COUNCIL AGENDA
Monday, March 6, 2017
6:00 P.M., Council Chambers

1. **Call To Order**
   Invocation
   Pledge of Allegiance of the United States of America

2. **Roll Call**

3. **Presentations**

4. **Finalization Of Consent Agenda**

5. **Reports And Communications**

6. **Citizen Requests And Petitions**

   1. Request To Address Council

      Paul Zuraw, 3302 E. 12th, Joplin Mo, requests to address council concerning the city license for security guard.

7. **Public Hearings**

   1. Public Hearing Procedures

   2. COUNCIL BILL NO. 2017-250
      AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1 property as described below and located 3128 South Joplin Avenue in the City of Joplin, Jasper County, Missouri.

      Documents:

      CB 2017-250 MIN.PDF
      CB 2017-250 PLAN REPORT.PDF
      CB 2017-250 SUMMARY.PDF
      CB 2017-250.PDF

   3. COUNCIL BILL NO. 2017-251
      AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District R-2 property as described below and located 2525 South Adele Avenue in the City of Joplin, Jasper County, Missouri.

      Documents:

      CB 2017-251 MIN.PDF
      CB 2017-251 PLAN REPORT.PDF
      CB 2017-251 SUMMARY.PDF
      CB 2017-251.PDF

   4. COUNCIL BILL NO. 2017-252
      AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District M-2 property as described below and located 300 feet south of the intersection of 26th Street and Prigmor Road in the City of

Joplin, Jasper County, Missouri.

Documents:

CB 2017-252 MIN.PDF
CB 2017-252 PLAN REPORT.PDF
CB 2017-252 SUMMARY.PDF
CB 2017-252.PDF

5. COUNCIL BILL NO. 2017-253
AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District M-2 and including in District C-3 property as described below and generally described as the Southwest Corner of Newman Road and Cattleman Drive in the City of Joplin, Jasper County, Missouri

Documents:

CB 2017-253 MIN.PDF
CB 2017-253 PLAN REPORT.PDF
CB 2017-253 SUMMARY.PDF
CB 2017-253.PDF

6. COUNCIL BILL NO. 2017-254
AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District M-2 property as described below and described as ½ mile east of the intersection of 32nd Street and Prigmor Road in the City of Joplin, Jasper County, Missouri.

Documents:

CB 2017-254 MIN.PDF
CB 2017-254 PLAN REPORT.PDF
CB 2017-254 SUMMARY.PDF
CB 2017-254.PDF

8. Consent Agenda

1. Minutes Of The February 21, 2017 Council Meeting

Documents:

FEB 21 CC MINS.PDF

2. COUNCIL BILL NO. 2016-290

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1-PD property as described below and located 2915 East 17th Street in the City of Joplin, Jasper County, Missouri.

9. Resolutions

10. Ordinances - Emergency

1. COUNCIL BILL NO. 2017-112

AN ORDINANCE approving an Agreement with Brenda Kay Burt, for the acquisition of Right of Way for the Main Street Improvement Project 15th Street to 32nd Street; and authorizing the City Manager to convey the described property rights by Quit Claim deed; and containing an emergency clause.

Documents:

BURT AGMT.PDF
BURT LOCATION DRAWINGS.PDF
CB 2017-112.PDF
SUMMARY 2017-112.PDF
VALUATION SUMMARY BURT.PDF

2. COUNCIL BILL NO. 2017-115

AN ORDINANCE authorizing the City to enter into a Transportation Alternative Funds Program Agreement TAP-3205(704) with the Missouri Highways and Transportation Commission for the construction of the St. John's and Mohaska Trail projects, in the City of Joplin; authorizing the City Manager to execute said Agreement for and on behalf of the City; and containing an emergency clause.

Documents:

CB 2017-115.PDF
MOHASKA TRAIL.PDF
PROGRAM AGREEMENT JOPLIN, TAP-3205(704).PDF
ST JOHNS TRAIL.PDF
SUMMARY 2017-115.PDF

3. COUNCIL BILL NO. 2017-116

AN ORDINANCE approving the City of Joplin to enter into a contract with Sprouls Construction Inc. in the amount of $3,345,759.85 (Three Million Three Hundred Forty-Five Thousand Seven Hundred Fifty-Nine and 85/100 Dollars) for the Surface Project 4005 and authorizing the Director of Public Works to execute said Contract; and containing an emergency clause.

Documents:

BID TAB FORM.PDF
CB 2017-116 SPROULS CONST-4005 SURFACE PROJECT.PDF
PROJ LOC PACKET_CITY COUNCIL_53522.PDF
SUMMARY SHEET CB 2017-116 SPROULSCONST-4005SURFACEPROJECT.PDF

4. COUNCIL BILL NO. 2017-117

AN ORDINANCE approving the City of Joplin to enter into a contract with Jeff Asbell Excavating & Trucking, LLC in the amount of $1,640,100.06 (One Million Six Hundred Forty Thousand One Hundred and 06/100 Dollars) for the Crossroads Phase II Road Improvements project and authorizing the Director

of Public Works to execute said Agreement; and containing an emergency clause.

Documents:

SUMMARY SHEET- CR PHII ROAD.PDF
CROSSROADS 2017 RD. IMPROV. BID TAB TOTALS (02-24-17).PDF
CITY COUNSEL 02-20-17 ROAD IMPROVEMENTS-OVERALL.PDF
COUNCIL BILL - CR PHII ROAD.PDF
CROSSROADS II ASBELL CONTRACT.PDF

5. COUNCIL BILL 2017-118
AN ORDINANCE approving the City of Joplin to enter into a contract with Rosetta Construction, LLC in the amount of $795,190.00 (Seven Hundred Ninety Five Thousand One Hundred Ninety and 0/100 Dollars) for the Crossroads Phase II Sewer and Lift Station project and authorizing the Director of Public Works to execute said Agreement; and containing an emergency clause.

Documents:

SUMMARY SHEET - CR PHII SEWER.PDF
EXHIBIT 2 - LOCATION MAP.PDF
EXHIBIT 1 - BID TAB.PDF
COUNCIL BILL - CR PHII SEWER.PDF
CROSSROADS II ROSETTA CONTRACT.PDF

11. Ordinances - First Reading

1. COUNCIL BILL NO. 2017-505
AN ORDINANCE amending Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin, by amending Section 86-5, Fees at Schifferdecker Golf Course, to implement certain fee language changes; and setting a date when this Ordinance shall become effective.

Documents:

CB 2017-505 SUMMARY SHEET CHAPTER 86 PARKS FEE CHANGES.PDF
CB 2017-505 CHAPTER 86 GOLF FEE ORDINANCE LANGUAGE.PDF

12. Ordinances - Second Reading And Third Reading

13. Unfinished Business

14. New Business

1. News From The PIO

2. CLOSED SESSION
Vote to go into closed session, which shall pertain to legal action, causes of action, or litigation including a public governmental body and any confidential or privileged communications between a governmental body or its representatives and its attorneys pursuant to state law, and to discuss leasing, purchase or sale of real estate by a governmental body where public knowledge of the transaction might adversely affect the legal consideration thereof, pursuant to state law; as set forth in Section 610.021 (1) (2) RSMo, as amended, 2016. This meeting, record, and vote

be closed. Council shall adjourn at the end of the session.

Anyone wishing to address the Council should step to the podium and state his/her name and address. If the matter is not a Public Hearing, a request to speak to the Council should be prepared prior to the meeting. Speaking time will be limited to five (5) minutes.

Sound enhancement units are available for hearing impaired customers who provide a form of identification as security, which will be returned to the customer upon the return of the unit.

Those in need of disability-related auxiliary aids or services should contact the City Clerk's office at (417) 624-0820, ext. 220 no later than 48 hours prior to the meeting.

Notice posted at ____ p.m. on this the __ day of ____, ____. (RSMo 610.020)

Case 002-17: 3128 South Joplin Avenue – A request to rezone from R-1 (Single Family Residential) to C-1 (Neighborhood Commercial) for the operation of a nail salon – Phong Nguyen.

Mr. Nguyen, 2216 Pennsylvania, Joplin, MO. Mr. Nguyen and his wife have a nail shop on 20th and Annie Baxter; it isn't big enough for the clientele so they would like to rezone 3128 South Joplin to move there to open a new nail salon.

Mr. Smith asked if there were any questions for Mr. Nguyen. Mr. Ramsour stated he drove by there the other day and there is no parking on Joplin, no parking on 32nd and there is a carport in the back. Is that where the parking is going to be?

Mr. Nguyen stated that the parking will be in the lot next to it, which he owns. The carport will be taken down and made into a driveway and pave the vacant lot. Ms. Cunningham stated that Mr. Nguyen had a pre-development meeting with City Staff; there will be additional four or five parking spaces add to the site. Mr. Ramsour asked about an entrance from Joplin Street, and entrance and exit? Ms. Cunningham stated the entrance will come through the alley and then a right only exit onto Joplin.

Mr. Smith asked if anyone else would like to speak in favor of this case? There were not. Anyone present would like to speak against this case? There were none. Closed.

MR. RAMSOUR MOVED, SECONDED BY MR. BROWN, THAT REZONING FOR CASE 002-17 BE FORWARDED TO CITY COUNCIL WITH RECOMMENDATION OF APPROVAL. THE MOTION CARRIED, WITH MR. DUNCAN, MR. CORTEZ, MR. BROWN, MR. RAMSOUR AND MR. SMITH VOTING "AYE"; AND WITH MR. DERMOTT AND MS. BRUECKNER-SEARS BEING ABSENT (5 IN FAVOR, 2 ABSENT).

Z&P Meeting: February 13, 2017
City Council Meeting: March 6, 2017

STAFF PLANNING REPORT
Rezoning

CASE 002-17 A request to rezone from R-1 (Single-Family Residential) to C-1 (Neighborhood Commercial) for the operation of a nail salon.

LOCATION 3128 South Joplin Avenue

APPLICANT Phong Nguyen

EXISTING CONDITIONS

Zoning	Land Use	Property Size
R-1	Undeveloped	100 x 150

SITE CONTEXT

	North	East	South	West
Existing Zoning	R-1	C-3	R-1	R-1
Land Use	Residential	Commercial	Residential	Residential

FUTURE LAND USE

The City of Joplin's future land use map classifies the 32nd Street corridor as future retail and commercial development.

TRANSPORTATION

Streets with access	Classification	Right-of-way width
32nd Street	Arterial	65'
Joplin Avenue	Collector	60'

UTILITIES Yes. Utilities – including City of Joplin sanitary sewer – run through the alley directly west of this property.

FLOOD PLAIN N/A – this property is not in the flood plain.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes. This area is marked as future retail/commercial development in the Future Land Use map of the Comprehensive Plan.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Currently, part of this site is zoned R-1 and does not accommodate commercial development. Pending rezoning approval, this site would be zoned Neighborhood Commercial, which would provide a transition from high-density commercial along South Main Street as well as a buffer between 32nd Street and residential housing to the north.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

This zoning change should not detrimentally affect nearby property. 32nd Street is designated for future commercial development and is already a well-established commercial corridor.

DISCUSSION

This property consists of a 11,000 square foot lot located at 3128 South Joplin Avenue. The site will also have a buffer between the proposed commercial area and the surrounding residential lots surrounding. This site is currently zoned for residential development, but it is located in a future commercial/retail corridor. Mr. Nguyen would like to relocate a nail salon to this location. The operation consists of two nail technicians.

A pre-development meeting was held to discuss site development requirements with Mr. Nguyen on December 8, 2016. There will be parking spaces added to the east side of the house to ensure adequate off-street parking that meets City of Joplin requirements. Because the property sits adjacent to 32nd Street, which is designated as a retail and commercial zone in the City of Joplin's future land use map, this site is not ideal for residential development.

Staff recommends approval of Case 002-17.

ATTACHMENTS

- Application
- Map

PHOTO



REZONING APPLICATION FORM

RECEIVED 1-9-17

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: C002-17
Filing Fee: ~~$460.00~~ $460.00
Date Advertised: 1-29-17
Date Notices Sent: 1-30-17
Public Hearing Date: 2-13-17

APPLICANT: PHONG Nguyen PHONE: (417) 529-5158
ADDRESS: 2216 Pennsylvania Ave. ZIP: 64804
OWNER: Homepal PHONE: (417) 529-5158
ADDRESS: 3128 S Joplin, Mo 64804 ZIP: 64804
LOCATION OF PROPERTY: 32nd & main, 1 block, NW Corner of 32nd & Joplin
LEGAL DESCRIPTION: See attached

Present Zoning R-1 Requested Zoning: C-1 Acreage:
Present Use of Property: R 1 Housing

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	Single Family House	R-1
South	Vacant Lot	R-1
East	Commercial Building	C-3
West	House	R-1

CHARACTER OF THE NEIGHBORHOOD: Mixed; transition between commercial and residential along major arterial

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts?
   NO
2. Are there substantial reasons why the property cannot be used in accord with existing zoning? ___
   If yes, explain: Commercial business not allowed in R-1

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? yes
2. Consistent with Future Land Use Map? yes

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

1. One copy of a legal description of the property proposed to be rezoned.
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may effect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
3. Owner Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: 32nd + Joplin
2. Classification of Street(s):
   Arterial _____ Collector _____ Local _____
3. Right-of-Way Width: _____
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   NO

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

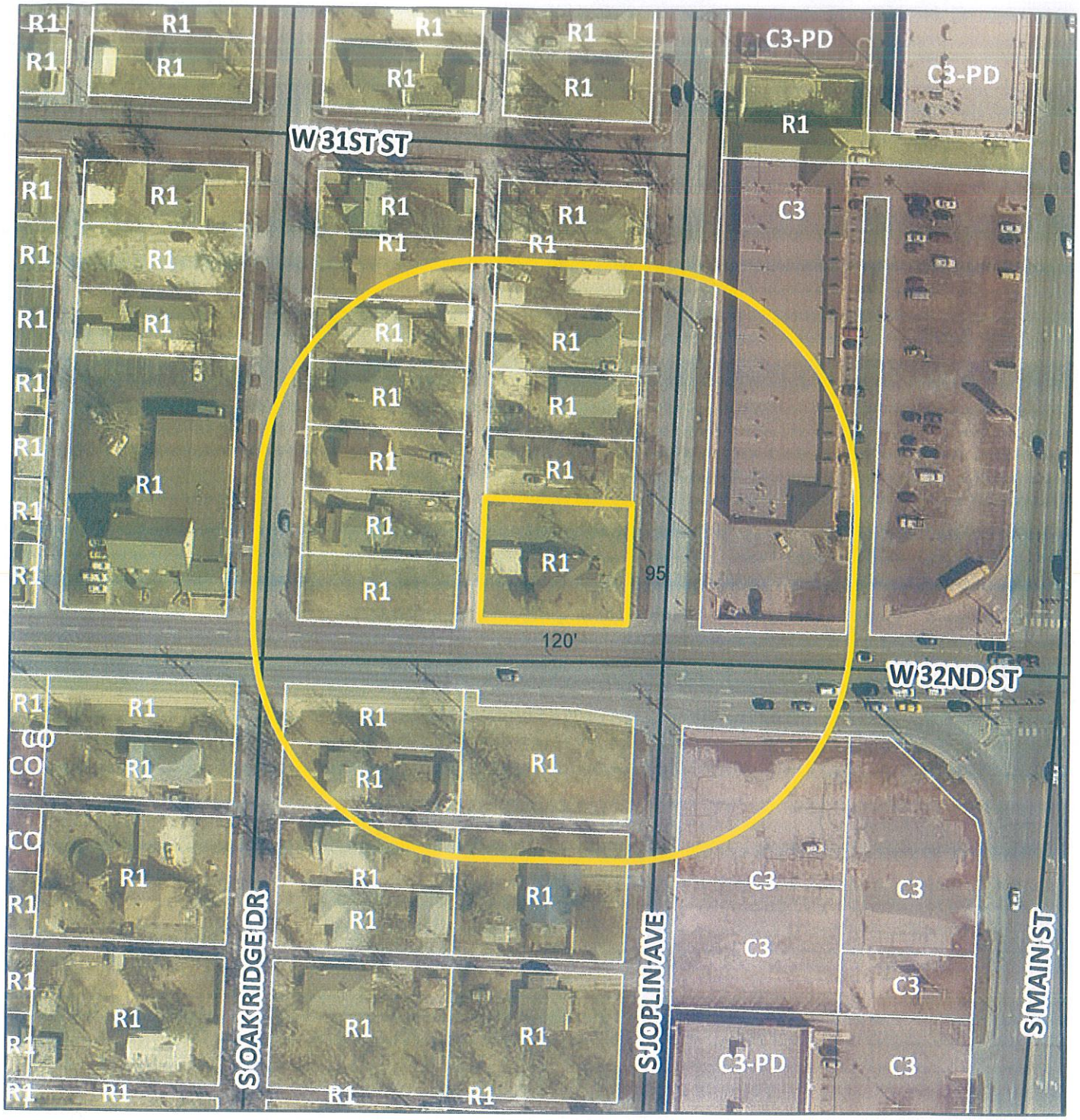
1. Appropriately Sized Lots? NO
2. Properly Sized Street Right-of-Way? NO
3. Drainage Easements? NO
4. Utility Easements:
   - Electricity? NO
   - Gas? NO
   - Sewers? NO
   - Water? NO
5. Additional Comments: _____

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

SIGNATURE: _____ DATE: 1-9-18

BY: Thong (Paul) Nguyen

TITLE: Owner



Case 002-17: 3128 South Joplin Avenue - A request to rezone from R-1 (Single-Family Residential) to C-1 (Neighborhood Commercial) for the operation of a nail salon - Phong Nguyen.

N

0 100 200 400 600 800 Feet

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017

Item: COUNCIL BILL NO. 2017-250
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Copy of Council Bill
2) Planning Report
3) Commission Minutes

Planning/Community Development Manager: Troy Bolander
City Attorney: Peter C. Edwards
City Manager: Samuel L. Anselm
Board or Commission: Planning and Zoning Commission Date: 02/13/17

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 002-17: A request to rezone from R-1 (Single-Family Residential) to C-1 (Neighborhood Commercial) for the operation of a nail salon.

STAFF SUMMARY:
This property consists of a 11,000 square foot lot located at 3128 South Joplin Avenue. The site will also have a buffer between the proposed commercial area and the surrounding residential lots surrounding. This site is currently zoned for residential development, but it is located in a future commercial/retail corridor. Mr. Nguyen would like to relocate a nail salon to this location. The operation consists of two nail technicians.

A pre-development meeting was held to discuss site development requirements with Mr. Nguyen on December 8, 2016. There will be parking spaces added to the east side of the house to ensure adequate off-street parking that meets City of Joplin requirements. Because the property sits adjacent to 32nd Street, which is designated as a retail and commercial zone in the City of Joplin's future land use map, this site is not ideal for residential development.

Staff recommends approval of Case 002-17.

PLANNING & ZONING COMMISSION TESTIMONY:
The Nail Shop they have on 20th and Annie Baxter is not large enough for the capacity of the clientele and the request for rezone of 3128 South Joplin because the house is large enough. The parking will be in the lot next to 3128 South Joplin and applicant owns that lot. The entrance will come through the alley and the a right only exit onto Joplin Street.

PUBLIC COMMENT: None.

P & Z Case 002-17
Phong Hguyen
(P & Z Recommended Approval)

COUNCIL BILL NO. 2017-250 ORDINANCE NO.

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1 property as described below and located 3128 South Joplin Avenue in the City of Joplin, Jasper County, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. Having referred the subject matter of this ordinance to the City Planning and Zoning Commission and having given at least fifteen days' notice of time and place of hearing on same by publication in the Joplin Globe, Ordinance No. 2004-256 is hereby amended by removing the following described property from District R-1 and including same in District C-1:

All of lot one-hundred and forty-two (142) and one-hundred forty-three (143) of Luke's Southern Addition to the City of Joplin, Jasper County, Missouri.

Section 2. That the City Clerk is hereby ordered to file this ordinance with the Zoning District Map maintained in her office and to note the changes herein provided for thereon.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of _____, 2017, by a vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Case 003-17: 2525 South Adele Avenue – A request t rezone from R-1 (Signal Family Residential) to R-2 (Two-Family Residential) for the construction of a duplex – Joel Standeford

Joel Standeford, 3375 East Hoke Drive, Springfield, MO 65804. Mr. Standeford stated he would like to merge the three lots; the southern parcel is made up of two lots although it is shown as one parcel. He would like to build two duplexes that face Adele Avenue. The corner lot is zoned R-2, and the lot up for rezoning is currently zoned R-1. Mr. Smith asked him if he owns the lot and Mr. Standeford stated he did.

Mr. Smith asked if there were anyone present that would like to speak in favor of this case. There were not. He also asked if there was anyone present to speak against this case. There were not.

MR. CORTEZ MOVED, SECONDED BY MR. DUNCAN, THAT REZONING FOR CASE 003-17 BE FORWARDED TO CITY COUNCIL WITH RECOMMENDATION OF APPROVAL. THE MOTION CARRIED, WITH MR. DUNCAN, MR. CORTEZ, MR. BROWN, MR. RAMSOUR AND MR. SMITH VOTING "AYE"; AND WITH MR. DERMOTT AND MS. BRUECKNER-SEARS BEING ABSENT (5 IN FAVOR, 2 ABSENT).

Z&P Meeting: February 13, 2017
City Council Meeting: March 6, 2017

STAFF PLANNING REPORT
Rezoning

CASE 003-17 A request to rezone from R-1 (Single-Family Residential) to R-2 (Two-Family Residential) for the construction of a residential duplex.

LOCATION 2525 South Adele Avenue

APPLICANT Joel Standeford

EXISTING CONDITIONS

Zoning	Land Use	Property Size
R-1	Undeveloped	50 ft x 170 ft

SITE CONTEXT

	North	East	South	West
Existing Zoning	R-1	C-3	R-2	R-1
Land Use	Residential	Residential	Undeveloped	Residential

FUTURE LAND USE

The City of Joplin's future land use map classifies this area of 26th street future High-Density Residential Development.

TRANSPORTATION

Streets with access	Classification	Right-of-way width
Adele Avenue	Secondary	80'

UTILITIES Yes. Utilities – including City of Joplin sanitary sewer – run through the alley directly east of this property.

FLOOD PLAIN N/A – this property is not in the flood plain.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes. This area is marked as future high density commercial development in the Future Land Use map of the Comprehensive Plan. This site is a few blocks west of the 26th Street Planned Development Corridor and is not subject to a full site-plan review.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Currently, this site is zoned R-1 and does not accommodate two-family residential development. Pending rezoning approval, this site would be zoned R-2, Two-Family Residential, which would provide a transition from 26th Street's commercial corridor into the residential areas to the north.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

This zoning change should not detrimentally affect nearby property. Large portions of 26th Street have been designated as future commercial and high-density residential development corridors. Moderate-density residential development will provide a transition to high-intensity land uses.

DISCUSSION

This property consists of an 8,500 square foot lot located at 2525 South Adele Avenue. This site is currently zoned R-1 for single-family residential development, but it is located in a high-density residential area. Mr. Standeford would like to rezone this lot to R-2, Two-Family Residential. This lot will be combined with two lots to the south to create a site large enough to accommodate two duplexes (see site layout). These two southern lots are already zoned R-2.

Staff believes moderate- to high-density residential development along 26th Street would provide an appropriate transition from increased traffic and commercial businesses on 26th Street to single-family housing.

Staff recommends approval of Case 003-17.

