failure to obtain any of the Project Required Approvals or the Required Regulatory Approvals, (ii) if any repair, replacement, reconstruction or receipt of insurance proceeds therefor has been undertaken by Seller pursuant to Section 5.6, and completion of same is expected to extend beyond June 30, 2021, for Seller to complete such repair, replacement, reconstruction or obtain insurance proceeds therefor, so long as Seller has not breached any of its covenants in this Agreement in any manner that shall have proximately contributed to the failure to complete such repair, replacement or reconstruction, or (iii) if a Development has occurred and completion of the process set forth in Section 7.1 is expected to extend beyond June 30, 2021, for the Parties to complete such process.

10.1.3 by Seller by written notice to Buyer if: (a) Seller is not then in material breach of any provision of this Agreement or any Ancillary Agreement and there has been a breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Buyer pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VII and such breach, inaccuracy or failure has not been cured by Buyer within ninety (90) days of Buyer’s receipt of written notice of such breach from Seller; or (b) any of the conditions set forth in Article VIII shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by the Fall Apart Date, as such date may be extended as described in Section 10.1.2, unless such failure shall be due to the failure of Seller to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing; or

10.1.4 by Buyer or Seller in the event that (a) there shall be any law that makes consummation of the transactions contemplated by this Agreement or any Ancillary Agreement illegal or otherwise prohibited, provided that the Parties shall have completed the process set forth in Section 7.1, (b) any governmental authority shall have issued a governmental order or decree restraining or enjoining the transactions contemplated by this Agreement and such governmental order shall have become final and non-appealable,

10.2. Effect of Termination. In the event of the termination of this Agreement in accordance with this Article, this Agreement shall forthwith become void and there shall be no liability on the part of any Party except as set forth below in Section 10.3.

10.3. Termination Rights.

10.3.2 Buyer’s or Seller’s Breach. Notwithstanding any payment of the Termination Fee, any termination of this Agreement shall not relieve any Party from any liability for any breach of its representations, warranties, covenants or agreements contained herein prior to such termination. The exercise of a right of termination under this Agreement by any Party shall not be an election of remedies by such Party. In any action by Seller for a breach by Buyer, the Termination Fee plus any non-refundable
deposits paid by Buyer shall be credited against any judgment rendered against Buyer. In any action by Buyer for a breach by Seller, any reimbursements received by Buyer from Seller for Modifications shall be credited against any judgment rendered against Seller.

ARTICLE XI
GENERAL PROVISIONS

11.1. Certain Definitions. As used herein, the following capitalized terms used, but not otherwise defined herein, shall have the following meanings:

11.1.1 "Alfmann Substation" means that certain electrical facility owned by Seller located on Farrar Drive in Phelps County, Missouri.

11.1.2 "Ameren Missouri" means Union Electric Company d/b/a Ameren Missouri, a Missouri corporation.

11.1.3 "Business Day" means any day other than Saturday, Sunday and any day that is a legal holiday or a day on which banking institutions in St. Louis, Missouri are permitted or required to be closed.

11.1.4 "Buyer Disclosure Schedule" means the disclosure schedule, in the form attached hereto and dated the Execution Date, delivered by Buyer to Seller at or prior to the Execution Date, as updated or supplemented pursuant to Section 5.11.

11.1.5 "Clark Substation" means that certain electrical facility owned by Ameren Missouri and located on Grassy Hollow Road in Washington County, Missouri.

11.1.6 "FERC" means the Federal Energy Regulatory Commission.

11.1.7 "Good Utilities Practices" means any of the practices, methods and acts generally accepted in the transmission industry in areas similar to Seller’s service territory as good practices applicable to electric transmission assets of similar design, size and capacity to Seller’s electric transmission assets or any of the practices, methods or acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business and transmission practices, reliability, safety and expedition. "Good Utilities Practices" is not intended to be limited to the optimal practices, methods or acts to the exclusion of all others, but rather to practices, methods or acts generally accepted in the transmission industry in areas similar to Seller’s service territory.

