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.

COUNCIL PRAYER
Ministerial Alliance

AGENDA OF THE ROLLA CITY COUNCIL
Tuesday, January 22, 2019
901 North Elm Street
City Hall Council Chambers
6:30 P.M.

PLEDGE OF ALLEGIANCE
Councilwoman Tiffany Henry

I. PUBLIC HEARINGS
A) Ordinance Inserting a New Division into Article III of Chapter 42 of the Code, Division 22 — Wireless Communications Facilities Code (Wireless Facilities) — (City Planner James Shields) — First Reading

II. SPECIAL PRESENTATIONS

III. OLD BUSINESS
A) Ordinance Authorizing the Mayor to Execute a License Agreement with St. Maria’s LLC for Entrance Sign — (Public Works Director Steve Hargis) — Final Reading
B) Ordinance Authorizing the Mayor to Execute a Sewer Use Agreement with Hartmann US— (Public Works Director Steve Hargis) — Final Reading

IV. NEW BUSINESS

V. CLAIMS and/or FISCAL TRANSACTIONS
A) Resolution Authorizing Financing of Zuercher CAD System through PCESB — (Police Chief Sean Fagan) — Motion

VI. MAYOR/CITY COUNCIL COMMENTS
A) Motion Reappointing Mr. Chris Beaugard as the City’s Representative to the Phelps County University Extension Council for a Two-Year Term (January 2021) — Motion

VII. CITIZEN COMMUNICATION
A) Open Citizen Communication

VIII. COMMENTS FOR THE GOOD OF THE ORDER

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

X. ADJOURNMENT
City of Rolla
City Council Agenda

Department: Community Development
Action Requested: Public Hearing/First Reading

Subject: A request to insert a new division into Article III of Chapter 42, which is
known as the Rolla Planning and Zoning Code, and for this code to be
known as Division 22 - Wireless Communications Facilities Code.

Meeting Date: 01-22-2019

General Information:
Case Number: TXT18-08
Legal Ad Date: 11-24-2018

Background:

Small Cell Technology: Cells are part of a communication network that transmit data
to mobile devices. Cells come in two major scales, macrocells and microcells. Macrocells are most
commonly associated with communication towers, are high-powered, and have a large coverage
area. Microcells (AKA small cells or small wireless facilities) (See Figure 1 for examples) are low-
powered antennas that have small coverage areas. The demand for bandwidth is increasing
exponentially. Wireless carriers have found that while macrocells are good for wide area coverage
for voice services, they are not efficient for data services. Microcells, are better for data coverage
because they are closer to the user and there is less signal interference. Towers are normally only
permitted in certain nonresidential districts, which makes finding ideal sites for coverage difficult.
Small cells provide a solution to building more towers and the lack of sites by being able to be
deployed around an urban area on existing structures, such as utility poles, light poles, buildings,
and traffic lights. In order to facilitate their deployment, state and federal governments have
enacted laws that will prevent localities from making it too difficult, timely, or costly to deploy
such technology. At the same time, local governments have been tasked with preventing that same
technology from affecting neighborhood character and property values.

Implications of New State Law: Senate Bill No. 650 (SB650), enacted in 2014,
modifies the Uniform Wireless Communications Infrastructure Deployment Act, enacted into
Missouri Statues in 2013 (the Wireless Act). The Wireless Act supplements federal laws and rules
(Telecommunications Act of 1996, Spectrum Act, and FCC rules) that restrict how municipalities
regulate wireless communication facilities. HB1991 (2018), in part, specifically targets how
localities regulate small cell technology. With the enactment of SB650 and HB1991, State Law,
in many instances, may be more restrictive than federal laws and rules. The Wireless Act’s stated
purpose is to “encourage and streamline the deployment of broadcast and broadband facilities and
to help ensure that robust wireless radio based communication services are available throughout
Missouri”. It and HB1991 attempts to accomplish this goal by streamlining regulations to access
ROW and city poles, by capping costs and fees, and speeding timelines for consideration and
processing of small cell siting applications.

Rolla’s Zoning Solution: In August of this year, Rolla zoned all ROW that is within
250 feet of a residential zoning district as the Single-Family District (R-1), which resulted in about
58% of the ROW being zoned R-1. Why this is significant is because HB1991’s would preempt

JA
certain zoning authority over small cell deployment and certain utility poles, except for those areas zoned R-1 before the bill’s effective date, August 28, 2018. In addition, HB1991 required that shortly after its enactment that all cities “adopt an ordinance or develop an agreement that makes available to wireless providers rate, fees, and other terms that comply with” the new law. As part of satisfying this requirement, the City of Rolla proposes to insert a new division within its Planning and Zoning Code, Division 22, to address how wireless communications facilities will be regulated. Division 22 will regulate the placement, construction, and modification of such facilities. The public purposes of such regulations is to preserve the character, aesthetics, and property values of the city. Division 22 strives to achieve these goals by regulating the location, height, and appearance of these facilities and ensure adequate camouflaging, fencing, and landscaping is provided where appropriate.

ANALYSIS:
Zoning review is mandatory for any installation or modification of any wireless facility. An application for a wireless facility may be reviewed as a permitted use or may go through an administrative review process. The former being the least comprehensive review and the latter being the second most comprehensive. In addition, the most comprehensive type of review is reviewing a proposal as a conditional use. All proposals must meet the general requirements. These requirements include provisions that address security (proof of precautions), lighting (no lighting unless required), parking (one spot per support structure), and conforms to the following design requirements: Color must be consistent with environment, equipment must be concealed, height of support structures may exceed the height regulations of the underlying zoning district only if needed and shall not be greater than 120 feet, towers shall be of the monopole design (See Figure 4 for an example), and towers must be surrounded by walls/landscaping. There is also a requirement for collocations (i.e. the attachment of additional or replacement complying antenna or equipment to any existing support structure) on historical structures to have a 30-day hearing period, a time in which at least one public hearing shall be had on the matter.

If a proposal does not meet the general requirements or does not qualify for the administrative or permitted use review, the applicant must apply for Conditional Use Permit, which is conducted through the traditional method. The difference between being reviewed as a permitted use and going through an administrative review process is that the permitted use application does not require a site plan or other detailed application materials, such as photos and drawings, but must be accompanied with an attestation that the proposal meets the volumetric requirements of a small wireless facility, as defined in Division 22. The following types of proposals shall qualify as a permitted use: Collocations on existing support structures (permitted in all zones), antenna on or within any existing high-voltage tower (permitted in all zones), antenna on any existing and conforming building or structure (other than a Support Structure or Utility Pole) in all zones, but not on single-family and two-family homes, and new/replacement/modified utility poles less than 50 feet in height and owned by the City in all zones, except single-family zones. Fast-track and disguised support structures are approved through the administrative review process. Disguised support structures are permitted in all zoning districts if it is a primary use, but only permitted as an accessory use to nonresidential uses. Fast-tracks are permitted in all zones.