ATTACHMENTS

- Application
- Map
- Site layout
- Design

REZONING APPLICATION FORM

RECEIVED 1-12-16

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 003-17
Filing Fee: $ 450.00
Date Advertised: 1-29-17
Date Notices Sent 1-30-17
Public Hearing Date: 2-13-17

APPLICANT: JOEL STANDEFORD PHONE: 417-438-6081
ADDRESS: 3375 E. MOKE DRIVE SPRINGFIELD MO ZIP: 65804

OWNER: PHONE:
ADDRESS: ZIP:

LOCATION OF PROPERTY: NORTH EAST CORNER OF 26TH & ADELE
LEGAL DESCRIPTION: ALL OF LOTS 139, 138 & 137 OF BARTLETT'S ADD

Present Zoning R1 Requested Zoning: R2 Acreage: .70 ACRES
Present Use of Property: VACANT LAND

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	RESIDENTIAL	R1
South	MULTI FAMILY	R2
East	MULTI FAMILY / RESIDENTIAL	R1 / R2
West	MULTI FAMILY / RESIDENTIAL	R1 / R2

CHARACTER OF THE NEIGHBORHOOD: GOOD LOOKING PROPERTIES W/ A LOT OF VACANT LAND AROUND. NEW 26TH ST. MAKES FOR A BETTER TRIP TO PROPERTIES.

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts?
   ___ NO
2. Are there substantial reasons why the property cannot be used in accord with existing zoning? ___
   If yes, explain:

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? YES
2. Consistent with Future Land Use Map? YES

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

1. One copy of a legal description of the property proposed to be rezoned.
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may effect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
3. Owner Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: 26th St. + ADELE
2. Classification of Street(s):
   Arterial_____ Collector_____ Local_____
3. Right-of-Way Width: _____
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   No

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

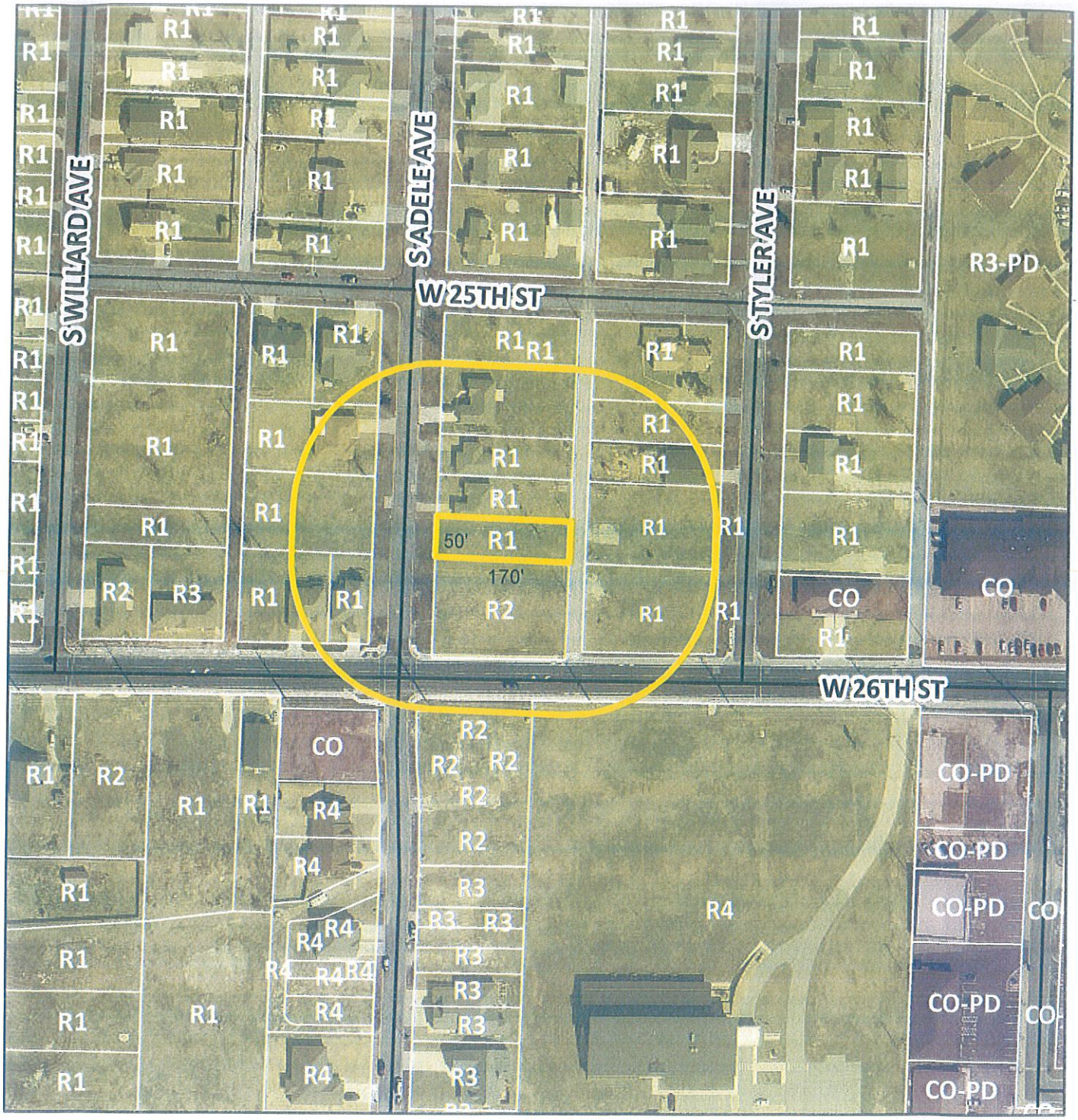
1. Appropriately Sized Lots? YES WILL TURN 3 LOTS INTO 2 LOTS
2. Properly Sized Street Right-of-Way? YES
3. Drainage Easements? NONE
4. Utility Easements:
   - Electricity?_____
   - Gas?_____
   - Sewers?_____
   - Water?_____
5. Additional Comments:_____

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

SIGNATURE: _____ DATE: 1-12-17

BY: JOEL STANDEFORD

TITLE: OWNER



Case 003-17: 2525 South Adele Avenue - A request to rezone from R-1 (Single-Family Residential) to R-2 (Two-Family Residential) for the construction of residential duplexes - Joel Standeford.

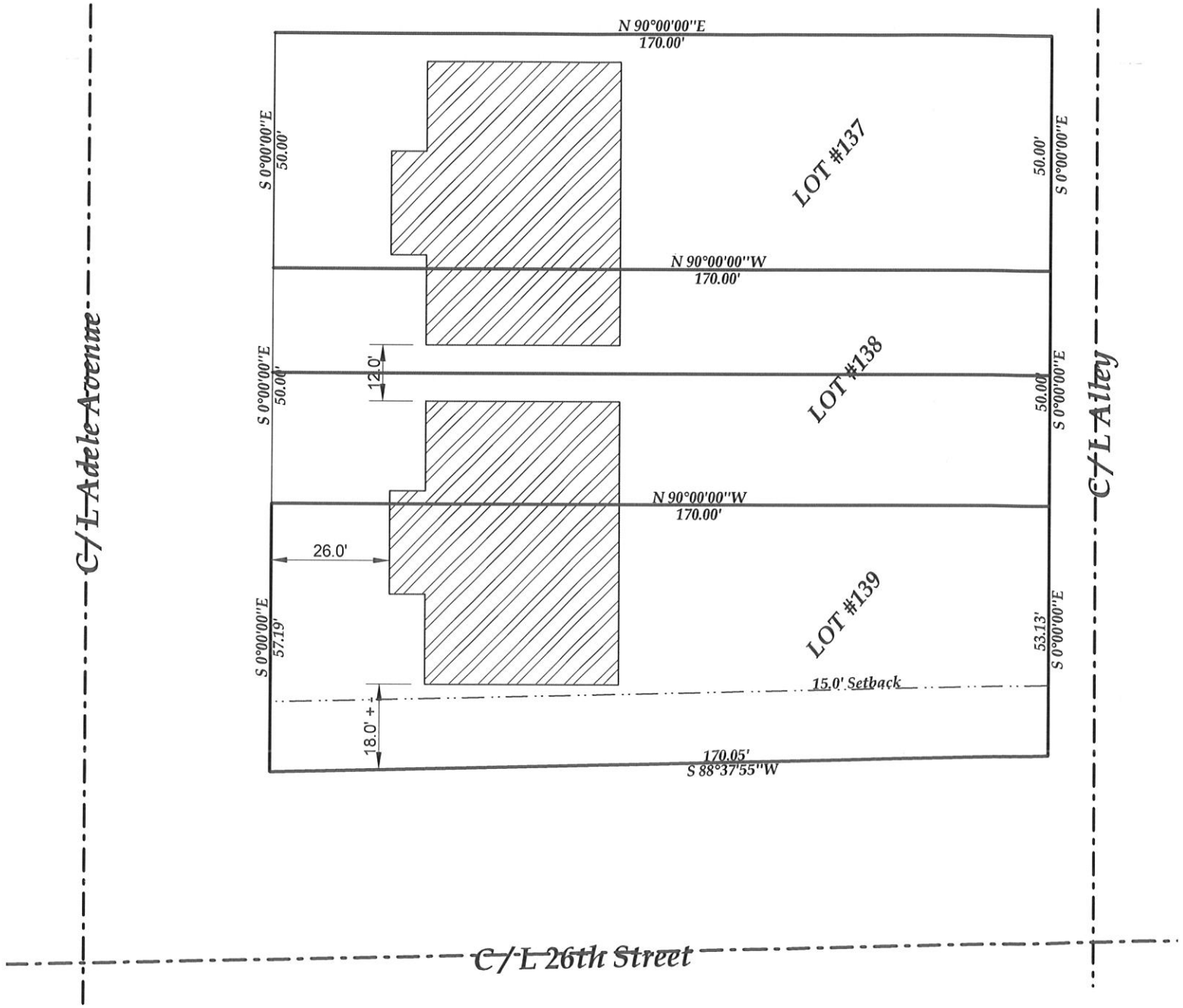
N

0 155 310 620 930 1,240 Feet








C/L Adele Avenue
C/L Alley
C/L 26th Street
N 90°00'00"E
170.00'
S 0°00'00"E
50.00'
LOT #137
50.00'
S 0°00'00"E
N 90°00'00"W
170.00'
12.0'
S 0°00'00"E
50.00'
LOT #138
50.00'
S 0°00'00"E
N 90°00'00"W
170.00'
26.0'
S 0°00'00"E
57.19'
LOT #139
53.13'
S 0°00'00"E
15.0' Setback
18.0' +
170.05'
S 88°37'55"W

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017

Item: COUNCIL BILL NO. 2017-251
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Copy of Council Bill
2) Planning Report
3) Commission Minutes

Planning/Community Development Manager: Troy Bolander
City Attorney: Peter C. Edwards
City Manager: Samuel L. Anselm
Board or Commission: Planning and Zoning Commission Date: 02/13/17

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 003-17: A request to rezone from R-1 (Single-Family Residential) to R-2 (Two-Family Residential) for the construction of a residential duplex.

STAFF SUMMARY:
This property consists of an 8,500 square foot lot located at 2525 South Adele Avenue. This site is currently zoned R-1 for single-family residential development, but it is located in a high-density residential area. Mr. Standeford would like to rezone this lot to R-2, Two-Family Residential. This lot will be combined with two lots to the south to create a site large enough to accommodate two duplexes (see site layout). These two southern lots are already zoned R-2.

Staff believes moderate- to high-density residential development along 26th Street would provide an appropriate transition from increased traffic and commercial businesses on 26th Street to single-family housing.

Staff recommends approval of Case 002-17.

PLANNING & ZONING COMMISSION TESTIMONY:
Merging the three lots; the southern parcel is made up of two lots although it is shown as one parcel. Building two duplexes that face Adele Avenue. The corner lot is zoned R-2, and the lot up for rezoning is currently zoned R-1

PUBLIC COMMENT: None.

P & Z Case 003-17
Joel Standeford
(P & Z Recommended Approval)

COUNCIL BILL NO. 2017-251 ORDINANCE NO.

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District R-2 property as described below and located 2525 South Adele Avenue in the City of Joplin, Jasper County, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. Having referred the subject matter of this ordinance to the City Planning and Zoning Commission and having given at least fifteen days' notice of time and place of hearing on same by publication in the Joplin Globe, Ordinance No. 2004-256 is hereby amended by removing the following described property from District R-1 and including same in District R-2:

All of lot one-hundred and thirty-seven (137) through one hundred and thirty-nine (139) of Bartlett's Addition to the City of Joplin, Jasper County, Missouri.

Section 2. That the City Clerk is hereby ordered to file this ordinance with the Zoning District Map maintained in her office and to note the changes herein provided for thereon.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of _____, 2017, by a vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Case 004-17: 300 feet south of the intersection of 26th Street and Prigmor Road - A request to rezone from R-1 (Single-Family Residential) to M-2 (Heavy Industrial) for the construction of a distribution warehouse – CJP, LLC.

Joel Standeford, 3375 East Hoke Drive, Springfield, MO 65804. Mr. Standeford stated that he will be the builder for this project. They would like to construct a 4,000 square foot warehouse that will act as an office and distribution warehouse. They are based out of Springfield, MO. They will be running basically two trucks per day to unload merchandise for distribution. Mr. Smith asked Ms. Cunningham if anyone has complained about this case. Ms. Cunningham stated there had not. Mr. Smith asked if there were any questions. Mr. Brown asked about the situation with the houses. Ms. Cunningham stated that a lot of the homes that are out there are not in the City limits. She received calls from people on 32nd street and she explained the situation. They do not want to be annexed into the City of Joplin. Mr. Duncan asked Ms. Cunningham if the property that is to the South and zoned R-1 is in the City. Ms. Cunningham stated it was. Mr. Brown asked if there were any drawings. Mr. Standeford stated he has sent them to the Commercial Plans Reviewer with the City of Joplin. The building structure is going to be similar to the AT&T on Range line Rd. Rectangular style with stucco drivet with stone in the entry way.

Kurt Higgins, 7231 East 24th Street, Joplin, MO. Mr. Higgins stated that they did submit a conceptual plan to the Industrial Park Authority. They had a few comments on storm water and location of driveway, because of some power poles, but overall the general concept to the plan was approvable to the JIDA Board. Mr. Brown stated he didn't realize that they approved plans and specs. Mr. Higgins stated that park covenants out there is the JIDA Board has to approve the plan as well as the City of Joplin. Ms. Cunningham stated the JIDA adopted private covenants that basically mimic our Zoning Code. Mr. Smith asked if there were any other questions? There were not. He also asked if there was anyone else here to speak in favor of this proposal? There were not. Anyone against this proposal? There were not.

MR. BROWN MOVED, SECONDED BY MR. CORTEZ, THAT REZONING FOR CASE 004-17 BE FORWARDED TO CITY COUNCIL FOR RECOMMENDATION OF APPROVAL. THE MOTION CARRIED, WITH MR. DUNCAN, MR. CORTEZ, MR. BROWN, MR. RAMSOUR AND MR. SMITH VOTING "AYE"; AND WITH MR. DERMOTT AND MS. BRUECKNER-SEARS BEING ABSENT (5 IN FAVOR, 2 ABSENT).

Z&P Meeting: February 13, 2017
City Council Meeting: March 6, 2017

STAFF PLANNING REPORT
Rezoning

CASE 004-17 A request to rezone from R-1 (Single-Family Residential) to M-2 (Heavy Industrial) for the construction of a distribution warehouse.

LOCATION 300 feet south of the intersection of 26th Street and Prigmor Avenue

APPLICANT CJP, LLC.

EXISTING CONDITIONS

Zoning	Land Use	Property Size
R-1	Undeveloped	3.25 acres

SITE CONTEXT

	North	East	South	West
Existing Zoning	R-1	R-1	R-2	M-2-PD
Land Use	Industrial	Industrial	Industrial	Industrial

FUTURE LAND USE

The City of Joplin's future land use map classifies this area as future heavy industrial development.

TRANSPORTATION

Streets with access	Classification	Right-of-way width
South Prigmor Avenue	Collector	70'

UTILITIES Yes. Utilities – including City of Joplin sanitary sewer – run along Prigmor Avenue.

FLOOD PLAIN N/A – this property is not in the flood plain.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes. This area is located in the Crossroads Industrial Park and is subject to all covenants established by the JIDA which meet City of Joplin Zoning Code requirements.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Currently, this site is zoned R-1 and does not accommodate industrial development. When any property is annexed into the City of Joplin, it is automatically zoned R-1, Single-Family Residential, which is the most restrictive zoning designation. This property has not been rezoned since its initial annexation.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

This zoning change should not detrimentally affect nearby property. It is located in the Crossroads Industrial Park.

DISCUSSION

This property consists of 3.25 acres located 300 feet south of the intersection of 26th Street and Prigmor Avenue. This site is located in the Crossroads Industrial Park. When any property is annexed into the City of Joplin, it is automatically zoned R-1, Single-Family Residential, which is the most restrictive zoning designation. This property has not been rezoned since its initial annexation. A local company would like to rezone this property to the appropriate zoning designation to build a distribution warehouse with office space. This use is appropriate for the subject property and matches existing uses in the industrial park. This property is subject to all covenants established by the JIDA which meet, and often exceed, City of Joplin Zoning Code requirements.

Staff recommends approval of Case 004-17.

ATTACHMENTS

- Application
- Map

REZONING APPLICATION FORM

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 004-17
Filing Fee: ~~$350.00~~ 450.00
Date Advertised: 1-29-17
Date Notices Sent: 1-30-17
Public Hearing Date: 2-13-17

APPLICANT: CJP, LLC PHONE: 417-883-4333
ADDRESS: 2860 S. AUSTIN SPRINGFIELD MO ZIP: 65807
OWNER: PHONE:
ADDRESS: ZIP:
LOCATION OF PROPERTY: SOUTH OF 26TH & PRIEMORE ON EAST SIDE
LEGAL DESCRIPTION:
SEE ATTACHED #1

Present Zoning R Requested Zoning: I or C Acreage: 3.25
Present Use of Property: VACANT LAND

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	OFFICE / WAREHOUSE	C
South	RESIDENTIAL / VACANT	R
East	RESIDENTIAL / WAREHOUSE	R / C
West	OFFICE / WAREHOUSE	C

CHARACTER OF THE NEIGHBORHOOD: NEIGHBORHOOD IS AN INDUSTRIAL AREA WITH MANY COMPANIES OPERATING AROUND THE AREA.

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts?
   NO
2. Are there substantial reasons why the property cannot be used in accord with existing zoning? YES
   If yes, explain: PROPERTY WAS PURCHASED TO BUILD WAREHOUSE / OFFICES

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? YES
2. Consistent with Future Land Use Map? YES

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

1. One copy of a legal description of the property proposed to be rezoned.
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may effect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
3. Owner Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: S. PRYOR AVE
2. Classification of Street(s):
   Arterial _____ Collector _____ Local _____
3. Right-of-Way Width: _____
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   NO

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

1. Appropriately Sized Lots? YES
2. Properly Sized Street Right-of-Way? YES
3. Drainage Easements? _____
4. Utility Easements:
   - Electricity? _____
   - Gas? _____
   - Sewers? _____
   - Water? _____
5. Additional Comments: _____

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

SIGNATURE: _____ DATE: _____

BY: JOEL STANDEFORD

TITLE: AGENT

The reason for rezoning this property is to allow for a distribution warehouse for a local company. This facility will allow for greater efficiencies of the parent company and improve the property that it will sit on.

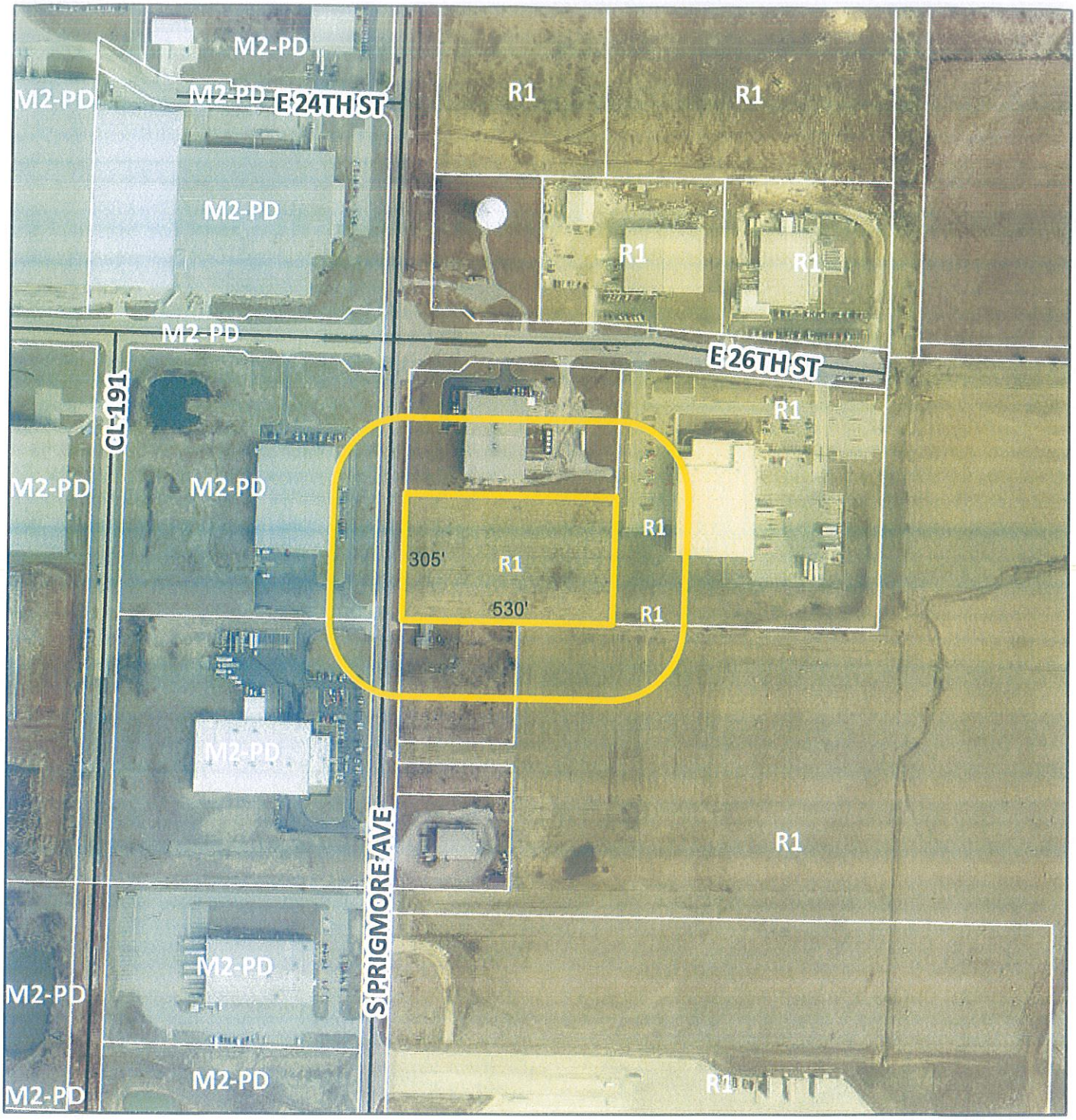
The impact of the rezoning will be consistent to what has already happened in the area. The west side of the property will be built on to suit the area and bring about a nice aesthetically pleasing view.

There will be no traffic problems incurred with the re zoning of this property. The area is located near to the on/off ramps of I44 and sees semi/ tractor-trailer traffic consistently. Our use will merely add around 2-4 trucks per day to the area.

There will also be no additional fire hazards from the completion of new building.

Currently there are warehouses and businesses to the west, north and east. This structure would convert the current vacant property into a finished area that will in no doubt improve the visuals of the area as well as increase the property values of those around.

The city of Joplin will benefit not only by having another source of revenue from property taxes, but will benefit through community of the jobs that will be created from this building. This project will help, in a small way, show the progress that Joplin is making toward its growth.



Case 004-17: 300 feet south of the intersection of 26th Street and Prigmor Avenue - A request to rezone from R-1 (Single-Family Residential) to M-2 (Heavy Industrial) for the construction of a distribution warehouse - CJP, LLC.