11.1.8 "Maries Substation" means that certain electrical facility owned by Ameren Missouri and located on State Highway 28 in Maries County, Missouri.

11.1.9 "MoPSC" means the Missouri Public Service Commission.

11.1.10 "NERC" means the North American Electric Reliability Corporation.

11.1.11 "Osage Substation" means that certain electrical facility owned by Ameren Missouri and located on Bagnell Dam Boulevard in Miller County, Missouri.

11.1.12 "Rivermines Substation" means that certain electrical facility owned by Ameren Missouri and located on Rebel Drive in St. Francois County, Missouri.
11.1.13 “Seller Disclosure Schedule” means the disclosure schedule, in the form attached hereto and dated the Execution Date, delivered by Seller to Buyer at or prior to the Execution Date, as updated or supplemented pursuant to Section 5.11.

11.1.14 “Tax” or “Taxes” means (a) any taxes, assessments, fees, unclaimed property and escheat obligations and other governmental charges imposed by any taxing authority, including income, profits, gross receipts, net proceeds, alternative or add on minimum, ad valorem, value added, turnover, sales, use, property, personal property (tangible and intangible), environmental, stamp, leasing, lease, user, excise, duty, franchise, capital stock, transfer, registration, license, withholding, social security (or similar), unemployment, disability, payroll, employment, social contributions, fuel, excess profits, occupational, premium, windfall profit, severance, estimated, or other charge of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not; and (b) any liability for the payment of any amounts of the type described in clause (a) as a result of the operation of law or any express or implied obligation to indemnify any other person.

11.2. Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses, whether or not the Closing shall have occurred.

11.3. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 11.3):

If to Seller: The City of Rolla, Missouri, acting by and through its Board of Public Works
102 West 9th Street
Rolla, Missouri 65402-0767
Attention: Mr. Rodney P. Bourne, P.E.
General Manager
Facsimile: __________________________
E-mail: __________________________

with a copy to: Nixon Peabody LLP
1300 Clinton Square
Rochester, New York 14604-1792
Attention: Lori B. Green
Facsimile: 866-947-1133
E-mail: lgreen@nixonpeabody.com
11.4. **Interpretation.** For purposes of this Agreement, (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “herein,” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Schedules and Exhibits mean the Articles and Sections of, and Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

11.5. **Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

11.6. **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

11.7. **Entire Agreement.** This Agreement and the other Ancillary Agreements constitute the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the Ancillary Agreements, the Exhibits and Schedules (other than an exception expressly set forth as such in a Schedule), the statements in the body of this Agreement will control.

11.8. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Neither Party may assign its rights or obligations hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, that prior to the Closing Date, Buyer may, without the prior written consent of Seller, assign all or any portion of its rights under this Agreement to one or more of its affiliates or subsidiaries. If Buyer assigns all or any portion of its rights to one or more of its affiliates or subsidiaries prior to the Closing Date Buyer shall notify Seller prior to such assignment. No assignment shall relieve the assigning Party of any of its obligations hereunder and Buyer shall remain liable for its assignees’ performance under this Agreement.
11.9. **No Third-party Beneficiaries.** This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

11.10. **Amendment and Modification; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

11.11. **Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.**

11.11.1 This Agreement shall be governed by and construed in accordance with the internal laws of the State of Missouri without giving effect to any choice or conflict of law provision or rule (whether of the State of Missouri or any other jurisdiction).

11.11.2 ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER ANCILLARY AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF MISSOURI IN EACH CASE LOCATED IN THE CITY OF ROLLA AND COUNTY OF PHELPS, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREBIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

11.11.3 EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE ANCILLARY AGREEMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER ANCILLARY AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.11.3.