PUBLIC & INTERNAL COMMENTS: No protest petitions or official comments have been filed to this department by the public. Some concerns were expressed by Chad Davis on behalf of
Rolla Municipal Utilities (RMU) at the public hearing conducted at the first Planning and Zoning (P&Z) Commission meeting on the matter, which was held on 12/11/2018 (the P&Z Commission tabled the agenda item for one month after this testimony). At the second P&Z Commission meeting held on the matter on 01/08/2019, Davis responded to questions about potential impacts to RMU and discussed how the proposed standards will require consent from RMU before improvements are installed on RMU infrastructure. In sum, Davis said that RMU is agreeable to the proposed changes. The most recent memo from Rolla Municipal Utilities (RMU) can be found in Figure 5. Also at the P&Z Commission meeting held on 01/08/2019, Joseph Bond, an attorney with Cunningham, Vogel, & Rost, the Law Firm that drafted the proposed Division 22, answered questions regarding the proposal and explained why the suggested revisions of the first draft were suggested, which was to, in part, clarify certain terms and explained that the revisions maintained equal treatment of telecom providers.

**ACTION REQUIRED:** Unanimously, the P&Z Commission recommended approval this proposal. The action required from the City Council is to conduct a public hearing on and the first reading of the City of Rolla’s proposal to insert Division 22 into the Rolla Planning and Zoning Code.
Figure 1, TXT18-08, Examples of Small Wireless Facilities
Figure 2, TXT18-08, Example of Disguised Support Structures
Figure 3, TXT18-08, Example of Disguised Support Structures
As we have discussed subsequent to the Planning and Zoning meeting on December 11, 2018 my comments about the additional definition for Right-Of-Way were a mistake. I reviewed the draft document we received prior to the meeting too quickly and misread the proposed definition of Right-of-Way. When I commented on the proposed definition I mistakenly over looked the text that noted that utility easements and poles are specifically exempt and therefore not part of Right-of-Way.

We have the document provided to the Planning and Zoning Commission and would like to offer the comments.

42-397: Definitions

5. Utility Pole

- The addition of electric distribution to the definition of Utility Pole is concerning to RMU if that addition may result in more efforts to deploy the small wireless facilities on RMU electric distribution poles, especially if the applicants desire to install the antenna higher on the pole than the electric conductors and has to route their improvements through the electric space on the pole. We appreciate that the City of Rolla staff recognizes this concern and look forward to hearing updates as to how the permitting process will work to coordinate permitting, especially where that process needs to involve ensuring that the applicant has the consent of the pole owner to install the proposed improvements.


d. Consolidated Applications for Small Wireless Facilities.

- Utility Pole in this paragraph should be capitalized since it references a defined term
- RMU would recommend that any consolidated applications for multiple collocated facilities should be grouped such that if there are any locations to be installed on RMU poles those locations should not be grouped with locations for non-RMU owned poles. For example, if an applicant is applying for approval of 15 sites and 10 of those sites are RMU poles the applicant should actually submit 3 groups of applications - one for the 10 locations on RMU poles and the other group for the 5 locations on non-RMU poles. The applicant will be required to obtain a pole attachment agreement with RMU prior to installation on RMU facilities, therefore that step should not impact the timeline for processing the other group. While RMU is interested in working with potential providers deploying this technology we are unsure of the terms the provider(s) may be expecting for pole attachment agreements.
therefore we are unsure if that negotiation process will proceed quickly enough so that other locations are not delayed.

42-3919: General Requirements.
   c) Building codes, safety standards, and zoning compliance.
      - The proposed language allows the applicant to request a waiver of providing a certified engineer's structural report and the Director to make a determination if the waiver is appropriate. RMU would suggest that before any waiver is allowed the owner of the pole must be contacted and their input provided.

42-400. Permitted Use
   b) Application Procedure.
      - The applicant is required to submit a fee of $500 for the installation, modification or replacement of a Utility Pole. This fee is presumably intended to cover only permitting costs associated with a pole replacement. The applicant will presumably be required to comply with terms of a pole attachment agreement with RMU regarding costs incurred by RMU to make any modifications, upgrades, or replacement to provide a pole usable for the attaching entity. This cost is generally referred to as make-ready and would be in addition to any pole attachment fees, all as part of the pole attachment agreement.

42-401. Administrative Approval
   a) Waiver for good cause shown.
      - Any request to allow the applicant to install equipment larger than described needs to be reviewed with the Utility Pole owner before a before the Director approves such application. The Utility Pole owner may or may not be agreeable to allowing larger equipment and the attachment agreement may or may not allow for such additional volume.
AN ORDINANCE OF THE CITY OF ROLLA, MISSOURI AMENDING CHAPTER 42 OF THE ROLLA CITY CODE TO ADOPT REGULATIONS RELATING TO COMMUNICATIONS ANTENNAS AND SUPPORT STRUCTURES AND RELATING TO PREEMPTION BY OR CHANGES IN FEDERAL OR STATE LAW.

WHEREAS, the City has been granted the authority to enact legislation to regulate the construction, placement, and operation of telecommunications towers and antenna pursuant to its zoning powers established in Chapter 89 of the Missouri Revised Statutes and additionally pursuant to its general and specific police powers established by statute authorizing the regulations herein to protect the public health, safety, and welfare; and

WHEREAS, consistent with the Telecommunications Act of 1996, and as amended in 2014, the regulations of this ordinance will not have the effect of prohibiting the provision of personal wireless services and do not unreasonably discriminate among functionally equivalent providers of such service. The regulations also impose reasonable restrictions to protect the public safety and welfare and to ensure opportunities for placement of antennas with prompt approval by the City. This ordinance does not attempt to regulate in areas within the exclusive jurisdiction of the FCC; and

WHEREAS, various new state or federal statutes and regulations continue to be enacted, supplemented, promulgated, and amended regarding regulation of certain communications providers, services, and operations as they pertain to local rights-of-way, zoning regulations, and other municipal authority; and

WHEREAS, the Missouri General Assembly has recently enacted another such law, the “Uniform Small Wireless Facility Deployment Act,” §§ 67.5110 to 67.5121 RSMo., governing certain installations of wireless equipment, which has an effective date of January 1, 2019; and

WHEREAS, the City Council desires to continue at all times to ensure compliance with applicable law, and, therefore, finds it in the best interest of the public to update its telecommunication regulations; and

WHEREAS, a duly noticed and published public hearing was held regarding the proposed regulations in conformity with all requirements of Section 89.060 of the Missouri Revised Statutes and City Code, and the Planning and Zoning Commission has reviewed the amended regulations and given a recommendation of approval; and

WHEREAS, after review of the Planning and Zoning Commission recommendation, the City Council now desires to update its zoning regulations related to support structures and small wireless facilities.
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI, AS FOLLOWS:

Section 1. Chapter 42 is hereby amended to enact a new Division 22 to read substantially in the form of Exhibit 1, attached hereto and incorporated herein by reference.

Section 2. Chapter 42 is hereby amended by:
1. Repealing Subsection 42-189.1.a.1 in its entirety;
2. Repealing Subsection 42-198.1.av in its entirety; and
3. Repealing Subsection 42-204.1.a.5 in its entirety and enacting a new subsection 42-204.1.a.5 to read as follows: Satellite dishes.