0 312.5 625 1,250 1,875 2,500 Feet

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017

Item: COUNCIL BILL NO. 2017-252
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Copy of Council Bill
2) Planning Report
3) Commission Minutes

Planning/Community Development Manager: Troy Bolander
City Attorney: Peter C. Edwards
City Manager: Samuel L. Anselm
Board or Commission: Planning and Zoning Commission Date: 02/13/17

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 004-17: A request to rezone from R-1 (Single-Family Residential) to M-2 (Heavy Industrial) for the construction of a distribution warehouse.

STAFF SUMMARY:
Avenue. This site is located in the Crossroads Industrial Park. When any property is annexed into the City of Joplin, it is automatically zoned R-1, Single-Family Residential, which is the most restrictive zoning designation. This property has not been rezoned since its initial annexation. A local company would like to rezone this property to the appropriate zoning designation to build a distribution warehouse with office space. This use is appropriate for the subject property and matches existing uses in the industrial park. This property is subject to all covenants established by the JIDA which meet, and often exceed, City of Joplin Zoning Code requirements.

Staff recommends approval of Case 004-17.

PLANNING & ZONING COMMISSION TESTIMONY:
The construction of a 4,000 square foot warehouse that will act as an office and distribution warehouse. They are based out of Springfield, MO. Running basically two trucks per day to unload merchandise for distribution. There has been no complaints about this case. Generally, the overall concept to the plan was approvable to the JIDA Board. JIDA adopted private covenants that basically mimic our Zoning Codes.

PUBLIC COMMENT: None.

P & Z Case 004-17
CJP, LLC
(P & Z Recommended Approval)

COUNCIL BILL NO. 2017-252 ORDINANCE NO.

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District M-2 property as described below and located 300 feet south of the intersection of 26th Street and Prigmor Road in the City of Joplin, Jasper County, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. Having referred the subject matter of this ordinance to the City Planning and Zoning Commission and having given at least fifteen days' notice of time and place of hearing on same by publication in the Joplin Globe, Ordinance No. 2004-256 is hereby amended by removing the following described property from District R-1 and including same in District M-2:

A TRACT OF LAND IN THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 32 WEST IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, BEING MORE FULLY DESCRIBED AS FOLLOWS: COMMENCING AT AN IRON PIN FOUND AT THE SOUTHWEST CORNER OF SAID SECTION 14; THENCE NORTH 00°54'45" EAST ALONG THE WEST LINE THEREOF, 1971.24 FEET TO THE SOUTHWEST CORNER OF SAID N-1/2 OF THE NW-1/4 OF THE SW-1/4, THE POINT OF BEGINNING; THENCE NORTH 00°54'45" EAST ALONG THE WEST LINE OF SECTION 14, A DISTANCE OF 301.47 FEET TO THE SOUTHWEST CORNER OF A TRACT DESCRIBED IN BOOK 1818 AT PAGE 1030; THENCE SOUTH 89°05'15" EAST ALONG THE SOUTH LINE OF SAID TRACT, 565.00 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 00°54'45" WEST ALONG THE WEST LINE OF A TRACT DESCRIBED IN BOOK 2226 AT PAGE 1371, A DISTANCE OF 296.63 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE NORTH 89°34'41" WEST ALONG SAID SOUTH LINE, 565.00 FEET TO THE POINT OF BEGINNING, being more generally described as 300 feet south of the intersection of 26th Street and Prigmor Road.

Section 2. That the City Clerk is hereby ordered to file this ordinance with the Zoning District Map maintained in her office and to note the changes herein provided for thereon.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of _____, 2017, by a vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Case 005-17: Southwest corner of Newman Road and Cattleman Drive - A request to rezone from M-2 (Heavy Industrial) to C-3 (Commercial) for the construction of an Indoor Recreation Facility – Olsson Associates

Clayton Christy, 5650 West Brentwood, Joplin, MO. Mr. Christy was there on behalf of the owner and they would like to rezone from M-2 to C-3. The owner had previously built some multi-family in the back and this is a rezoning for an indoor recreational facility. Mr. Duncan asked if this was tied to the apartment complex somehow or free standing. Mr. Christy stated that it was free standing. Mr. Ramsour asked if there were any environmental issues? Mr. Christy stated they did some environmental investigation they would have to do that as part of their development. Mr. Cortez asked Ms. Cunningham if this should be a PD, do they need to see plans? Ms. Cunningham stated this particular area has not been in a PD and it is not being rezoned to a PD. It isn't along any of the major planned corridors. Mr. Smith asked if anyone would like to speak in favor of this proposal? There were not. Mr. Smith asked if anyone would like to speak against this proposal? There were not.

MR. DUNCAN MOVED, SECONDED BY MR. RAMSOUR, THAT REZONING FOR CASE 005-17 BE FORWARDED TO CITY COUNCIL WITH RECOMMENDATION OF APPROVAL. THE MOTION CARRIED, WITH MR. DUNCAN, MR. CORTEZ, MR. BROWN, MR. RAMSOUR AND MR. SMITH VOTING "AYE"; AND WITH MR. DERMOTT AND MS. BRUECKNER-SEARS BEING ABSENT (5 IN FAVOR, 2 ABSENT).

Z&P Meeting: February 13, 2017
City Council Meeting: March 6, 2017

STAFF PLANNING REPORT
Rezoning

CASE 005-17 A request to rezone from M-2 (Heavy Industrial) to C-3 (Commercial) for the construction of an Indoor Recreation Facility.

LOCATION The southwest corner of Newman Road and Cattleman Drive

APPLICANT Olsson Associates

EXISTING CONDITIONS

Zoning	Land Use	Property Size
M-2	Undeveloped	2 acres

SITE CONTEXT

	North	East	South	West
Existing Zoning	M-2	M-2	M-2	M-2
Land Use	Fire Station	Undeveloped/Light Industrial	High-Density Residential	Light Industrial

FUTURE LAND USE

The City of Joplin's future land use map classifies this area as future retail and commercial development.

TRANSPORTATION

Streets with access	Classification	Right-of-way width
Newman Road	Arterial	65'

UTILITIES Sanitary sewer line would need to be extended to the property.

FLOOD PLAIN N/A – this property is not in the flood plain.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes. This area is located near the Rangeline Road commercial corridor and has been designated for future retail and commercial development.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Currently, this site is zoned M-2 (Heavy Industrial) and does not allow for an Indoor Recreation Facility. Although the area is a small industrial zone, most uses are light in intensity and adjacent to the major commercial corridor.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

This zoning change should not detrimentally affect nearby property. It is located between light industrial uses, high-density residential developments, and retail commercial uses.

DISCUSSION

This property consists of 2 acres located at the southwest corner of Newman Road and Cattleman Drive. The site is within the Historic Stockyards properties but has remained undeveloped. Although this site is zoned for industrial use, nearby land uses include high-density residential development as well as retail and commercial uses along Rangeline Road. Adjacent industrial uses are relatively light and a Joplin Fire Station sits across the street. This is a highly mixed-use area.

The developer would like to construct an Indoor Recreation Facility that includes trampolines and obstacle courses for customers to use. Before any construction takes place, the developer will be required to schedule a pre-development meeting with City Staff to ensure the City's development policies and guidelines are followed. Staff believes this would be an appropriate use for this site.

Staff recommends approval of Case 005-17.

ATTACHMENTS

- Application
- Map

REZONING APPLICATION FORM

RECEIVED 1-13-17

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 005-17
Filing Fee: $ 450.00
Date Advertised: 1-29-17
Date Notices Sent 1-30-17
Public Hearing Date: 2-13-17

APPLICANT: Olsson Associates PHONE: 417-781-0643
ADDRESS: 702 S. Main Street, Joplin, Missouri ZIP: 64801

OWNER: Historical Stockyards Properties PHONE:
ADDRESS: 726 Breckenridge Road, Mt. Vernon, Missouri ZIP: 65712

LOCATION OF PROPERTY: Southwest corner of Newman Road and Cattleman Drive
LEGAL DESCRIPTION: See attached.

Present Zoning M2 Requested Zoning: C3 Acreage: 2.0
Present Use of Property: Vacant

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	Commercial business	M2
South	Vacant	M2
East	Vacant	M2
West	Vacant	M2

CHARACTER OF THE NEIGHBORHOOD: Light trucking, firehouse, residential (apartments and single family), and commercial businesses that include auto sales, building materials and equipment rental.

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts?
   Other C1 and C3 properties lie within 700 feet of the subject property.
2. Are there substantial reasons why the property cannot be used in accord with existing zoning? Yes
   If yes, explain: The intended use of the property does not fall within the current zoning uses.

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? Yes
2. Consistent with Future Land Use Map? Yes

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

1. One copy of a legal description of the property proposed to be rezoned.
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may effect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
3. Owner Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: Newman Road (public) and Cattleman Drive (private)
2. Classification of Street(s):
   Arterial_____ Collector_____ Local _____
3. Right-of-Way Width: 60 feet
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   No

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

1. Appropriately Sized Lots? No
2. Properly Sized Street Right-of-Way? No
3. Drainage Easements? No
4. Utility Easements:
   - Electricity? No
   - Gas? No
   - Sewers? No
   - Water? No
5. Additional Comments:

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

This parcel is a portion of the former Joplin Stockyards site. The stockyards facility relocated approximately 20 years ago and the property has been undeveloped prior to the construction of the Rustic Ridge Villas 2014.

SIGNATURE: _____ DATE: 01-13-2017

BY: Steven G. Lewis

TITLE: PLS / Survey Team Leader

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

1. One copy of a legal description of the property proposed to be rezoned.
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may effect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
3. Owner Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: Newman Road (public) and Cattleman Drive (private)
2. Classification of Street(s):
   Arterial_____ Collector_____ Local _____
3. Right-of-Way Width: 60 feet
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   No

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

1. Appropriately Sized Lots? No
2. Properly Sized Street Right-of-Way? No
3. Drainage Easements? No
4. Utility Easements:
   - Electricity? No
   - Gas? No
   - Sewers? No
   - Water? No
5. Additional Comments:

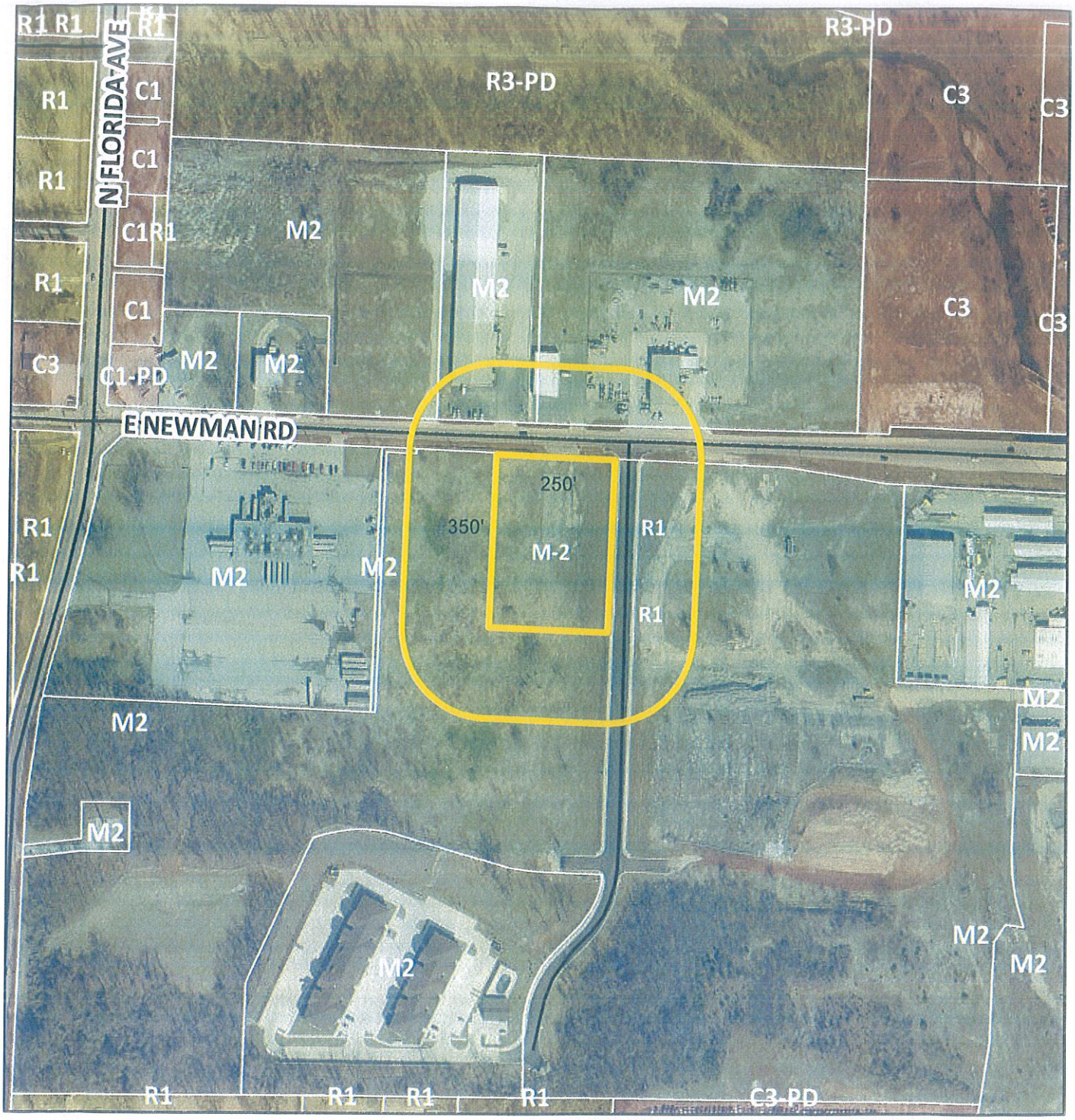
UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

This parcel is a portion of the former Joplin Stockyards site. The stockyards facility relocated approximately 20 years ago and the property has been undeveloped prior to the construction of the Rustic Ridge Villas 2014.

SIGNATURE: _____ DATE: 01-13-2017

BY: Steven G. Lewis

TITLE: PLS / Survey Team Leader



Case 005-17: The southwest corner of Newman Road and Cattleman Drive - A request to rezone from M-2 (Heavy Industrial) to C-3 (Commercial) for the construction of an Indoor Recreation Facility - Olsson Associates.

N

0 260 520 1,040 1,560 2,080 Feet

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017

Item: COUNCIL BILL NO. 2016-253
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Copy of Council Bill
2) Planning Report
3) Commission Minutes

Planning/Community Development Manager: Troy Bolander
City Attorney: Peter C. Edwards
City Manager: Samuel L. Anselm
Board or Commission: Planning and Zoning Commission Date: 02/13/17

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 005-17: A request to rezone from M-2 (Heavy Industrial) to C-3 (Commercial) for the construction of an Indoor Recreation Facility.

STAFF SUMMARY:
This property consists of 2 acres located at the southwest corner of Newman Road and Cattleman Drive. The site is within the Historic Stockyards properties but has remained undeveloped. Although this site is zoned for industrial use, nearby land uses include high-density residential development as well as retail and commercial uses along Rangeline Road. Adjacent industrial uses are relatively light and a Joplin Fire Station sits across the street. This is a highly mixed-use area.

The developer would like to construct an Indoor Recreation Facility that includes trampolines and obstacle courses for customers to use. Before any construction takes place, the developer will be required to schedule a pre-development meeting with City Staff to ensure the City's development policies and guidelines are followed. Staff believes this would be an appropriate use for this site.

Staff recommends approval of Case 005-17.

PLANNING & ZONING COMMISSION TESTIMONY:
Previously there were some multi-family built in the back and this is a rezoning for an indoor recreational facility. The apartment complex free standing and the indoor recreational facility is not related to the complex. An environmental investigation would part of the development.

PUBLIC COMMENT: None.

P & Z Case 005-17
Olsson Associates
(P & Z Recommended Approval)

COUNCIL BILL NO. 2017-253 ORDINANCE NO.

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District M-2 and including in District C-3 property as described below and generally described as the Southwest Corner of Newman Road and Cattleman Drive in the City of Joplin, Jasper County, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. Having referred the subject matter of this ordinance to the City Planning and Zoning Commission and having given at least fifteen days' notice of time and place of hearing on same by publication in the Joplin Globe, Ordinance No. 2004-256 is hereby amended by removing the following described property from District R-1 and including same in District M-2:

COMMENCING AT THE SOUTH QUARTER-CORNER OF SAID SECTION 14; THENCE N 01°43'06"E ALONG THE QUARTER-SECTION LINE, 40.00 FEET TO A POINT ON THE PREVIOUS NORTH RIGHT-OF-WAY LINE OF FF HIGHWAY (A.K.A. 32ND STREET); THENCE S 88°49'57"E ALONG SAID PREVIOUS RIGHT-OF-WAY, 300.00 FEET TO THE POINT OF BEGINNING; THENCE N 01°10'03"E ALONG THE NEW RIGHT-OF-WAY LINE OF FF HIGHWAY (A.K.A. 32ND STREET), 9.77 FEET; THENCE N 88°49'57"W ALONG SAID NEW RIGHT-OF-WAY, 285.45 FEET; THENCE N 43°33'26"W ALONG SAID NEW RIGHT-OF-WAY, 62.57 FEET; THENCE N 01°43'06"E, 77.38 FEET; THENCE NORTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 495.00 FEET AND A CENTRAL ANGLE OF 15°38'32", AN ARC DISTANCE OF 135.14 FEET (CHORD = N 09°32'22"E, 134.72 FEET); THENCE N 17°21'38"E, 160.72 FEET; THENCE NORTHEASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1035.00 FEET AND A CENTRAL ANGLE OF 14°47'35", AN ARC DISTANCE OF 267.22 FEET (CHORD N 09°57'51"E, 266.48 FEET); THENCE S 88°49'35"E ALONG A NON-TANGENT LINE, 1536.00 FEET; THENCE S 13°42'44"E, 706.09 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF FF HIGHWAY (A.K.A. 32ND STREET); THENCE N 88°49'57"W ALONG SAID RIGHT-OF-WAY, 1493.76 FEET TO THE POINT OF BEGINNING. CONTAINING 26.32 ACRES (1,146,607 SQUARE FEET), MORE OR LESS.

Section 2. That the City Clerk is hereby ordered to file this ordinance with the Zoning District Map maintained in her office and to note the changes herein provided for thereon.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of _____, 2017, by a vote of _____.

_____

Michael L. Seibert, Mayor

ATTEST:

_____

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

Case 006-17: Half a mile east of the intersection of 32nd Street and Prigmor Road -A request to rezone from R-1 (Single-Family Residential) to M-2 (Heavy Industrial) for the construction of a manufacturing facility – DEF, LLC.

Kurt Higgins, 7231 East 24th Street, Joplin, MO. He is the Engineer for the Site Plan on this project and representing the owner DEF, LLC. Owners have asked for it not to be announced yet. Engineer Design Plans have been submitted for the development. This development is forecasted to create up to 400 jobs over the next 10 years. The initial building will employ about 150 employees for the first phase. The facility is designed for expansion in the near future. The City has two public infrastructure projects out to bid and that is for the development of public street on the west side, Quail Ridge, that will connect with east 26th Street up by Coca Cola. The other project is the extension of Turkey Creek sewer. There will be no entrance from highway FF onto this site. Mr. Duncan asked if that was part of the Industrial Park or is it new? Mr. Higgins stated it was part of the Industrial Park. Mr. Smith asked if anyone would like to speak in favor of this proposal? There were not. Mr. Smith asked if anyone would like to speak against this proposal? There were not.

MR. CORTEZ MOVED, SECONDED BY MR. RAMSOUR, THAT REZONING FOR CASE 006-17 BE FORWARDED TO CITY COUNCIL WITH RECOMMENDATION OF APPROVAL. THE MOTION CARRIED, WITH MR. DUNCAN, MR. CORTEZ, MR. BROWN, MR. RAMSOUR AND MR. SMITH VOTING "AYE"; AND WITH MR. DERMOTT AND MS. BRUECKNER-SEARS BEING ABSENT (5 IN FAVOR, 2 ABSENT).

Z&P Meeting: February 13, 2017
City Council Meeting: March 6, 2017

STAFF PLANNING REPORT
Rezoning

CASE 006-17 A request to rezone from R-1 (Single-Family Residential) to M-2 (Heavy Industrial) for the construction of a manufacturing facility.

LOCATION ½ mile east of the intersection of 32nd Street and Prigmor Avenue.

APPLICANT DEF, LLC.

EXISTING CONDITIONS

Zoning	Land Use	Property Size
R-1	Undeveloped	26.32 acres

SITE CONTEXT

	North	East	South	West
Existing Zoning	N/A	N/A	N/A	R-1
Land Use	Undeveloped	Undeveloped	Residential Undeveloped	Industrial

FUTURE LAND USE

The City of Joplin's future land use map classifies this area as future heavy industrial development.

TRANSPORTATION

Streets with access	Classification	Right-of-way width
32nd Street	Arterial	85'

UTILITIES Utilities would need to be extended to the property.

FLOOD PLAIN N/A – this property is not in the flood plain.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes. This area is located in the Crossroads Industrial Park and is subject to all covenants established by the JIDA which meet City of Joplin Zoning Code requirements.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Currently, this site is zoned R-1 and does not accommodate industrial development. When any property is annexed into the City of Joplin, it is automatically zoned R-1, Single-Family Residential, which is the most restrictive zoning designation. This property has not been rezoned since its initial annexation.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

This zoning change should not detrimentally affect nearby property. It is located in the Crossroads Industrial Park.

DISCUSSION

This property consists of 26.32 acres located ½ mile east of the intersection of 32nd Street and Prigmor Avenue. This site is located in the Crossroads Industrial Park. When any property is annexed into the City of Joplin, it is automatically zoned R-1, Single-Family Residential, which is the most restrictive zoning designation. This property has not been rezoned since its initial annexation. The developer will be constructing a frozen foods manufacturing plant on this property; this company has been working with the JIDA and City Council during the tax abatement process. A pre-development meeting with the developer was held on January 17, 2017.

This use is appropriate for the subject property and matches existing uses in the industrial park. This property is subject to all covenants established by the JIDA which meet, and often exceed, City of Joplin Zoning Code requirements.

Staff recommends approval of Case 006-17.