IV. E. 27.
11.12. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

11.13. **No Third Party Rights.** This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

11.14. **Specific Performance.** Each of the Parties acknowledge that the rights of each Party to consummate the transactions contemplated hereby are unique and recognize and affirm that in the event of a breach of this Agreement by any Party, money damages may be inadequate and the non-breaching Party may have no adequate remedy at law. Accordingly, the Parties agree that such non-breaching Party shall have the right, in addition to any other rights and remedies existing in their favor at law or in equity, to enforce it rights and the other Party’s obligations hereunder not only by an action or actions for damages but also by an action or actions for specific performance, injunctive or other equitable relief (without posting of bond or other security).

[SIGNATURE PAGE FollowS]
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

SELLER:

THE CITY OF ROLLA, MISSOURI,
ACTING BY AND THROUGH ITS BOARD OF PUBLIC WORKS

By ___________________________

Name:

Title:

BUYER:

AMEREN TRANSMISSION COMPANY OF ILLINOIS

By ___________________________

Name:

Title:
# LIST OF EXHIBITS AND SCHEDULES

## Exhibits

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A</td>
<td>Form of Wholesale Connection Agreement</td>
</tr>
<tr>
<td>Exhibit B</td>
<td>Form of Seller Bill of Sale</td>
</tr>
<tr>
<td>Exhibit C</td>
<td>Form of Assignment and Assumption Agreement</td>
</tr>
<tr>
<td>Exhibit D</td>
<td>Form of Buyer Bill of Sale</td>
</tr>
</tbody>
</table>

## Schedules

<table>
<thead>
<tr>
<th>Schedule</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schedule 1</td>
<td>Seller 138kV Assets</td>
</tr>
<tr>
<td>Schedule 2</td>
<td>Excluded Assets</td>
</tr>
<tr>
<td>Schedule 3</td>
<td>Associated Property Rights</td>
</tr>
<tr>
<td>Schedule 4</td>
<td>Permits</td>
</tr>
<tr>
<td>Schedule 5</td>
<td>Required Regulatory Approvals</td>
</tr>
<tr>
<td>Schedule 6</td>
<td>Purchase Price Allocation</td>
</tr>
<tr>
<td>Schedule 7</td>
<td>Seller Third Party Consents</td>
</tr>
<tr>
<td>Schedule 8</td>
<td>Buyer Third Party Consents</td>
</tr>
<tr>
<td>Schedule 9</td>
<td>Project Required Approvals</td>
</tr>
</tbody>
</table>

[Available for viewing/copies by contacting Bill A. Chester, Carol Daniels (Additional 94 pages)]
DEPARTMENT: Community Development

ACTION REQUESTED: First Reading

SUBJECT: A request to, through the subdivision process, reconfigure the boundary lines of the four deeded parcels, one of which is located in Joyner Estates Subdivision and two of which are within the Wild Horse Run Plat No. 1 Subdivision, that are identified by their Phelps County Assessor Account Numbers of 10954.01, 10654.47, 10954.20, and 10954.19.

MEETING DATE: 07-16-2018

GENERAL INFORMATION:
CASE NUMBER: SUB18-07
LEGAL AD DATE: NA
300 FOOT NOTICE: NA

APPLICANT: Norman A. & Dora E. Moutray own three of the four parcels subject to this proposal. Those three parcels are identified by their addresses of 311, 313, and 315 Traci Dawn Drive. Ginger D. Koller & Paul A. Joyner own the other parcel subject to this proposal. This parcel is identified by its address of 1335 Thomas Drive. The agent and surveyor for this project is Christopher Ferguson.

LOCATION: The parcels subject to this proposal (the subject parcels) are the four deeded parcels that are identified by their Phelps County Assessor Account Numbers of 10954.01 (1335 Thomas Drive), 10654.47 (315 Traci Dawn Drive), 10954.20 (313 Traci Dawn Drive), and 10954.19 (311 Traci Dawn Drive). The subject parcels consist of part of Tract A of the Joyner Estates Subdivision, all of Lot 65 and Lot 66 of Wild Horse Run Plat No. 1, and a fractional part of the southwest quarter of the northwest quarter of Section 24, Township 37 North, Range 8 West. The subject parcels are located at the intersection of Thomas Drive and Traci Dawn Drive immediately inside of the southern border of the City of Rolla, Missouri (See Figure 1 for location map).

