

Please Note: The Council Meeting will be conducted at Rolla City Hall. Citizens are encouraged to watch the proceedings live on the City of Rolla, Missouri YouTube page at https://www.youtube.com/@City_of_Rolla/streams

COUNCIL PRAYER

Ministerial Alliance

AGENDA OF THE ROLLA CITY COUNCIL

Tuesday, January 21st, 2025; 6:30 P.M.

City Hall Council Chambers

901 North Elm Street

PRESIDING: Mayor Louis J. Magdits IV

COUNCIL ROLL: JOSHUA VROMAN, MATTIAS PENNER, MEGAN JOHNSON, NATHAN CHIRBAN, STEVE JACKSON, MATTHEW FRIDLEY, WILLIAM HAHN, ROBERT KESSINGER, KEVIN GREVEN, VICTORIA STEEN, AND TINA BALCH

PLEDGE OF ALLEGIANCE

Councilman Penner

I. PUBLIC HEARINGS –

- A. **Public Hearing** and **Ordinance** to rezone 21 Stephendale Ct. from the R-1 Suburban Residential district, to the C-1, Neighborhood Commercial district. (City Planner Tom Coots) **Public Hearing and First Reading**

II. ACKNOWLEDGMENTS and SPECIAL PRESENTATIONS – None

III. OLD BUSINESS –

- A. **Ordinance** to enter in agreement Lochmueller Group Inc for design and right-of-way plans for a roundabout at 18th /Bardsley/Old St. James Road. (Public Works Director Darin Pryor) **Final Reading**
- B. **Discussion** regarding the future of city water fluoridation. (City Administrator John Butz)

IV. NEW BUSINESS –

- A. **Resolution** to authorize the City Administrator to execute a notice of award with the State of Missouri Division of Tourism. (Public Works Director Darin Pryor) **Motion**

V. CLAIMS and/or FISCAL TRANSACTIONS –

- A. **Motion** to award the bid and **ordinance** authorizing an agreement with Corrective Asphalt Materials, LLC. (Public Works Director Darin Pryor) **Motion to award and First Reading**
- B. **Motion** to award bid and **ordinance** authorizing an agreement with Visu-Sewer of Missouri, LLC. (Public Works Director Darin Pryor) **Motion to award and First Reading.**

VI. CITIZEN COMMUNICATION

January 21st, 2025

VII. MAYOR/CITY COUNCIL COMMENTS

A. Councilman Vroman: Discussion on Rolla as a “Sanctuary City for the Unborn”.

VIII. COMMENTS FOR THE GOOD OF THE ORDER

A. Next Meeting Date, Monday, February 3rd, 2025

IX. CLOSED SESSION –

A. Closed Session per RSMo 610.021,

X. ADJOURNMENT -



**CITY OF ROLLA
CITY COUNCIL AGENDA**

DEPARTMENT: Community Development

ACTION REQUESTED: Public Hearing/First Reading

SUBJECT: Map Amendment (rezoning): 21 Stephendale Ct from the R-1, Suburban Residential district to the C-1, Neighborhood Commercial district

(ZON24-06)

MEETING DATE: January 21, 2024

Application and Notice:

Applicant/Owner - Thu and Thuy Tran

Public Notice - Letters mailed to property owners within 300 feet; Legal ad in the Phelps County Focus; signage posted on the property; <https://www.rollacity.org/agenda.shtml>

Background: The applicant seeks to rezone the subject property to allow the possibility of renovate the existing house for use as a restaurant. Such use would be limited in scale due to the size of the property and required parking.

Property Details:

Current zoning - R-1, Suburban Residential; to be rezoned to C-1, Neighborhood Commercial

Current use - Single-family residential

Proposed use - Commercial

Land area - About 8,400 square feet

Public Facilities/Improvements:

Streets - The subject property has frontage on Stephendale Court, a local street; and frontage on Hwy 72, an primary arterial road, however the lot does not have access to Hwy 72 currently.

Sidewalks - Sidewalks already exist along the Hwy 72 frontage. No sidewalk is required along the Stephendale Court frontage.

Utilities - The subject property should have access to all needed public utilities.

Comprehensive Plan: The Comprehensive Plan designates the property as being appropriate for Neighborhood Commercial uses.

Discussion: The subject property is located on the Hwy 72 corridor, between properties that are already zoned C-1, Neighborhood Commercial. From a land use standpoint, commercial zoning seems appropriate and supported by the Comprehensive Plan.

The actual redevelopment of the site may be difficult, however, all zoning and building code requirements will apply. If the desired restaurant use is found not be feasible, the property may be used for other commercial uses, or may retain the residential use.

Planning and Zoning Commission Recommendation:

The Rolla Planning and Zoning Commission conducted a public hearing on January 14, 2025 and voted 3-1 to recommend the City Council approve the request.

Prepared by: Tom Coots, City Planner

Attachments: Public Notice Letter; Application; Ordinance

ORDINANCE NO. _____

AN ORDINANCE TO APPROVE THE RE-ZONING OF PROPERTY LOCATED AT 21 STEPHENDALE COURT FROM THE R-1, SUBURBAN RESIDENTIAL DISTRICT TO THE C-1, NEIGHBORHOOD COMMERCIAL DISTRICT

(ZON24-06)

WHEREAS, an application for a rezoning was duly filed with the Community Development Department requesting the property described above be rezoned according to the Basic Zoning Ordinance of the City of Rolla, Missouri, so as to change the class of the real property hereinafter described; and

WHEREAS, a public notice was duly published in the Phelps County Focus for this according to law which notice provided that a public hearing would be held at Rolla City Hall, 901 N. Elm, Rolla, Missouri; and

WHEREAS, the City of Rolla Planning and Zoning Commission met on January 14, 2025 and recommended the City Council approve the rezoning of the subject property; and

WHEREAS, the Rolla City Council, during its January 21, 2025 meeting, conducted a public hearing concerning the proposed rezoning to hear the first reading of the attached ordinance;

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 proposed rezoning would promote public health, safety, morals and the 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 Zoning and Subdivision Regulations Ordinance No. 4762, Chapter 42 of the Code of the City of Rolla, Missouri which zoning ordinances adopts zoning regulations, use districts, and a zoning map in accordance with the Comprehensive Plan is hereby amended by changing the zoning classification of the following property situated within the City of Rolla, Missouri, from R-1 (Suburban Residential) to C-1 (Neighborhood Commercial) Zoning described as follows:

Lot 25, Rolla Park Subdivision, Rolla, Phelps County, Missouri

SECTION 2: This Ordinance shall be in full force and effect from and after the date of its passage and approval.

**PASSED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI AND
APPROVED BY THE MAYOR THIS 3RD DAY OF FEBRUARY, 2025.**

APPROVED:

ATTEST:

Mayor

City Clerk

APPROVED AS TO FORM:

City Counselor

LAND USE APPLICATION

Contact Information:

Property Owner:

Thu & Thuy Tran

Name(s)

11900 County Road 8070

Mailing Address

Rolla, MO, 65401

City, State, Zip

573 219 1512

Phone

tranhoangthu@gmail.com

Email

Agent/Applicant (If Different Than Property Owner):

Name

Mailing Address

City, State, Zip

Phone

Email

Property/Request Information:

Request: ☒ Rezoning
☐ Planned Unit Development
☐ Conditional Use Permit
☐ Voluntary Annexation

21 Stephendale Court

Property Address/Location

R-1 TO C-1

Property Zoning (Current and Proposed)

Proposed Development/Project/Amendment

APPLICATION CHECKLIST:

City Staff Verifies



Completed Application Form



Agent Letter (If Applicable)



Filing Fee - \$375 (Rezoning); \$600 (PUD); \$450 (Conditional Use Permit); \$600 (Annexation)



Legal Description (Unplatted and Irregular Lots Only)



Site Plan (If Applicable)



Letter of Request/Project Report/Notarized Petition (Annexation) (If Applicable)

OFFICE USE ONLY:

Case No: 2024-06

DRC Meeting Date: 12.17.24

PZ Hearing Date: 1.14.25

Submission Date: 12.5.24

Advertise By: 12.19.24

CC Hearing Dates: 1.21.25/2.3.25

INFORMATION:

Rezoning (Map Amendments) are *reviewed* to meet the following criteria:

1. Consistency with the intent of the Rolla Comprehensive Plan;
2. Changed or changing conditions that make the proposed rezoning necessary or desirable;
3. Compatibility of allowed uses with the uses permitted on other property in the immediate vicinity;
4. Reasonably viable economic use of the subject property; and
5. Relevant information submitted at the public hearing.

PUD's (Planned Unit Developments) are *reviewed* to meet the following criteria:

1. Criteria for rezoning (above);
2. Adequacy of existing utility services and facilities or ability to provide utilities and facilities;
3. Impact upon vehicular and pedestrian traffic safety;
4. Whether the intent and goals of the Planned Unit Development requirements are met (See 42.260); and
5. Relevant information submitted at the public hearing.

CUP's (Conditional Use Permits) are *reviewed* to meet the following standards:

1. Consistency with the intent of the Rolla Comprehensive Plan;
2. Compatibility of the proposed use, scale, and location with uses in the immediate vicinity;
3. Adequacy of existing utility services and facilities or ability to provide utilities and facilities;
4. Whether reasonable conditions may be imposed to mitigate any impacts to the immediate vicinity;
5. Impact upon vehicular and pedestrian traffic safety; and
6. Relevant information submitted at the public hearing.

Annexation are *reviewed* to meet the following criteria:

1. Conformity with the minimum statutory requirements;
2. Consistency with the Rolla Comprehensive Plan;
3. Adequacy of existing utility, city services, and facilities or ability to provide utilities, services, and facilities; and
4. Relevant information submitted at the public hearing.

Acknowledgement and Authorization:

The owner(s) understand and agree that the application will be placed on hold until a complete application and all required items on the checklist are received. The owner(s) understand and agree to permitting employees of the City of Rolla to enter the subject property for purposes of posting a yard sign(s), retrieving the yard sign(s), taking photographs of the property/building(s), and investigating the property for pertinent information related to the request. Should ownership of the property change after the application is submitted, authorization is required from the new owner to continue with the review of the request, or the request will be withdrawn from consideration. The undersigned understands that a full refund may be issued if the request is withdrawn within three (3) business days after the application; a partial refund may be considered if the request is withdrawn prior to the hearing.

Property Owner(s):

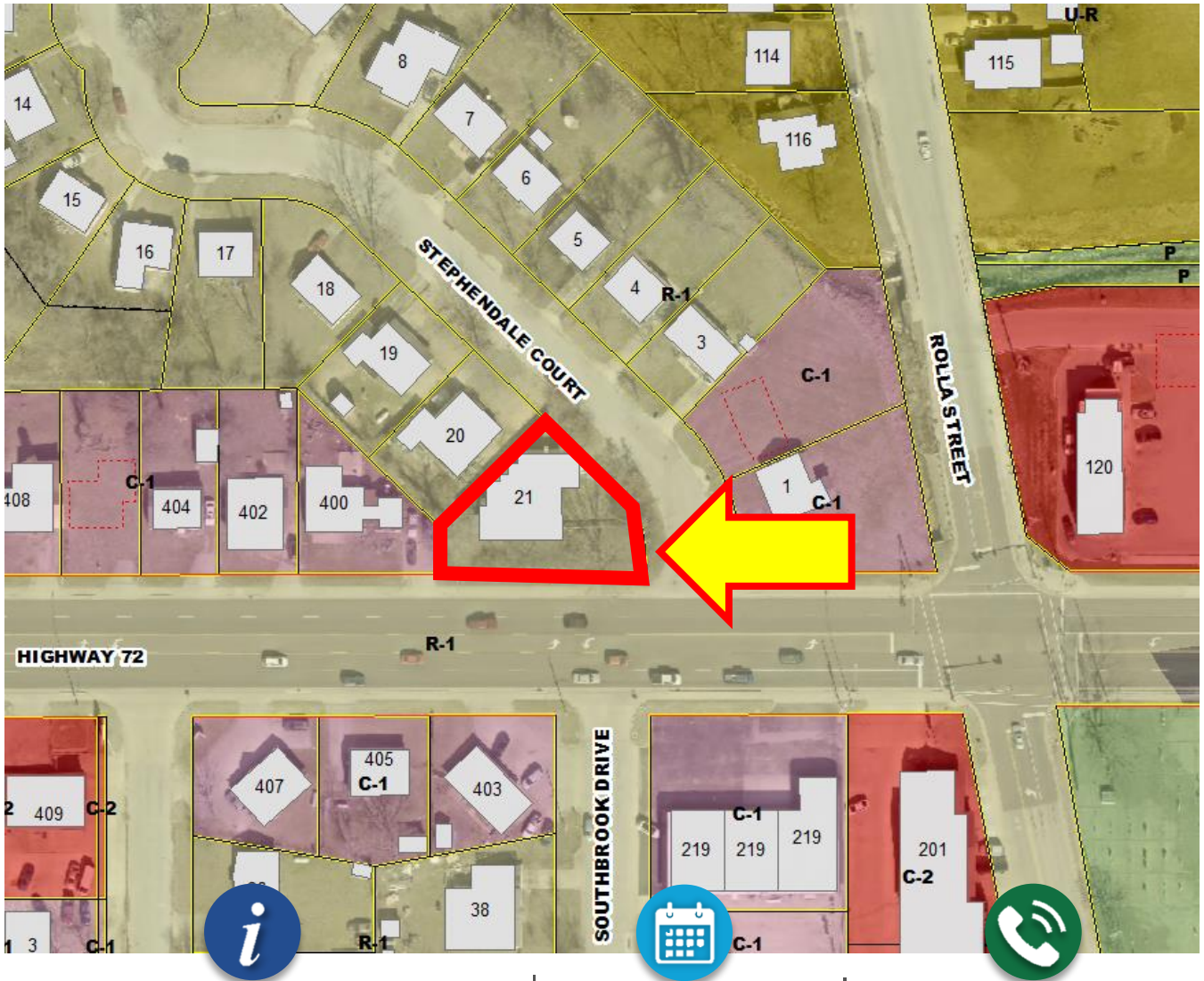
Applicant/Agent (If Different From Owner)

Sign Thu Tran Print Thu Tran

Sign Thu Tran Print Thu Tran

Sign Print

Sign Print



Project Information:

Case No: ZON24-06
 Location: 21 Stephendale Ct
 Applicant: Thu and Thuy Tran
 Request:
 Rezoning from R-1, Suburban Residential to C-1, Neighborhood Commercial

Public Hearings:

Planning and Zoning
 Commission
January 14, 2025
5:30 PM
 City Hall: 1st Floor

 City Council
January 21, 2025
6:30 PM
 City Hall: 1st Floor

For More Information Contact:

Tom Coots, City Planner
tcoots@rollacity.org

(573) 426-6974
 901 North Elm Street
 City Hall: 2nd Floor
 8:00 – 5:00 P.M.
 Monday - Friday



Who and What is the Planning and Zoning Commission?