ATTACHMENTS

- Application
- Map
- Survey

REZONING APPLICATION FORM

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 006-17
Filing Fee: $450.00
Date Advertised: 1-29-17
Date Notices Sent 1-30-17
Public Hearing Date: 2-13-17

APPLICANT: DEF, LLC PHONE: 816.753.9200
ADDRESS: 4510 Belleview Av. Suite 300, Kansas City, MO ZIP: 64111
OWNER: Above PHONE: Above
ADDRESS: ZIP:
LOCATION OF PROPERTY: Crossroads Business Park, East 32nd Street
LEGAL DESCRIPTION: Attached

Present Zoning Ag Res-1 Requested Zoning: M-2 Acreage: 26.32
Present Use of Property: Ag

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	Crossroads Park	M-2
South	Residential-Ag	in newton county
East	Crossroads Park	M-2
West	Crossroads Park	M-2

CHARACTER OF THE NEIGHBORHOOD: Parcel is part of the Crossroads Business Park, a developed of the Joplin Industrial Development Authority

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts?
   NO
2. Are there substantial reasons why the property cannot be used in accord with existing zoning?
   If yes, explain: Yes, the park is/has undergone rezoning to appropriate M-2 designation this parcel was purchased prior to finalization and DEF needs this rezoned

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? Yes
2. Consistent with Future Land Use Map? Yes

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

1. One copy of a legal description of the property proposed to be rezoned.
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may effect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
3. Owner Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: 32nd Street, New JIDA street "C"
2. Classification of Street(s):
   Arterial X Collector _____ Local _____
3. Right-of-Way Width: _____
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   NO

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

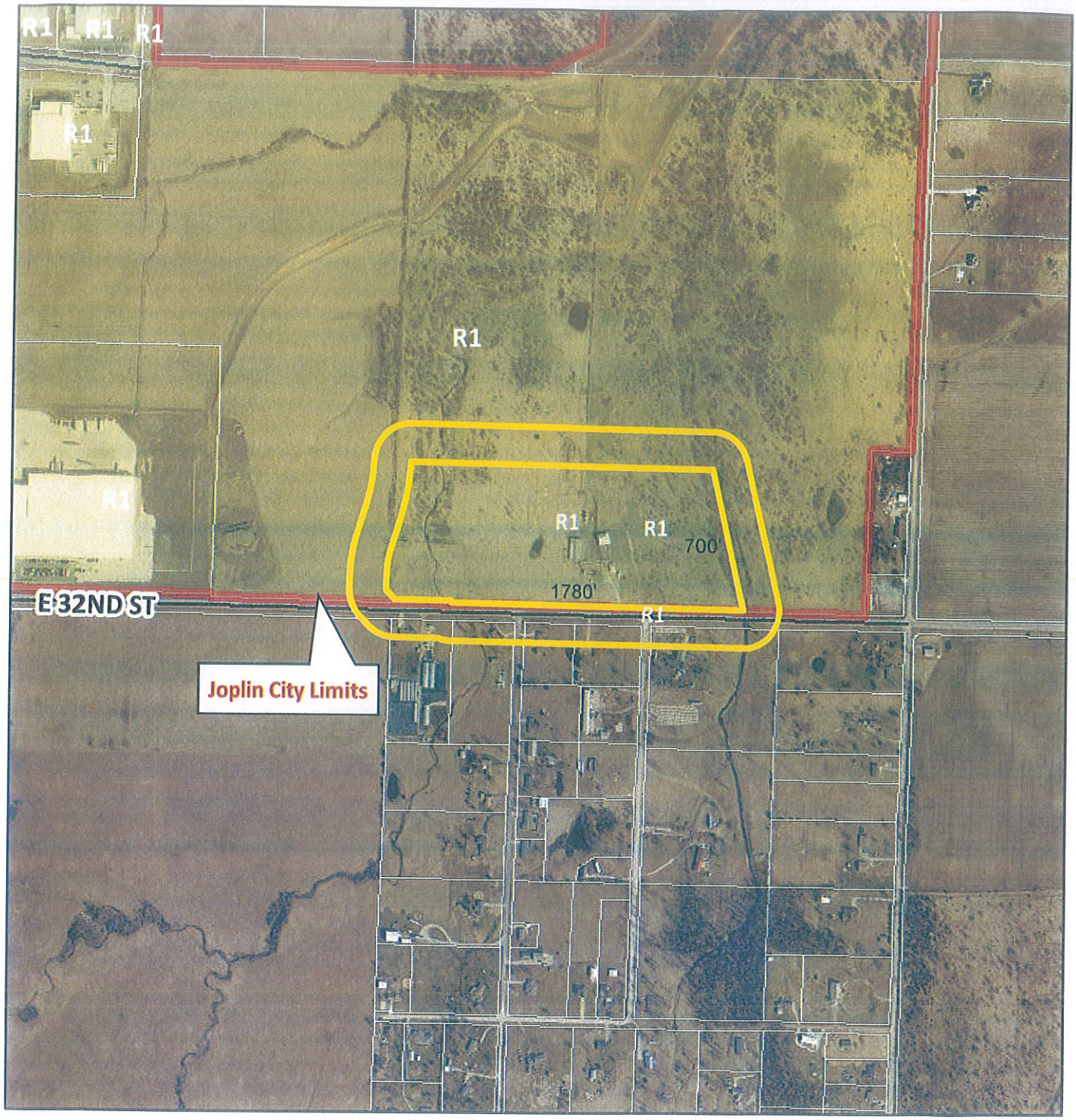
1. Appropriately Sized Lots? NO
2. Properly Sized Street Right-of-Way? NO
3. Drainage Easements? NO
4. Utility Easements:
   - Electricity? NO
   - Gas? NO
   - Sewers? NO
   - Water? NO
5. Additional Comments: _____

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

SIGNATURE: Randall L. Whisler DATE: 1/25/17

BY: Randall L. Whisler

TITLE: Vice President of DEF, L.L.C.



Case 006-17: 1/2 mile east of the intersection of 32nd Street and Prigmor Avenue - A request to rezone from R-1 (Single-Family Residential) to M-2 (Heavy Industrial) for the construction of an industrial manufacturing facility - DEF, LLC.

N

0 625 1,250 2,500 3,750 5,000 Feet

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017

Item: COUNCIL BILL NO. 2017-254
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Copy of Council Bill
2) Planning Report
3) Commission Minutes

Planning/Community Development Manager: Troy Bolander
City Attorney: Peter C. Edwards
City Manager: Samuel L. Anselm
Board or Commission: Planning and Zoning Commission Date: 02/13/17

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 006-17: A request to rezone from R-1 (Single-Family Residential) to M-2 (Heavy Industrial) for the construction of a manufacturing facility.

STAFF SUMMARY:
This property consists of 26.32 acres located ½ mile east of the intersection of 32nd Street and Prigmor Avenue. This site is located in the Crossroads Industrial Park. When any property is annexed into the City of Joplin, it is automatically zoned R-1, Single-Family Residential, which is the most restrictive zoning designation. This property has not been rezoned since its initial annexation. The developer will be constructing a frozen foods manufacturing plant on this property; this company has been working with the JIDA and City Council during the tax abatement process. A pre-development meeting with the developer was held on January 17, 2017.

This use is appropriate for the subject property and matches existing uses in the industrial park. This property is subject to all covenants established by the JIDA which meet, and often exceed, City of Joplin Zoning Code requirements.

Staff recommends approval of Case 006-17.

PLANNING & ZONING COMMISSION TESTIMONY:
This development is forecasted to create up to 400 jobs over the next 10 years. The initial building will employ about 150 employees for the first phase. The facility is designed for expansion in the near future. The City has two public infrastructure projects out to bid and that is for the development of public street on the west side, Quail Ridge, that will connect with east 26th Street up by Coca Cola. The other project is the extension of Turkey Creek sewer. There will be no entrance from highway FF onto this site.

PUBLIC COMMENT: None.

P & Z Case 006-17
DEF, LLC
(P & Z Recommended Approval)

COUNCIL BILL NO. 2017-254 ORDINANCE NO.

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District M-2 property as described below and described as ½ mile east of the intersection of 32nd Street and Prigmor Road in the City of Joplin, Jasper County, Missouri.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. Having referred the subject matter of this ordinance to the City Planning and Zoning Commission and having given at least fifteen days' notice of time and place of hearing on same by publication in the Joplin Globe, Ordinance No. 2004-256 is hereby amended by removing the following described property from District R-1 and including same in District M-2:

ALL THAT PART OF LOT 2 OF THE NORTHEAST FRACTIONAL 1/4 OF SECTION 1, TOWNSHIP 27 NORTH, RANGE 33 WEST, IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, FURTHER DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2 OF THE NORTHEAST FRACTIONAL 1/4, THENCE SOUTH 87°58'37" EAST ALONG THE NORTH LINE OF SAID LOT 2 OF THE NORTHEAST FRACTIONAL 1/4, 1249.39 FEET; THENCE SOUTH 02°02'47" WEST, 30.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF NEWMAN ROAD, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 02°02'47" WEST, 350.00 FEET; THENCE NORTH 87°58'37" WEST, 250.00 FEET; THENCE NORTH 02°02'47" EAST, 350.00 FEET TO A POINT ON SAID SOUTH RIGHT-OF-WAY LINE OF NEWMAN ROAD; THENCE SOUTH 87°58'37" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 250.00 FEET TO THE POINT OF BEGINNING. CONTAINING 2.0 ACRES, MORE OR LESS

Section 2. That the City Clerk is hereby ordered to file this ordinance with the Zoning District Map maintained in her office and to note the changes herein provided for thereon.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of _____, 2017, by a vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
CITY COUNCIL MEETING
MINUTES February 21, 2017

CALL TO ORDER
The regular meeting for the Joplin City Council was called to order at 6:00 p.m.by Mayor Michael Seibert.

INVOCATION - read by City Clerk Barbara Hogelin

PLEDGE OF ALLEGIANCE to the United States of America –led by Mr. Stanley.

ROLL CALL – Answering Roll Call were: Taylor Brown, Melodee Colbert-Kean; Dan McCreary, Gary Shaw; Ryan Stanley Michael Seibert, Ryan Stanley, Phil Stinnett and Jim West. Also in attendance were City Manager Sam Anselm and City Attorney Peter Edwards.

PRESENTATIONS

FINALIZATION OF CONSENT AGENDA - There being no further business to come before the Council, the Consent Agenda was finalized.

REPORTS AND COMMUNICATIONS
Semi-Annual report of the Capital Improvement Sales Tax Oversight Committee was presented by Chris Churchwell, Chairman.

CITIZEN REQUESTS AND PETITIONS

PUBLIC HEARINGS

CONSENT AGENDA – Motion by Mr. Shaw, second by Mr. Stanley to approve the Consent Agenda. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0.

Minutes of the February 6, 2017 Council Meeting

RESOLUTIONS
Mr. West introduced RESOLUTION NO. 2017-004 - A RESOLUTION to apply for three grants in the amount of $149,721.25 from the Missouri Department of Transportation. Motion by Mr. West, second by Mr. Stanley that Resolution No. 2017-004 be approved. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0.

ORDINANCES - EMERGENCIES

Mr. Shaw introduced COUNCIL BILL NO. 2017-109 - AN ORDINANCE approving the contract with Rosetta Construction L.L.C. in the amount of Eight Hundred Seventy-Two Thousand, Five Hundred Thirty DOLLARS and 50/100 ($872,530.50) for the Eastmorland Public Sewer Line Replacement Project in the City of Joplin, Missouri; providing how the cost shall be made and levied; and containing an emergency clause. Motion by Mr. Shaw, second by Mr. Stanley that Council Bill No. 2017-109 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0. The Council Bill was declared Adopted and entitled **Ordinance No. 2017-033**

Mr. Stanley introduced COUNCIL BILL NO. 2017-110- AN ordinance approving the contract with Hunter Chase Construction, in the amount of Two Hundred Fifty-Nine Thousand Five Hundred Twenty dollars and 00/100 ($259,520.00) for the 4th & School Storm Drainage Improvements Phase I in the City of Joplin, Missouri; and containing an emergency clause. Motion by Mr. Stanley, second by Mr. McCreary that Council Bill No. 2017-110 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0. The Council Bill was declared Adopted and entitled **Ordinance No. 2017-034**

Mr. West introduced COUNCIL BILL NO. 2017-111 - AN ORDINANCE approving Work Authorization with Allgeier Martin & Associates Inc. in the not to exceed amount of Forty-Five Thousand Four Hundred Twenty-Four and No/100 Dollars ($45,424.00) for engineering services associated with Trickling Filter Design and Bidding for the Shoal Creek Wastewater Treatment Facility; and containing an emergency clause. Motion by Mr. West, second by Mrs. Colbert-Kean that Council Bill No. 2017-111 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0. The Council Bill was declared Adopted and entitled **Ordinance No. 2017-035**

Mr. Stinnett introduced COUNCIL BILL NO. 2017 -113 - AN ORDINANCE approving the City of Joplin to enter into a contract with Rosetta Construction, LLC in the amount of $15,572 (Fifteen Thousand Five Hundred Seventy-Two and 0/100 Dollars) for the Crossroads Phase II Clearing project and authorizing the Director of Public Works to execute said Agreement; and containing an emergency clause. Motion by Mr. Stinnett, second by Mr. Stanley that Council Bill No. 2017-113 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0. The Council Bill was declared Adopted and entitled **Ordinance No. 2017-036**

Mr. Shaw introduced COUNCIL BILL NO. 2017-114 - AN ORDINANCE approving the City of Joplin to enter into an agreement with Empire District Electric Company in the amount of $50,129.67 (Fifty Thousand One Hundred Twenty-Nine and 67/100 Dollars) for the removal of street lights along Main Street from 15th to 32nd Street and authorizing the Director of Public Works to execute said Agreement; and containing an emergency clause. Motion by Mr. Shaw, second by Mr. Brown that Council Bill No. 2017-114 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0. The Council Bill was declared Adopted and entitled **Ordinance No. 2017-037**

ORDINANCES – FIRST READING
Motion by Mr. Stanley, second by Mr. Brown to take Council Bill No. 2016-290 off the table and place on First reading. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0.

Mr. Shaw introduced COUNCIL BILL NO. 2016-290 - AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1-PD property as described below and located 2915 East 17th Street in the City of Joplin, Jasper County, Missouri. Motion by Mr. Shaw, second by Mr. West that Council Bill No. 2016-290 be passed on First Reading and Advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean, Lewis, McCreary, Shaw, Seibert, Stanley, Stinnett and West, 9. Nays: 0. Absent: 0. The Council Bill was read as being **Council Bill No. 2016-290.**

ORDINANCES – SECOND AND THIRD READING

UNFINISHED BUSINESS

NEW BUSINESS:
Appointments and Reappointments to Boards and Commissions
Reappointed Wendy Douglas to JSA; Appointments-Bd of Adjustment, De'Shannon Shabazz; CVBAB-(attractions) Kevin Greim; CVBAB (restaurant) Jeremy Nienkamp; CVBAB (At Large) Traci Palmer; JSA, Chris Beyer; TIF, Josh Bard; Traffic, Alicia Edens and William Tylle.

News from the PIO
If you've driven down Main Street lately, you've probably notice some lane closures. This is in preparation of the Main Street project construction which includes new street surface, sidewalks, and lighting improvements.

To help the public learn more about this, the City is hosting an Open House Public Meeting from 4 p.m. to 6 p.m. on Wednesday, February 22, at the offices of Olsson Associates, located at 702 S. Main. Citizens can view the final plans and ask questions about the project. The public is welcome to come any time during these hours to view the plans and visit with City engineers and representatives of the project contractor, Branco Enterprises, Inc.

Joplin Fire Training Chief Mark Cannon received recognition from the Missouri Department of Public Safety Fire Marshal's office today for his work, dedication and performance.

Cannon was named the Fire Training Officer of the Year for the State of Missouri. The Missouri Division of Fire Safety issues two awards annually with one honoring a paid firefighter and the second to recognize a firefighter working in a volunteer department. According the State Marshal's office, Cannon received seven nominations from within and outside the department.

We would like to congratulate Mark on this honor and we appreciate his hard work and commitment to fire safety.

This last announcement is more of a shout out to one of our own here at the City. The Parks and Recreation Department hosted the Daddy Daughter Date Night this weekend. I just want to thank them and congratulate them for making many young girls hearts swoon – it looked like everyone had an incredible time! I'd encourage everyone to check out the videos on the Joplin Parks & Rec Facebook page --- These dads and daughters were having a blast – There was a competitive egg toss, slow dancing, refreshments and other fun activities including a dance off!

This event was sold out for both Friday and Saturday nights, and I understand why. It looked like everyone was having a GREAT time. So Dads out there (and Moms who help keep the calendar) be sure to mark February down as the month this event takes place each year. Tickets usually go on sale in the first part of January – so be sure to get yours for your young sweetheart. I don't think you'll be disappointed while making a memory with your favorite gal.

There being no further business the meeting adjourned at 7:01p.m.

Submitted,

Barbara L Hogelin

Barbara L. Hogelin, MMC/MPCC, City Clerk

AGREEMENT

THIS AGREEMENT, made this 10th day of November, 2016, by and between, Brenda K. Burt, hereinafter referred to as "Owner(s)" and the City of Joplin, Missouri, a Municipal Corporation, hereinafter referred to as "City".

Brenda K. Burt., is the owner of the tract of property generally located at 1421 S. Main Street, Joplin, Jasper County, Missouri, abutting City-owned property, said City-owned Street Right of way, located south of 1421 S. Main Street.

The owner is currently utilizing a portion of the Street Right of Way for parking vehicles, said parking encroaching approximately 6.45 feet into the Street Right of Way along the south side of the existing asphalt parking lot adjacent to 15th Street. The area of encroachment consists of 414 square feet.

A City project improvement necessitates the acquisition of right of way consisting of 414 square feet for sidewalk and handicap ramp construction.

In consideration of exchanging land and other valuable consideration, the City and owner mutually agree to the following: the City hereby agrees to convey to the owner land identified in Exhibit "A" by Quit Claim Deed and owner agrees to convey to the City land identified in Exhibit "B" in a Right of Way Conveyance both parcels containing equal amounts of land consisting of 414 square feet.

Both parties agree as follows:

(1) Access to owner's building is hereby granted by City from the right of way for the purpose of maintenance of the building.

(2) Any structure or monument, signage, and lighting installed by City will not interfere with existing signage on grantor's building. The City is responsible for the aforementioned in maintenance, replacement, or repair in the event of destruction or vandalism.

(3) All grass area will be replaced with stamped concrete (London Cobble) mixed into the tan/grey natural colored concrete and a sealer applied when completed.

(4) Trash can receptacle to be placed by the City in area conveyed by the owner and no park benches will be placed in the area. All lighting illumination will be according to the City project design plans.

(5) A temporary construction easement (Exhibit "C") consisting of 714 square feet will be conveyed to the City at the time of the exchange of properties and will terminate at the completion of construction of the project.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement, this 10TH day of NOVEMBER, 2016.

CITY OF JOPLIN, MISSOURI

A Municipal Corporation

By: _____
Dan Salisbury
Asst. Director of Public Works

By: _____
Owner

Approved as to form:

_____
Peter C. Edwards, City Attorney

STATE OF MISSOURI)
)
COUNTY OF JASPER)

On this 10TH day of NOVEMBER, 2016, before me, personally appeared BRENDA K. BURT, to me known to be the person described in and who acknowledge that she, as Owner, executed the foregoing instrument, and acknowledged that she executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal in my office in Joplin, Missouri, the day and year last above written.

_____
Notary Public

My Commission Expires: MAY 28, 2020

PHILLIP W. ERWIN
Notary Public - Notary Seal
State of Missouri, Jasper County
Commission Number 12538692
My Commission Expires May 28, 2020

STATE OF MISSOURI)
) ss:
COUNTY OF JASPER)

On this 10TH day of NOVEMBER, 2016, before me, personally appeared DAN SALISBURY, Asst. Director of Public Works, to me known to be the persons described in and who acknowledge that they, executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

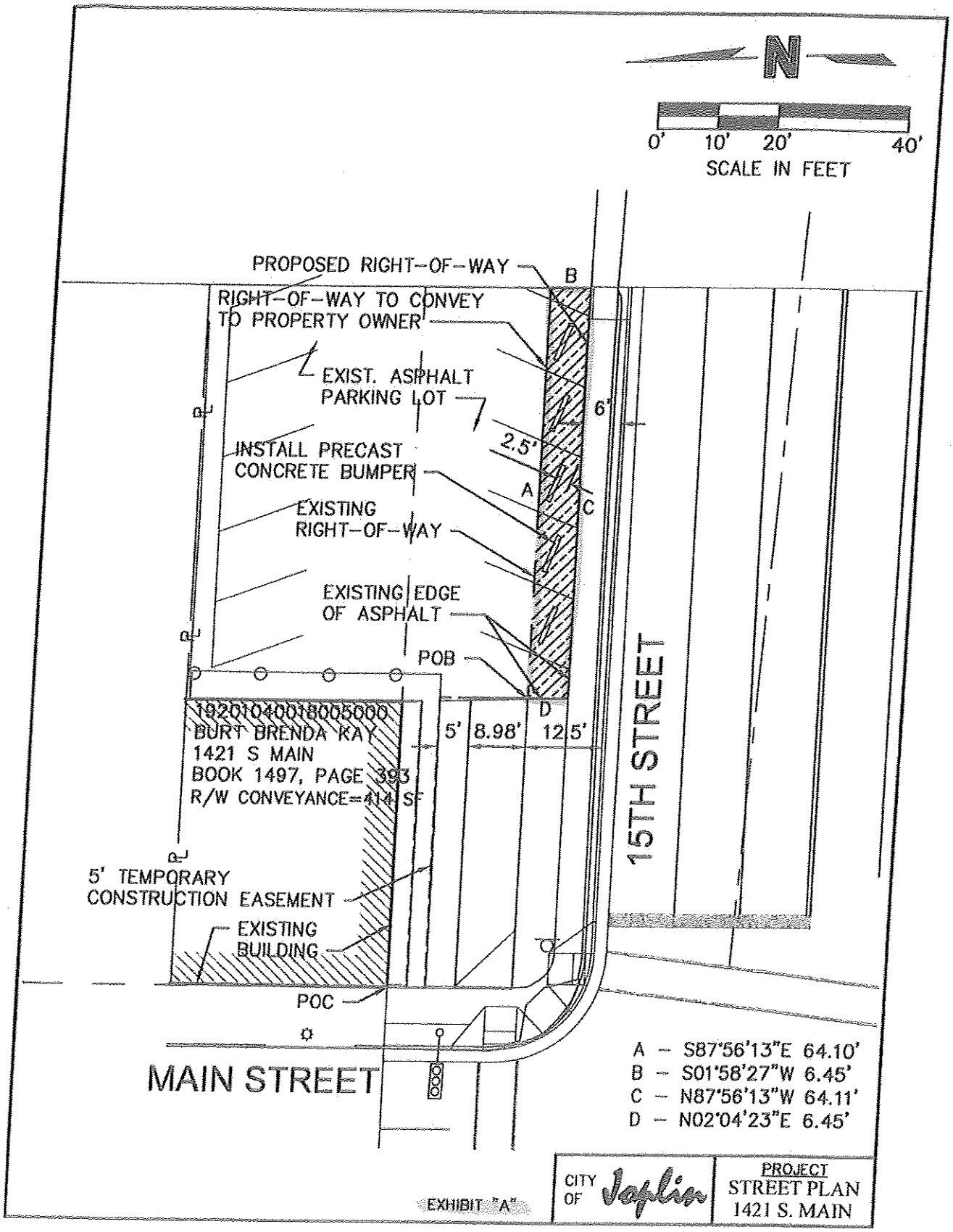
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year first above written.