CURRENT USE & ZONING: 311 (vacant), 313 (one single-family detached unit), and 315 (vacant) Traci Dawn Drive are located within the Single-Family District (R-1). 1335 Thomas Drive is located in the Rural Residential District (R-R) and has a single-family home located on it.

PROJECT DESCRIPTION: The parcel identified as 1335 Thomas Lane will convey approximately 0.99 acres of its southern section to the northern sections of the parcels identified as 311, 313, and 315 Traci Dawn Drive. In the end, the three properties located on Traci Dawn Drive will extend their backyards by 136 feet and 1335 Thomas Drive will have lost a rectangular tract of land. In essence, this proposal consists of shifting the northern boundary lines of the three properties located on Traci Dawn Drive northward by 136 feet. Concurrently with this reconfiguration proposal, the three properties located on Traci Dawn Drive request to have the newly conveyed areas of the lots (i.e. the extended backyards) rezoned from R-R to R-1 in order to meet the minimum lot requirements of the R-1 District rather than those of R-R.
ANALYSIS:

HISTORY & FLAG LOTS: In 2001, the 75-lot subdivision entitled Wild Horse Run Plat No. 1 was approved. The two most western subject parcels along Traci Lane were created through the above-mentioned subdivision. Tract A of the Joyner Estates subdivision and 315 Traci Dawn Drive were created through other means. In 2011, Moutray was sold 315 Traci Dawn Drive without going through the subdivision process. Tract A was created through the approved recording of the Joyner Estates subdivision plat map. It is suspected that the illegal lot split that created 315 Traci Dawn Drive created a flag lot out of Tract A of Joyner Estates. Flag lots are lots that consist of an access portion that does not contain enough frontage to be considered conforming to the lot requirements and a building portion. Flag lots may be created initially by a subdivision if, in part, the access portion is at least 40 feet wide and no deeper than 250 feet (See Sec. 42-26.6(8)). Tract A of Joyner Estates did meet the minimum requirements for a flag lot and was recognized through said plat. However, flag lots may not be further subdivided into additional lots without road construction that corrects the lack of frontage. Since this proposal does not create new lots nor does it adjust lot lines in a way that would increase or decrease the length and width of the access portion of the existing flag lot, the subdivision requirements pertaining to flag lots are not violated by this proposal.

BULK REQUIREMENTS: Lot width will not be affected by this proposal and only 1335 Thomas Drive will be reduced in size. However, 1335 Thomas Drive will be over eight acres in size, which is about eight times the minimum lot size in R-R.

PROCESS & INTERNAL COMMENTS: Public Works submitted a memo that commented on the first draft of the applicants plat map (See Figure 2 for the first draft plat map and Figure 3 for said memo). The comments consisted of, in part, requests for numerous minor revisions, such as adding a title to the plat map and renumbering the lots. However, at the Development Review Committee meeting, Public Works revoked items 11 and 12 on that comment memo because, after discussion with the applicant and agent, there was no need for those revisions. Rolla Municipal Utilities had no comments on the case. Staff is awaiting the second draft, which will be reviewed and commented on. This process will continue until no more revisions are requested.

PUBLIC COMMENTS: No protest petitions have been filed to this department and only the daughter of a nearby owner inquired about the case.