Section 3. The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

Section 4. This ordinance shall be in full force and effect from and after the date of its passage and approval.


APPROVED

Mayor

(SEAL)

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Counselor

I A. 10.
DIVISION 22. WIRELESS COMMUNICATIONS FACILITIES CODE

Sec. 42-396. Purpose.

a. Statement of Purpose. The general purpose of this Division 22 ("Division") is to regulate the placement, construction, and modification of telecommunications Wireless Communications Facilities to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City of Rolla. Specifically, this Division is intended to:

1. Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of the City of Rolla;

2. Minimize adverse visual impacts of Wireless Communications Facilities through careful design, siting, landscape screening, and innovative camouflaging techniques that provide predictability for nearby property owners and others that future uses will not materially alter such approved aesthetic protections without zoning hearing procedures and input from interested parties;

3. Ensure that any new Wireless Communications Facilities are compatible with the neighborhood or surrounding community to the extent possible; and

4. Ensure that regulation of Wireless Communications Facilities does not have the effect of prohibiting the provision of personal wireless services, does not unreasonably discriminate among functionally equivalent providers of such service and promotes the provision and availability of communication services within the City, and is no more burdensome than regulations applied to other types of infrastructure deployments.

b. Applicability; preemption. Notwithstanding any ordinance to the contrary, the procedures set forth in this Division shall be applicable to all Wireless Communications Facilities existing or installed, built, or modified after the effective date of this Division to the fullest extent permitted by law. No provision of this Division shall apply to any circumstance in which such application shall be unlawful under superseding federal or state law and furthermore, if any section, subsection, sentence, clause, phrase, or portion of this Division is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

Sec. 42-397. Definitions.

As used in this Division, the following terms shall have the meanings and usages indicated:

a. Accessory Use: Any use authorized herein that exists in addition to the principal use of the property.

b. Antenna: Any device that transmits and/or receives wireless radio waves for voice, data, or video communications purposes including, but not limited to, television, AM/FM radio, texts, microwave, cellular telephone, and similar forms of communications. The term shall
exclude satellite earth station antenna less than two meters in diameter (mounted within 12 feet of the ground or building-mounted) and any receive-only home television antenna.

c. AGL (Above Ground Level): Ground level shall be determined by the elevation at the center location of measurement.

d. Authority Pole: A Utility Pole that is owned and/or operated by the City but shall not include municipal electric utility distribution poles or facilities.

e. Cabinet: A structure for the protection and security of communications equipment associated with one or more Antenna where direct access to equipment is provided from the exterior and that has horizontal dimensions that do not exceed four feet by six feet, and vertical height that does not exceed six feet.

f. Director: The Community Development Director or his/her designee or official acting in such capacity.

g. Disguised Support Structure: Any freestanding, artificial structure designed for the support of Antenna, the presence of which is camouflaged or concealed as an appropriately placed and designed architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure. Such structures may include but are not limited to clock towers, campaniles, observation towers, light standards, flagpoles, and artificial trees. For purposes of this definition, a structure “camouflaged or concealed as an appropriately-placed and designed architectural or natural feature” shall mean:

1. It is consistent with and contributes to and does not detract from the character and property values and use of the area and neighborhood in which it is located;

2. It does not contain distorted proportions, size, or other features not typically found on the type of structure or feature to which it is designed to replicate;

3. It cannot be identified as a Support Structure by persons with reasonable sensibilities and knowledge;

4. Its equipment, accessory buildings, or other aspects or attachments relating to the Disguised Support Structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated; and

5. It is of a height, design, and type that would ordinarily occur at the location and neighborhood selected.

h. Existing Structure: Any structure capable of supporting Wireless Communication Facilities (other than a Support Structure) in full conformance with the design and other requirements of this Division and is: (1) existing prior to the date of all applicable permit applications seeking City authorization for installation of such facilities thereon and (2) not built or installed in anticipation of such specific installation or erected as a means to evade approvals applicable to a non-existing structure.

i. FAA: The Federal Aviation Administration.

j. Fast-Track Small Wireless Facility or Fast-Track: A Small Wireless Facility that meets the following requirements for an Antenna and associated equipment:
1. No more than seven cubic feet in volume (comprised of no more than 27 square feet of exterior surface area, excluding the surface width equal to the width of the Existing Structure or Utility Pole to which it is mounted, on an imaginary enclosure around the perimeter thereof, excluding cable or cable conduit of four inches or less). Volume shall be the measure of the exterior displacement of the Antenna and associated equipment;

2. Located with the consent of the owner on an Existing Structure or Utility Pole, or concealed within or on a replacement Utility Pole if appearance is not materially altered and the replacement Existing Structure or Utility Pole is no more than five feet taller;

3. Not exceeding six feet above the top of an Existing Structure or Utility Pole for a total height not exceeding 50 feet nor taller than more than six feet above the average of similar poles within 300 feet.

k. FCC: The Federal Communications Commission.

l. Height: The vertical distance measured from the center location of measurement at ground level to its highest point and including the main structure and all attachments thereto.

m. Person: An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

n. Right of Way: The area on, below, or above a public roadway, highway, street, or alleyway, but not including:

   1. The airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast service;
   2. Easements obtained by utilities or private easements in platted subdivisions or tracts;
   3. Railroad rights-of-way and ground utilized or acquired for railroad facilities; or
   4. Poles, pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses utilized by a municipally owned or operated utility pursuant to Missouri law.

o. Shelter: A building for the protection and security of communications equipment associated with one or more Antenna and where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected Antenna is prohibited.

p. Small Wireless Facility: Antennas and associated equipment that meet the following:

   1. Each Antenna could fit within an enclosure of no more than six cubic feet in volume; and
   2. All other associated equipment, to the extent permitted by applicable law to be calculated, of cumulatively no more than 28 cubic feet in volume; provided that no single piece of equipment on the Authority Pole shall exceed nine cubic feet in volume, and no single piece of ground mounted equipment shall exceed 15 cubic feet in volume.
q. Support Structure: A Tower or Disguised Support Structure.

r. Tower: A structure designed for the support of one or more Antenna and including guyed towers, self-supporting (lattice) towers, or monopoles, but not Disguised Support Structures, Utility Poles, or buildings. The term shall also not include any Support Structure that includes attachments of 50 feet or less in height owned and operated solely for use by an amateur radio operator licensed by the FCC.

s. Utility Pole: A pole or similar structure that is or may be used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for the collocation of Small Wireless Facilities or Fast Track.