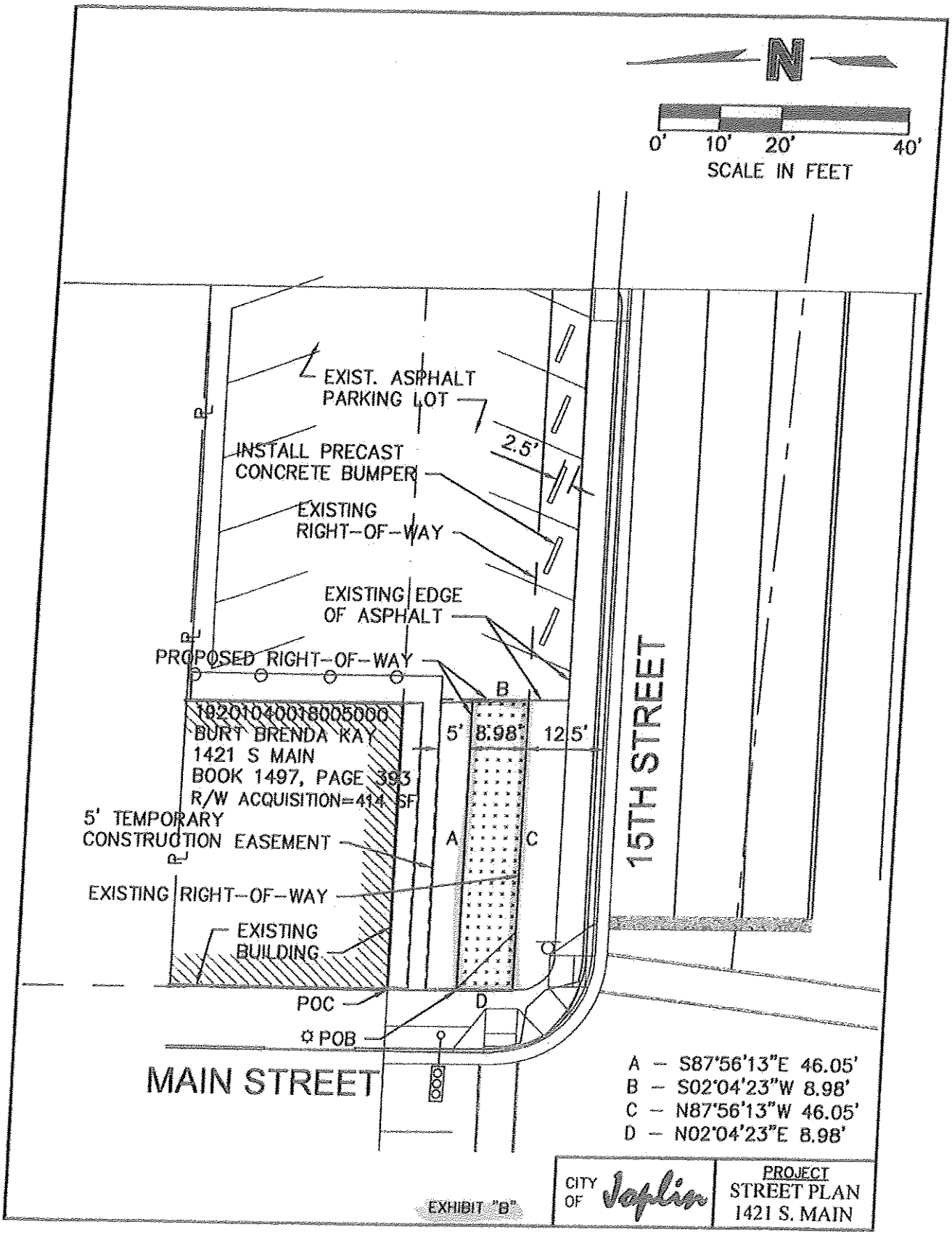
Phillip W Erwin
Notary Public

My Commission Expires:

MAY 28, 2020

PHILLIP W. ERWIN
Notary Public - Notary Seal
State of Missouri, Jasper County
Commission Number 12538692
My Commission Expires May 28, 2020


N
0' 10' 20' 40'
SCALE IN FEET
PROPOSED RIGHT-OF-WAY
RIGHT-OF-WAY TO CONVEY TO PROPERTY OWNER
EXIST. ASPHALT PARKING LOT
INSTALL PRECAST CONCRETE BUMPER
EXISTING RIGHT-OF-WAY
EXISTING EDGE OF ASPHALT
POB
19201040018005000
BURT BRENDA KAY
1421 S MAIN
BOOK 1497, PAGE 393
R/W CONVEYANCE=414 SF
5' TEMPORARY CONSTRUCTION EASEMENT
EXISTING BUILDING
POC
MAIN STREET
15TH STREET
B
A
C
D
6'
2.5'
5'
8.98'
12.5'
A - S87°56'13"E 64.10'
B - S01°58'27"W 6.45'
C - N87°56'13"W 64.11'
D - N02°04'23"E 6.45'
EXHIBIT "A"
CITY OF Joplin
PROJECT
STREET PLAN
1421 S. MAIN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INSTALL PRECAST CONCRETE BUMPER
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EXISTING RIGHT-OF-WAY
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PROPOSED RIGHT-OF-WAY
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BURT BRENDA KAY
1421 S MAIN
BOOK 1497, PAGE 393
R/W ACQUISITION=414 SF
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5' TEMPORARY CONSTRUCTION EASEMENT
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D
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MAIN STREET
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CITY OF Joplin
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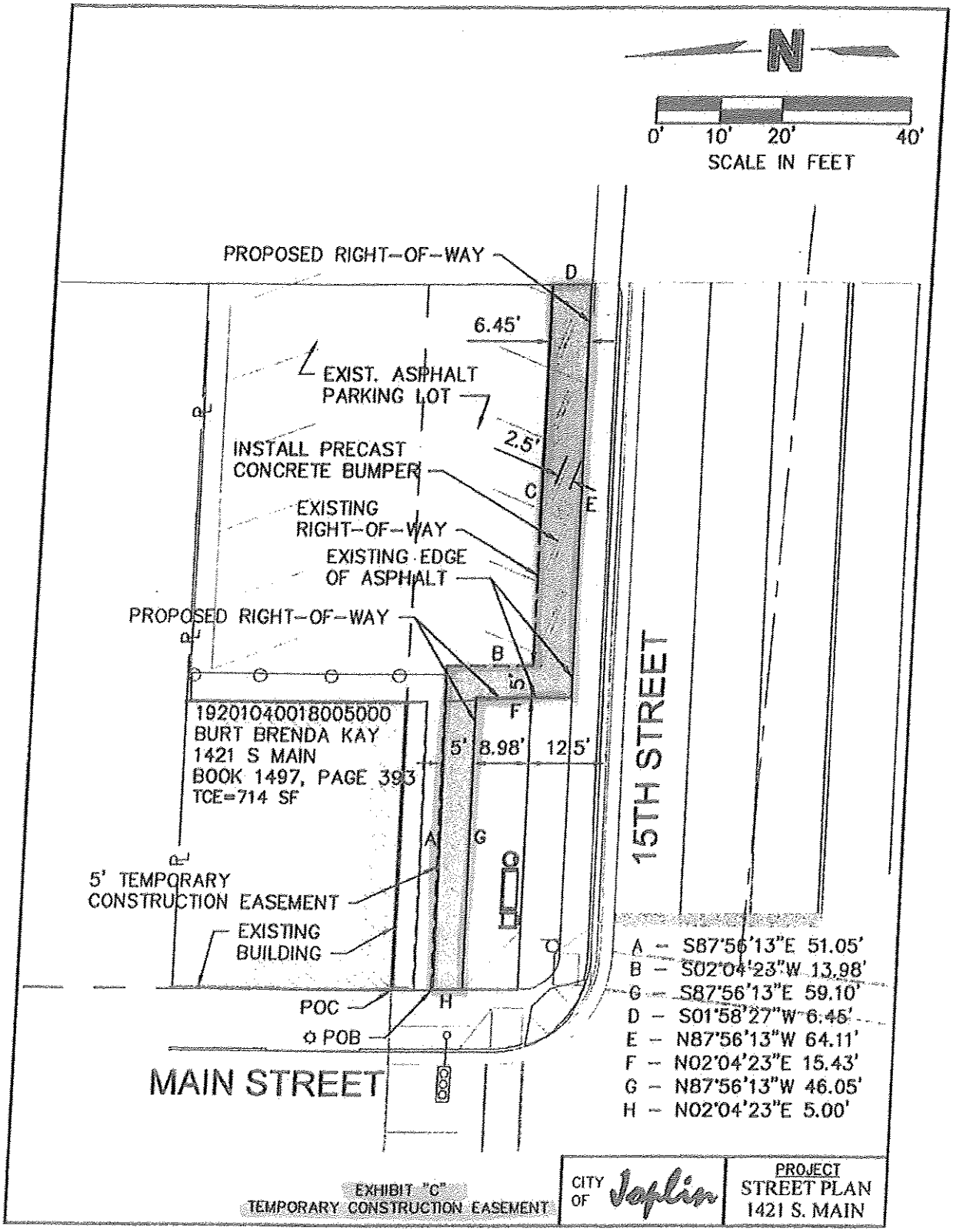
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EXHIBIT "C"
TEMPORARY CONSTRUCTION EASEMENT
CITY OF Joplin
PROJECT
STREET PLAN
1421 S. MAIN

QUIT-CLAIM DEED

THIS INDENTURE, made and entered into this _____day of _____, 2016, by and between, the **City of Joplin, a Municipal Corporation,** of the County of Jasper, State of Missouri, hereinafter referred to as **Grantor,** and **Brenda Kay Burt**, of the State of Missouri, **Grantee.**

Grantee Mailing Address: 725 Colonial Drive, Webb City, MO 64870

WITNESSETH: That said Grantor for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations paid by the Grantee, the receipt of which is hereby acknowledged, does hereby REMISE, RELEASE, and FOREVER QUIT-CLAIM unto Grantee the following described Real Estate, situated in the County of Jasper, State of Missouri, more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD THE SAME, together with all rights, immunities, privileges and appurtenances to the same belonging, unto Grantee and unto their heirs and assigns forever; so that neither Grantor nor their successors nor any other person or persons, for them or in their name or behalf, shall or will hereinafter claim or demand any right or title of the aforesaid premises or any part thereof, but they and each of them shall, by these presents, be excluded and forever barred.

IN WITNESS WHEREOF, City of Joplin, a Municipal Corporation, of the County of Jasper, in the State of Missouri, has caused these presents to be signed by a duly authorized signatory for and on behalf of the Grantor on this the _____ day of _____, 2016.

_____
Samuel L. Anselm, City Manager
City of Joplin

STATE OF MISSOURI)
)ss
COUNTY OF JASPER)

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year above written.

My term expires _____, 20__.

_____

Notary Public

EXHIBIT "A"

ALL OF THAT PART OF LOT 10 OF J.C. COX'S JR. 2ND ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, RECORDED IN PLAT BOOK 2, PAGE 44, JASPER COUNTY, MISSOURI, RECORDERS OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER SAID LOT 10; **THENCE** S02°04'23"W, ALONG THE EAST RIGHT OF WAY OF MAIN STREET, 20.00 FEET TO THE NORTHEAST CORNER OF THE INTERSECTION OF 15TH STREET AND MAIN STREET;

THENCE S87°56'13"E, LEAVING SAID EAST RIGHT OF WAY AND ALONG THE NORTH RIGHT OF WAY OF 15TH STREET, A DISTANCE OF 46.05 FEET FOR A **POINT OF BEGINNING.**

THENCE S87°56'13"E, CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 64.10 FEET TO THE SOUTHEAST CORNER OF A TRACT OF LAND RECORDED IN BOOK 1497 AT PAGE 393, JASPER COUNTY, MISSOURI, RECORDERS OFFICE;

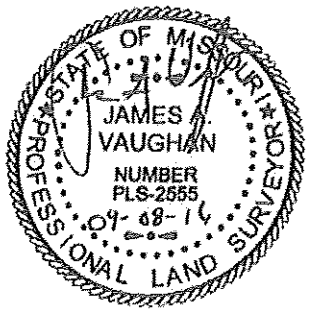
THENCE S01°58'27"W, ALONG THE EXTENSION OF THE EAST LINE OF SAID TRACT OF LAND RECORDED IN BOOK 1497 AT PAGE 393, A DISTANCE OF 6.45 FEET;

THENCE N87°56'13"W, PARALLEL WITH SAID NORTH RIGHT OF WAY OF 15TH STREET, A DISTANCE OF 64.11 FEET;

THENCE N02°04'23"E, A DISTANCE OF 6.45 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 414 SQUARE FEET MORE OR LESS.

THIS DESCRIPTION WAS PREPARED BY CJW TRANSPORTATION CONSULTANTS, LLC; CORPORATE LAND SURVEY NUMBER 2007008003.



1421 (RW CONVEYANCE)

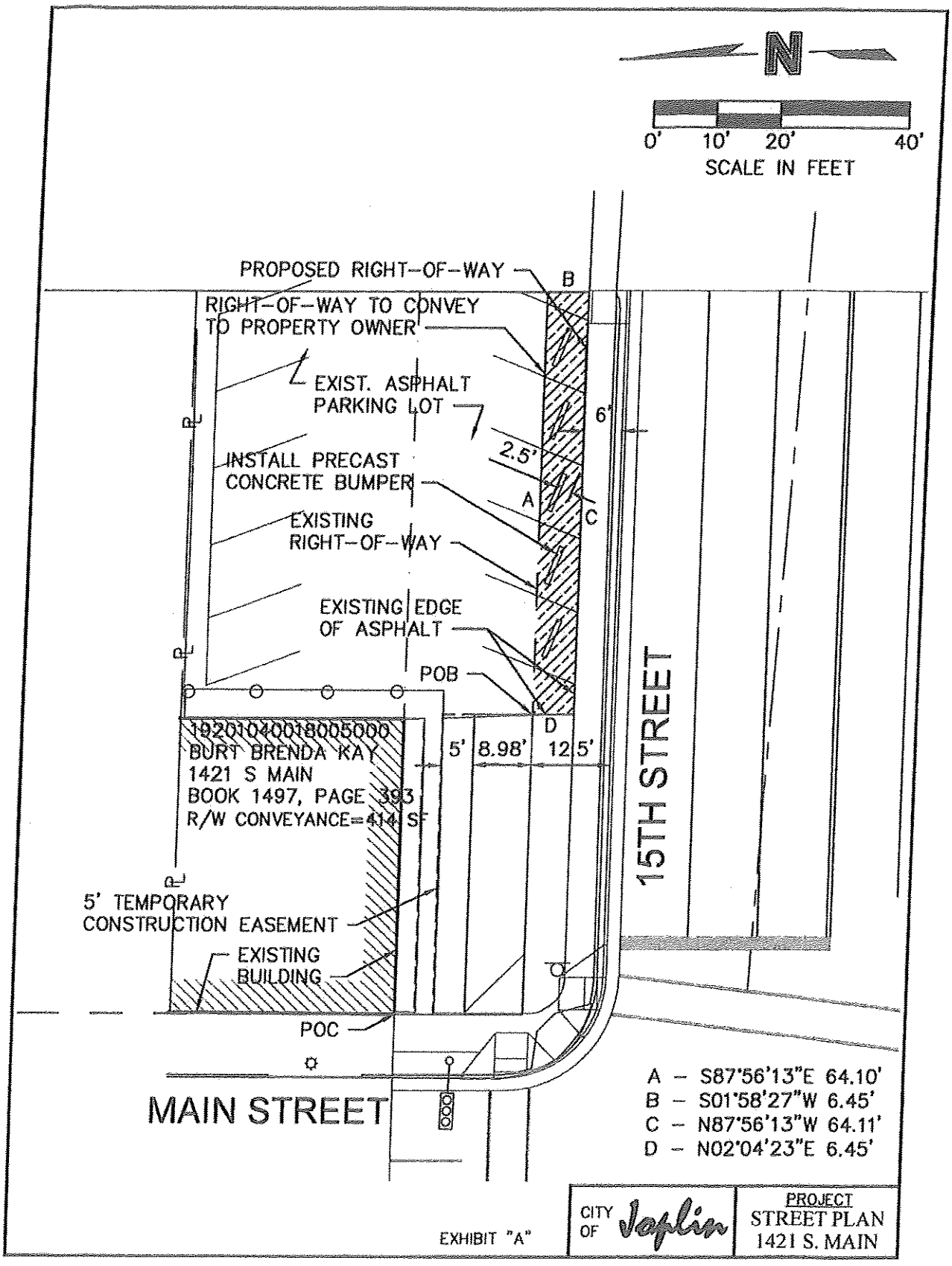

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EXHIBIT "A"
CITY OF Joplin
PROJECT
STREET PLAN
1421 S. MAIN

RIGHT OF WAY CONVEYANCE
FOR STREET PURPOSES

THIS INDENTURE, made this 10th day of November, 2016, by and between **BRENDA KAY BURT,** party of the first part (GRANTOR), and **CITY OF JOPLIN**, a Municipal Corporation, of the County of Jasper, in the State of Missouri, party of the second part (GRANTEE).

Mailing Address of Grantee: 602 S. Main Street, Joplin, Missouri 64801

WITNESSETH, that the said party of the first part in consideration of the sum of TEN DOLLARS and 00/100 ($10.00) and other good and valuable consideration, to them paid by said party of the second part, the receipt of which is hereby acknowledged, does by these presents GRANT, BARGAIN, and SELL, CONVEY and CONFIRM unto the said party of the second part, its successors and assigns, the following described real estate and interests in real estate, in the County of Jasper, State of Missouri, to-wit:

(SEE ATTACHED EXHIBIT "A")

TO HAVE AND TO HOLD the same for the purpose of constructing and maintaining a city street according to the plans of the CITY OF JOPLIN or for the purposes above set out, together with all and singular the rights, privileges, appurtenances, and immunities thereto belonging, or in anywise appertaining, unto the said party of the second part, and unto its successors and assigns, forever.

IN WITNESS WHEREOF, the said party of the first part has executed the above day and year first above written.

NAME OF PROPERTY OWNER

BRENDA KAY BURT

STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

ACKNOWLEDGEMENT BY INDIVIDUAL(S)

On this 10TH day of NOVEMBER, 2016, before me personally appeared BRENDA KAY BURT, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, acknowledged that they executed the same as their free act and deed and for the consideration stated therein and no other.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year above written.

My term expires MAY 28, 2020.

Notary Public

PHILLIP W. ERWIN
Notary Public - Notary Seal
State of Missouri, Jasper County
Commission Number 12538692
My Commission Expires May 28, 2020

EXHIBIT "A"

ALL OF THAT PART OF LOT 10 OF J.C. COX'S JR. 2ND ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, RECORDED IN PLAT BOOK 2, PAGE 44, JASPER COUNTY, MISSOURI, RECORDERS OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER SAID LOT 10; **THENCE** S02°04'23"W, ALONG THE EAST RIGHT OF WAY OF MAIN STREET, 11.02 FEET FOR A **POINT OF BEGINNING.**

THENCE S87°56'13"E, LEAVING SAID RIGHT OF WAY, A DISTANCE OF 46.05 FEET;

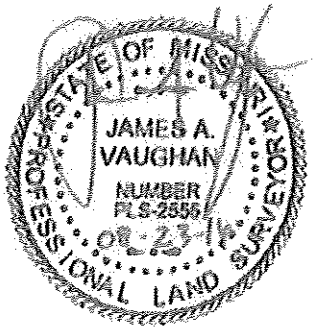
THENCE S02°04'23"W, A DISTANCE OF 8.98 FEET TO A POINT ON THE NORTH RIGHT OF WAY OF 15TH STREET;

THENCE N87°56'13"W, ALONG SAID NORTH RIGHT OF WAY, A DISTANCE OF 46.05 FEET TO THE NORTHEAST CORNER OF THE INTERSECTION OF 15TH STREET AND MAIN STREET;

THENCE N02°04'23"E, ALONG THE EAST RIGHT OF WAY OF MAIN STREET, A DISTANCE OF 8.98 FEET TO THE **POINT OF BEGINNING.**

CONTAINING 414 SQUARE FEET MORE OR LESS.

THIS DESCRIPTION WAS PREPARED BY CJW TRANSPORTATION CONSULTANTS, LLC; CORPORATE LAND SURVEY NUMBER 2007008003.



1421 (RW ACQUISITION)

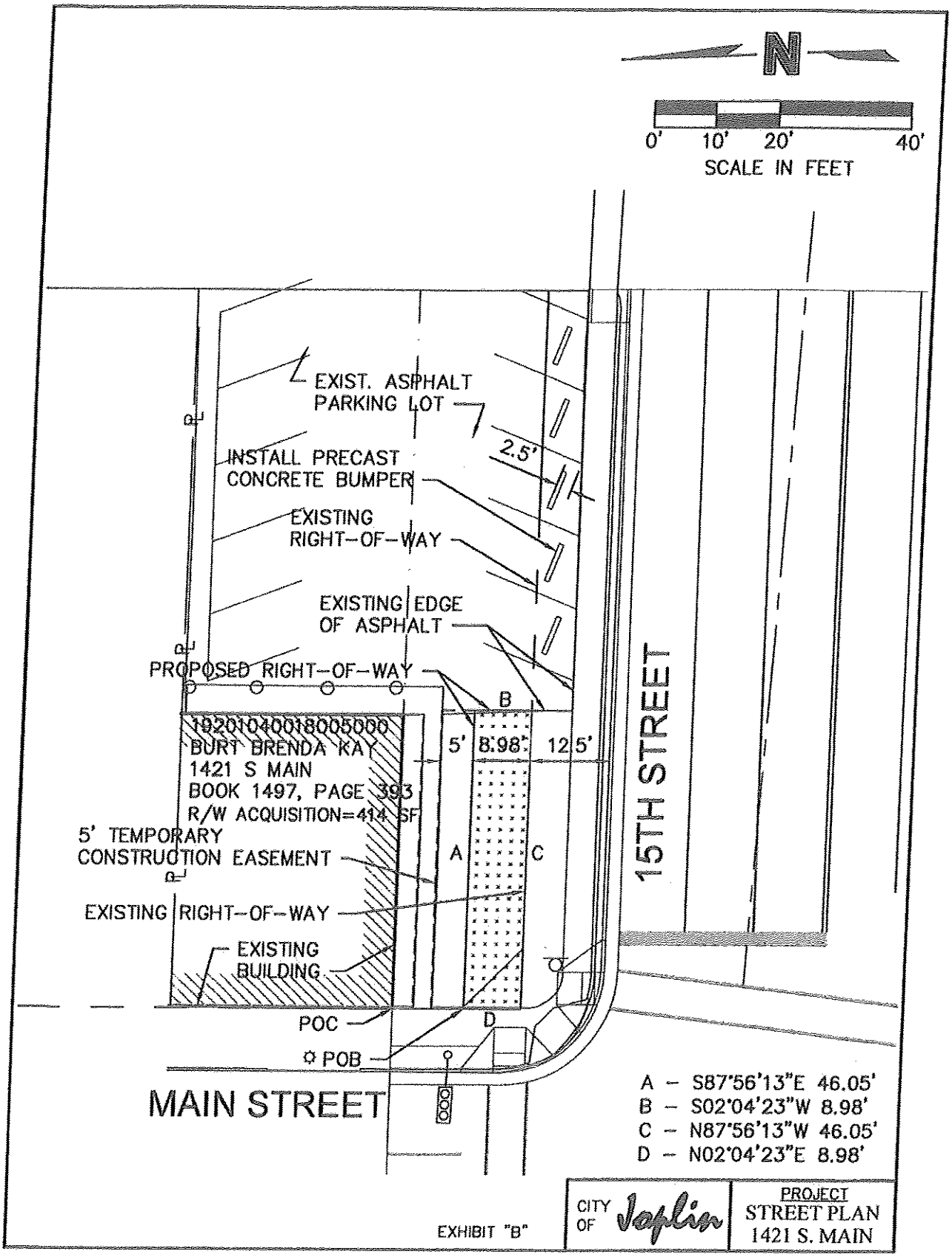

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EXHIBIT "B"
CITY OF Joplin
PROJECT
STREET PLAN
1421 S. MAIN

TEMPORARY CONSTRUCTION EASEMENT

THIS INDENTURE, made this 10th day of November, 20 16, by and between **BRENDA KAY BURT**, party of the first part (GRANTOR), and the **CITY OF JOPLN, MISSOURI,** a Municipal Corporation of the County of Jasper, party of the second part (GRANTEE),

Mailing Address of Grantee: 602 S. Main Street, Joplin, Missouri 64801

WITNESSETH, that the said party of the first part, in consideration of the sum of One Dollar ($1.00), to them paid by the said second part, the receipt of which is hereby acknowledged, do by these presents grant, bargain, and sell, convey and confirm unto the said party of the second part, its successors and assigns, the following described real estate and interests in real estate in the City of Joplin, County of Jasper, State of Missouri, to wit:

SEE ATTACHED EXHIBIT "A"

The temporary construction easement will be for purposes of access to the property, construction of City improvements, and installation of the parking blocks and said easement rights will cease upon completion of the project.

TO HAVE AND TO HOLD the same for the purpose of constructing a city street according to the plans of the CITY OF JOPLIN or for the purposes above set out, together with all and singular the rights, privileges, appurtenances, and immunities thereto belonging, or in anywise appertaining, unto the said party of the second part, and unto its successors and assigns, forever.

IN WITNESS WHEREOF, the said party of the first part have executed the above day and year first above written.

Brenda Kay Burt

BRENDA KAY BURT

STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

ACKNOWLEDGEMENT BY INDIVIDUAL(S)

On this 10TH day of NOVEMBER, 2016, before me personally appeared BRENDA KAY BURT, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, acknowledged that she has executed the same as her free act and deed and for the consideration stated therein and no other.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year above written.

My term expires MAY 28, 2020.