The Planning and Zoning Commission is an appointed group of citizens from Rolla who are charged with hearing and deciding land use applications, such as zoning and subdivisions. The Commission takes testimony and makes a recommendation to the City Council.

What is a Rezoning (Map Amendment)?

A Rezoning is a request to change the zoning of a property from one zoning district to another. Usually a rezoning would allow for a property to be used differently than in the past, or may allow for development or redevelopment.

What is Zoning?

The City of Rolla has adopted zoning regulations that divide the city into separate areas that allow for specified uses of property. For example, generally only residential uses are allowed in residential zones; commercial uses in commercial zones; etc..

How Will This Impact My Property?

Each case is different. Adjacent properties are more likely to be impacted. Please contact the Community Development Office at (573) 426-6974 if you have any questions.

What If I Have Concerns About the Proposal?

If you have any concerns or comments, please try to attend the meeting. You may learn details about the project at the meeting. You will be given an opportunity to ask questions or make comments.

You do have the right to gather signatures for a petition. If a petition is received by 30% of the land owners (by land area) within 185 feet of the subject property, such request would require approval of 2/3 of the City Councilors. Please contact the Community Development Office for a property owner list.

What If I Cannot Attend the Meeting?

Please try to attend the meeting if you have any questions or concerns. However, if you are unable to attend the meeting, you may provide written comments by letter or email. These comments will be presented to the Board.

What If I Have More Questions?

Please contact the Community Development Office if you have any additional questions.

LEGAL DESCRIPTION

Lot 25, Rolla Park
Subdivision, Rolla, Phelps
County, Missouri



**CITY OF ROLLA
CITY COUNCIL AGENDA**

DEPARTMENT HEAD: Darin Pryor

ACTION REQUESTED: Final Reading

ITEM/SUBJECT: 18th St./Bardsley/Old St. James Road Intersection ROW

BUDGET APPROPRIATION (IF APPLICABLE) - \$430,000 DATE: 01-21-25

COMMENTARY:

In 2021 the Lochmueller Group completed a traffic study for the 18th Street / Bardsley / Old St. James Road Intersection. The executive summary of that study is included in your packet. The recommendation from that study was to install a single lane roundabout at the intersection. That study included preliminary engineering on the roundabout.

Staff is proposing to engage an engineering consultant to continue design on this intersection and prepare plans that would be detailed enough to determine the needed right-of-way for the roundabout. Right-of-way engineering is included in the current budget (\$230K). Funds for right-of-way purchases and construction are not. Our plan would be to begin the process of obtaining the necessary right-of-way for the future project next budget year. We would monitor the performance of the existing intersection and program funds for construction at a later date.

Staff scored 5 consultants based on qualifications and selected the Lochmueller Group to completed the design of the roundabout at the 18th Street / Bardsley / Old St. James Road Intersection. Staff is requesting a motion to award the design contract to the Lochmueller Group Inc. and the first reading of the ordinance authorizing the Mayor to enter into a the contract with the Lochmueller Group Inc. for \$211,400.00.

Consultants Scored
CFS Engineers – Jefferson City
Archer-Elgin – Rolla
Olsson – Springfield
Lochmueller Group – St. Louis
Cochran Engineering - Fenton

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 AMENDMENT NO.1 BETWEEN THE CITY OF ROLLA, MISSOURI AND THE LOCHMUELLER GROUP FOR PROFESSIONAL SERVICES FOR INTERSECTION IMPROVEMENTS 18TH/OLD ST JAMES/BARDSLEY, PROJECT NUMBER 528.

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 Amendment No. 1 between the City of Rolla, Missouri and The Lochmueller Group. for professional services for Intersection Improvements 18th/Old St. James/Bardsley, Project Number 528, a copy of said agreement being attached hereto and marked Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI AND APPROVED BY THE MAYOR THIS 21st DAY OF JANUARY 2025.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY COUNSELOR

AMENDMENT NO. 1

THIS **AMENDMENT NO. 1** IS MADE AND ENTERED INTO THIS ____ DAY OF _____, 2024 BY AND BETWEEN **CITY OF ROLLA**, HEREINAFTER REFERRED TO AS "**CLIENT**" AND **LOCHMUELLER GROUP, INC.** HEREINAFTER REFERRED TO AS "**CONSULTANT**".

W I T N E S S E T H

WHEREAS, **CLIENT** and **CONSULTANT** did on November 4, 2020 to provide services for the E 18th Street at Old St James Road/Bardsley Road Intersection Improvements, and

WHEREAS, management and coordination services to assist **CLIENT** in planning and executing relocation of utilities and coordination with the railroad for work performed on their right-of-way have been requested, and

WHEREAS, **CLIENT** desires the **CONSULTANT** to provide the services, and

WHEREAS, the **CONSULTANT** has expressed an interest in providing the additional required services, and

WHEREAS, in order for the **CONSULTANT** to provide the additional services, it is necessary to amend the original **AGREEMENT**, and

NOW, THEREFORE, it is agreed by and between both parties that the original **AGREEMENT** be amended as follows:

I. Items 4.11, 4.12, and 4.13 of Appendix "A" are added as follows:

- 4.11 Utility easement development, negotiation assistance, or any other work directly to a utility that is not owned by the City of Rolla, Missouri.
- 4.12 Draft or review any legal document (easement, railroad agreement, utility relocation agreements, etc.) for legal adequacy. The utility owners, the railroad, and the City's legal counsel should review and approve these documents.
- 4.13 Design the utility's relocation.

II. Item 5.0 Right-of-Way Plans of Appendix "A" is added as follows:

5.0 RIGHT-OF-WAY PLANS

- 5.1 Prepare two (2) right-of-way plan sheets for use in right-of-way negotiations and incorporation into the final plans.
- 5.2 Prepare up to nine (9) right-of-way exhibits (not for use in recording of easements) for use in right-of-way negotiations.
- 5.3 Prepare up to nine (9) plats for easement and right-of-way recording.

III. Item 6.0 Additional Utility Coordination of Appendix “A” is added as follows:

6.0 ADDITIONAL UTILITY COORDINATION

6.1 Project Utility Meetings

- 6.1.1 Host an initial kick-off meeting with **CLIENT** staff to outline goals and discuss possible complications or unique challenges anticipated during the utility coordination.
- 6.1.2 Research each utility within the project area, and prepare plans for submission to the utility owners identifying each utility within the plans to assist the utility company in identifying their potentially conflicting facility.
- 6.1.3 Create and maintain the master utility coordination database to document utility submittals and correspondences.
- 6.1.4 Prepare and distribute correspondences with the utility companies using a four (4) part coordination protocol: 1) initial correspondence to put the utility owners on notice this project is in planning, 2) a correspondence requesting utility facilities verification, 3) a correspondence indicating known conflicts with the utilities and requesting verification of no other known conflicts, and 4) correspondence documenting relocation plan development and implementation.
- 6.1.5 Develop a utility risk assessment to identify utility conflicts, their magnitude, and solutions to avoid or remedy the conflict.
- 6.1.6 Prepare minutes from coordination meetings and monthly progress reports to submit **CLIENT** staff during the coordination effort.
- 6.1.7 Prepare exhibits as needed for use in coordination meetings.
- 6.1.8 Prepare for and attend one preliminary field visit to determine existing conditions.
- 6.1.9 Prepare for and attend up to four (4) coordination team meetings.
- 6.1.10 Prepare for and attend up to eight (8) meetings with utility owners to resolve conflicts in relocating a utility.
- 6.1.11 Prepare for and attend a final field visit to ensure utilities have been relocated as planned.
- 6.1.12 Coordinate with the railroad to inform them of utility relocation work within the railroad right-of-way. Facilitate discussions

between the utility owner and the railroad as needed to minimize delay in processing the utility owner's work with the railroad.

6.2 Utility / Design Integration

6.2.1 Coordinate and collect records from the utilities to ensure proper documentation of the efforts.

6.2.2 Update the 30% design to incorporate utility relocations performed by the utility companies.

6.2.3 Prepare utility relocation plans sheets indicating the utility to be relocated by the utility owner during construction, for any utility that is not relocated prior to the project letting.

6.2.4 Coordinate Subsurface Utility Engineering (SUE) work performed by others.

6.2.5 Develop, maintain, and update a utility conflict matrix.

6.2.6 Consider and/or develop and coordinate possible design alternatives in an effort to minimize utility impacts.

6.3 Receive and Review Utility Relocation Documentation

6.3.1 Facilitate and coordinate the exchange of relocation agreements between a utility owner and **CLIENT**, for any relocation agreement that will be needed.

6.3.2 Review utility relocation plans prepare by others and coordinate this review with **CLIENT**.

6.3.3 Review utility work plans prepare by others and coordinate this review with **CLIENT**.

6.3.4 Develop a utility relocation schedule and manage the master relocation plan.

6.4 Utility Relocation Phase Coordination

6.4.1 Issue notices to proceed to utility owners authorizing them to commence relocation efforts.

6.4.2 Coordinate with the utility owners to monitor and record their progress during the relocation effort.

6.4.3 Prepare for and attend relocation progress meetings during the relocation construction.

6.5 Railroad Coordination

6.5.1 Assemble and prepare improvement plans/exhibits for presentation to BNSF Railway.

6.5.2 Create and maintain a database for railroad files and records.

- 6.5.3 Initiate coordination with BNSF Railway and prepare correspondence, as necessary
- 6.5.4 Develop and coordinate with **CLIENT** a risk assessment database.
- 6.5.5 Prepare and distribute meeting minutes and progress reports to **CLIENT**.
- 6.5.6 Prepare for and attend a preliminary field visit and possible meeting with BNSF Railway staff.
- 6.5.7 Prepare for and attend internal team meetings.
- 6.5.8 Meet with BNSF Railway staff, as necessary.
- 6.5.9 Update the design, as necessary, to accommodate the railroad's reasonable requests.
- 6.5.10 Review railroad agreements and coordinate with **CLIENT** and/or **CLIENT** Attorney.
- 6.5.11 Prepare for and attend a final field visit to document the improvements constructed on the railroad right-of-way.
- 6.6 Perform Quality control (QC) and quality assurance (QA) through the coordination effort to ensure quality services to **CLIENT**.


IV. Items 4.0, 5.0 and 6.0 of Appendix "B" are added as follows:

- 4.0 The **CLIENT**'s legal counsel will review and approve any legal documents (easement, railroad agreement, utility relocation agreements, etc.).
- 5.0 **CLIENT** will negotiate with BNSF Railway for any necessary agreements.
- 6.0 **CLIENT** will provide payment to BNSF Railway for railroad preliminary engineering services, agreements, or application fees.

V. Schedule of Appendix "C" is modified as follows:

CONSULTANT shall promptly commence Services upon receipt of a written notice to proceed and shall complete the Services in accordance with the schedule mutually agreed upon by both parties for Items 1.0, 2.0, and 3.0.

CONSULTANT shall promptly commence Services upon receipt of a written notice to proceed and shall complete the Services in accordance with the schedule below for Items 5.0 and 6.0.