Sec. 42-398. Application Procedures; Timing.

a. Applications. Applications for permitted, administrative, or conditional uses pursuant to this Division shall be subject to the supplementary procedures in this Division. Applications shall be submitted to the City as a complete application on forms provided by the City. A “complete application” shall be an application submitted on the forms provided by the City, fully executed by the applicant, identifying the specific approvals sought, and containing all attachments, fees as may be established to reimburse the City for its inspection and review costs, and information as required thereon or by the City, consistent with this Division. Applications shall be accompanied by a building permit application and other applicable forms.

b. Proof of Owner Consent. Applications for permitted, administrative, or conditional uses pursuant to this Division shall be required to provide proof of owner consent, which shall minimally include:

1. Written consent to pursue the application by all fee simple owners of the underlying real estate (or where located in street rights-of-way, the rights-of-way owner thereof), including when the proposed location is also in a utility easement; and

2. Written consent to pursue the application of the owner of the structure on which such Facility is to be placed, if different than applicant.

c. Timing. Applications shall be decided upon within a reasonable time, subject further to state or federal specific additional time requirements as may apply to the particular application.

d. Consolidated Applications for Small Wireless Facilities. An applicant may submit a consolidated application and receive a single permit for up to 20 collocated Small Wireless Facilities, provided that they are for the same or materially the same design of Small Wireless Facility being collocated on the same or materially the same type of Utility Pole or Support Structure. Denial of one or more Small Wireless Facilities in a consolidated application shall not delay processing of any other Small Wireless Facilities in the same consolidated application.
e. Opportunity to Cure. In case of a denial, the applicant may cure the deficiencies identified by the City and resubmit the application within 30 days of the denial without paying an additional application fee. The City shall approve or deny the revised application within 30 days of resubmission and limit its review to the deficiencies cited in the original denial.

Sec. 42-399. General Requirements.

a. Applicability. The requirements set forth in this Division shall be applicable to all Wireless Communications Facilities within the City installed, built, or modified after the effective date of this Division to the full extent permitted by law. Such zoning review and approvals required in this Division shall be in addition to any other generally applicable permitting requirement, including applicable building, excavation, rights-of-way, or other permits or approvals.

b. Principal or accessory use. Towers may be either a principal or accessory use in all non-residential zoning districts, subject to any applicable requirement relating to yard or setback. An accessory use subject to a leasehold interest of a person other than the lot owner may be approved for a Tower only if the leasehold area separately meets all requirements for a separate subdivided lot, including dedicated access, parking, setbacks, and lot size, applicable to a principal use in the district in which the use is proposed as if it was a separate subdivided lot. No other district shall allow Towers unless required by law. All other Wireless Communications Facilities and Utility Poles other than Towers, may be a principal or accessory use in all districts subject to the requirements herein.

c. Building codes, safety standards, and zoning compliance. Wireless Communications Facilities shall be constructed and maintained in compliance with all standards contained in applicable state and local building codes. A certified engineer's structural report shall be required for all applications to construct a new or modify, or any way alter, a Support Structure, a Utility Pole, or Antenna, including Small Wireless Facility and Fast Track, unless waived upon application to the Director stating why such report is unnecessary to the specific application and a determination in the discretion of the Director approving such statement. In addition to any other approvals required by this Division, no Wireless Communication Facility or portion thereof, except for a modification under 47 U.S.C. § 1455(a), shall be erected, replaced, or expanded prior to receipt of a Certificate of Zoning Compliance, unless otherwise required by law, and the issuance of a Building Permit. For sites within City rights-of-way, (1) the most restrictive adjacent underlying zoning district classification shall apply unless otherwise specifically zoned and designated on the official zoning map, (2) Wireless Communications Facilities shall be installed and maintained as not to obstruct or hinder the usual travel or public safety on the rights-of-way or obstruct the legal use of such rights-of-way by authorities or authorized rights-of-way users; and (3) such use shall be required to obtain applicable permits and comply with the City's ROW management rules and regulations set forth in Article III of Chapter 36.

d. Regulatory compliance. All Wireless Communications Facilities shall meet or exceed current standards and regulations of the FAA, FCC, and any other local, state, or federal agency with the authority to regulate Wireless Communications Facilities, and including all required licenses, permits, and taxes applicable to such structure and/or modification. Should such standards or regulations be amended, then the owner shall bring such devices
and structures into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction, or modification of any Wireless Communications Facilities permitted by this Division shall be granted for any applicant having an uncured violation of this Division, any zoning regulation regarding the lot on which the structure is proposed, or any other governmental regulatory, licensing, or tax requirement applicable to such Wireless Communications Facilities within the City unless preempted by applicable law. Modifications under 47 U.S.C. § 1455(a) shall be approved without regard to zoning regulations regarding the lot on which the modification is proposed.

e. Security. All Wireless Communications Facilities shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build, alter, or modify Wireless Communications Facilities. Additional measures may be required as a condition of the issuance of a Building Permit as deemed necessary by the Director or by the City Council in the case of a Conditional Use Permit.

f. Lighting. Antenna, Small Wireless Facilities, Fast Track, and Support Structures shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build, alter, or modify the Antenna, Small Wireless Facilities, Fast Track, or Support Structure. Lighting may also be approved as a consistent component of a Disguised Support Structure. Equipment Cabinets and Shelters may have lighting only as approved by the Director or City Council on the approved site plan.

g. Advertising. Except for a Disguised Support Structure in the form of an otherwise lawfully permitted sign, the placement of advertising on Wireless Communications Facilities is prohibited other than on-premises signage of not greater than one square foot on ground equipment or required safety signage.

h. Design.

1. Color. Subject to the requirements of the FAA or any applicable state or federal agency, Wireless Communications Facilities and attachments shall be painted a neutral color consistent with the natural or built environment of the site or an alternative painting scheme approved by the Director, or the City Council in the case of Conditional Use Permits, consistent with the requirements of this Division.

2. Ground equipment. When authorized, equipment Shelters, or Cabinets shall have an exterior finish reasonably compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located unless not feasible. All ground equipment shall be either placed underground, contained in a single Shelter or Cabinet, or concealed within a building or approved walled compound.

3. Antenna design. Antenna attached to a Disguised Support Structure or Tower shall be contained within the Disguised Support Structure or within or mounted flush on the surface to which they are mounted. Antenna attached to an existing building, Utility Pole, or structure shall be of a color matching the surface to which they are mounted. Antenna on the rooftop or attached to a building shall be screened or
constructed and/or colored to match the structure to which they are attached. All Antennas shall be designed to be disguised and maximally concealed on or within the Support Structure or other structure. Exposed Antennas on “crow’s nest” or other visible platforms or extensions are prohibited.

4. Height. Support Structures and Antennas shall not exceed the height limitation of any airport overlay zone as may be adopted by the City or other regulatory agency. Support Structures and Utility Poles may exceed underlying zoning district height restrictions for buildings and structures only where shown to be necessary, provided that no reasonable and feasible alternative exists. To the extent permitted by applicable law, district height restrictions shall be considered by the City in determining the appropriateness of the design and location of the application under the applicable standards for approval. No Support Structure shall be approved at a height exceeding 120 feet AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant’s system.

5. Monopole design. All Towers shall be of a monopole design. Lattice, guyed Towers, or other non-monopole Tower designs shall not be permitted.