Phillip W Erwin
Notary Public

PHILLIP W. ERWIN
Notary Public - Notary Seal
State of Missouri, Jasper County
Commission Number 12538692
My Commission Expires May 28, 2020

EXHIBIT "A"

TEMPORARY CONSTRUCTION EASEMENT

ALL OF THAT PART OF LOT 10 OF J.C. COX'S JR. 2ND ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, RECORDED IN PLAT BOOK 2, PAGE 44, JASPER COUNTY, MISSOURI, RECORDERS OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER SAID LOT 10; **THENCE** S02°04'23"W, ALONG THE EAST RIGHT OF WAY OF MAIN STREET, 6.02 FEET FOR A **POINT OF BEGINNING.**

THENCE S87°56'13"E, LEAVING SAID EAST RIGHT OF WAY, A DISTANCE OF 51.05 FEET;

THENCE S02°04'23"W, A DISTANCE OF 13.98 FEET;

THENCE S87°56'13"E, A DISTANCE OF 59.10 FEET;

THENCE S01°58'27"W, A DISTANCE OF 6.45 FEET;

THENCE N87°56'13"W, A DISTANCE OF 64.11 FEET;

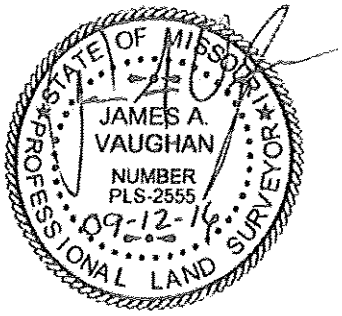
THENCE N02°04'23"E, A DISTANCE OF 15.43 FEET;

THENCE N87°56'13"W, A DISTANCE OF 46.05 FEET TO A POINT ON THE EAST RIGHT OF WAY OF MAIN STREET;

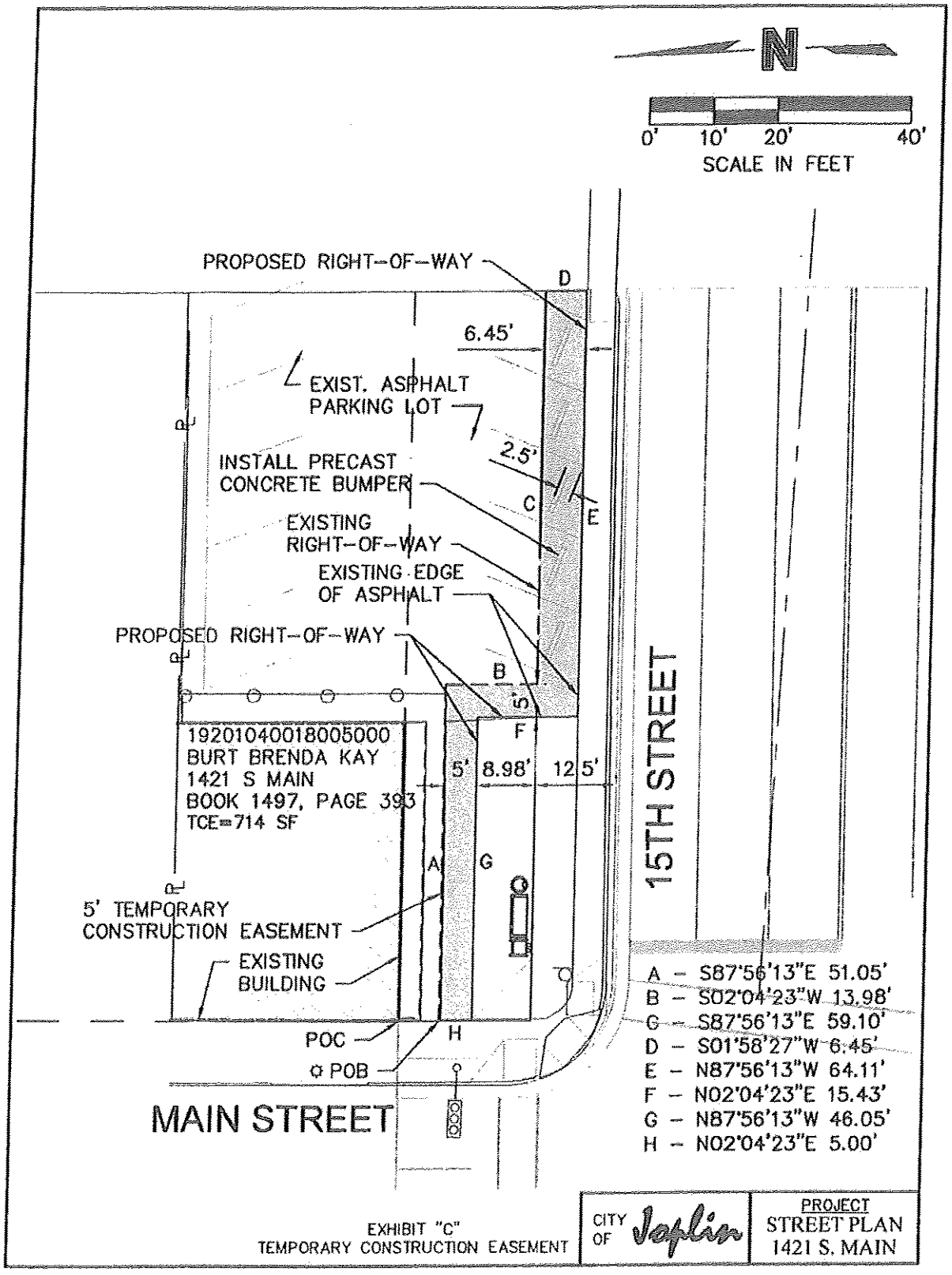
THENCE N02°04'23"E, ALONG SAID EAST RIGHT OF WAY, A DISTANCE OF 5.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 714 SQUARE FEET MORE OR LESS.

THIS DESCRIPTION WAS PREPARED BY CJW TRANSPORTATION CONSULTANTS, LLC; CORPORATE LAND SURVEY NUMBER 2007008003.



1421 (TEMP EASEMENT)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CITY OF Joplin
PROJECT
STREET PLAN
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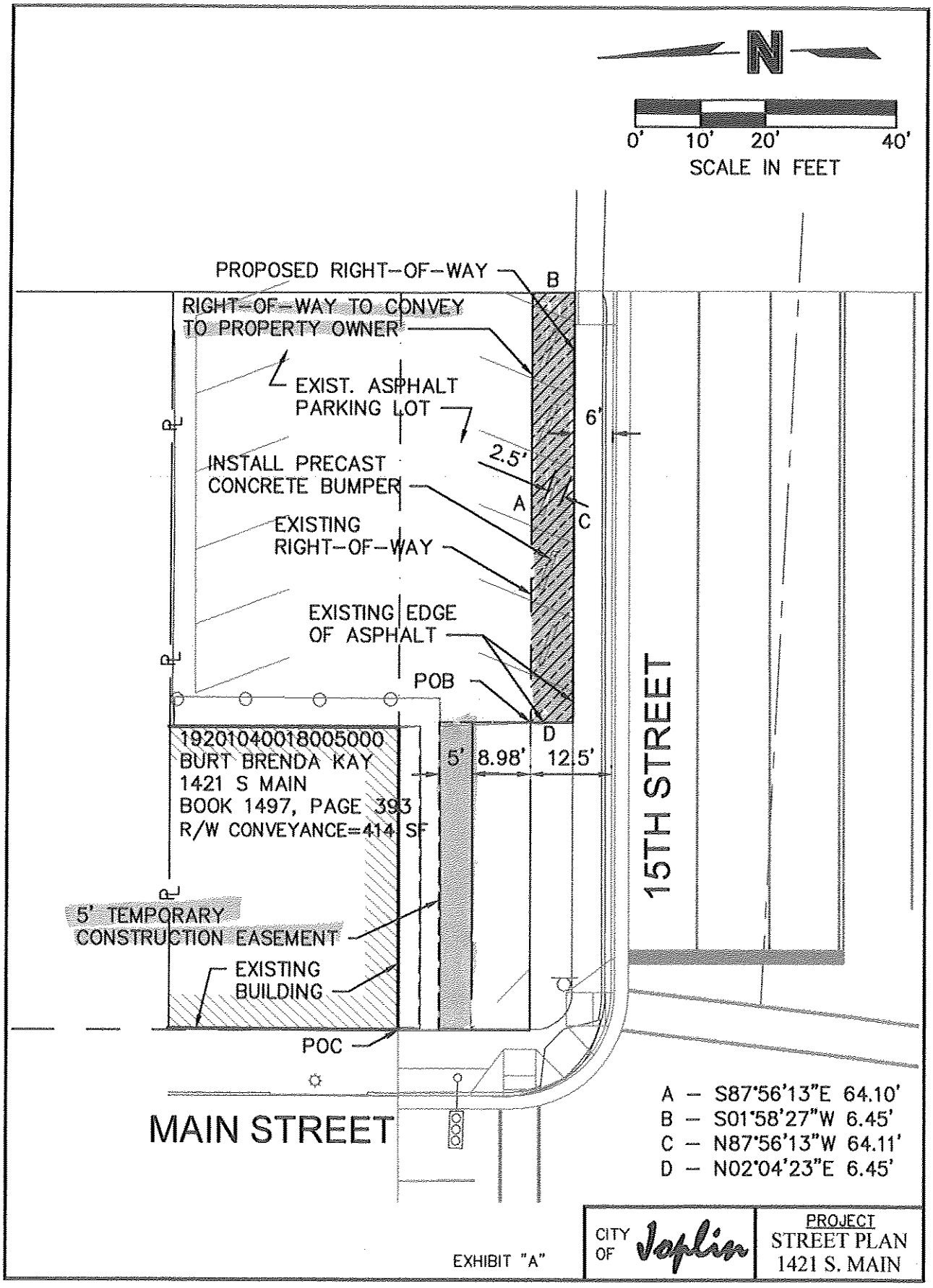
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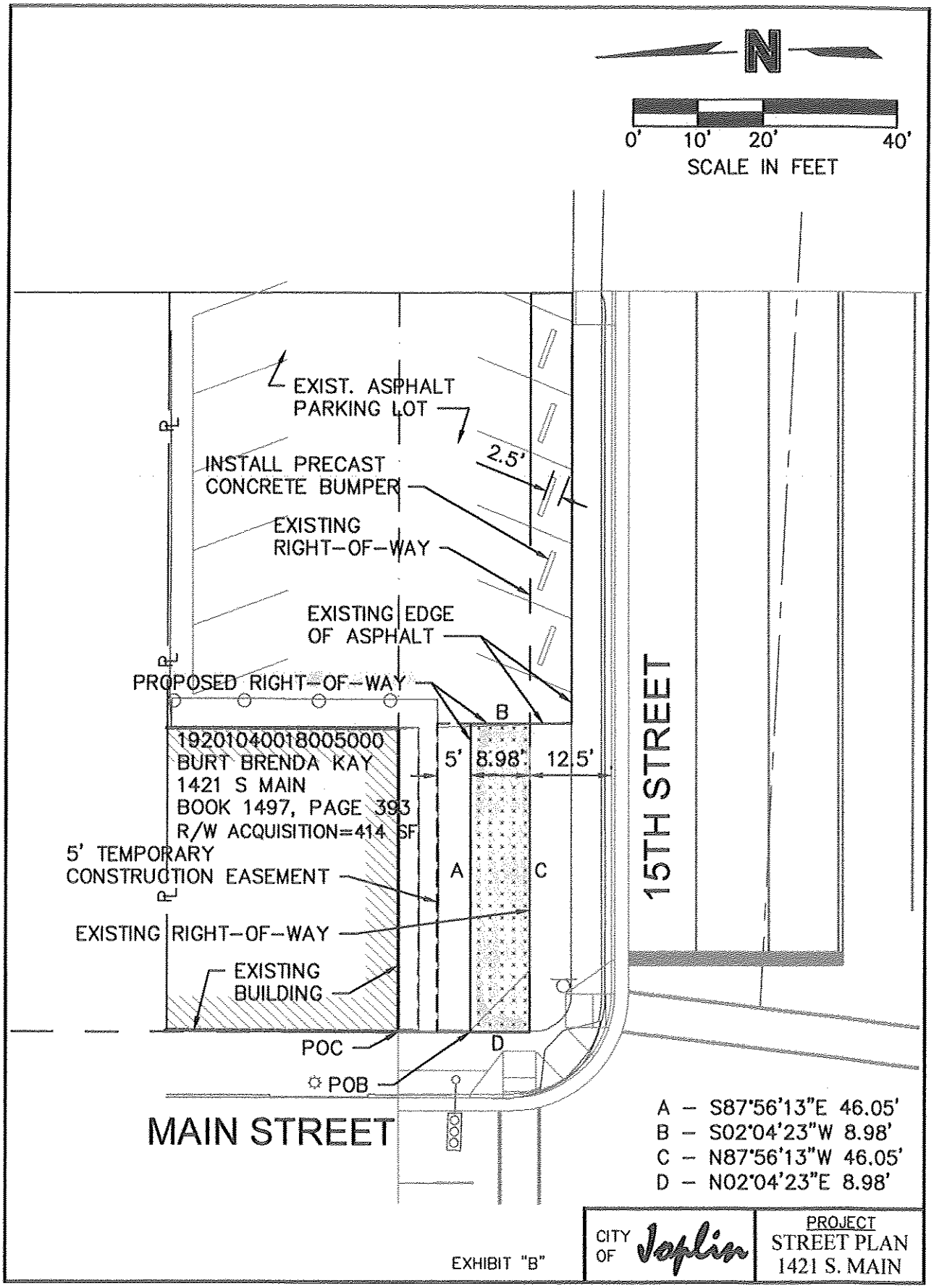
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COUNCIL BILL NO. 2017-112 ORDINANCE NO.

AN ORDINANCE approving an Agreement with Brenda Kay Burt, for the acquisition of Right of Way for the Main Street Improvement Project 15th Street to 32nd Street; and authorizing the City Manager to convey the described property rights by Quit Claim deed; and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That the City enter into an agreement with Brenda Kay Burt, for the acquisition of Right of Way for the Main Street Improvement Project 15th Street to 32nd Street, a true and accurate copy of said agreement being attached hereto and incorporated herein and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri, is hereby authorized to convey the described property by Quit Claim deed for and on behalf of the City of Joplin.

Section 3 That the City of Joplin declares that this Ordinance relating to a public improvement, is an emergency within the meaning of Section 2.12 (6) of the HOME RULE CHARTER of the City of Joplin, and as such, shall be in full force and effect immediately from and after its adoption and approval. Specifically, this council bill needs to be approved in order to complete property acquisitions, allowing construction to be completed within funding time limitations.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2017, by a _____ vote.

_____

ATTEST: Michael L. Seibert, Mayor

_____

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017
Council Bill No. 2017-112

Item: Agreement to Acquire Right of Way for the Main Street Improvement Project 15th Street to 32nd Street
Originating Department: Public Works – Engineering

Attachments: 1) Location Map
2) Valuation Summary
3) Deeds/Real Estate Agreement
4) Council Bill 2017-112

Department Head: Nicholas A. Heatherly	Date:
Engineering: Dan Salisbury	Date:
Finance Department: Leslie Haase	Date:
City Attorney: Peter C. Edwards	Date:
City Manager: Samuel L. Anselm	Date:

Recommended Action: Approval of an Agreement with Brenda Kay Burt, for the acquisition of Right of Way for the Main Street Improvement Project 15th Street to 32nd Street.

Background: In 2013 the city council reviewed and approved the "Joplin Community Phase II Recovery Plan". Engineering staff held a number of meetings with property owners and stakeholders. It was determined from those in attendance that fixing pavement, sidewalks and street lighting was a top priority. Since that time Olsson and Associations, the consultant for the project has been in the process of acquiring the necessary easements and right of way for the improvement project.

Discussion: An agreement has been reached with Brenda Kay Burt to acquire an area of right of way and a temporary construction easement necessary for the project. In lieu of a cash payment, the City will deed a portion of unused city right of way to the property owner to be utilized for parking. The value of the right of way and temporary construction easement is equal to the value of the excess right of way to be deeded to the property owner.

Recommendation: Approval of the Agreement to acquire right of way and temporary construction easement from Brenda Kay Burt for the Main Street Improvement Project on an emergency basis per Section 2.12 (6) of the Charter of the City of Joplin.

Summary – Valuation

Brenda Kay Burt

Right of Way needed for Main St Project	414 SF @ $1.74	*valuation* ($721.00)
Temporary Construction Easement	714 SF @ $1.74 x .10	*valuation ($124.00)*
Total compensation payable to Brenda Kay Burt		**($845.00)**

Value of land to be traded to Brenda Burt	414 SF @$1.74	*valuation*-($721.00)
Temporary Construction Easement	714 SF	*valuation- (donated)*
Total valuation of land trade		**($721.00)**

This will put the city under the appraised value by approximately $124.00

COUNCIL BILL NO. 2017-115 ORDINANCE NO.

AN ORDINANCE authorizing the City to enter into a Transportation Alternative Funds Program Agreement TAP-3205(704) with the Missouri Highways and Transportation Commission for the construction of the St. John's and Mohaska Trail projects, in the City of Joplin; authorizing the City Manager to execute said Agreement for and on behalf of the City; and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the City enter into a Transportation Alternative Funds Program Agreement TAP-3205(704) for the construction of the St. John's and Mohaska Trail projects, with the Missouri Highways and Transportation Commission.

Section 2. That the City Manager of the City of Joplin is authorized to execute the Agreement described in Section 1 of this Ordinance for and on behalf of the City of Joplin.

Section 3. That the City of Joplin declares that this ordinance relating to a public improvement is an emergency within the meaning of Section 2.12 (6) of the HOME RULE CHARTER of the City of Joplin, Missouri and the Council hereby declares that this ordinance shall be in full force and effect from and after its passage. Specifically, this council bill needs to be approved in order to complete the improvements within funding time limitations.

Passed by the Council of the City of Joplin, Missouri, this _____ day of _____, 2017, by a _____ vote.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Mohaska Trail



March 2016

CJW

JOPLIN, MO SMARTER, SAFER, SMARTER JET JOINT ENGINEERING TEAM

Legend

- Red Route
- Yellow Route
- Purple Route (Alternate)
- Existing Trails

CITY OF JOPLIN

Study Area

0 250 500 1,000 1,500 Feet

N W E S

JOPLIN

CCO Form: FS25
Approved: 04/95 (MGB)
Revised: 02/16 (MWH)
Modified:

CFDA Number: 20.205
CFDA Title: Highway Planning and Construction
Award name/number: TAP-3205(704) TIP#
Award Year: 2017
Federal Agency: Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
TRANSPORTATION ALTERNATIVES FUNDS
PROGRAM AGREEMENT

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Joplin, Missouri (hereinafter, "City").

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The United States Congress has authorized, in Fixing America's Surface Transportation Act (FAST); 23 U.S.C. §101, §106 and §213; SAFETEA-LU §1404 funds to be used for transportation alternatives activities. The purpose of this Agreement is to grant the use of such transportation enhancement funds to the City.

(2) LOCATION: The transportation alternatives funds which are the subject of this Agreement are for the project at the following location: Along 26th Street from Main to Pearl, then south along Pearl where it will diverge from the street system following the right of way of an unused city street. It will cross Jackson Street where it will follow along a sewer easement until it meets up with 28th Street, where it will follow 28th Street right of way to Pitcher Avenue/St. Johns Boulevard. The project will then run along St. Johns Boulevard to the south from 28th to 32nd Street. To the north it will follow Pitcher Avenue until it meets up with 26th Street where it will turn to the west, and connect up with the Mercy Park Trail, then cross 26th Street at a Hawk signal constructed with this project, then follow along 26th Street to Cunningham Park, continuing along 26th Street across Cunningham Park to Maiden Lane. The general location of the project is shown on attachment marked "Exhibit A" and incorporated herein by reference.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public

Agency (LPA) Manual and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City. The City may not be eligible for future Transportation Alternatives Funds if the City does not meet the reasonable progress policy.

(4) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation (MoDOT or Department) employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(B) The City will require any contractor procured by the City to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The City shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(5) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(6) COMMISSION REPRESENTATIVE: The Commission's Southwest District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(7) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq*.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq*.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive

possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (7) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(8) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(9) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(10) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

(11) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the Federal Highway Administration (FHWA) and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the

Commission.

(12) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term “the City”is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(13) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for this project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.

(14) MAINTENANCE OF DEVELOPMENT: The City shall maintain the herein contemplated improvements without any cost or expense to the Commission. All maintenance by the City shall be done for the safety of the general public and the esthetics of the area. In addition, if any sidewalk or bike trails are constructed on the Commission's right-of-way pursuant to this Agreement, the City shall inspect and maintain the sidewalk or bike trails constructed by this project in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalk or bike trails. If the City fails to maintain the herein contemplated improvements, the Commission or its representatives, at the Commission's sole discretion shall notify the City in writing of the City’s failure to maintain the improvement. If the City continues to fail in maintaining the improvement, the Commission may remove the herein contemplated improvement whether or not the improvement is located on the Commission's right of way. Any removal by the Commission shall be at the sole cost and expense of the City. Maintenance includes but is not limited to mowing and trimming between shrubs and other plantings that are part of the improvement.

(15) PLANS: The City shall prepare preliminary and final plans and specifications for the herein improvements. The plans and specifications shall be submitted to the Commission for the Commission's review and approval. The Commission has the discretion to require changes to any plans and specification prior to any approval by the Commission.

(16) REIMBURSEMENT: The cost of the contemplated improvements will be

borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. The federal share for this project will be 45 percent (**45%**) not to exceed **$202,857.00**. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(17) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. The City shall repay any progress payments which involve ineligible costs.

(18) PROMPT PAYMENTS: Progress invoices submitted to MoDOT for reimbursement more than thirty (30) calendar days after the date of the vendor invoice shall also include documentation that the vendor was paid in full for the work identified in the progress invoice. Examples of proof of payment may include a letter or e-mail from the vendor, lien waiver or copies of cancelled checks. Reimbursement will not be made on these submittals until proof of payment is provided. Progress invoices submitted to MoDOT for reimbursement within thirty (30) calendar days of the date on the vendor invoice will be processed for reimbursement without proof of payment to the vendor. If the City has not paid the vendor prior to receiving reimbursement, the City must pay the vendor within two (2) business days of receipt of funds from MoDOT.

(19) PERMITS: The City shall secure any necessary approvals or permits from any federal or state agency as required for the completion of the herein improvements. If this improvement is on the right of way of the Commission, the City must secure a permit from the Commission prior to the start of any work on the right of way. The permits which may be required include, but are not limited to, environmental, architectural, historical or cultural requirements of federal or state law or regulation.

(20) INSPECTION OF IMPROVEMENTS AND RECORDS: The City shall assure that representatives of the Commission and FHWA shall have the privilege of inspecting and reviewing the work being done by the City's contractor and subcontractor on the herein project. The City shall also assure that its contractor, and all subcontractors, if any, maintain all books, documents, papers and other evidence pertaining to costs incurred in connection with the Transportation Enhancement Program Agreement, and make such materials available at such contractor's office at all reasonable times at no charge during this Agreement period, and for three (3) years

from the date of final payment under this Agreement, for inspection by the Commission, FHWA or any authorized representatives of the Federal Government and the State of Missouri, and copies shall be furnished, upon request, to authorized representatives of the Commission, State, FHWA, or other Federal agencies.

(21) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES: A person may offer to donate funds, materials or services in connection with this project. Any donated funds, or the fair market value of any donated materials or services that are accepted and incorporated into this project shall be credited according to 23 U.S.C. §323.

(22) DISADVANTAGED BUSINESS ENTERPRISES (DBE): The Commission will advise the City of any required goals for participation by disadvantaged business enterprises (DBEs) to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(23) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(24) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(25) FINAL AUDIT: The Commission may, in its sole discretion, perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(26) OMB AUDIT: If the City expend(s) seven hundred fifty thousand dollars ($750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the City expend(s) less than seven hundred fifty thousand dollars ($750,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(27) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The City shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this _____ day of _____, 2017.