		Right-of-Way Plans / Utility Coordination / Railroad Coordination		
STATUS	CITY OF ROLLA, MISSOURI 18TH STREET INTERSECTION IMPROVEMENTS RIGHT-OF-WAY, UTILITY, AND RAILROAD COORDINATION			
	Activity Description	MM/DD/YYYY	MM/DD/YYYY	Months
	Notice to Proceed	2/1/2025	2/1/2025	1
	Right-of-Way Plans and Exhibits	2/15/2025	3/31/2025	2
	Utility Coordination			
	Prepare Coordination Database and Support Structure	2/1/2025	2/15/2025	1
	Initial Communication with Utilities	2/15/2025	2/28/2025	1
	Coordination of Utility's Relocation Planning	3/1/2025	8/1/2025	6
	Integration of Utility Relocation into Design Plans	6/1/2025	8/15/2025	3
	Coordination with Utilities during Relocation of Utilities	8/1/2025	12/31/2025	5
Railroad Coordination				
	Prepare Coordination Database and Support Structure	2/1/2025	2/1/2025	1
	Initial Communication with Railroad		6/1/2025	6
	Coordination of Intersection Design and Utility Relocation with Railroad		12/31/2025	12
	Coordinate Railroad Agreement	8/1/2025	12/31/2025	5

VI. 1.0 Amount of Payment of Appendix "D" is hereby deleted in its entirety and hereby replaced in its entirety with the following:

1.0 Amount of Payment

- 1.1 The CONSULTANT shall receive compensation for such professional services under Appendix "A" of this Agreement an amount not to exceed Three Hundred Six Thousand Four Hundred Dollars (\$306,400.00), unless a modification to this Agreement is made in writing by both parties.
- 1.2 The CONSULTANT shall receive compensation for such professional services under Items 1.0, 2.0, and 3.0 Appendix "A" of this Agreement on a lump sum basis in the amount of Ninety-Five Thousand Dollars (\$95,000.00).
- 1.3 The CONSULTANT shall receive compensation for such professional services under Items 5.1, 5.2, and 6.0 Appendix "A" of this Agreement on a lump sum basis in the amount of Two Hundred Seven Thousand Three Hundred Fifty Dollars (\$207,350.00).
- 1.4 The CONSULTANT shall receive compensation for such professional services under Item 5.3 Appendix "A" of this Agreement based on the specific cost per unit multiplied by the actual units of work performed in accordance with the following schedule:
 - 1.4.1 Plats for easement and right-of-way recording (9 parcels @ \$450 each).....\$4,050.00

Except as herein modified, changed, and amended, all terms and conditions of the original **AGREEMENT** dated November 4, 2020 shall continue in full force and effect.

This **AMENDMENT NO. 1** increases the compensation amount of \$95,000.00 by \$211,400.00 to a new not-to-exceed amount of \$306,400.00.

IN WITNESS WHEREOF, the parties have hereunto executed this **AMENDMENT NO. 1** effective the day and year first above written.

LOCHMUELLER GROUP, INC.

CITY OF ROLLA, DEPARTMENT OF PUBLIC WORKS

Scott J. Smith, PE
Missouri State Director

Louis J. Magdits, IV
Mayor

Executive Summary

Lochmueller Group has completed a traffic study to evaluate possible improvements near the intersection of E 18th Street and Bardsley Road/Old St. James Road in Rolla, Missouri. The offset nature of Bardsley Road and Old St. James Road at E 18th Street, channelization of vehicles on Bardsley Road, and close proximity to the railroad tracks increases conflict for vehicles traversing the intersection, resulting in undesired queueing and crashes. Three alternatives are proposed for improvements to the intersection of E 18th Street and Bardsley/Old St. James Road.

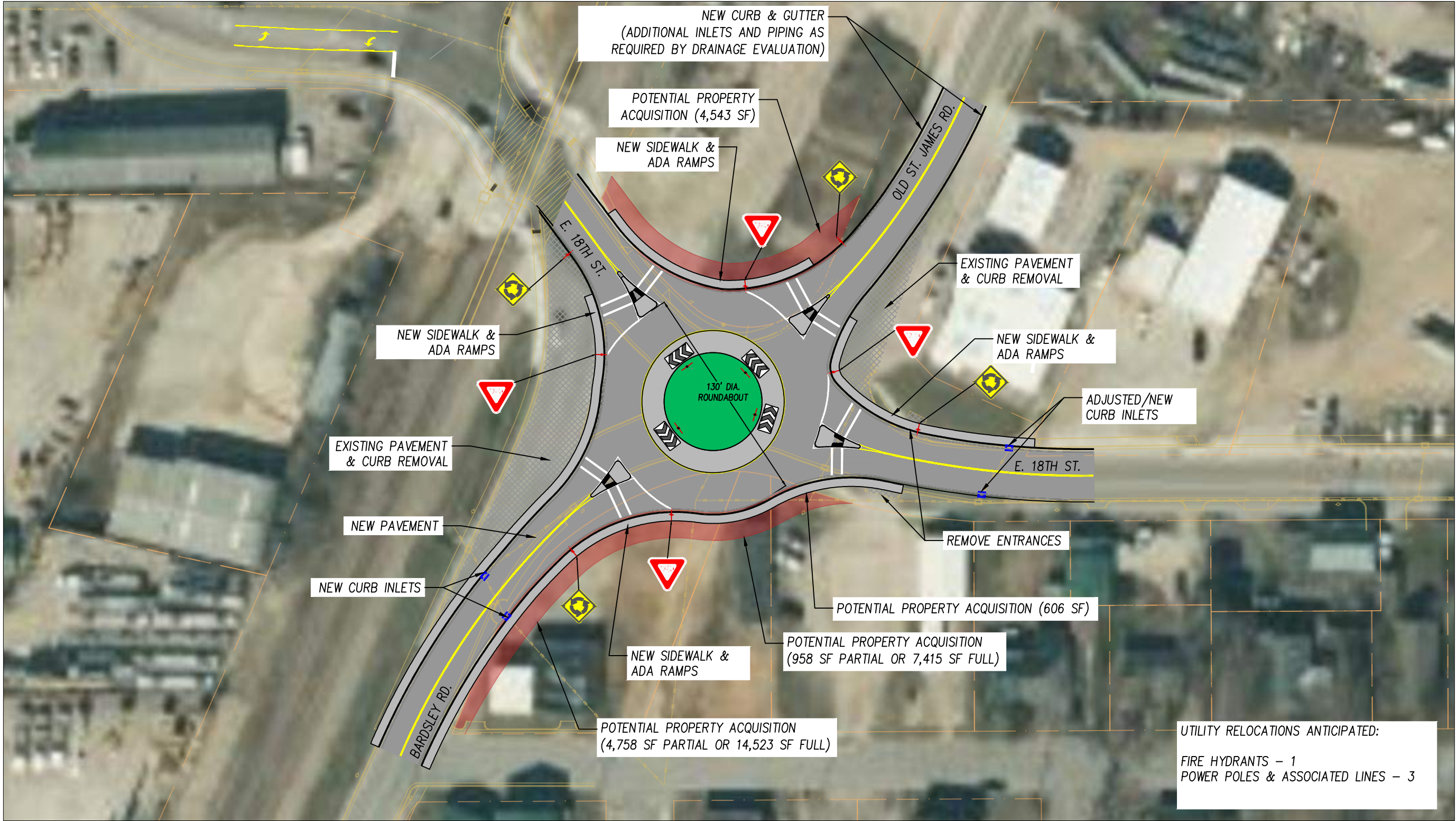
1. Re-align Old St. James Road to meet the existing Bardsley Road approach (North Alignment) and install traffic signal intersection control with railroad preemption;
2. Re-align Bardsley Road to meet the existing Old St. James approach (South Alignment) and install traffic signal intersection control with railroad preemption;
3. Install a single lane roundabout at E 18th Street and Bardsley Road/Old St. James Road.

Alternative A is not recommended for consideration as a viable intersection improvement alternative due to the eastbound approach queues greatly exceeding the available space between the eastbound stop bar and the railroad buffer. A comparison of Alternatives 2 and 3 is shown in **Table 11**. Either Alternative B or Alternative C are acceptable for implementation at the intersection of E 18th Street and Bardsley/Old St. James Road. Due to the sustained continuous vehicle flow and minimized eastbound approach queueing, Lochmueller Group recommends Alternative C for implementation at the intersection of E 18th Street and Bardsley/Old St. James Road.

Table 11. Alternative B and Alternative C Comparison

	Alternative B (South Alignment)	Alternative C (Roundabout)
Overall Intersection Delay	Non-continuous flow. All approaches must stop during each cycle. Inherently more delay.	Maintains continuous flow through the intersection, except when train present.
Eastbound Approach Queueing	Maximum forecasted queues slightly exceed provided spacing between intersection and railroad tracks during the 2045 Horizon Year PM peak. Interaction between queue and train possible during up to 5% of the 2045 PM peak hour.	Maximum forecasted queues within provided spacing between intersection and railroad tracks. No interaction anticipated between queues and trains.
Impacts by Train	Dedicated turn lanes allow some movements to maintain flow through the intersection even when a train is present.	Intersection may be blocked by waiting vehicles when a train is present.
Planning Level Opinion of Cost	Approx. \$1.0 – 1.5M	Approx. \$1.3 – 1.7M*
Required ROW Acquisition	Required ROW acquisition within the southeast quadrant of the intersection in addition to the acquisition of three buildings.	Required ROW acquisition in northwest and southeast quadrants of the intersection. No buildings require acquisition.

* Based on TRB annual meeting presentation "States' Practices on Roundabout Selection, Design, and Performance Analysis" (2016) cost for single-lane roundabout escalated to 2021



Sheet No. : 1		<div>City of Rolla Department of Public Works 901 North Elm Street Phone: 573-364-8659 www.rollacity.org</div>	<div>City of Rolla</div>		Designed: KSD Date: 6/02/2021		
1 of 1					Drawn: KSD Scale: AS SHOWN		
18th Street Concept Plan C					Checked: CS Proj. No.:		
				Rev.		Description	Date

CITY OF ROLLA
CITY COUNCIL AGENDA

DEPARTMENT HEAD: City Administrator John Butz

ACTION REQUESTED: Discussion

ITEM/SUBJECT: Consideration of Fluoridation Removal

TOTAL BUDGET APPROPRIATION: N/A

DATE: January 21, 2025

COMMENTARY:

Rolla has been fluoridating its water supply since 1968 following a city referendum on the issue (passed with 59% support). In 2015 City Council lowered the fluoridation level from 1.2 PPM to .7 PPM based on a new recommendation from the EPA.

In October 2024, the issue of fluoridation surfaced, and Council embarked on a series of presentations both for and against fluoridation. No action is needed if Council desires to retain fluoridation. If Council wants to formally consider removal or reduction in fluoridation Council will need to begin the 90-day public notification process before considering formal action (RSMO 640.136). Ultimately it will take an ordinance to amend Section 35-180 of the City Code to remove or change the level of the fluoride additive.

Discussion needed.

640.136. Fluoridation modification, notification to department and customers, when. — 1. Any public water system, as defined in section 640.102 , or public water supply district, as defined in chapter 247 , which intends to make modifications to fluoridation of its water supply shall notify the department of natural resources, the department of health and senior services, and its customers of its intentions at least ninety days prior to any vote on the matter. The public water system or public water supply district shall notify its customers via radio, television, newspaper, regular mail, electronic means, or any combination of notification methods to most effectively notify customers at least ninety days prior to any meeting at which the vote will occur. Any public water system or public water supply district that violates the notification requirements of this section shall return the fluoridation of its water supply to its previous level until proper notification is provided under the provisions of this section.

2. In the case of an investor-owned water system, the entity calling for the discussion of modifications to fluoridation shall be responsible for the provisions of this section.

**CITY OF ROLLA
CITY COUNCIL AGENDA**

DEPARTMENT HEAD: Darin Pryor

ACTION REQUESTED: Resolution

ITEM/SUBJECT: Welcome and Wayfinding Signs Grant

BUDGET APPROPRIATION: \$0

DATE: 1-21-25

COMMENTARY:

Attached is a resolution authorizing the City Administrator to execute a Notice of Award with the State of Missouri Division of Tourism for Welcome and Wayfinding Signage. The City of Rolla was chosen to participate in the FY 25 Cooperative Marketing Program. We could receive up to \$30,000 for qualified expenses for "Welcome and Wayfinding Signs". The Move Rolla TDD set aside \$100K in funds for signage for the Pine Street project. These additional funds would be used to partially fund a welcome sign at the intersection of Bishop Ave and Pine Street.

Staff is requesting a motion for the Resolution to authorize the City Administrator to execute a Notice of Award with the State of Missouri Division of Tourism.

Resolution No. _____

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CERTAIN NOTICE OF AWARD BETWEEN THE CITY OF ROLLA AND THE STATE OF MISSOURI DIVISION OF TOURISM.

WHEREAS, The State of Missouri requires the approval of a Notice of Award for the Cooperative Marketing Program; and

WHEREAS, the City of Rolla has agreed to approve the Notice of Award to the State of Missouri for these purposes; and

WHEREAS, the City Council has determined that approving this Notice of Award is in the best interest of the City and its residents;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rolla, as follows:

1. **Approving of Notice of Award:** The City hereby approved the Notice of Award listed in Exhibit A for the purposes of participating in the Cooperative Marketing Program.
2. **Authorization to Execute Documents:** The City Administrator and City Clerk are authorized to execute any and all documents necessary to effectuate the approval of this Notice of Award.
3. **Effective Date:** This resolution shall take effect immediately upon its adoption.

PASSED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI, AND APPROVED BY THE MAYOR THIS 21ST DAY OF JANUARY 2025.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY COUNSELOR



January 9, 2025

John Butz
City of Rolla
901 N. Elm St.
Rolla, MO 65401

Dear John:

Congratulations!

We are pleased to announce that the City of Rolla will participate in the FY25 Cooperative Marketing Program. State funds in the amount of \$30,000.00 have been reserved for the reimbursement of qualified expenses for "Welcome and Wayfinding Signs" as outlined in the approved application. Attached you will find a copy of contract number 25-088-15-093028. Please refer to the assigned contract number in all related communications. Also, review all materials carefully, including the Terms and Conditions of this contract found on pages four and five of this letter.