6. Compound walls/landscaping. All Towers shall be surrounded by a minimum of a six-foot high decorative wall constructed of brick, stone, or comparable masonry materials and a landscape strip of not less than ten feet in width and planted with materials, which will provide a visual barrier to a minimum height of six feet. The landscape strip shall be exterior to any security wall. In lieu of the required wall and landscape strip, an alternative means of screening may be approved by the Director, or by the City Council in the case of a Conditional Use Permit, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved. Landscaping or other improvements may be required for Disguised Support Structures if needed to implement an approved disguise.

7. Setbacks. All Support Structures, including any portions of any Wireless Communications Facilities thereon and associated structures, fences, and walls (except for parking associated with the Wireless Communications Facility) shall be separated from any rights-of-way, sidewalk or street, alley, parking area, playground, or other building, and from the property line of any adjacent property at least a horizontal distance equal to the height of the Support Structure, including any portions of any Wireless Communications Facilities thereon.

8. Storage. Vehicle or outdoor storage on any Wireless Communications Facilities site is prohibited, unless otherwise permitted by the zoning district.

9. Parking. One hard-surfaced parking spot per Support Structure for periodic maintenance and service shall be provided.

10. Decorative poles. In districts where there are Utility Poles that were specifically designed for their aesthetic nature and compatibility with the built environment of that district, as determined by the City, such Utility Poles shall be deemed to be decorative Utility Poles. Such decorative Utility Poles, when authorized to be replaced by an applicant for Wireless Communications Facilities pursuant to applicable law and in compliance with this Division and Code, shall only be
replaced with a substantially similar decorative Utility Pole that matches the aesthetics and decorative elements of the original decorative Utility Pole being replaced. Such replacement expenses shall be borne wholly by the applicant seeking to place Wireless Communications Facilities on such decorative Utility Pole.

i. Public property. Wireless Communications Facilities located on property owned, leased, or otherwise controlled by the City shall be subject to the requirements of this Division. A license or lease with the City authorizing the location of such Wireless Communications Facilities shall be required for each site.

j. As-built plans. Within 60 days of completion of the initial construction and any additional construction, three complete sets of plans drawn to scale and certified as accurately depicting the location of all Wireless Communications Facilities constructed shall be furnished to the City.

k. Historic preservation; 30-day hearing period. To the extent permitted by law, approval shall not be issued for any Wireless Communications Facility that the Director or City Council determines would create a significant negative visual impact or otherwise have a significant negative impact on the historical character and quality of any property within a Historic Preservation District or such District as a whole. For collocation of any certified historic structure as defined in Section 253.545 RSMo., in addition to all other applicable time requirements, there shall be a 30-day time period before approval of an application during which one or more public hearings on collocation to a certified historic structure are held. The City may require reasonable, technically feasible and technological neutral design and concealment measures as a condition of approval of a Wireless Communication Facility within a historic district or on a historic structure.

l. Administration. The Director shall have the authority to establish forms and procedures consistent with this Division and applicable federal, state, and local law to ensure compliance and to facilitate prompt review and administration of applications.

Sec. 42-400. Permitted Use.

a. Permitted use. The placement of Wireless Communications Facilities fully conforming with the applicable General Requirements in this Division are permitted in all zoning districts (including the right-of-way) only as follows:

1. Collocations on Existing Support Structures. The attachment of Antenna including Small Wireless Facilities, or associated equipment to any existing fully conforming Support Structure or Utility Pole, or as otherwise authorized by state or federal law where local zoning is preempted, provided that building permit requirements, national safety codes, and other applicable codes including recognized accepted industry standards for structural, safety, capacity, reliability, and engineering are satisfied, including specifically the requirement to submit a certified structural engineering report as provided in Section 42-399.

2. Antenna on high-voltage Towers. The mounting of Antenna on or within any existing high-voltage electric transmission Tower, but not exceeding the height of such Tower by more than ten feet, provided that all requirements of this Division
and the underlying zoning ordinance are met, except minimum setbacks provided in this Division shall not apply.

3. Antenna on existing buildings/structures. In all districts, except not on single-family residential or two-family dwellings, the mounting of Antenna on any existing and conforming building or structure (other than a Support Structure or Utility Pole) provided that the presence of the Antenna and equipment is concealed by architectural elements or fully camouflaged or concealed by painting a color identical to the surface to which they are attached, and further provided that all requirements of this Division and the underlying zoning ordinance are met.

4. Collocation of Small Wireless Facilities on Authority Poles. In accordance with Section 67.5112 RSMo, a wireless provider may collocate Small Wireless Facilities and install, maintain, modify, operate, and replace Authority Poles, at heights below the height limitations outlined in this Subdivision, which shall be a permitted use in all districts except single-family residential and historic districts subject to Subsection b of this Section below.
   
i. New, replacement, or modification of Authority Poles under the following circumstances shall not be considered a permitted use under this Section:
      
      1. Proposals to construct or modify an Authority Pole that exceeds the greater of 50 feet AGL or more than ten feet above the tallest existing Authority Pole as of January 1, 2019 within 500 feet of the proposed Authority Pole in the City; and

      2. Proposals to collocate on an existing Authority Pole in place on August 28, 2018, that exceeds the height of the existing Authority Pole by more than ten feet.

b. Application procedure. Application for a Permitted Use under this Section shall require submission of an application with proof of owner consent as required by Section 42-398 and an application fee of $100.00 per Small Wireless Facility and an application fee of $500.00 for the installation, modification, or replacement of a Utility Pole and collocation of a Small Wireless Facility thereon as required to partly cover the City's actual costs, and not to exceed such amounts as may be limited by law. If the applicant is not a Wireless Services Provider, the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the City that the proposed site(s) will become operational and used by a Wireless Services Provider within one year of the permit’s issuance date. For any application for a Small Wireless Facility, the applicant shall provide an attestation that the proposed Small Wireless Facility complies with the volumetric limitations as required to meet the definition of a Small Wireless Facility in accordance with this Division and pursuant to applicable law. Applicant shall also submit a certified structural analysis as required in the General Requirements of this Division. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application. The Director shall issue a decision on the application for a permitted use within the time frame permitted by applicable law. A decision to deny an application shall be made in writing and state the specific reasons for the denial. With respect to a proposed collocation of a Small Wireless Facility or installation, modification,
or replacement of a Utility Pole, the Director may deny the application only if the proposal could reasonably be expected to:

a. Materially interfere with the safe operation of traffic and control equipment or City-owned communications equipment;

b. Materially and demonstrably interfere with the safe operation of traffic control equipment or City-owned communications equipment;

c. Materially and demonstrably interfere with sight lines or clear zones for transportation, pedestrians, or nonmotorized vehicles;

d. Materially interfere with compliance with the American Disabilities Act, or similar federal or state standards regarding pedestrian access or movement;

e. Materially obstruct or hinder the usual travel or public safety on the rights-of-way;

f. Materially obstruct the legal use of the rights-of-way by the City, utility, or other third-party;

g. Fail to comply with the spacing requirements within Section 36-29.b;

h. Fail to comply with applicable national safety codes, including recognized engineering standards for Utility Poles or Support Structures;

i. Fail to comply with the decorative pole replacement requirements herein; or

j. Fail to comply with undergrounding requirements within Section 36-29.b;