Executed by the Commission this _____ day of _____, 2017.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

CITY OF JOPLIN

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

_____

Title _____

Ordinance No _____

Exhibit A - Location Map

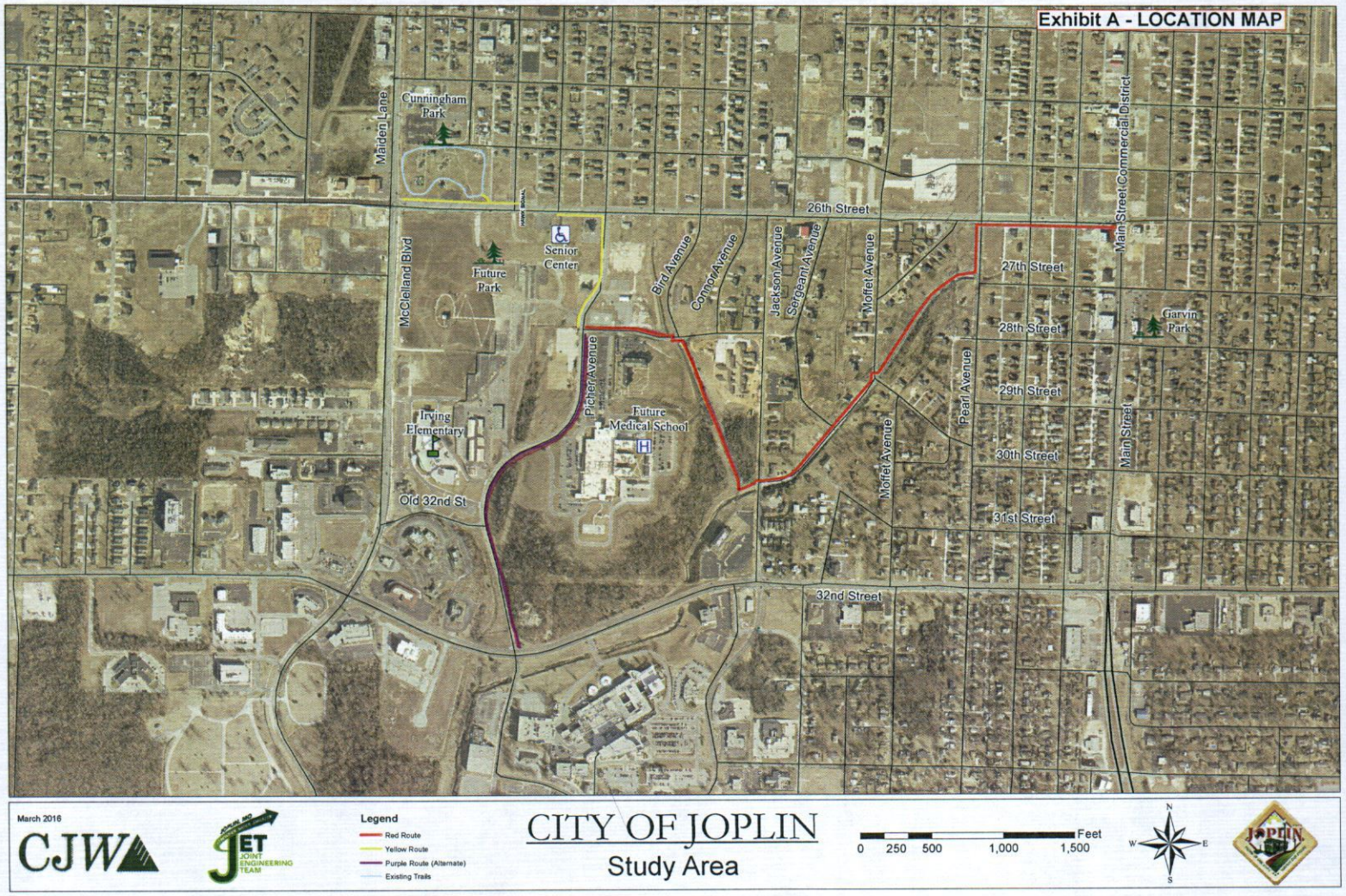


Exhibit B – Project Schedule

Project Description: TAP-3205(704)

Task	**Date**
Date funding is made available or allocated to recipient	Jan 2017
Solicitation for Professional Engineering Services (advertised)	Feb 2017
Engineering Services Contract Approved	Apr 2017
Conceptual Study (if applicable)	
Preliminary and Right-of-Way Plans Submittal (if Applicable)	Jun 2018
Plans, Specifications & Estimate (PS&E) Submittal	Jun 2019
Plans, Specifications & Estimate (PS&E) Approval	Sept 2019
Advertisement for Letting	Oct 2019
Bid Opening	Nov 2019
Construction Contract Award or Planning Study completed **(REQUIRED)**	Dec 2019

*Note: the dates established in the schedule above will be used in the applicable ESC between the sponsor agency and consultant firm.

**Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and a Supplemental Agreement is required to modify this date.

Exhibit C

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

Exhibit C

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

Exhibit C

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.



March 2016

CJW

JET JOINT ENGINEERING TEAM

Legend

- Red Route
- Yellow Route
- Purple Route (Alternate)
- Existing Trails

CITY OF JOPLIN

Study Area

0 250 500 1,000 1,500 Feet

N W E S

JOPLIN

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017

MISSOURI HIGHWAYS & TRANSPORTATION COMMISSION TRANSPORTATION ALTERNATIVE FUNDS PROGRAM AGREEMENT

Item: COUNCIL BILL NO. 2017-115
Originating Department: PUBLIC WORKS - ENGINEERING

Attachments: 1) Location plan
2) Copy of Agreement
2) Council Bill 2017-115

Engineering: Dan Salisbury	Date:
Department Head: Nicholas A. Heatherly	Date:
Finance Department: Leslie Haase	Date:
City Attorney: Peter C. Edwards	Date:
City Manager: Samuel L. Anselm	Date:

Recommended Action: Acceptance of a Transportation Alternative Funds Program Agreement with the Missouri Highway and Transportation Commission for construction of the St. John's and Mohaska Trails.

Summary: In October 2016, council approved a resolution in support of the city's application to the Missouri Department of Transportation, Transportation Alternatives Program. As a result of that application, the city was awarded funding for the construction of the St. Johns and Mohaska Trails.

Discussion: Attached is the proposed agreement between the City of Joplin and Missouri Highways and Transportation Commission. The Federal share for this project will be 45 percent, not to exceed $202,857.00. The 55 percent match for the project & remaining balance will come from HUD funding and the Parks/Storm water sales tax as necessary.

Recommendations: Staff recommends acceptance of this agreement on an emergency basis, per Section 2.12 (6) of the HOME RULE CHARTER of the City of Joplin.

BID TABULATION

PROJECT: Surface Project 4005 , CDBG-DR funded
DATE OF BID OPENING: February 21, 2017

CONTRACTOR	BID
Sprouls Construction	3,345,759.85
A-Y-1 LLC.	3,381,071.58
Dalton-Killinger	4,041,194.80
Emery Sapp & Sons	4,121,047.38
D & E Plumbing	4,287,589.40
Engineering Estimate	$4,090,000.00

COUNCIL BILL NO. 2017-116 ORDINANCE NO

AN ORDINANCE approving the City of Joplin to enter into a contract with Sprouls Construction Inc. in the amount of $3,345,759.85 (Three Million Three Hundred Forty-Five Thousand Seven Hundred Fifty-Nine and 85/100 Dollars) for the Surface Project 4005 and authorizing the Director of Public Works to execute said Contract; and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, as follows:

Section 1. That the City enter into a contract with Sprouls Construction Inc. in the amount of $3,345,759.85 (Three Million Three Hundred Forty-Five Thousand Seven Hundred Fifty-Nine and 85/100 Dollars) for the Surface Project 4005 in the City of Joplin, Jasper County.

Section 2. Section 2. Upon the final approval and acceptance of the contractor's work under said contract, in substantial conformance with the attached exhibits, in writing by the Director of Public Works, and his certification to that effect to the Director of Finance, the contractor shall be paid from the Community Development Block Grant Disaster Recovery Grant Fund.

Section 3. This ordinance is an emergency within the means of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin. Specifically, this ordinance approves work to begin immediately in the optimal construction time during the calendar year, and appropriations for this contract have been approved by the 2016-2017 budget.

Section 4. Project will be paid from the Community Development Block Grant Disaster Recovery Grant Fund.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2017 by a _____ vote.

_____

ATTEST: Michael L. Seibert, Mayor

_____

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

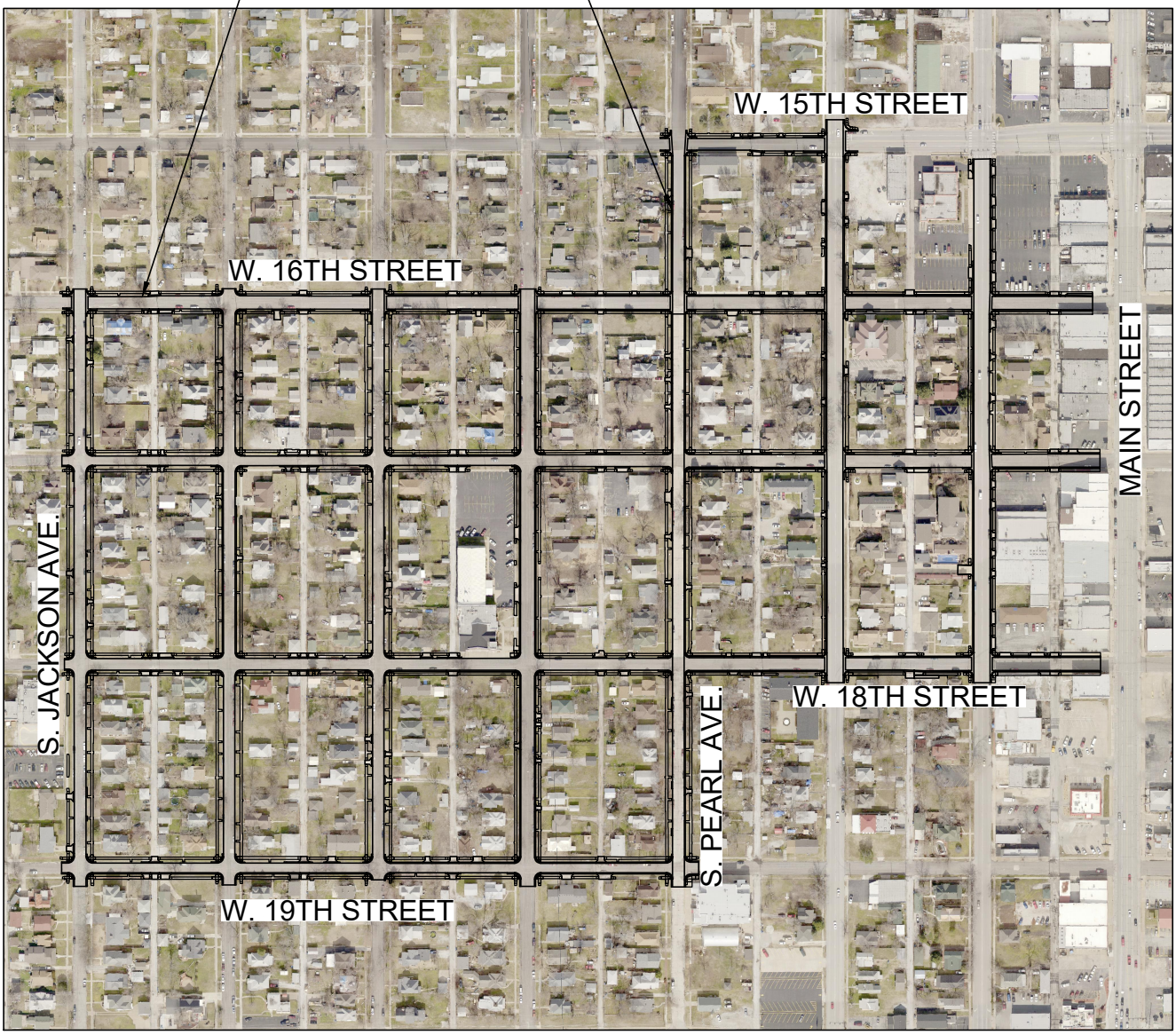
_____

Peter C. Edwards, City Attorney

SURFACE PROJECT 4005
JACKSON AVENUE TO MAIN STREET AND 15TH STREET TO 19TH STREET

CDBG-DR GRANT No. B-13-MS-29-001

CITY OF JOPLIN
JASPER COUNTY, MISSOURI



N

N.T.S.

NOT TO SCALE

PROJECT NO: 015-3522	PROJECT LOCATION	OLSSON ASSOCIATES	702 South Main Joplin, MO 64801 TEL 417.781.0643 FAX 417.781.4714	EXHIBIT
DRAWN BY: CAD				1
DATE: 02/23/2017				

DWG: F:\PROJECTS\015-3522\40-Design\AutoCAD\Exhibits\Project Location_8.5x11_City Council_53522.dwg USER: skendall
DATE: Feb 23, 2017 10:15am XREFS: T_AERL_53522 T_JOPLIN BASEMAP_53522 T_PTBLK_53522 T_PBASE_53522

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017
Council Bill No. 2017-116

Item: Construction Contract with Sprouls Construction Inc. for the Surface Project 4005.

Originating Department: Public Works – Engineering

Attachments: 1) Bid Tabulation
2) Location Map
3) Council Bill No. 2017-116

Department Head: Troy Bolander
Department Head: Nicholas A. Heatherly
Finance Department: Leslie Haase
City Attorney: Peter C. Edwards
City Manager: Samuel L. Anselm

Recommended Action: Approval of a construction contract with Sprouls Construction Inc. in the amount of Three Million Three Hundred Forty-Five Thousand Seven Hundred Fifty-Nine and 85/100 dollars $3,345,759.85 for construction of surface Project 4005. Funded through CDBG-DR.

Background:
In July, 2015 City Council approved the Capital Plan for the expenditure of CDBG-DR funds which included this project. In October of 2016 the City of Joplin approved a contract for with JET Associates for the design, bidding and construction management of various disaster recovery projects which included Surface Project 4005. This project includes replacement of damaged sidewalks, curb & gutters, stormwater inlets & pipes, ADA ramps at corners, and street pavement. The area for surface project 4005 is from Jackson Avenue to Main Street and from 15th to 19th Streets. This is the first of several similar projects in the recovery area that focuses on repairing damaged public infrastructure in the recovery area.

Discussion: City staff followed the city of Joplin procurement policy. Bids were opened on February 21, 2017 with 5 firms bidding. Sprouls Construction Inc. provided the lowest bid which was below the engineer's estimate. The contractor will start after contracts are signed and weather permits.

Recommendation: City staff recommends approval of a construction contract with Sprouls Construction Inc. in the amount of Three Million Three Hundred Forty-Five Thousand Seven

Hundred Fifty-Nine and 85/100 dollars $3,345,759.85 for construction of surface Project 4005 be approved on an emergency basis per Section 2.12 (6) of the Joplin City Charter.

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017
Council Bill No. 2017-117

Item: CDBG-DR Crossroads Phase II – Jeff Asbell Excavating & Trucking, Inc. Construction Contract for Street Project

Originating Department: Public Works

Attachments: 1) Bid tab
2) Location Map
3) Contract
4) Council Bill No. 2017-117

Department Head: Troy Bolander	Date:
Department Head: Nicholas A. Heatherly	Date:
Finance Department: Leslie Haase	Date:
City Attorney: Peter Edward	Date:
City Manager: Sam Anselm	Date:

Recommended Action: Approval of a Construction Contract with Jeff Asbell Excavating & Trucking, Inc. for $1,640,100.06 for the Crossroads Phase II – Street Project. This project is funded by Community Development Block Grant Program – Disaster Recovery funds.

Background: The following Council Bill is for a contract between the City of Joplin and Jeff Asbell Excavating & Trucking, Inc. for the Crossroads Industrial Park Phase II Street project. This contract will be for the construction of approximately 3,900 linear feet of roadway with curb and gutter, storm water piping, earthwork, and street lighting within the Crossroads Industrial Park. The improved infrastructure will facilitate business, commercial and economic growth within the City of Joplin. City Council previously approved the Crossroads Phase II project as part of the Capital Plan adopted July 7, 2015, and in the Round 1 Community Development Block Grant Program – Disaster Recovery (CDBG-DR) Amendment 7 of the Initial Action Plan on December 12, 2015**.**

Discussion: City staff followed the City of Joplin procurement policy. Bids were opened on February 15, 2017 with 10 firms bidding. Jeff Asbell Excavating & Trucking, Inc. provided the lowest bid which was below the engineer's estimate.

The contract is in the amount of $1,640,100.06 that will be incurred for the construction of approximately 3,900 linear feet of roadway with curb and gutter, storm water piping, earthwork, and street lighting within the Crossroads Industrial Park.

Recommendation: City staff recommends approval of the Construction Contract to Jeff Asbell Excavating & Trucking, Inc. for $1,640,100.06 for the Crossroads Phase II – Street project be approved on an emergency basis per Section 2.12 (6) of the Joplin City Charter.

ALLGEIER, MARTIN and ASSOCIATES, INC.
Consulting Engineers

7231 East 24th Street | Joplin, MO 64804

Crossroads Industrial Park 2017 Road Improvements | CDBG-DR-Ph2 | Joplin, Missouri
February 15, 2017 | 10:00 a.m.

	Bid Total
Jeff Asbell Excavating & Trkg, Carl Junction, MO	**$ 1,640,100.06**
Bennett, Inc., Lamar, MO	$ 1,671,678.00
D & E Plbg & Htg, Inc., Nixa, MO	$ 1,789,999.95
Crossland Heavy Contr., Inc., Columbus, KS	$ 1,794,642.30
Emery Sapp & Sons, Inc., Springfield, MO	$ 1,813,570.16
Midwest Heavy Const. LLC, Pleasant Hill, MO	$ 1,824,192.12
Sprouls Const. Inc., Lamar, MO	$ 1,920,910.60
Dalton-Killinger Const. Co., Joplin, MO	$ 1,933,943.60
Southard Const. Co., Joplin, MO	$ 1,992,158.18
Neal's Const. LLC, Stockton, MO	$ 2,095,641.35
Engineer's Estimate	**$ 2,400,000.00**

This is to certify that at 10:00 a.m. on February 15, 2017 at the City of Joplin, MO, the bids were publicly opened, read aloud, checked, and the above totals are correct as to the additions and the bids were accompanied by acceptable bidder's bonds.

By Kurt Higgins, P.E., Vice President



THE "ORIGINAL" OF THIS DOCUMENT, WITH PROFESSIONAL ENGINEER'S SEAL & DATED SIGNATURE, IS ON FILE AT THE OFFICES OF ALLGEIER, MARTIN and ASSOCIATES, INC.

CIVIL ENGINEER: KURT E. HIGGINS
LICENSE NO. E-30041

STATE OF MISSOURI
KURT E. HIGGINS
NUMBER E-30041
REGISTERED PROFESSIONAL ENGINEER
8/25/17

Know what's below. Call before you dig.

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

CERTIFICATE OF AUTHORITY
MISSOURI NO. 000427

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

REV DATE:	REVISION:	DWN BY: MHJ
		CKD BY: KEH
		APD BY: AES
		DATE: FEBRUARY,2017

CROSSROADS ROAD IMPROVEMENTS

PROJECT CDBG-DR-PH 2, JOPLIN, MISSOURI

PLAN NO:

SHEET 2

COUNCIL BILL NO. 2017-117 ORDINANCE NO.

AN ORDINANCE approving the City of Joplin to enter into a contract with Jeff Asbell Excavating & Trucking, LLC in the amount of $1,640,100.06 (One Million Six Hundred Forty Thousand One Hundred and 06/100 Dollars) for the Crossroads Phase II Road Improvements project and authorizing the Director of Public Works to execute said Agreement; and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, as follows:

Section 1. That the City enter into a contract with Jeff Asbell Excavating & Trucking, Inc. in the amount of $1,640,100.06 (One Million Six Hundred Forty Thousand One Hundred and 06/100 Dollars) for the Crossroads Phase II Road Improvements project.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts, in substantial conformance with the attached exhibits, in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. This ordinance is an emergency within the means of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin. Specifically, this ordinance approves work to begin immediately in the optimal construction time during the calendar year, and appropriations for this contract have been approved by the 2016-2017 budget.

Section 4. Project will be paid from the Community Development Block Grant Disaster Recovery Grant Fund.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2017, by a _____ vote.

_____

ATTEST: Michael L. Siebert, Mayor

_____

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

AGREEMENT

CITY OF JOPLIN AND JEFF ASBELL EXCAVATING & TRUCKING, INC.

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by the parties identified above.

WITNESSETH: That whereas, the Contractor has become the lowest responsible bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

CROSSROADS INDUSTRIAL PARK ROAD IMPROVEMENTS PROJECT, CDBG DR PH2

The City and Contractor agree to the following:

1. Manner and Time for Completion. The Contractor will furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the contract documents and any applicable City ordinances and state and federal laws within 180 calendar days from the date Contractor is ordered to proceed, which order shall be issued by the Director of Public Works within 30 days after the date of this contract.

2. Prevailing Wages. The Contractor shall be required to pay their laborers and mechanics no less than the more stringent of either that required by the Department of Labor and Industrial Relations of the State of Missouri or the Department of Labor as defined in the Davis-Bacon Act:

a. Missouri Wage Rate: All labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri. At any time the contractor is found to not have paid prevailing wages, the contractor shall forfeit as a penalty to the city one hundred dollars for each underpaid worker employed, for each calendar day, or portion thereof such worker is paid less than the said stipulated rates for any work done under this contract.

b. Davis Bacon: The Davis-Bacon Act, as amended (40 U.S.C. 3141-3148) requires that for all prime construction contracts in excess of $2,000 awarded by non-Federal entities, the Contractor must comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor shall pay wages not less than once a week. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The Contractor shall report all suspected or reported violations to the Federal awarding agency. Apprentices may be employed at less than predetermined rates if they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees may be employed at less than predetermined rates if they are in a training program certified by the Department.

3. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, in all contracts awarded in excess of $100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours

worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main Street, Joplin, MO 64801

Such policies shall name the City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, http://insurance.mo.gov/industry/sovimmunity.php)

As of January 1, 2017, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation…. Statutory coverage per RSMo 287.010 et seq

Employer's Liability……. $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Seven Hundred Sixty Two Thousand Seven Hundred Eighty Nine and no/100 Dollars ($2,762,789.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fourteen Thousand Four Hundred Eighteen and no/100 Dollars ($414,418.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys' fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Seven Hundred Sixty Two Thousand Seven Hundred Eighty Nine and no/100 Dollars ($2,762,789.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fourteen Thousand Four Hundred Eighteen and no/100 Dollars ($414,418.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Owner's and Contractor's Protective Liability Insurance to protect the City, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of at least Two Million Seven Hundred Sixty Two Thousand Seven Hundred Eighty Nine and no/100 Dollars ($2,762,789.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fourteen Thousand Four Hundred Eighteen and no/100 Dollars ($414,418.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

(1) Be a separate policy with the named insured being: The City of Joplin, and

(2) Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Builders Risk Insurance for contracts involving unoccupied structures. The Contractor shall secure All Risk Builder's Risk Insurance. Unless specifically authorized by the City, the amount of such insurance shall not be less than the total contract price.

f. Subcontracts. In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

g. Notice. The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policy as specified in subparagraph (d), and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

h. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

5. Performance, Labor, and Materials Payment Bond: The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of $1,640,000.06 (full amount of contract) conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance and payment of labor and material suppliers, the City shall deem the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

6. Certification Regarding Disbarment, Eligibility, Indictments, Convictions or Civil Judgements for Projects: By signing and submitting the bid, the president or authorized official of the bidder, under penalty of perjury under the laws of the USA, shall certify that, except as noted in the exceptions, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor or any position involving the administration of this project:

a. Is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

b. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years.

c. Does not have a proposed debarment or suspension pending.

d. Has not been indicted, convicted or had a civil judgment rendered against any of the listed parties by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

e. Has not been in breach of contract with the City of Joplin within the last two years.