To accept this award, please follow these instructions:

1. Print out the Notice of Award, which is page three of this letter.
2. Secure the signatures and date of signatures for both the project director and the President/CEO of the DMO. If it is not possible to secure both signatures on one copy, you may collect the signatures on two separate copies
3. Scan and upload a copy of the signed Notice of Award to your Submittable account. You may do this by opening your application submission and uploading through the Messages tab.
4. After the Division of Tourism (MDT) Director signs the contract, you will receive a finalized copy via Submittable.

Some important things to note:

- **All awards are contingent on MDT funding. Award amounts may change at anytime.**
- **It is important that this process be completed by January 31, 2025. If we do not receive a signed "Notice of Award" we will assume that you are declining the funding.**
- **All aspects of the project may not be reimbursed. Only those items listed as eligible costs on the Welcome and Wayfinding Guidelines will be reimbursed.**



Participants are expected to complete all activities as outlined in the timeline presented with the application. It is important to keep the Cooperative Marketing staff informed of any delays to the approved project and changes must be approved in advance. Also, please notify the appropriate MDT staff of any changes in your organization including project director, address, email address, etc., so that your organization receives all important program information promptly.

The Division of Tourism values our cooperative partnerships. We wish you every success with your project and want to assist you in every way we can. You will be contacted via phone and email from time to time throughout the year with important information and reminders relating to your project. Please feel free to contact us with any questions or concerns.

Megan Rogers, Cooperative Marketing Manager:

573-751-3246 or Megan.rogers@ded.mo.gov

Sincerely,

Megan Rogers
Cooperative Marketing Manager



NOTICE OF AWARD

State Of Missouri

Division Of Tourism

Cooperative Marketing Program

PO Box 1055, Jefferson City, MO 65102

CONTRACT NUMBER 25-088-15-093028	CONTRACT TYPE Marketing Platform Development
PROJECT NAME Rolla Welcome and Wayfinding Signs	CONTRACT PERIOD July 1, 2024 through June 30, 2025
DMO NAME City of Rolla	VENDOR NUMBER 43-6003049
ADDRESS 901 N. Elm Street Rolla, MO 65401	AMOUNT APPROVED \$ 30,000.00
<p>ACCEPTED BY THE DIVISION OF TOURISM AS FOLLOWS:</p> <p>The proposal submitted is accepted in accordance with the following additions, amendments and/or revisions:</p> <ul style="list-style-type: none"> • Terms and Conditions (attached) • <u>Required outcome measurement:</u> <ol style="list-style-type: none"> 1. Reimbursement Request 2. Copy of completed project • Award amount is contingent on MDT funding levels and may be reduced unilaterally by the Division of Tourism due to the unavailability of funds or reduced appropriation authority, including but not limited to withholdings made pursuant to Mo. Const. Art. IV §27. 	
DIRECTOR OF THE DIVISION OF TOURISM	DATE
<i>Signature</i> Stephen Foutes	

ACCEPTANCE OF AWARD

This Award Agreement may be executed in one or more counterparts, each of which is an original and all of which constitute the Award Agreement.

As representatives for the above mentioned DMO, we hereby accept the award of the Cooperative Marketing Grant, matching funds for implementation of the project/contract described herein.

IN WITNESS WHEREOF, the parties hereto have executed this Award Agreement effective as of the date last set forth below.

CEO, John Butz

Signature

DATE

PROJECT DIRECTOR, Darin Pryor

Signature

DATE

STATE OF MISSOURI
DIVISION OF TOURISM, COOPERATIVE MARKETING PROGRAMS
TERMS AND CONDITIONS

This contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained herein. Any change must be accomplished by a formal signed amendment prior to the effective date of such change.

1. APPLICABLE LAWS, REGULATIONS AND GUIDELINES

- The contract shall be construed according to the laws of the State of Missouri (state). The contractor shall comply with all local, state, and federal laws and program guidelines related to the performance of the contract to the extent that the same may be applicable.
- To the extent that a provision of the contract is contrary to the guidelines of the Cooperative Marketing programs, the provision shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the state.
- The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.
- In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).
- In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status.

2. COMPLETION OF CONTRACTED SERVICES

- The contractor understands and agrees that the project activities approved in the application or subsequently approved revision must be completed as described within the application and that all activities must comply with all provisions of the program requirements as listed in the most current Program & Reports Guides.
- The contractor shall not transfer any interest in the contract, whether by assignment or otherwise.

3. APPROVAL AND ACCEPTANCE

- Project activities must take place within the time frame stated in the contract or approved revision.
- No creative execution received by the agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect and approve said materials, artwork, and/or creative design.
- All marketing and advertising creative that does not comply with the specifications and/or requirements or that is otherwise unacceptable may be rejected. In addition, creative execution that is discovered to be of poor quality or does not conform to reasonable standards upon inspection may be rejected.
- Artwork with funding from the Marketing Platform Development Grant program must receive approval from MDT prior to placement.

4. QUARTERLY REPORTING AND REIMBURSEMENT OF APPROVED EXPENSES

- Reimbursement for all approved services shall be made in arrears as a part of a MPD Reimbursement Request form submitted upon completion of the project with all required documentation as stated in the most current Grant Program & Reports Guide and must utilize official, current program forms or database.
- At least 50% of the cost of each invoice must be paid by the contractor before an invoice may be submitted for reimbursement.
- The State of Missouri assumes no obligation for activities beyond those specifically outlined in the application. Any unauthorized activity is subject to the state's rejection and shall be denied reimbursement.

5. OUTCOME MEASUREMENT

The contractor agrees and understands that measurement of the project outcome is required as outlined in the most current Program & Reports Guide, that the required documents must be submitted in a timely manner, and that failure to do so will be considered a breach of contract.

6. CONFLICT OF INTEREST

Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.

7. WARRANTY

The contractor expressly warrants that all services provided shall: (1) conform to the specifications, drawings, samples or other descriptions which were furnished to the agency, (2) are fit and sufficient for the purpose intended, (3) be of good creative quality, and (4) meet the terms of performance as described in the FY2025 Program & Reports Guide. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said products and services.

8. REMEDIES AND RIGHTS

- No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

9. CANCELLATION OF CONTRACT

- In the event of material breach of the contractual obligations by the contractor, the state may cancel the contract. At its sole discretion, the state may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed in a timeframe determined by the state agency.
- If the contractor fails to cure the breach or if circumstances demand immediate action, the state agency will issue a notice of cancellation terminating the contract immediately and /or suspending or revoking the DMO's certification.
- If the state cancels the contract for breach, the state reserves the right to obtain the services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the state deems appropriate.
- The contractor understands and agrees that funds required to reimburse the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.
- The funding for this project/application may be reduced unilaterally by the Division of Tourism due to the unavailability of funds or reduced appropriation authority, including but not limited to withholdings made pursuant to Mo. Const. Art. IV §27.

10. COMMUNICATIONS AND NOTICES

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.

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CITY OF ROLLA
CITY COUNCIL AGENDA

DEPARTMENT HEAD: Darin Pryor

ACTION REQUESTED: Bid Award / Ordinance

Motion/1st Reading

ITEM/SUBJECT: Project #593 – 2025 ASPHALT MALTENE REPLACEMENT

BUDGET APPROPRIATION: \$100,000

DATE: 01/21/25

COMMENTARY:

Attached is an ordinance authorizing the Mayor to enter into a contract with Corrective Asphalt Materials, LLC, for applying a maltene-based asphalt rejuvenator to several City streets. A map of the included streets is included in the packet.

City staff received bids for Project 593, 2025 Asphalt Maltene Replacement. We received two bids:

Corrective Asphalt Materials	\$ 95,067.05
300 Daniel Boone Trail	
South Roxana, IL 62087	

Pugsley Services	\$ 81,013.66
Po Box 22	
Brighton, IL 62012	

Staff is not recommending award of this project to Pugsley Services due to their bid not conforming to the project specifications. The alternate materials proposed by Pugsley is not a maltene based product.

Staff is requesting a motion to award the bid, and the first reading of the ordinance authorizing the Mayor to enter into the contract with Corrective Asphalt Materials, LLC, for \$ 95,067.05.

According to the National Center for Pavement Preservation “a true asphalt rejuvenator is a maltene-based petroleum product which has the ability to absorb or penetrate into an asphaltic concrete pavement and restore those reactive components (maltenes) that have been lost from the asphalt cement binder due to the natural process of oxidation.”

ITEM NO. V.A.1

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CERTAIN AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI AND CORRECTIVE ASPHALT MATERIALS, 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 for Project 593 between the City of Rolla and Corrective Asphalt Materials, LLC, a copy of said agreement being attached hereto and marked Exhibit "A".

Section 2: This ordinance will be in full force and effect from and after the date of its passage and approval.

PASSED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI AND APPROVED BY THE MAYOR THIS 3RD DAY OF FEBRUARY 2025.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY COUNSELOR

CONTRACT AGREEMENT

THIS AGREEMENT, made and entered into this _____ Day of _____ by and between the City of Rolla, Missouri, Party of the First Part and hereinafter called Owner, and _____ **Corrective Asphalt Materials, LLC** _____ Party of the second Part and hereinafter called the Contractor.

WITNESSETH:

THAT WHEREAS, the Owner has caused to be prepared, in accordance with law, specifications, plans, and other Contract Documents for the work herein described, and has approved and adopted said documents, and has caused to be published and advertised for and in connection with the construction of: **2025 Asphalt Maltene Replacement, Project 593**, in complete accord with the Contract Documents and the said plans and specifications; and

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

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

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

ARTICLE I. That the Contractor shall (a) furnish all tools, equipment, supplies, superintendent, transportation, and other construction accessories, services and facilities; (b) furnish all materials, supplies, and equipment specified and required to be incorporated in, and form a permanent part of the completed work except the items specified to be furnished by the Owner; (c) provide and perform all necessary labor, and (d) in a good, substantial, and workmanlike manner, and in accordance with the provisions of the General Conditions and the Special Conditions of the Contract, which are attached hereto and made a part hereof, and in conformity with the Contract Plans and Specifications designated and identified therein, execute, construct, and complete all work included in, and covered by the Owner's official award of this Contract to the said Contractor, such award being based on the acceptance by the Owner of the Contractor's proposal, for the construction of **2025 Asphalt Maltene Replacement, Project 593**.

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

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

ARTICLE III. Occupational Safety and Health Administration (OSHA)

Safety Training:

- a. Contractor shall provide a ten (10) hour Occupational Safety and Health Administration (OSHA) construction safety program for all employees who will be on-site at the project. The construction safety program shall include a course in construction safety and health that is approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program as required by Section 292.675, R.S.Mo.
- b. Contractor shall require its on-site employees to complete a construction safety program within sixty (60) days after the date work on the project commences.
- c. Contractor acknowledges and agrees that any of Contractor's employees found on the project site without the documentation of the successful completion of a construction safety program shall be required to produce such documentation within twenty (20) days, or will be subject to removal from the project.
- d. Contractor shall require all of its subcontractors to comply with the requirements of this Section and Section 292.675, R.S.Mo.

Notice of Penalties for Failure to Provide Safety Training

- a. Pursuant to Section 292.675, R.S.Mo, Contractor shall forfeit to City as a penalty two thousand five hundred dollars (\$2,500.00), plus one hundred dollars (\$100.00) for each on-site employee employed by Contractor or its Subcontractor, for each calendar day, or portion thereof, such on-site employee is employed without the construction safety training required in Safety Training section of Article III above.
- b. The penalty described in above subsection A of this section shall not begin to accrue until the time periods described in Sections B and C Safety Training of Article III above have elapsed.

- c. Violations of Article III – Safety Training above and imposition of the penalty described in this Section shall be investigated and determined by the Missouri Department of Labor and Industrial Relations.

ARTICLE IV. That the Contractor shall construct and complete the work designated and described in the foregoing proposal and attached specifications in accordance with the Notice to Bidders, Instruction to Bidders, Proposal, Bond, General Conditions, Special Conditions, Technical Specifications, Drawings, Addenda, and other component parts of the Contract Documents hereto attached, all of which documents from the Contract and are as fully a part hereto as if repeated verbatim herein.

ARTICLE V. That the Owner shall pay to the Contractor for the performance of the work described as follows: Complete construction of the improvements in accordance with plans and specifications; and the Contractor will accept as full compensation therefore, the sum (subject to adjustment as provided by the Contract) of \$ 95,067.05 for All work covered by and included in the contract award and designated in the foregoing Article I. Payment therefore shall be made in the manner provided in the General Conditions attached hereto.

ARTICLE VI. That the Contractor shall begin assembly of materials and equipment within ten (10) days after receipt from the Owner of executed copies of the Contract.

Liquidated Damages - Should the contractor fail to complete the work on or before the completion date specified the contractor will be charged liquidated damages in the amount of \$500.00 per calendar day for each full calendar day that the work is not fully completed. Liquidated damages will not be charged for weekends and holidays.

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

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

ARTICLE IX. This Contract will not be binding and effective until confirmed by the Owner.

IN WITNESS-WHEREOF: The parties have executed this Contract as of the day and year first above written.