Sec. 42-401. Administrative Approval.

a. Administrative approval. The placement of Wireless Communications Facilities fully conforming with the General Requirements in this Division are permitted in all zoning districts (including the right-of-way) by Administrative Permit approved by the Director only as follows:

1. Disguised Support Structures. Any Disguised Support Structure shall have as a condition of approval, unless expressly exempted in the approval, an obligation that is recorded on the property that runs with the land for the benefit of the public, prohibiting modifications to the Disguised Support Structure that defeats the disguise, unless such proposed modification is approved by a duly authorized zoning or conditional use approval approved. If the applicant does not wish to have such a condition, the application shall not qualify for Administrative Permit approval, unless another mechanism is proposed and approved to ensure that the disguise is not subsequently defeated. A Disguised Support Structure proposed to be located within a public or private right-of-way, street, or other pedestrian or vehicular way may be exempted from the General Requirements of this Article
relating to parking/access and setbacks, unless determined by the Director as applicable to the specific location for safety reasons or other applicable reasons.

2. Fast-Track Small Wireless Facilities. An application for a Fast-Track may be approved administratively by the Director, subject to meeting the following requirements:

   i. General requirements. The following requirements shall generally apply to all Fast-Track located within the City:

      1. The Fast-Track shall substantially match any current aesthetic or ornamental elements of the Existing Structure or Utility Pole, or otherwise be designed to maximally blend in to the built environment, with attention to the current uses within the district at the proposed site;

      2. Any portion above the Existing Structure or Utility Pole shall be concealed and of the same dimensions and appearance so as to appear to be a natural extension of the Existing Structure or Utility Pole in lieu of an enclosure or concealment;

      3. The Fast-Track equipment shall not emit noise audible from the building line of any residentially zoned or used property; and

      4. Location, placement, and orientation of the Fast-Track shall, to the extent feasible, minimize the obstruction to, or visibility from, the closest adjacent properties unless otherwise required by the City for safety reasons.

   ii. Additional requirements when sited near pedestrian and vehicle ways. When a Fast-Track is proposed to be located on an Existing Structure or Utility Pole on or adjacent to public or private streets, sidewalks, or other pedestrian or vehicle ways:

      1. The height of all portions of the Fast-Track shall be located at least eight feet above ground level;

      2. No ground equipment shall be permitted; and

      3. No portions of the Fast-Track shall extend horizontally from the surface of the Utility Pole or Existing Structure more than 16 inches.

   iii. Waiver for good cause shown. Additionally, the Director may for good cause shown increase any one or more of the maximum volumetric specifications from the definition of a Fast-Track by up to 50% if the applicant demonstrates that it:

      1. Does not in any location nationally use equipment capable of meeting the specifications and the purpose of the equipment; and

      2. Cannot feasibly meet the requirements as defined and described.

   iv. The City Council may further waive one or more of the requirements found in the definition of Fast-Track, or from the General Requirements or the
Additional Requirements When Sited Near Pedestrian or Vehicle Ways of this Subdivision, upon good cause shown by the applicant, and provided a showing that the waiver is the minimum necessary to accomplish the purposes of this Division. The burden of proof for any waiver shall be wholly on the applicant.

b. Application procedures. Applications for Administrative Permits shall be made on the appropriate forms to the Director consistent with the requirements of this Division. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

1. General application requirements. Applicant shall submit along with its completed application form:

i. An application fee of not more than $100.00 per “Fast Track” Small Wireless Facility as required to partly cover the City’s actual costs, and an application fee of not more than $500.00 for an application for a Disguised Support Structure and collocation of a Small Wireless Facility thereon and not to exceed such amounts as may be limited by law; any amount not used by the City shall be refunded to the applicant upon written request after a final decision;

ii. A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating the exact location of the facility, all dimensions and orientations of the facility and associated equipment, in addition to all existing and proposed improvements including buildings, drives, walkway, parking areas, and other structures, rights-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the Utility Pole or Existing Structure, if applicable and determined by the Director to be necessary to determine compliance with this Division;

iii. Specifications, dimensions, photos, or drawings of the completed installation;

iv. Proof of owner consent as required by Section 36-29.b.

v. Certified structural analysis as required in the General Requirements of this Division;

vi. If the applicant is not a Wireless Services Provider, the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the City that the proposed site(s) will become operational and used by a Wireless Services Provider within one year of the permit’s issuance date; and

vii. All other information necessary to show compliance with the applicable requirements of this Division.
2. Fast-Track specific application requirements. In addition to the above general application requirements, applications for a Fast-Track shall include the following:
   
   i. An attestation that the proposed Fast-Track meets the volumetric and other requirements to meet the definition of Fast-Track provided in this Division; and

   ii. Information demonstrating that the applicant’s proposed plans are in compliance with § 67.5113.3(9) RSMo. to the satisfaction of the City.

3. Review. The application shall be reviewed by the Director to determine compliance with the above standards, including specifically design, location, safety, and appearance requirements and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.

4. Additional information may be required. In reviewing an application, the Director may require the applicant to provide additional information, including technical studies, to the extent permitted by applicable law, and contained in an applicable code provision, ordinance, application, or other public guideline.

5. Decisions; denials required in writing. The Director shall issue a decision on the permit within the time frame permitted by applicable law. The Director may deny the application or approve the application as submitted or with such modifications or conditions as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens and property values consistent with and to affect the purposes of this Division, and subject to applicable law. The Director may consider the purposes of this Division and the factors established herein. A decision to deny an application shall be made in writing and state the specific reasons for the denial. Provided that with respect to a proposed collocation of a Small Wireless Facility or installation, modification, or replacement of a Utility Pole, the Director may deny the application only for the reasons outlined in Section 42-400(b) above.

Sec. 42-402. Conditional Use Permit.

   a. Conditional Use Permit Required. All proposals to construct or modify a Wireless Communications Facilities not permitted by Section 42-400 or Section 42-401 or not fully complying with the General Requirements of this Division and except for modifications under 47 U.S.C. § 1455(a) which must be approved, shall be permitted only upon the approval of a Conditional Use Permit authorized consistent with Division 16 of Chapter 42 following a duly advertised public hearing, subject to the following additional requirements, procedures, and limitations:

   1. Applications. Applications for Conditional Use Permits shall be filed on such forms required by the Director and processed subject to the requirements of and in the manner established by applicable law, herein, and for Conditional Use Permits in the Zoning Code and, in addition to such other requirements, shall be accompanied by a deposit of $1,500.00, to the extent permitted by applicable law to the specific Wireless Communications Facility. Any amount not used by the City shall be refunded to the applicant upon written request after a final decision. Applications
requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

2. Decision and findings required. A decision shall be contemporaneously accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be under oath and may be submitted with the application or thereafter or presented during the public hearing by the applicant or others.