ACTION REQUIRED: Unanimously, the Planning and Zoning Commission recommended the approval of the proposal with the condition that is stated below. The action requested from the City Council is to conduct the first reading of the applicant’s proposal to reconfigure the boundary lines of the four deeded parcels, one of which is located in Joyner Estates Subdivision and two of which are within the Wild Horse Run Plat No. 1 Subdivision, that are identified by their Phelps County Assessor Account Numbers of 10954.01, 10654.47, 10954.20, and 10954.19. If approved, staff recommends that the following condition be added to the ordinance:

A condition of the approval of this ordinance is that a recorded deed conveyancing the above-described property to Norman A. & Dora E. Moutray shall be submitted to the Community Development Department within 60 days of the approval of this ordinance, a point in time after which this ordinance will become null and void if no such deed is submitted.
Figure 2, SUB18-07, First Draft of Plat Map
Memo

TO: Community Development  
FROM: Everett Briggs/Public Works Staff  
Cc: Christopher Ferguson, SH, DP, DJ, DF, TF, AM and File  
DATE: June 22, 2018  
SUBJECT: Final Plat Review of Joyner Estates

The public works staff has completed review of the above referenced plat and except for the following finds it to be in accordance with City of Rolla, Missouri Subdivision codes.

1) Due to the size of each of the lots in this subdivision a Land Development Permit will not be required. However, all Best Management Practices (BMP's) should be used to insure that sediment does not leave the construction site.

2) The fee in lieu of storm water detention facilities was paid when the Wild Horse Run Plat No. 1 was platted. No additional fees are due at this time.

3) The dates shown on the plat in the signature blocks are all incorrect.

4) In the dedication the plat No. 1 of the Wild Horse Creek subdivision is listed. This should be the Wild Horse Run subdivision.

5) A proper title for this plat needs to be shown and all the subtitle text should be reduced in size.

6) As the boundary of Tract “A” is changing and additional easements across Tract “A” are needed it should be part of this subdivision.

7) The out boundary of the entire subdivided area should be shown with a heavy border line and all interior former subdivision & easement lines should be ghosted in.

8) The written description should be changed to include Tract “A”.

9) All of the easements of the Joyner Estates plat should be shown.

10) The new lots should be labeled Lots 1, 2, 3 and 4. They should include the entire lot and their label should show the total area of each lot.

11) New easement should be shown going around the north ends of Lots 1, 2, and 3 and should be 20 foot wide centered on the lot lines.

12) All existing easements to be vacated should be labeled as such.

13) New building set back and side yard lines should be shown to conform with the new lot lines and zoning.

14) The purpose of and the beneficiary of the existing 10 foot wide easement running across Lot 4 (formerly Tract “A”) and the new Lot 1 should be shown.

15) The Rolla city codes can be accessed online at www.rollacity.org and then click on the city ordinance button.
ORDINANCE NO. ______

AN ORDINANCE TO, THROUGH THE SUBDIVISION PROCESS, RECONFIGURE THE BOUNDARY LINES OF THE FOUR DEEDED PARCELS, ONE OF WHICH IS LOCATED IN JOYNER ESTATES SUBDIVISION AND TWO OF WHICH ARE WITHIN THE WILD HORSE RUN PLAT NO. 1 SUBDIVISION, THAT ARE IDENTIFIED BY THEIR PHELPS COUNTY ASSESSOR ACCOUNT NUMBERS OF 10954.01, 10654.47, 10954.20, AND 10954.19. (MOUDRAY)

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

SECTION 1: An ordinance to, through the subdivision process, reconfigure the boundary lines of the four deeded parcels, one of which is located in Joyner Estates Subdivision and two of which are within the Wild Horse Run Plat No. 1 Subdivision, that are identified by their Phelps County Assessor Account Numbers of 10954.01, 10654.47, 10954.20, and 10954.19.

SECTION 3: That 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 revised plat has been filed with the Phelps County Recorder of Deeds and, if required, development plans for public improvements have been approved by the Public Works Director.


APPROVED:

_________________________
Mayor

ATTEST:

_________________________
City Clerk

APPROVED AS TO FORM:

_________________________
City Counselor