CITY OF ROLLA, MISSOURI

CONTRACTOR

BY _____
Mayor, Owner, Party of the First Part

BY _____

Printed Name

Printed Name/Title

STATE OF MISSOURI)
SS)
County of Phelps)

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

My commission expires: _____

Notary Public

STATE OF MISSOURI)
SS)
County of Phelps)

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

My commission expires: _____

Notary Public

Reclamite® Petroleum Maltene-Based Rejuvenating Agent

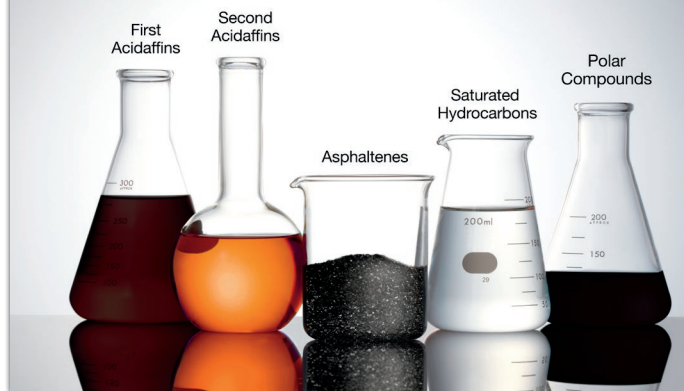
► What is Reclamite?

According to the National Center for Pavement Preservation “a true asphalt rejuvenator is a maltene-based petroleum product which has the ability to absorb or penetrate into an asphaltic concrete pavement and restore those reactive components (maltenes) that have been lost from the asphalt cement binder due to the natural process of oxidation.”

Reclamite comprises the same maltene fractions as the asphalt binder. Reclamite is refined from a naphthenic (wax free) base that seals and preserves the surface “in-depth”.



Components of Asphalt.



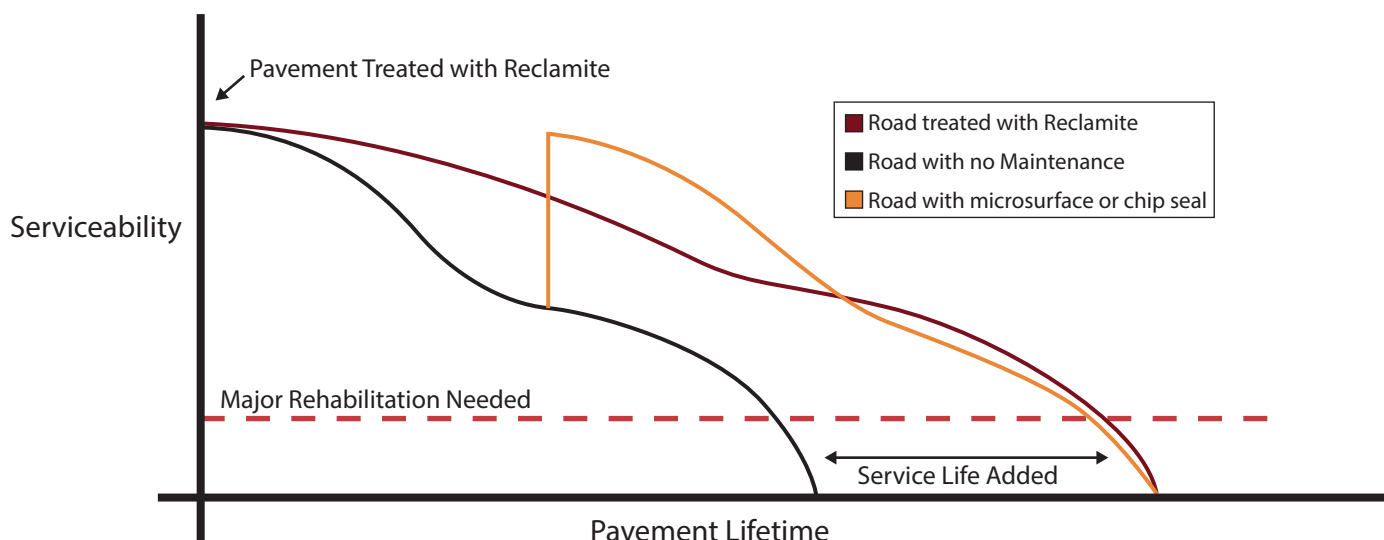
► When should Reclamite be used?

Reclamite is a “top-of-the-curve” application. Apply to newer pavement (less than six years old in northern climates, less than ten years old in southern climates) that shows minimal signs of surface deterioration.

► How does it work?

Reclamite has been used for more than 50 years and is proven to add 5-7 years service life to pavements. It penetrates, rejuvenates and seals the surface by replenishing the lost maltene fraction in the asphalt binder. Maltene is necessary to make the surface durable and flexible. Reclamite fluxes with the asphalt binder, restoring the aggregate/asphalt bond.

Reclamite prevents raveling and stripping and, by densifying the pavement’s surface, it helps address compaction issues, reduces surface permeability, and prevents air and moisture intrusion. It adjusts viscosity and penetration values. It does not contain degreasers, solvents or creosotes.



V.A.7

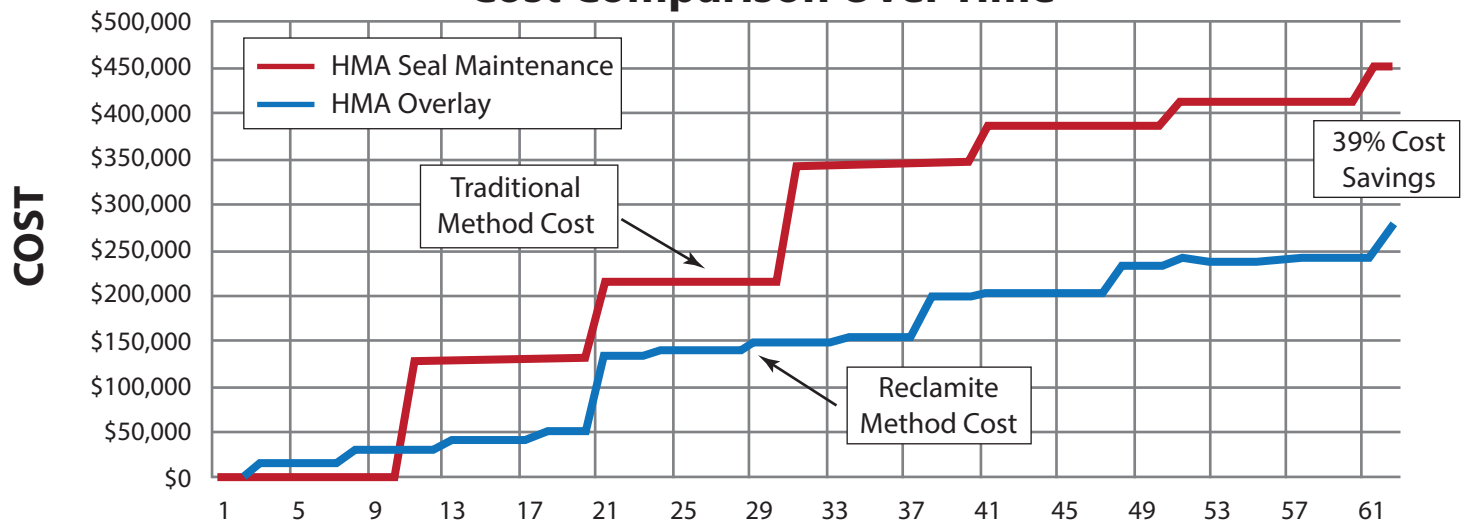
► How is Reclamite applied?

Reclamite is sprayed like a fog seal. The emulsion is diluted with water to 60 percent Reclamite. Application rates average between .05-.08 gallons per square yard. It is applied in one pass, has a 20-45 minute cure time and leaves no surface coating. Then a light coating of sand or limestone screenings is applied (1-2 pounds per square yard). The screenings are swept between 1-2 days after application. Striping is not compromised and remains visible throughout the application process.



Application of Reclamite

Cost Comparison Over Time



Source: Town of Avon, Indiana Preservation Study. Schneider Engineering Case Study
Presented at Purdue University www.youtube.com/watch?v=dYIDAA2Ey4k

AVON PASER AVG. 1999-2013

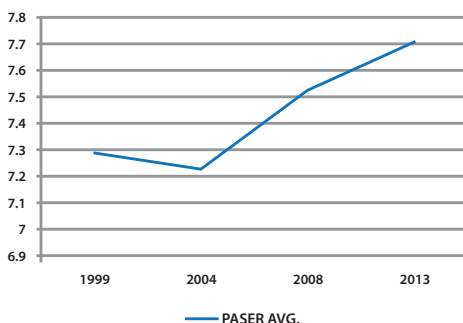


Chart shows average Paser ratings increasing after Reclamite program was initiated

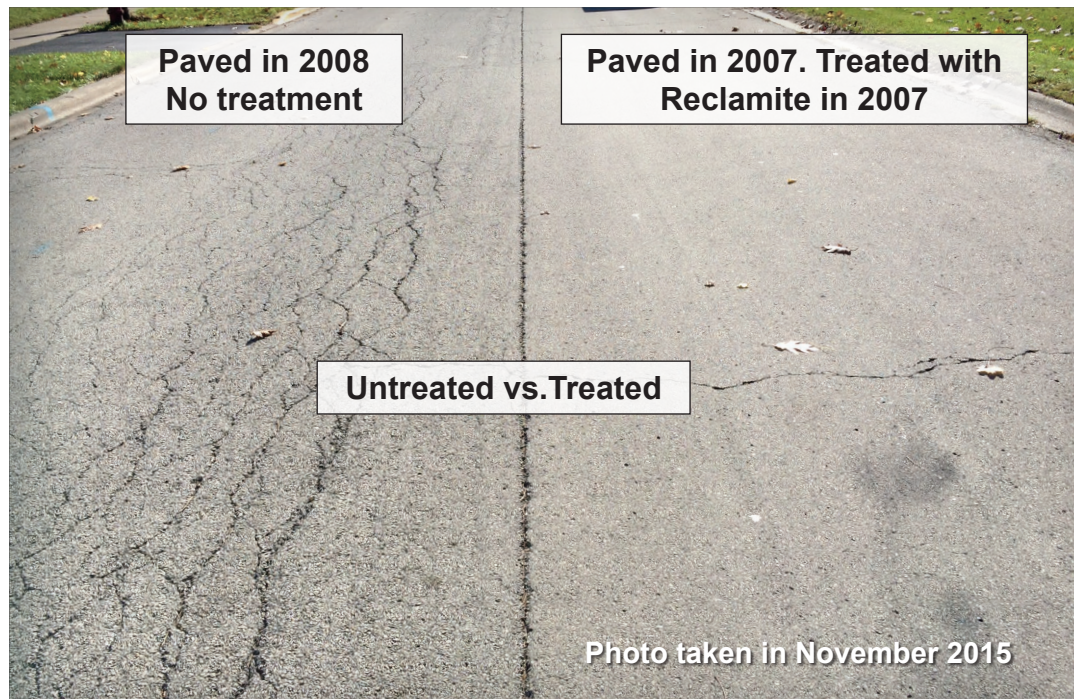
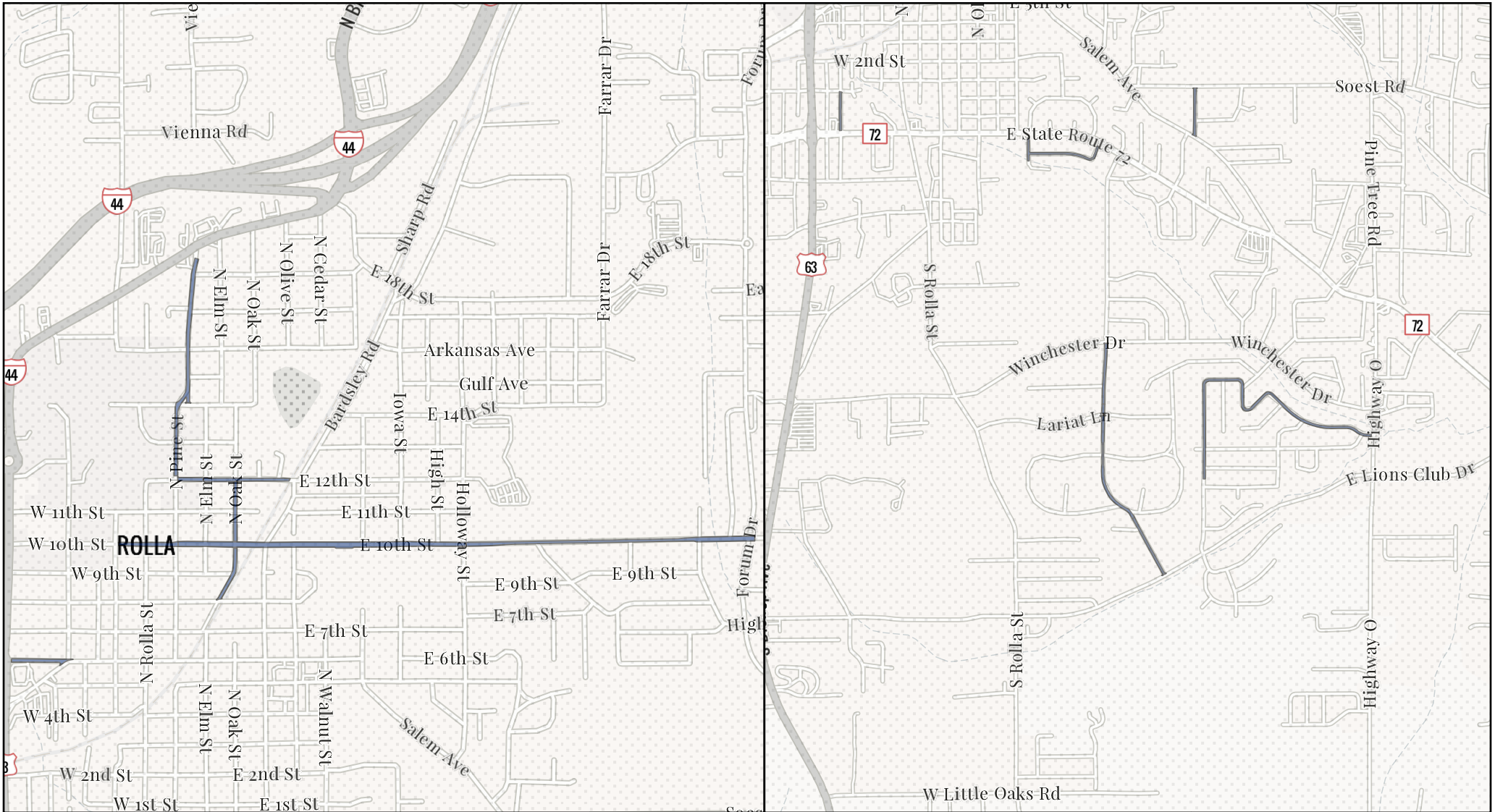