3. Additional minimum requirements. No Conditional Use Permit shall be issued unless the applicant has clearly demonstrated by substantial evidence that placement of Wireless Communications Facilities pursuant to Section 42-400 or Section 42-401 of this Division is not technologically or economically feasible. The City may consider current or emerging industry standards and practices, among other information, in determining feasibility.

4. Findings required. In addition to the determinations or limitations specified herein and by the applicable provisions of Division 16 of Chapter 42 of this Zoning Code for the consideration of Conditional Use Permits, no Conditional Use Permit shall be approved by the City Council unless findings in the affirmative are made that the following conditions exist:

   i. That the design of the Wireless Communications Facilities, including ground layout, maximally reduces visual degradation and otherwise complies with provisions and intent of this Division;

   ii. That the design is visually compatible with the area, will not distract from the view of the surrounding area, is maximally concealed or blended in with the environment, and will not adversely affect property values;

   iii. That such conditional use shall not be inconsistent or adversely affect the regular permitted uses in the district in which the same is located; and

   iv. That the proposal fully complies with applicable law including the General Requirements herein; provided that an exception to the General Requirements, other than building or safety code compliance, may be approved upon evidence that compliance is not feasible or is shown to be unreasonable under the specific circumstances shown.


Notwithstanding any right that may exist for a governmental entity to operate or construct Wireless Communications Facilities, it shall be unlawful for any person to erect or operate for any private commercial purpose any Wireless Communications Facilities in violation of any provision of this Division, regardless of whether such Wireless Communications Facilities are located on land owned by a governmental entity.

Any Wireless Communications Facility or portion thereof that is no longer in use for its original communications purpose shall be removed at the owner's expense. In the case of multiple operators sharing use of a single Support Structure, this removal requirement shall not apply to the Support Structure until all users cease operations of the same.

Sec. 42-405. Penalty.

Except as may otherwise be provided by law, any person violating any provision in this Division shall be subject to Section 1-7.

Sec. 42-406. Appeals.

The procedures of the Board of Adjustment, pursuant to Division 21 of Chapter 42 shall govern appeals by any aggrieved person of a final action of any City Officer, employee, board, commission, or the City Council that are claimed by an aggrieved person to be unlawful or an unconstitutional taking of property without compensation. To the fullest extent permitted by law, the review procedures of Board of Adjustment, pursuant to Division 21 of Chapter 42 shall be exhausted before any action may be filed in any court against the City or its officers, employees, boards, officials or commissions. Nothing herein shall be deemed to unlawfully limit any remedy that is required to be available as a matter of law.
Mike Woessner of Saint Maria’s, LLC is requesting a license agreement to install an entrance sign in the right of way of 18th Street on the east side of McCutchen Drive. An exhibit is attached showing the sign and the layout of the proposed roundabout at 18th Street and McCutchen Drive. The sign will be placed near the east end of the island in the east leg of 18th Street well clear of the travel way of the roundabout. The purpose of the sign is to act as an entrance sign into the Saint Maria’s Subdivision. There are no other public accesses into this area.

Attached is a license agreement which allow for this entrance sign. Staff recommends approval.
ORDINANCE NO. ____________

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND ST. MARIA’S, LLC.

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

Section 1: That the Mayor of the City of Rolla, Missouri be and is hereby authorized and directed to execute on behalf of the City of Rolla, Missouri an agreement between the City of Rolla, Missouri and St. Maria’s, LLC, a copy of said agreement being attached hereto.


APPROVED:

__________________________
MAYOR

ATTEST:

__________________________
CITY CLERK

APPROVED AS TO FORM:

__________________________
CITY COUNSELOR
GRANT OF LICENSE BY THE CITY ROLLA

This is a license to allow Saint Maria's, LLC, 1703 North Bishop Avenue Rolla, Missouri, to utilize certain City-owned property described herein for the following purposes:

To construct and maintain an entrance sign with landscaping within the right of way of Saint Maria's Street east of McCutchen Drive.

In consideration of the payment of the sum of One Dollars, paid to the City of Rolla, the City of Rolla does hereby grant Saint Maria's, LLC the use of the below described property for the purposes set out above subject to the following terms and conditions:

1) The City property to be used is described as follows:

   A) Construct and maintain an entrance sign with landscaping within the public right-of-way of Saint Maria's Street east of McCutchen Drive as shown in the Exhibit A.

2) Licensee accepts the above described property as is and agrees to keep said property in good repair to prevent any change in condition or prevent any dangerous condition or unattractive nuisance from developing.

3) Licensee shall not sublet the properties described herein or any part thereof or assign use of the right of ingress and egress to said property to any person or persons or in any way allow and other usage of said property unless described herein without the written consent of the City of Rolla.

4) This license shall transfer to the Saint Maria's Tatandra Home Owner's Association when the association is established.

5) The term of this license shall begin January 7, 2019 and shall be terminable upon thirty (30) days notice to licensee unless the City of Rolla shall declare same an emergency and in that case the City of Rolla may obtain possession of said property and cause the use herein set out to cease.

6) Licensee shall be required to provide a Certificate of Insurance in such sums as shall be necessary to protect the City of Rolla and further shall require that the City of Rolla be listed as co-insured on any policy held by licensee. The licensee shall hold the City harmless from any incident or accident arising out of the use or operations specified herein.

7) This license is not an easement, shall not be considered an easement, and this document may not be recorded in the recorder of deeds' office in any county in the State of Missouri or anywhere else. This is a license and, therefore, a limited grant, not running with the land and giving no rights other than those set out herein in the properties described herein.

Dated and signed this 7th day of January, 2019.

Louis J. Magdits IV, Mayor

Attest:

Carol Daniels, City Clerk
Attached is a sewer use agreement for Hartmann US. In the 2017-2018 fiscal year we used a sewer use agreement for sewer fees with Hartmann US. The annual charge for this service was $30,000.00. When we did the original agreement it was for one year extendable for up to one more year. We recommend extending this agreement again for the lump sum fee of $32,200.00.

The agreement allows for Hartmann US to improve both their volume measurement of water entering into our wastewater stream. Much of the water they use evaporates as part of the manufacturing process and just measuring their water usage does not fairly reflect the amount they discharge. In addition, they will be required to participate in our pretreatment program with DNR. We suspended our pretreatment program because we had no industries which required pretreatment. We have been working with DNR in establishing a new pretreatment program and should have it in place within the next few months.

We adjusted last year's estimated upward based on our recent rate increase. Staff recommends extending the contract for one more year.
ORDINANCE NO. ____________

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI A CERTAIN AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND HARTMANN US.

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

Section 1: That the Mayor of the City of Rolla, Missouri be and is hereby authorized and directed to execute on behalf of the City of Rolla, Missouri an agreement between the City of Rolla, Missouri and Hartmann US, a copy of said agreement being attached hereto.