Photo taken in November 2015



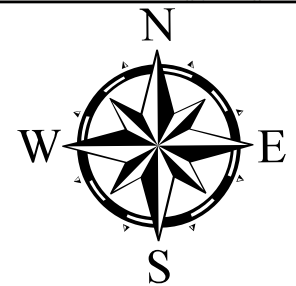
Legend

-  Streets
-  Maltene Replacement

Maltene Replacement



2024



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CITY OF ROLLA
CITY COUNCIL AGENDA

DEPARTMENT HEAD: Darin Pryor

ACTION REQUESTED: Bid Award / Ordinance

Motion/1st Reading

ITEM/SUBJECT: Project #594 – 2025 SANITARY SEWER CIPP REPAIRS

BUDGET APPROPRIATION: \$300,000

DATE: 01/21/25

COMMENTARY:

Attached is an ordinance authorizing the Mayor to enter into a contract with Visu-Sewer of Missouri, LLC, for installing cured-in-place linings to approximately 1.3 miles City sewer mains. A map of the included sewers is included in the packet.

City staff received bids for Project 594, 2025 Sanitary Sewer CIPP Repairs. We received four bids:

Municipal Pipe Tool Co LLC 515 5 th Street Hudson, IA 50643	\$ 338,368.44
SAK Construction, LLC 864 Hoff Road O'Fallon, MO 63366	\$ 381,726.00
Visu-Sewer of Missouri, LLC 7895 St Clair Avenue East St. Louis, IL 62203	\$ 292,794.00
Insituform Technologies USA, LLC 580 Goddard Avenue Chesterfield, MO 63005	\$ 361,094.63

Staff is requesting a motion to award the bid, and the first reading of the ordinance authorizing the Mayor to enter into the contract with Visu-Sewer of Missouri, LLC, for \$ 292,794.00.

Sewer Statistics:

Total miles of sewer – 135.4 miles
PVC – 69.43 miles
Clay – 46.76 miles
CIPP Lined – 14.33 miles
Other – 4.88 miles

ITEM NO. V.B.1

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CERTAIN AGREEMENT BETWEEN THE CITY OF ROLLA, MISSOURI, AND VISU-SEWER OF MISSOURI, 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 for Project 594 between the City of Rolla and Visu-Sewer of Missouri, LLC, a copy of said agreement being attached hereto and marked Exhibit "A".

Section 2: This ordinance will be in full force and effect from and after the date of its passage and approval.

PASSED BY THE CITY COUNCIL OF THE CITY OF ROLLA, MISSOURI AND APPROVED BY THE MAYOR THIS 3RD DAY OF FEBRUARY 2025.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY COUNSELOR

CONTRACT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, by and between the City of Rolla, Missouri, Party of the First Part and hereinafter called Owner, and Visu-Sewer of Missouri, LLC Party of the second Part and hereinafter called the Contractor.

WITNESSETH:

THAT WHEREAS, the Owner has caused to be prepared, in accordance with law, specifications, plans, and other Contract Documents for the work herein described, and has approved and adopted said documents, and has caused to be published and advertisement for and in connection with the construction of " This proposal is submitted for the Project entitled **"2025 Sanitary Sewer CIPP Repairs, Project 594"**, in complete accord with the Contract Documents and the said plans and specifications; and

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

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

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

ARTICLE I. That the Contractor shall (a) furnish all tools, equipment, supplies, superintendent, transportation, and other construction accessories, services and facilities; (b) furnish all materials, supplies, and equipment specified and required to be incorporated in, and form a permanent part of the completed work except the items specified to be furnished by the Owner; (c) provide and perform all necessary labor, and (d) in a good, substantial, and workmanlike manner, and in accordance with the provisions of the General Conditions and the Special Conditions of the Contract, which are attached hereto and made a part hereof, and in conformity with the Contract Plans and Specifications designated and identified therein, execute, construct, and complete all work included in, and covered by the Owner's official award of this Contract to the said Contractor, such award being based on the acceptance by the Owner of the Contractor's proposal, for the construction of **"2025 Sanitary Sewer CIPP Repairs, Project 594"**.

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

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

ARTICLE III. Occupational Safety and Health Administration (OSHA)

Safety Training:

- a. Contractor shall provide a ten (10) hour Occupational Safety and Health Administration (OSHA) construction safety program for all employees who will be on-site at the project. The construction safety program shall include a course in construction safety and health that is approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program as required by Section 292.675, R.S.Mo.
- b. Contractor shall require its on-site employees to complete a construction safety program within sixty (60) days after the date work on the project commences.
- c. Contractor acknowledges and agrees that any of Contractor's employees found on the project site without the documentation of the successful completion of a construction safety program shall be required to produce such documentation within twenty (20) days, or will be subject to removal from the project.
- d. Contractor shall require all of its subcontractors to comply with the requirements of this Section and Section 292.675, R.S.Mo.

Notice of Penalties for Failure to Provide Safety Training

- a. Pursuant to Section 292.675, R.S.Mo, Contractor shall forfeit to City as a penalty two thousand five hundred dollars (\$2,500.00), plus one hundred dollars (\$100.00) for each on-site employee employed by Contractor or its Subcontractor, for each calendar day, or portion thereof, such on-site employee is employed without the construction safety training required in Safety Training section of Article III above.
- b. The penalty described in above subsection A of this section shall not begin to accrue until the time periods described in Sections B and C Safety Training of Article III above have elapsed.
- c. Violations of Article III – Safety Training above and imposition of the penalty described in this Section shall be investigated and determined by the Missouri Department of Labor and Industrial Relations.

ARTICLE IV. That the Contractor shall construct and complete the work designated and described in the foregoing proposal and attached specifications in accordance with the Notice to Bidders, Instruction to Bidders, Proposal, Bond, General Conditions, Special Conditions, Technical Specifications, Drawings, Addenda, and other component parts of the Contract Documents hereto

attached, all of which documents from the Contract and are as fully a part hereto as if repeated verbatim herein.

ARTICLE V. That the Owner shall pay to the Contractor for the performance of the work described as follows: Complete construction of the improvements in accordance with plans and specifications; and the Contractor will accept as full compensation therefore, the sum (subject to adjustment as provided by the Contract) of \$ 292,794.00 for all work covered by and included in the contract award and designated in the foregoing Article I. Payment therefore shall be made in the manner provided in the General Conditions attached hereto.

ARTICLE VI. That the Contractor shall begin assembly of materials and equipment within ten (10) days after receipt from the Owner of executed copies of the Contract, and that the Contractor shall commence work **when issued by City Engineer** when Notice to Proceed is issued and complete said work by **August 1, 2025**.

Liquidated Damages - Should the contractor fail to complete the work on or before the completion date specified the contractor will be charged liquidated damages in the amount of \$500.00 per calendar day for each full calendar day that the work is not fully completed. Liquidated damages will not be charged for weekends and holidays.

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

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

ARTICLE IX. This Contract will not be binding and effective until confirmed by the Owner,

IN WITNESS-WHEREOF: The parties have executed this Contract as of the day and year first above written.

CITY OF ROLLA, MISSOURI

CONTRACTOR

BY _____
Mayor, Owner, Party of the First Part

BY _____

Printed Name

Printed Name/Title

STATE OF MISSOURI)
SS)
County of Phelps)

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

My Commission Expires: _____

Notary Public

STATE OF MISSOURI)
SS)
County of Phelps)

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

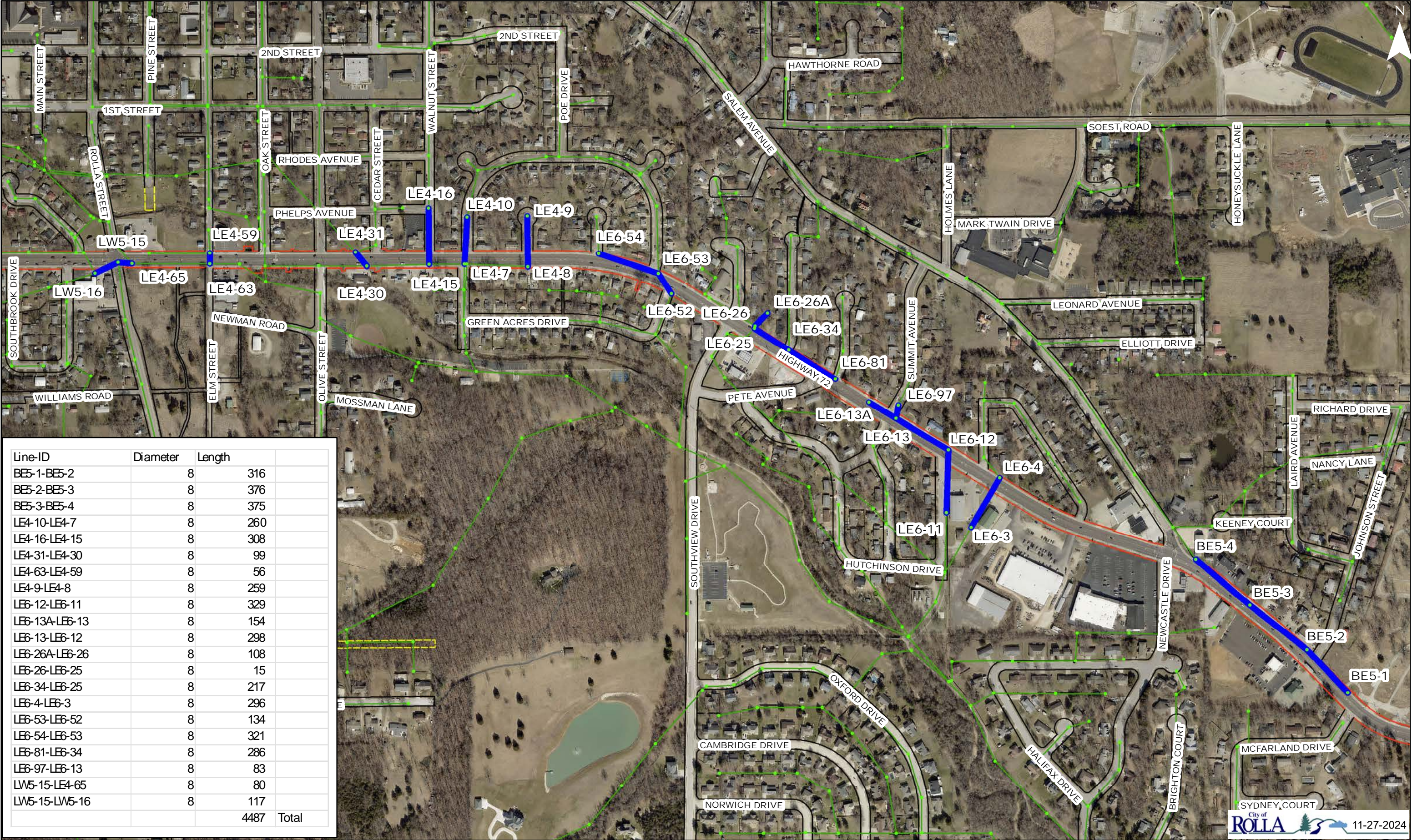
My Commission Expires: _____

Notary Public

2025 Sewer Lining - Highway 63



2025 Sewer Lining - Highway 72



ORDINANCE NO. _____

**AN ORDINANCE ADDING CHAPTER 43 TO THE ROLLA, MISSOURI
CODE OF ORDINANCES; REQUIRING COMPLIANCE WITH FEDERAL
ABORTION LAWS; DECLARING ROLLA, MISSOURI, A
SANCTUARY CITY FOR THE UNBORN**

WHEREAS, Article I, Section 2 of the Constitution of Missouri provides that all persons have a natural right to life.

WHEREAS, the Missouri General Assembly has passed laws recognizing that “[t]he life of each human being begins at conception,” § 1.205.1(1) RSMo, “[u]nborn children have protectable interests in life, health, and wellbeing,” § 1.205.1(2) RSMo; and that “the laws of this state shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state,” § 1.205.2 RSMo.

WHEREAS, the Missouri General Assembly has declared the State and all of its political subdivisions to be a “sanctuary of life” that protects pregnant women and their unborn children.” *See* § 188.010, RSMo.

WHEREAS, the Supreme Court of the United States in *Poelker v. Doe*, 432 U.S. 519 (1977), opined that “the Constitution does not forbid a State or city, pursuant to democratic processes, from expressing a preference for normal childbirth” instead of abortion.

WHEREAS, federal law imposes felony criminal liability on certain individuals who ship or receive abortion pills or abortion-related paraphernalia through the mail or by using an express company, common carrier, or interactive computer service, *see* 18 U.S.C. §§ 1461–62.

WHEREAS, federal law also imposes federal criminal liability on every person who performs or aids or abets a partial-birth abortion. *See* 18 U.S.C. § 1531.

WHEREAS, the Constitution and laws of Missouri do not and cannot secure a right, privilege or immunity to act in violation of federal criminal statutes such as 18 U.S.C. §§ 1461–62 and 18 U.S.C. § 1531.

WHEREAS, the so-called “fundamental right to reproductive freedom” described in Article I, Section 36 “to make and carry out decisions about all matters relating to reproductive health care” does not and cannot encompass conduct that violates federal criminal statutes such as 18 U.S.C. §§ 1461–62 and 18 U.S.C. § 1531.

WHEREAS, the Mayor and City Council are bound by oath to support and defend the Constitution of the United States, and the statutory provisions codified at 18 U.S.C. §§ 1461–62 and 18 U.S.C. § 1531 are the “supreme Law of the Land” under

Article VI of the Constitution and must be obeyed and respected by every person within the City of Rolla and by every judge in the state of Missouri. See U.S. Const. art. VI (“[T]he Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”).

WHEREAS, we call upon the United States Attorneys for the District of Missouri and throughout the United States, both present and future, to investigate and prosecute all abortion providers and abortion-pill distribution networks that violate 18 U.S.C. §§ 1461–62.

WHEREAS, to preserve the safety, health, peace, good order, comfort, convenience, morals, and welfare of all inhabitants within the City of Rolla, and to ensure the federal prohibitions on the shipment of abortion pills and abortion-related paraphernalia are obeyed, the City Council finds it necessary to enact this ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of Rolla, Missouri, that the City of Rolla, Missouri, be declared to be a Sanctuary City for the Unborn—a city encouraging mothers to choose life and not abortion, while also enforcing laws to preserve the safety, health, peace, good order, comfort, convenience, morals, and welfare of all inhabitants within the City of Rolla, Missouri, both the born and the unborn, and that the Rolla, Missouri, Code of Ordinances be amended as follows:

The Rolla Code is amended by adding Chapter 43 to read as follows:

CHAPTER 43

ABORTION

§ 43.001. Definitions

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(1) “Abortion” means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of an unborn child. The term does not include:

(A) In vitro fertilization or fertility treatments of any type;

(B) The use, prescription, administration, procuring, or selling of Plan B, morning-after pills, intrauterine devices, or any other type of contraception or emergency contraception; or

(C) An act performed with the purpose to:

(i) Save the life or preserve the health of the unborn child;

(ii) Remove a dead unborn child caused by spontaneous abortion; or

(iii) Remove an ectopic pregnancy, the implantation of a fertilized egg or embryo outside of the uterus.

(2) "Elective abortion" means any abortion other than those performed or induced in response to a medical emergency;

(3) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(4) "Medical emergency" means a condition in which an abortion is necessary to preserve the life of a pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself;

(5) "Partial-birth abortion" means an abortion in which the person performing the abortion:

(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(6) "Woman" and "women" include any person whose biological sex is female, including any person with XX chromosomes and any person with a uterus, regardless of any gender identity that the person attempts to assert or claim.

§ 43.002. Compliance With Federal Abortion Laws Required.

(a) It shall be unlawful for any person to violate 18 U.S.C. § 1461 by using the mails for the mailing, carriage in the mails, or delivery of:

(1) Any article or thing designed, adapted, or intended for producing an elective abortion; or

(2) Any article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing an elective abortion;

(b) It shall be unlawful for any person to violate 18 U.S.C. § 1462 by:

(1) using any express company or other common carrier or interactive computer service for carriage in interstate or foreign commerce of any drug, medicine, article, or thing designed, adapted, or intended for producing an elective abortion;

(2) knowingly taking or receiving, from such express company or other common carrier or interactive computer service, any matter or thing described in subsection (b)(1).

(c) It shall be unlawful for any person to violate 18 U.S.C. § 1531 by knowingly performing a partial-birth abortion that is not necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(d) It shall be unlawful for any person to engage in conduct that aids or abets the violations of 18 U.S.C. § 1461 or 18 U.S.C. § 1462 described in subsection (a).

(e) Notwithstanding any other law, the requirements of this section shall be enforced exclusively through the private civil actions described in § 43.003. No direct or indirect enforcement of this section may be taken or threatened by the city of Rolla or any of its employees or agents against any person or entity, by any means whatsoever, and no violation of this section may be used to justify or trigger the enforcement of any other law or any type of adverse consequence under any other law, except as provided in § 43.003. This section does not preclude or limit the enforcement of any other law or regulation against conduct that is independently prohibited by such other law or regulation, and that would remain prohibited by such other law or regulation in the absence of this section.

§ 43.003. Private Right of Action.

(a) Any person, other than the state, its political subdivisions, including the city of Rolla, and any officer or employee or agent of a state or local governmental entity in this state, has standing to bring and may bring a civil action against any person or entity that:

(1) violates any provision of § 43.002(a), § 43.002(b), or § 43.002(c); or

(2) intends to violate any provision of § 43.002(a), § 43.002(b), or § 43.002(c).

(b) If a claimant prevails in an action brought under this section, the court shall award:

(1) injunctive relief sufficient to prevent the defendant from violating § 43.002;

(2) nominal and compensatory damages if the plaintiff has suffered injury or harm from the defendant's conduct, including but not limited to loss of consortium and emotional distress;

(3) statutory damages in an amount of not less than \$100,000 for each violation of § 43.002(a), § 43.002(b), or § 43.002(c); and

(4) costs and reasonable attorney's fees.

(c) Notwithstanding Subsection (b), a court may not award relief under Subsection (b)(3) or (b)(4) in response to a violation of Subsection (a)(1) if the defendant demonstrates that a court has already ordered the defendant to pay the full amount of statutory damages under Subsection (b)(3) in another action for that particular violation of § 43.002.

(d) Notwithstanding any other law, a person may bring an action under this section not later than the sixth anniversary of the date the cause of action accrues.

(e) Notwithstanding any other law, the following are not a defense to an action brought under this section:

(1) ignorance or mistake of law;

(2) a defendant's belief that the requirements or provisions of this chapter are unconstitutional or were unconstitutional;

(3) a defendant's reliance on any court decision that has been vacated, reversed, or overruled on appeal or by a subsequent court, even if that court decision had not been vacated, reversed, or overruled when the cause of action accrued;

(4) a defendant's reliance on any state or federal court decision that is not binding on the court in which the action has been brought;

(5) a defendant's reliance on any federal or state statute, agency rule or action, or treaty that has been repealed, superseded, or declared invalid or unconstitutional, even if that federal or state statute, agency rule or action, or treaty had not been repealed, superseded, or declared invalid or unconstitutional when the cause of action accrued;

(6) non-mutual issue preclusion or non-mutual claim preclusion;

(7) the consent of the plaintiff or the unborn child's mother to the abortion, or the consent of one or both of the parents of the unborn child's mother to the abortion, or the consent of the legal guardian of the unborn child's mother to the abortion;

(8) contributory or comparative negligence;

(9) assumption of risk;

(10) any claim that the enforcement of this chapter or the imposition of civil liability against the defendant will violate the constitutional rights of third parties, except as provided by § 43.004.

(f) This section may not be construed to impose liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, section 8 of the Missouri Constitution.

(g) Notwithstanding any other law, neither the city of Rolla, nor any of its officers, employees, or agents, may:

(1) act in concert or participation with anyone who brings suit under this section;

(2) establish or attempt to establish any type of agency or fiduciary relationship with a person who brings suit under this section;

(3) make any attempt to control or influence a person's decision to bring suit under this section or that person's conduct of the litigation; or

(4) intervene in any action brought under this section.

This subsection does not prohibit a person or entity described by this subsection from filing an amicus curiae brief in the action, so long as that person or entity does not act in concert or participation with the plaintiff or plaintiffs who sue under this section or violate any provision of Subsection (g)(1)–(4).

(h) Notwithstanding any other law, a court may not award costs or attorneys' fees to a litigant who is sued under this section.

(i) Notwithstanding any other law, a civil action under this section may not be brought:

(1) against the woman upon whom an abortion was performed or induced or attempted to be performed or induced in violation of this chapter, or against a pregnant woman who intends or seeks to abort her unborn child in violation of this chapter;

(2) against any person or entity that performs, aids or abets, or attempts or intends to perform or aid or abet an abortion at the behest of federal agencies, contractors, or employees that are carrying out duties under federal law, if a prohibition on that abortion would violate the doctrines of preemption or intergovernmental immunity;

(3) against any common carrier that transports a pregnant woman to an abortion provider, if the common carrier is unaware that the woman intends to abort her unborn child; or

(4) by any person who impregnated a woman seeking an abortion through an act of rape, sexual assault, or incest, or by anyone who acts in concert or participation with such a person.

§ 43.004. Affirmative Defenses

(a) A defendant against whom an action is brought under § 43.003 may assert an affirmative defense to liability under this section if:

(1) the imposition of civil liability on the defendant will violate rights, privileges, or immunities secured by the Constitution or laws of the United States or by the Constitution or laws of the state of Missouri, that belong to the defendant personally; or

(2) the defendant

(A) has standing to assert the rights, privileges, or immunities of a third party under the tests for third-party standing established by the Supreme Court of the United States or the Supreme Court of Missouri; and

(B) demonstrates that the imposition of civil liability on the defendant will violate rights, privileges, or immunities secured by the Constitution or laws of the United States, or by the Constitution or laws of the state of Missouri, that belong to that third party; or

(3) The conduct for which the defendant is being sued:

(A) was not intended to assist or facilitate the performance of an elective abortion; or

(B) was necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. For purposes of this section, "major bodily function" includes, but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(b) Nothing in this section or chapter shall limit or preclude a defendant from asserting the unconstitutionality of any provision or application of this ordinance as a defense to liability under § 43.003, or from asserting any other defense that might be available under any other source of law.

§ 43.005. Severability

(a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the Supreme Court of the United States held that an explicit statement of legislative intent is controlling, it is the intent of the City Council that every provision, section, subsection, sentence,

clause, phrase, or word in this chapter, and every application of the provisions in this chapter to every person, group of persons, or circumstances, are severable from each other.

(b) If any application of any provision in this chapter to any person, group of persons, or circumstances is found by any court to be invalid, preempted, or unconstitutional, for any reason whatsoever, then the remaining applications of that provision to all other persons and circumstances shall be severed and preserved, and shall remain in effect. All constitutionally valid applications of the provisions in this chapter shall be severed from any applications that a court finds to be invalid, preempted, or unconstitutional, because it is the City Council's intent and priority that every single valid application of every provision in this chapter be allowed to stand alone.

(c) The City Council further declares that it would have enacted this chapter, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of the provisions of this chapter, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this chapter were to be declared invalid, preempted, or unconstitutional.

(d) If any provision of this chapter is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the severability requirements of Subsections (a), (b), and (c).

(e) No court may decline to enforce the severability requirements of Subsections (a), (b), (c), and (d) on the ground that severance would "rewrite" the ordinance or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a state or local official from enforcing a statute or ordinance is never rewriting the underlying law or engaging in legislative or lawmaking activity, as the statute or ordinance continues to contain the same words as before the court's decision. A judicial injunction or declaration of unconstitutionality:

(1) is nothing more than an edict prohibiting enforcement that may subsequently be vacated by a later court if that court has a different understanding of the requirements of the Missouri Constitution or United States Constitution;

(2) is not a formal amendment of the language in a statute or ordinance; and

(3) no more rewrites a statute or ordinance than a decision by the executive not to enforce a duly enacted statute in a limited and defined set of circumstances.

(f) If any court, including any state or federal court, disregards any of the severability requirements in Subsections (a), (b), (c), (d), or (e), and declares or finds any provision of this chapter facially invalid, preempted, or unconstitutional, when there are discrete applications of that provision can be enforced against a person, group of persons, or circumstances without violating federal or state law or the federal or state

constitutions, then that provision shall be interpreted, as a matter of city law, as if the city had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate federal or state law or the federal or state constitutions, and every court shall adopt this saving construction of that provision until the court ruling that pronounced the provision facially invalid, preempted, or unconstitutional is vacated or overruled.

PASSED this ____ day of _____, 2025 by ____ ayes, ____ nays, and ____ abstains.

APPROVED:

By: _____

ATTEST:

By: _____

[Faint, illegible text]

A Fact Sheet On the Proposed Ordinance Requiring Compliance with Federal Abortion Laws, Declaring Rolla, Missouri a Sanctuary City for the Unborn (Jan 14, 2025)

How many cities and counties have passed “Sanctuary for the Unborn” ordinances throughout the United States? As of Tuesday, January 14, 2025, a total of 70 cities and 8 counties¹ throughout the U.S. have passed ordinances going as far as they possibly can to protect pregnant mothers and their unborn children. The majority of these governments passed these ordinances through a vote by their Mayor and City Council who are the people’s elected representatives.