APPROVED:

___________________________
MAYOR

ATTEST:

___________________________
CITY CLERK

APPROVED AS TO FORM:

___________________________
CITY COUNSELOR
AGREEMENT
CONCERNING THE HARTMANN US CONNECTION
TO THE CITY OF ROLLA, MISSOURI SANITARY SEWER COLLECTION SYSTEM

This agreement is made and entered into by and between HARTMANN US, hereinafter referred to as the "DEVELOPER", and the CITY OF ROLLA, MISSOURI, hereinafter referred to as the "CITY."

WHEREAS, the Developer and the City entered into an agreement dated August 28, 2017 for sanitary sewer services at the Developer's facility located at 3701 HyPoint Boulevard within the City's incorporated limits, more fully described below and herein referred to as the Facility; and

WHEREAS, the original agreement was for a period of one (1) year, extendable up to one (1) additional year if mutually agreed upon by the City and Developer; and

WHEREAS, the City is willing to consider an annual lump sum fee of $32,200.00 for extending the original agreement (1) one year;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Developer and the City agree as follows:

PURPOSE. The specific purpose of this agreement is to allow the Developer to pay a lump sum annual fee to discharge effluent to the City's sanitary sewer collection system based on estimated volume and characteristics for a limited period of time. The intent is to provide the Developer ample time to start up production at the Facility, and to stabilize, improve and monitor their process over time to both minimize sewer discharge volume and improve effluent quality.

Upon expiration of this agreement, the Developer agrees to pay monthly sewer fees in accordance with the City's standard billing rates for both volume and surcharges based on metered and sampled effluent from the "Dilution Tank Overflow" tie-in to the City's system.

LEGAL DESCRIPTION. The tract of land herein referred to as the Facility has the following legal description: to-wit:

All of Lot 3 of the Final Plat of ROLLA PROPERTY LLC NO. 1, Rolla, Phelps County, Missouri as recorded in Phelps County Survey Records at Cabinet D, Slide 309, Document No. 2016 1550.
SANITARY SEWER DISCHARGE METERING AND SAMPLING. The Developer agrees to continue monitoring and reporting the discharge characteristics as follows:

Metering. The Developer shall install a flow meter at the “Dilution Tank Overflow” to measure both real-time flow and cumulative flows, to be reported monthly to the City. City reserves the right to independently validate flows rates provided by Developer.

Sampling. The Developer shall purchase and install a single bottle composite sampler at the site for the purpose of periodic testing of BOD5, TSS, COD and settleable solids. City agrees to test Hartmann’s samples at the laboratory located at the City’s Southeast Wastewater Treatment Facility on a monthly basis, or at more frequent intervals if mutually agreed upon by the City and Developer.

Parameters and Frequency. The City and Developer hereby agree to the following effluent testing parameters and frequency:

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<tr>
<th>Parameter</th>
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<tr>
<td>pH</td>
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<tr>
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<td>2, 4, 6 - Trichlorophenol</td>
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<td>Annually</td>
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<tr>
<td>2, 3, 4 - Trichlorophenol</td>
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<td>2, 3, 6 - Trichlorophenol</td>
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<td>2, 4, 5 - Trichlorophenol</td>
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<tr>
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<td>Annually</td>
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<tr>
<td>Copper</td>
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</tbody>
</table>

PRIMARY POINTS OF CONTACT. For the purpose of implementing the terms of this agreement, the parties hereby designate the following individuals as the primary point of contact for all sampling, testing and reporting:

City of Rolla
William Olms
Wastewater Superintendent
1801 East Highway 72
573-466-3039 (Cell)
wolms@rollacity.org
Hartmann US
Mark Barker
Process Engineer
3701 HyPoint Blvd
Rolla, MO 65401
573-612-7062 (Office)
573-465-7046 (Cell)
msb@hartmann-packaging.com

Should the City and/or Developer choose to designate a point of contact other than referenced above, correspondence shall be provided in writing to the other party immediately to this effect.

BINDING. The terms and conditions of this Agreement, as set forth herein, shall be binding upon the City and the Developer, their successors, representatives, trustees, and assigns.

THIS AGREEMENT is hereby executed on this ___28____ day of __December__, 2018.

DEVELOPER
HARTMANN US
By: __________________________
Varon Martinez, Plant Manager

THIS AGREEMENT was approved by vote of the City Council of the City of Rolla, Missouri on the ___ day of _____________, 2019 and is hereby executed on this ___ day of _____________, 2019.

LOUIS J. MADGITS IV, Mayor

SEAL

ATTEST:

____________________________
CAROL DANIELS, City Clerk
CITY OF ROLLA
CITY COUNCIL AGENDA

DEPARTMENT HEAD: Chief Sean Fagan

ACTION REQUESTED: Resolution

ITEM/SUBJECT: PCESB Financing Agreement – Zuercher Software

BUDGET APPROPRIATION (IF APPLICABLE): $187,376 + interest

DATE: January 22, 2019

Commentary:

The Phelps County Emergency Services Board (PCESB) has agreed to finance our portion of the purchase of the Zuercher Records Management System software at 2% interest over five years. The first payment will be due around the start of the 2020 budget year.

Recommendation:

Resolution authorizing the Mayor to sign an Agreement with the PCESB for the financing of the Zuercher software.
RESOLUTION NO. ______________

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ROLLA, MISSOURI TO EXECUTE ON BEHALF OF THE CITY OF ROLLA, MISSOURI AN AGREEMENT FOR PURCHASE AND FINANCING OF ZUERCHER SOFTWARE WITH THE PHELPS COUNTY EMERGENCY SERVICES BOARD (PCESB).

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

SECTION 1: That the Mayor of the City of Rolla, Missouri is hereby authorized and directed to execute on behalf of the City of Rolla, Missouri, an agreement between the City of Rolla, Missouri, and the Phelps County Emergency Services Board (PCESB) for the purchase and financing of Zuercher Software, a copy of said agreement being attached hereto.

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


APPROVED:

___________________________
MAYOR

ATTEST:

___________________________
CITY CLERK

APPROVED AS TO FORM:

___________________________
CITY COUNSELOR
Agreement for Purchase and Financing of Zuercher Software

This Consent and Agreement is given and made effective as of the date shown below by and between the Phelps County Emergency Services Board, a Missouri body politic, ("PCESB") and the City of Rolla, Missouri, a Missouri City of the third Class ("City")

A. PCESB operates and oversees emergency dispatch services for all emergency responders and contracts with the City of Rolla Police Department, for the housing of dispatch services.

B. Both parties desire to enter into an agreement with Zuercher for software services.

C. The City has requested, and PCESB has agreed to finance the initial cost ($187,376.00) for the City in five (5) annual and equal installments.

Accordingly, in consideration of the above, and the mutual promises set forth below, the parties agree as follows:

1) PCESB hereby agrees to pay the initial cost of $187,376.00 on behalf of the City.

2) City hereby agrees to pay PCESB the initial cost of $187,376.00 plus interest of two percent annually beginning on November 1, 2019 and extending through October 31, 2023 in five (5) annual and equal installments.

Signed by the parties and effective this _____ day January, 2019

PCESB: City:

By: ________________________________ By: ________________________________

Paula Volkmer, Chairman Mayor Louis J. Magdits, IV