Why should the Rolla City Council pass a SCFTU Ordinance? In 1809, Thomas Jefferson told Maryland Republicans, “The care of human life and happiness and not their destruction is the first and only legitimate object of good government.” The Rolla City Council has an obligation to preserve the safety, health, peace, good order, comfort, convenience, morals, and welfare of all inhabitants within the City of Rolla. This ordinance, which ensures the federal abortion-related prohibitions are obeyed, is the very least that Rolla can do to protect unborn children, their mothers, and their community in a post-Amendment 3 Missouri.

If passed, what would the proposed Rolla SCFTU Ordinance do and how would it be enforced? The proposed Rolla SCFTU Ordinance requires compliance with 18 U.S.C. §§ 1461–62, which prohibits the shipping or receiving of abortion-inducing drugs or abortion-related paraphernalia, as well as 18 U.S.C. § 1531, which prohibits the performing or the aiding or abetting of a partial-birth abortion. The ordinance would be enforced through a private enforcement mechanism allowing private citizens to file civil lawsuits against anyone who violates the ordinance. The ordinance, which places the power to act in the hands of the people, cannot be enforced by the city or by law enforcement in any way. It should also be noted that the proposed ordinance is clear that no action may be taken against mothers who have received an abortion or pregnant mothers who intend to have an abortion.

According to the Rolla SCFTU Ordinance, what is an abortion? In § 43.001, Definitions, the proposed Rolla SCFTU Ordinance defines abortion to mean “the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of an unborn child.” The ordinance is clear the term does not include: “In vitro fertilization or fertility treatments of any type, the use, prescription, administration, procuring, or selling of Plan B, morning-after pills, intrauterine devices, or any other type of contraception or emergency contraception, or an act performed with the purpose to save the life or preserve the health of the unborn child, remove a dead unborn child caused by spontaneous abortion, or remove an ectopic pregnancy, the implantation of a fertilized egg or embryo outside the uterus.”

Does the Rolla SCFTU Ordinance prohibit abortion? While some describe the proposed Rolla SCFTU Ordinance as a de-facto abortion ban, the ordinance does not prohibit abortion or abortion-inducing drugs. As stated before, all the proposed Rolla SCFTU Ordinance does is require compliance with 18 U.S.C. §§ 1461–62, which prohibits the shipping or receiving of abortion-inducing drugs or abortion-related paraphernalia, as well as 18 U.S.C. § 1531, which prohibits the performing or the aiding or abetting of a partial-birth abortion.

¹ To see a complete list of cities and counties, visit www.sanctuarycitiesfortheunborn.com.

Does the Rolla SCFTU Ordinance ignore or violate Amendment 3? No. The proposed ordinance does not ignore Amendment 3, but rightly recognizes that the Constitution and laws of Missouri do not and cannot secure a right, privilege or immunity to act in violation of federal criminal statutes such as 18 U.S.C. §§ 1461–62 and 18 U.S.C. § 1531. In other words, federal laws trump the laws of Missouri and the Constitution of Missouri. Whatever the passage of Amendment 3 means for the State of Missouri, the passage of Amendment 3 cannot nullify laws passed by Congress that bind all fifty states.

What is Missouri Attorney General Andrew Bailey’s position on cities passing ordinances regulating abortion? On Monday, December 16, 2024, Missouri Assistant Attorney General Dominic Barceau shared before the Rolla City Council, “The Attorney General’s position is that State law does not prohibit cities from regulating abortion in a way that is consistent with state and federal law.”

What is the current status of Missouri’s abortion laws in a post-Amendment 3 Missouri? In an official opinion,² released November 22, 2024, Attorney General Andrew Bailey gave an assessment of the legal effect of Amendment 3 on five statutes: Mo. Rev. Stat. §§ 188.017, 188.030, 188.056, 188.057, and 188.058. Attorney General Bailey said Amendment 3 “will generally prohibit the Attorney General, the Governor, locally elected prosecutors, the Department of Health and Senior Services, the Division of Professional Registration, and other officials from enforcing these provisions” but argued that there were cases in which the laws could be enforced. Attorney General Bailey was also clear that “Should Amendment 3 be construed more narrowly by courts or be amended or repealed in the future to permit greater protection of unborn life, that will automatically restore authority to the Attorney General and other officials to resume broader enforcement.” He went on to say, “Amendment 3 does not remove these statutes from the books, so there will be no need to reenact them if Amendment 3 is altered in the future.”³ While Attorney General Bailey did not specifically address Mo. Rev. Stat. § 188.021.1 in this opinion, which is the statute he referred to in his February 1, 2023 letters to Walgreens⁴ and CVS⁵ as to why it is unlawful to distribute an abortion drug through the mail, it is true that this statute has not been repealed by the State of Missouri or by the passage of Amendment 3 and is still the law of Missouri – regardless if it is currently enforceable or not. While Planned Parenthood has challenged several of Missouri’s laws on abortion in a post-Amendment 3 case filed in Jackson County, it should be understood by all that no ruling in that case or in any other case has the ability to repeal the pro-life laws which have been passed by the legislature of the State of Missouri. So, while it is true that some of Missouri’s abortion laws are now unenforceable, they still exist as the laws of Missouri.

Is the mailing and receiving of abortion-inducing drugs a violation of state and federal laws?

Yes. The mailing and receiving of abortion-inducing drugs is a violation of state and federal laws. Unfortunately, many of the abortion laws of the State of Missouri have become unenforceable under Amendment 3. That being said, regardless of what the Missouri statutes and the post-Amendment 3 Constitution of Missouri says on abortion, none of this changes the point made by Attorney General Bailey in his February 1, 2023 letter to Walgreens that “federal law expressly prohibits using the mail to send or receive any drug that will ‘be used or applied for producing abortion.’”

² <https://ago.mo.gov/wp-content/uploads/22-2024.pdf>

³ For a better understanding of this principle, view The Writ-of-Erasure Fallacy by Attorney Jonathan F. Mitchell: https://www.supremecourt.gov/opinions/URLs_Cited/OT2017/16-476/16-476-3.pdf

⁴ <https://ago.mo.gov/wp-content/uploads/attachments/2023-02-01-fda-rule---walgreens-letter-danielle-gray.pdf>

⁵ <https://ago.mo.gov/wp-content/uploads/attachments/2023-02-01-fda-rule---cvs-letter-tom-moriarty.pdf>

Why is the Rolla City Council considering this issue if the Supreme Court of the United States said this was a matter for each individual state to decide? The Supreme Court of the United States did not say that the issue of abortion was only to be dealt with at a state level. On June 24, 2022, the Supreme Court of the United States ruled in *Dobbs v. Jackson Women's Health Organization*, "The Constitution does not confer a right to abortion; *Roe* and *Casey* are overruled; and the authority to regulate abortion is returned to the people and their elected representatives." Notice that the Supreme Court of the United States did not say that the authority to regulate abortion is returned to the States, but they said the authority to regulate abortion is returned "to the people and their elected representatives." That is at all levels of government: local, state, and federal. Amos 5:15 reads, "Hate evil, and love good, and establish justice in the gate; it may be that the LORD, the God of hosts, will be gracious to the remnant of Joseph." If abortion-inducing drugs are being mailed into Rolla, it is not just a state problem but a local problem as well.

Are abortion-inducing drugs really a problem? Abortion-inducing drugs almost always end the lives of unborn children and sometimes abortion-inducing drugs can even take the lives of pregnant mothers. In a February 2023 letter to Walgreens, Missouri Attorney General Andrew Bailey warned the pharmacy chain of the dangers surrounding dispensing abortion-inducing drugs when he wrote:

*"Abortion pills are far riskier than surgical abortions, according to established scientific consensus: 'Medication abortions were 5.96 times as likely to result in a complication as first-trimester aspiration abortions.' Abortion pills carry the added risk that when these heightened complications invariably occur, women suffer those harms at home, away from medical help. And finally, mail-order abortion pills also invite the horror of an increase in coerced abortions. When abortion drugs are mailed or consumed outside a regulated medical facility, the risk of coercion is much higher—indeed, guaranteed—because there is no oversight. Outside the regulated medical context, a person can obtain an abortion pill quite easily and then coerce a woman into taking it."*⁶

Why was the Rolla SCFTU Ordinance written to be enforced by a private right of action? The private right of action authorizes private citizens to enforce the ordinance through civil lawsuits while simultaneously barring the city and its officials from having any enforcement role. The ordinance is written this way to shield the city and its officials from lawsuits brought by opponents of the ordinance.

If citizens can already sue under violations of 18 U.S.C. §§ 1461–62 and 18 U.S.C. § 1531, why is a local ordinance requiring compliance to these federal statutes even needed? Federal law allows only individuals who suffer certain types of injuries to sue over violations of 18 U.S.C. §§ 1461–62 and 18 U.S.C. § 1531. What's more, the federal courts are divided on whether a person who sues to enforce 18 U.S.C. §§ 1461–62 can obtain injunctive relief; many have held that only money damages are available. The ordinances go further by conferring near-universal standing and allowing anyone (other than the city or its officials) to sue those who violate 18 U.S.C. §§ 1461–62, and by authorizing and requiring injunctions to be issued against anyone who violates these federal laws.

Does the Rolla SCFTU Ordinance have a statute of limitations? Yes. The Rolla SCFTU ordinance does have a statute of limitations. The ordinance reads, "Notwithstanding any other law, a person may bring an action under this section not later than the sixth anniversary of the date the cause of action accrues."

⁶ <https://ago.mo.gov/wp-content/uploads/attachments/2023-02-01-fda-rule---walgreens-letter-danielle-gray.pdf>

Should the Rolla SCFTU Ordinance prevent doctors or nurse practitioners / midwives or other advanced practice providers from providing prenatal, labor, delivery or emergency care for pregnant women in Rolla? No. Under § 43.001, the proposed ordinance states, “The term [abortion] does not include... an act performed with the purpose to... save the life or preserve the health of the unborn child.” This means drugs shipped or received for the purpose of delivering an unborn child – either preterm or term – should never be affected by this ordinance. Nothing in this proposed ordinance will change anything about the standard of care currently being provided by healthcare professionals in Labor and Delivery in Rolla, Missouri.

Does the Rolla SCFTU Ordinance impact the removal of an ectopic pregnancy? No. § 43.001 states, “The term [abortion] does not include ... an act performed with the purpose to ... remove an ectopic pregnancy, the implantation of a fertilized egg or embryo outside of the uterus.” This means drugs shipped or received for the purpose of the removal of an ectopic pregnancy will never be affected by this ordinance.

Does the Rolla SCFTU Ordinance impact the treatment of miscarriages? No. § 43.001 states, “The term [abortion] does not include ... an act performed with the purpose to ... remove a dead unborn child caused by spontaneous abortion.” This means drugs shipped or received for the purpose of the removal of a dead child due to a miscarriage will never be affected by this ordinance.

Does the Rolla SCFTU Ordinance prohibit birth control, IUD’s, or emergency contraception? No, the proposed ordinance does not even prohibit abortion or abortion-inducing drugs. Still, the proposed Rolla SCFTU Ordinance goes out of the way to make clear that it does not prohibit birth control, IUD’s or emergency contraception. § 43.001’s definition of abortion states, “The term [abortion] does not include ... The use, prescription, administration, procuring, or selling of Plan B, morning-after pills, intrauterine devices, or any other type of contraception or emergency contraception.”

Does the Rolla SCFTU Ordinance protect medical professionals who have no intention to violate the ordinance? Yes, the proposed ordinance has built-in affirmative defenses for medical professionals who have no intention to violate 18 U.S.C. §§ 1461–62, which prohibits the shipping or receiving of abortion-inducing drugs or abortion-related paraphernalia, or 18 U.S.C. § 1531, which prohibits the performing or the aiding or abetting of a partial-birth abortion. § 43.004 reads, “A defendant against whom an action is brought under § 43.003 may assert an affirmative defense to liability under this section if ... The conduct which the defendant is being sued ... was not intended to assist or facilitate the performance of an elective abortion; or was necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman.” “Major bodily function” is defined in this section to include, but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

What if the City of Rolla is sued for passing the Rolla SCFTU Ordinance? If the proposed ordinance is adopted by the Rolla City Council and the city faces a lawsuit as a result of the adoption of this ordinance Attorney Jonathan F. Mitchell, the former Texas Solicitor General, has agreed to represent the City of Rolla, Missouri at no cost to the city and at no cost to taxpayers for any litigation which results in their passage of this ordinance.

MITCHELL LAW

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January 14, 2025

Mayor and City Council of Rolla, Missouri
City of Rolla, Missouri
901 North Elm Street
Rolla, MO 65401

PRIVILEGED AND CONFIDENTIAL

Mayor and City Council of Rolla, Missouri:

I understand that the City of Rolla, Missouri, is considering whether to enact an ordinance declaring the City of Rolla a sanctuary city for the unborn, an ordinance similar to those passed in over seventy jurisdictions throughout the United States.

I commit to you that Mitchell Law PLLC will represent the City of Rolla, at no cost to the city or its taxpayers, in any litigation that results from a decision to enact this ordinance supported by Mark Lee Dickson.

Please do not hesitate to call or email me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Jonathan F. Mitchell". The signature is written in a cursive, slightly stylized font.

Jonathan F. Mitchell
Mitchell Law PLLC