6.1 If there are any exceptions, the bidder shall submit the exceptions on company letterhead, signed by the bidder and inserted inside the bid submitted. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, the bidder shall indicate to whom it applies, the initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

6.2 By signing the contract, the contractor shall further certify that all related subcontracts of $25,000 shall comply with this requirement. This includes all subcontractors, material suppliers and vendors.

7. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Contractor represents and warrants that it and its subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 2 CFR §2424 (government debarment and suspension regulations) or by the City of Joplin.

8. Contractor's Responsibility for Subcontractors.

a. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs.
b. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract.
c. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

9. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri Revenue and Taxation laws, Missouri Workers' Compensation and Unemployment Insurance laws. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

10. Personnel. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner. All the services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

11. Changes. The Owner may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation which are mutually agreed upon by and between the Owner and the Contractor, shall be incorporated in written and executed amendments to this Contract.

12. Breach of Contract Terms. Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

13. Liquidated Damages. Time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to complete the work within the time specified in the contract, or within such extra time as may be allowed in accordance with City of Joplin Standard Specifications, Division 0000, General Requirements and Provisions, Section 0400.19,

Contractor (or surety) shall be liable to the City in the amount of $1000 per day for each and every calendar day that the contract remains uncompleted after the time allowed for completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City.

14. Termination. The City reserves the right to terminate this contract by giving at least five (5) days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Owner, become the Owner's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor, and the Owner may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Owner from the Contractor is determined.

15. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 8, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

16. Termination for Convenience of City. The City shall have the right at any time by providing at least ten (10) days written notice to Contractor to terminate and cancel this contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Contractor.

17. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices shall be provided by Contractor during construction.

18. Energy Efficiency. The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

19. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law. The City can require additional documentation as needed to ensure that the appropriate wage rates are being paid in order to ensure compliance to all state and federal rules, regulations and statutes.

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this agreement.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

h. The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.

i. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.

j. If the Contractor uses any design device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copy- righted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device or materials or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

20. Copyright. No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

21. Architectural Barriers. This Act requires that certain federally funded buildings or facilities be designed, constructed or altered to ensure accessibility to, and use by, physically handicapped persons. Buildings or facilities allocated or reallocated GLO-DR funds after December 11, 1995, that meet the definition of "residential structure" (as defined in 24 CFR 40.2) or the definition of "building" [as defined in 41 CFR 101-19.602(a)] are subject to the Architectural Barriers Act and must comply with the Uniform Federal l Accessibility Standards.

22. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

23. Payment. The City will pay the Contractor in accordance with the rate set forth in the contract documents on file in the Public Works Department and by this reference made a part hereof, which shall constitute full and complete compensation for the Contractor's work provided hereunder. Such compensation will be paid in progress payments (less five (5) percent retainage), as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and agreement by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. If the City or the architect or engineer determines that a higher rate of retainage is required to ensure performance of the contract, the City may withhold up to ten (10) percent retainage until the work is fully completed and accepted by the City.

24. Travel Policy. The Contractor shall comply with the City of Joplin travel policy with the exception of meal reimbursement. Per diem is not applicable. Actual itemized receipts containing proof of payment should be provided for the meal purchased and not exceed the meal category General Services Administration (GSA) rate maximum for the City of Joplin in the City of Joplin travel policy.

25. Contract Documents. The contract documents shall consist of the following:

- **a.** This Contract
- **b.** All Change Orders
- **c.** Bid Plans and Specifications
- **d.** City of Joplin Standard Specifications (10-13-2015 Revised Edition)
- **e.** Special Conditions
- **f.** Proposal
- **g.** Statement of Bidder's Qualifications
- **h.** Acknowledgment
- **i.** Performance Bond
- **h.** Payment and Material Bond
- **k.** Instructions to Bidders
- **l.** Non-collusion Affidavit
- **m.** Notice to Proceed

Notice to Contractors: This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein. The Contractor agrees to perform all of the work described in the contract documents and to comply with the terms and conditions defined therein for a total sum of One Million Six Hundred Forty Thousand One Hundred and 06/100 ($1,640,100.06) Dollars, said amount being subject to any approved addenda or change order.

26. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable.

27. Flood Disaster Protection: This contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L.93-234). Nothing included as a part of this contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act. Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

28. Environmental Compliance: For contracts of amounts in excess of $150,000, the Contractor shall agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

a) A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.

b) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

c) A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.

d) Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

29. Procurement of Recovered Materials. The Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

30. Lead Based Paint Poisoning Prevention Act. Required the Secretary of Health, Education, and Welfare (now Health and Human Services) to prohibit lead-based paint in residential structures constructed or rehabilitated by the Federal government or with Federal assistance. Major components included: defining lead-based paint chips as the primary health hazard of lead-based paint, setting the level of lead in blood warranting concern at 60 µg/dL, requiring abatement standards that were less rigorous compared to today's standards, and Defining lead-based paint as paint containing more than 1 percent lead by weight.

31. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Joplin, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of R.S.Mo. Section 105.450 et seq. shall not be violated.

a. The Contractor covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

32. Assignment. The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement.

33. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification attached herein. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

a. The Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.
b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

34. Anti-Kickback Back Rules. The Contractor shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that the Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Contractor shall report all suspected or reported violations to the Federal awarding agency.

35. Nondiscrimination. The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

a. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

c. No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

36. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a. If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 R.S.Mo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

37. Notices. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

38. Statement that Project Federally Funded: It is understood that this contract is funded in whole or in part with CDBG-DR funds through the City of Joplin Community Development Block Grant Program as administered by HUD and is subject to those regulations and restrictions normally associated with federally-funded programs and any other requirements that the state may prescribe.

39. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the final grant report is submitted by the City to HUD. The City of Joplin, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly

authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions.

a. All of the reports, information, data, etc., prepared or assembled by the Contractor under this Contract are confidential, and the Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

40. Federal Labor Standards Provisions. The contractor shall comply with the Federal Labor Standards Provisions pursuant to the U.S. Department of Housing and Urban Development Form 4010 and the Office of Labor Relations.

41. Equal Employment Opportunity. During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

   Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

d. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

f. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

i. Contractor shall ensure that the hours of minority and female employment and training must be substantially uniform throughout the length of the contract and throughout each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hour performed.

42. Women and Minority Business: The Contractor will use its best efforts to afford small businesses, minority business enterprises, women's business enterprises (including Section 3 businesses) and veteran –owned businesses the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans and American Indians. The Sub recipient and/or borrower may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation. The contractor must demonstrate to the City of Joplin's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the City of Joplin contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

a) Evidence of a "good faith effort" includes, but is not limited to:
b) The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development,
c) The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
d) The Contractor shall actively solicit and shall provide the City of Joplin with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media.

43. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

44. Civil Rights Act of 1968. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin.

45. Section 3 of the Housing and Urban Development Act of 1968

a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected by before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
f) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
g) The Contractor shall assist the City of Joplin in obtaining all necessary documentation to support Section 3 goals. The Contractor will complete and submit the Section 3 tables in Attachment A in the Architect's required periodic reporting to the City. Frequently Asked Questions related to Section 3 are also included in Attachment A.

46. Section 109(a) of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, shall also apply to any such program or activity.

47. Section 110 of the Housing and Community Development Act of 1974

a) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a--276a-5): Provided, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

b) Subsection (a) of this section shall not apply to any individual that--
   i. performs services for which the individual volunteered;
   ii. does not receive compensation for such services; or
   iii. is paid expenses, reasonable benefits, or a nominal fee for such services; and
   iv. is not otherwise employed at any time in the construction work.

48. Affirmative Action for Handicapped Workers (Section 503 of the Rehabilitation Act of 1973 (USC793))

a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and to otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of the applicants and employees.

e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

49. Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his handicap in benefiting from any program or activity receiving Federal financial assistance. All recipients must certify to compliance with all provisions of this Section.

50. Age Discrimination Act of 1975. No person in the United States, on the basis of age, be excluded from participation in, be denied benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

51. Authorized Employees. Contractor acknowledges that Section285.530, RSMo, 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 is not knowingly in violation of subsection 1 or Section 285.530, RSMo, 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 to work in the United States.

52. Interest of Contractor and Employees. The Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this

Contract, no person having any such interest shall be employed.

53. Conflict of Interest.

a) No member of the governing body of the City and no other officer, employee, agent of the City and no other public official of the locality while employed or for one year thereafter, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

b) No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

54. Affidavit for Contracts Over $5,000.00. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

55. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a) If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b) A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

56. City Benefits. The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

57. Inspection. The authorized representative and agents of the City of Joplin and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

58. Reporting Requirements. The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Owner.

59. Occupational License. The Contractor shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained and that the Contractor is current on any City taxes is verified.

60. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus $100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

61. Compliance with Laws. Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

a. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

62. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

63. Remedies. Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breech thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

64. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be adjudicated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

65. General Conditions. The Contractor agrees to comply with the General Conditions attached herein.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

CONTRACTOR:

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

By: _____

Printed Name: _____

Title: _____

_____
Leslie Haase, Director of Finance

CITY OF JOPLIN, MISSOURI

APPROVED AS TO FORM

_____
Peter Edwards, City Attorney

By: _____
Nicholas A. Heatherly, Public Works Director

APPROVED AS TO CDBG-DR

_____
Troy Bolander, *Director of Planning, Development & Neighborhood Services*

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: March 6, 2017
Council Bill No. 2017-118

Item: Rosetta Construction Contract for the Crossroads Phase II Sewer & Lift Station Project

Originating Department: Public Works

Attachments: 1) Bid tab
2) Location Map
3) Contract
4) Council Bill No. 2017-118

Department Head: Troy Bolander	Date:
Department Head: Nicholas A. Heatherly	Date:
Finance Department: Leslie Haase	Date:
City Attorney: Peter Edward	Date:
City Manager: Sam Anselm	Date:

Recommended Action: Approval of a Construction Contract with Rosetta Construction LLC for $795,190.00 for the Crossroads Phase II Sewer and Lift Station Project funded through CDBG DR Program.

Background: The following Council Bill is for a contract between the City of Joplin and Rosetta Construction for the Crossroads Phase II Sewer and Lift Station project. This contract will be for the construction of necessary sewer infrastructure and associated lift station improvements within the Crossroads Industrial Park. The project will facilitate business, commercial and economic growth within the City of Joplin. City Council previously approved the Crossroads Phase II project as part of the Capital Plan adopted July 7, 2015, and in the Round 1 Community Development Block Grant Program – Disaster Recovery (CDBG-DR) Amendment 7 of the Initial Action Plan on December 12, 2015**.**

Discussion: City staff followed the City of Joplin procurement policy. Bids were opened on February 15, 2017 with 11 firms bidding. Rosetta Construction, LLC provided the lowest bid which was below the engineer's estimate.

The contract is in the amount of $795,190.00 that will be incurred for the construction of the sanitary sewer and lift station improvements.

Recommendation: City staff recommends approval of the Construction Contract to Rosetta Construction, LLC for $795,190.00 for the Crossroads Phase II Sewer and Lift Station project be approved on an emergency basis per Section 2.12 (6) of the Joplin City Charter.

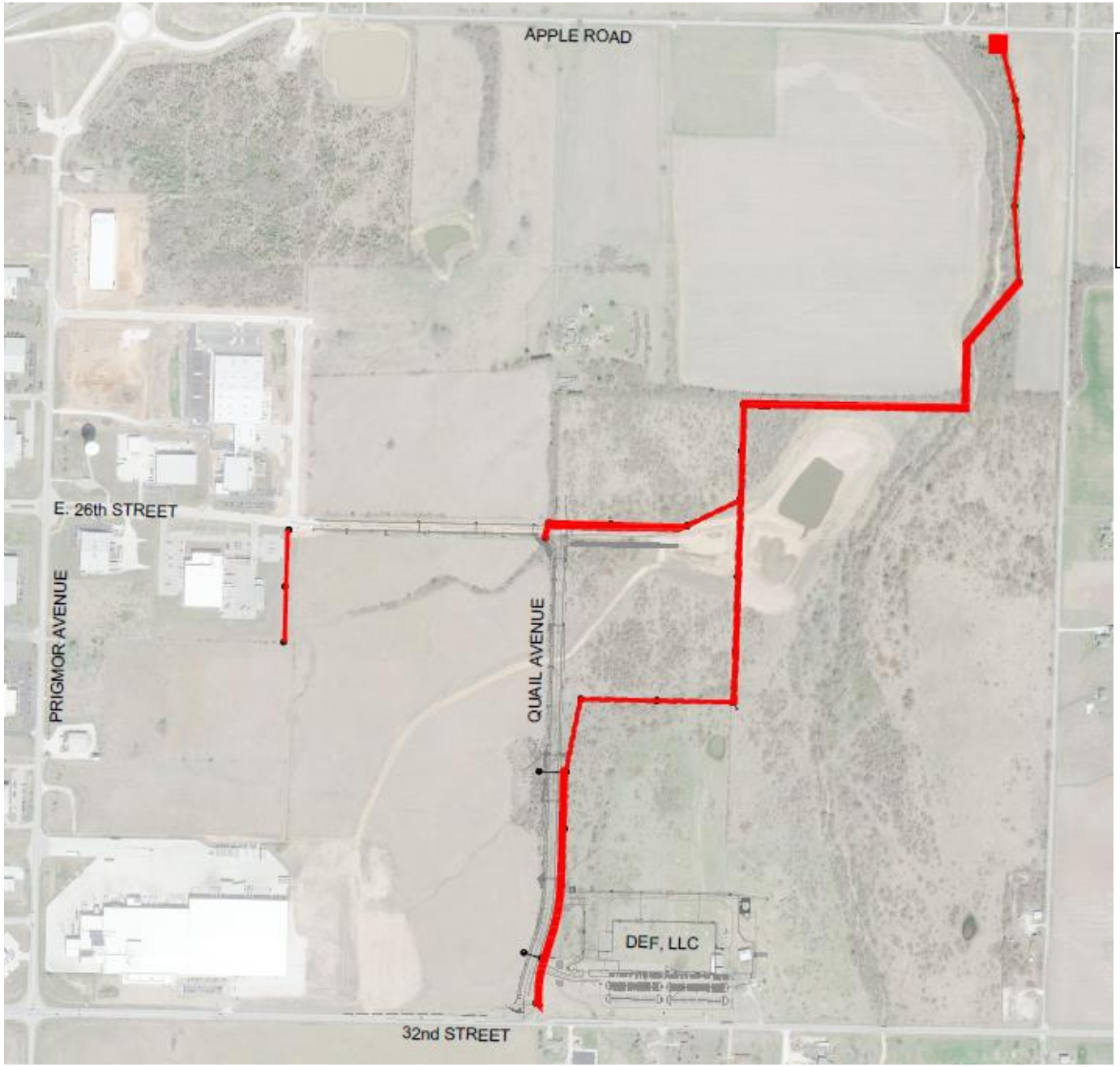


EXHIBIT 2 - LOCATION MAP: CDBG-DR CROSSROADS [INDUSTRIAL PARK] PHASE 2 SEWER & LIFT STATION PROJECT

BID TABULATION

Crossroads Industrial Park Sewer and Lift Station Project

DATE OF BID OPENING: February 15, 2017

CONTRACTOR	BID
Rosetta Construction	**$795,190.00**
Southard Construction	$924,360.00
Sprouls Construction	$1,392,908.00
Redford Construction	$1,032,889.50
Neals Construction	$998,024.50
Jeff Asbell Excavating	$998,860.25
Emery Sapp & Sons, Inc	$979,200.00
Dalton-Kiplinger Construction	$842,194.75
D & E Plumbing	$1,024,275.50
Crossland Heavy Contractors	$901,520.50
Bennett, Inc	$894,946.00
Engineer's Estimate	$1,200,000.00

COUNCIL BILL NO. 2017- 118 ORDINANCE NO.

AN ORDINANCE approving the City of Joplin to enter into a contract with Rosetta Construction, LLC in the amount of $795,190.00 (Seven Hundred Ninety Five Thousand One Hundred Ninety and 0/100 Dollars) for the Crossroads Phase II Sewer and Lift Station project and authorizing the Director of Public Works to execute said Agreement; and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, as follows:

Section 1. That the City enter into a contract with Rosetta Construction, LLC in the amount of $795,190.00 (Seven Hundred Ninety Five Thousand One Hundred Ninety and 0/100 Dollars) for the Crossroads Phase II Sewer and Lift Station project.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts, in substantial conformance with the attached exhibits, in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. This ordinance is an emergency within the means of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin. Specifically, this ordinance approves work to begin immediately in the optimal construction time during the calendar year, and appropriations for this contract have been approved by the 2016-2017 budget.

Section 4. Project will be paid from the Community Development Block Grant Disaster Recovery Grant Fund.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2017, by a _____ vote.

_____

ATTEST: Michael L. Siebert, Mayor

_____

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

AGREEMENT

CITY OF JOPLIN AND ROSETTA CONSTRUCTION LLC

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by the parties identified above.

WITNESSETH: That whereas, the Contractor has become the lowest responsible bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

CROSSROADS INDUSTRIAL PARK INTERCEPTOR SEWER AND LIFT STATION PROJECT, CDBG DR PH2

The City and Contractor agree to the following:

1. Manner and Time for Completion. The Contractor will furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the contract documents and any applicable City ordinances and state and federal laws within 180 calendar days from the date Contractor is ordered to proceed, which order shall be issued by the Director of Public Works within 30 days after the date of this contract.

2. Prevailing Wages. The Contractor shall be required to pay their laborers and mechanics no less than the more stringent of either that required by the Department of Labor and Industrial Relations of the State of Missouri or the Department of Labor as defined in the Davis-Bacon Act:

a. Missouri Wage Rate: All labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri. At any time the contractor is found to not have paid prevailing wages, the contractor shall forfeit as a penalty to the city one hundred dollars for each underpaid worker employed, for each calendar day, or portion thereof such worker is paid less than the said stipulated rates for any work done under this contract.

b. Davis Bacon: The Davis-Bacon Act, as amended (40 U.S.C. 3141-3148) requires that for all prime construction contracts in excess of $2,000 awarded by non-Federal entities, the Contractor must comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor shall pay wages not less than once a week. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The Contractor shall report all suspected or reported violations to the Federal awarding agency. Apprentices may be employed at less than predetermined rates if they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees may be employed at less than predetermined rates if they are in a training program certified by the Department.

3. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, in all contracts awarded in excess of $100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours

worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main Street, Joplin, MO 64801

Such policies shall name the City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, http://insurance.mo.gov/industry/sovimmunity.php)

As of January 1, 2017, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation…. Statutory coverage per RSMo 287.010 et seq

Employer's Liability……. $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Seven Hundred Sixty Two Thousand Seven Hundred Eighty Nine and no/100 Dollars ($2,762,789.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fourteen Thousand Four Hundred Eighteen and no/100 Dollars ($414,418.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys' fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Seven Hundred Sixty Two Thousand Seven Hundred Eighty Nine and no/100 Dollars ($2,762,789.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fourteen Thousand Four Hundred Eighteen and no/100 Dollars ($414,418.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Owner's and Contractor's Protective Liability Insurance to protect the City, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of at least Two Million Seven Hundred Sixty Two Thousand Seven Hundred Eighty Nine and no/100 Dollars ($2,762,789.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fourteen Thousand Four Hundred Eighteen and no/100 Dollars ($414,418.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

(1) Be a separate policy with the named insured being: The City of Joplin, and

(2) Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Builders Risk Insurance for contracts involving unoccupied structures. The Contractor shall secure All Risk Builder's Risk Insurance. Unless specifically authorized by the City, the amount of such insurance shall not be less than the total contract price.

f. Subcontracts. In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

g. Notice. The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policy as specified in subparagraph (d), and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

h. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

5. Performance, Labor, and Materials Payment Bond: The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of $795,190.00 (full amount of contract) conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance and payment of labor and material suppliers, the City shall deem the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

6. Certification Regarding Disbarment, Eligibility, Indictments, Convictions or Civil Judgements for Projects: By signing and submitting the bid, the president or authorized official of the bidder, under penalty of perjury under the laws of the USA, shall certify that, except as noted in the exceptions, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor or any position involving the administration of this project:

a. Is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

b. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years.

c. Does not have a proposed debarment or suspension pending.

d. Has not been indicted, convicted or had a civil judgment rendered against any of the listed parties by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

e. Has not been in breach of contract with the City of Joplin within the last two years.

6.1 If there are any exceptions, the bidder shall submit the exceptions on company letterhead, signed by the bidder and inserted inside the bid submitted. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, the bidder shall indicate to whom it applies, the initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

6.2 By signing the contract, the contractor shall further certify that all related subcontracts of $25,000 shall comply with this requirement. This includes all subcontractors, material suppliers and vendors.

7. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Contractor represents and warrants that it and its subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 2 CFR §2424 (government debarment and suspension regulations) or by the City of Joplin.

8. Contractor's Responsibility for Subcontractors.

a. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs.
b. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract.
c. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

9. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri Revenue and Taxation laws, Missouri Workers' Compensation and Unemployment Insurance laws. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

10. Personnel. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner. All the services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

11. Changes. The Owner may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation which are mutually agreed upon by and between the Owner and the Contractor, shall be incorporated in written and executed amendments to this Contract.

12. Breach of Contract Terms. Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

13. Liquidated Damages. Time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to complete the work within the time specified in the contract, or within such extra time as may be allowed in accordance with City of Joplin Standard Specifications, Division 0000, General Requirements and Provisions, Section 0400.19,

Contractor (or surety) shall be liable to the City in the amount of $1000 per day for each and every calendar day that the contract remains uncompleted after the time allowed for completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City.

14. Termination. The City reserves the right to terminate this contract by giving at least five (5) days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Owner, become the Owner's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor, and the Owner may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Owner from the Contractor is determined.

15. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 8, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

16. Termination for Convenience of City. The City shall have the right at any time by providing at least ten (10) days written notice to Contractor to terminate and cancel this contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Contractor.

17. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices shall be provided by Contractor during construction.

18. Energy Efficiency. The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

19. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law. The City can require additional documentation as needed to ensure that the appropriate wage rates are being paid in order to ensure compliance to all state and federal rules, regulations and statutes.

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this agreement.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

h. The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.

i. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.

j. If the Contractor uses any design device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copy- righted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device or materials or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

20. Copyright. No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the Contractor for copyright purposes. Any such materials produced as a result of this contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

21. Architectural Barriers. This Act requires that certain federally funded buildings or facilities be designed, constructed or altered to ensure accessibility to, and use by, physically handicapped persons. Buildings or facilities allocated or reallocated GLO-DR funds after December 11, 1995, that meet the definition of "residential structure" (as defined in 24 CFR 40.2) or the definition of "building" [as defined in 41 CFR 101-19.602(a)] are subject to the Architectural Barriers Act and must comply with the Uniform Federal l Accessibility Standards.

22. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

23. Payment. The City will pay the Contractor in accordance with the rate set forth in the contract documents on file in the Public Works Department and by this reference made a part hereof, which shall constitute full and complete compensation for the Contractor's work provided hereunder. Such compensation will be paid in progress payments (less five (5) percent retainage), as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and agreement by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. If the City or the architect or engineer determines that a higher rate of retainage is required to ensure performance of the contract, the City may withhold up to ten (10) percent retainage until the work is fully completed and accepted by the City.

24. Travel Policy. The Contractor shall comply with the City of Joplin travel policy with the exception of meal reimbursement. Per diem is not applicable. Actual itemized receipts containing proof of payment should be provided for the meal purchased and not exceed the meal category General Services Administration (GSA) rate maximum for the City of Joplin in the City of Joplin travel policy.

25. Contract Documents. The contract documents shall consist of the following:

- **a.** This Contract
- **b.** All Change Orders
- **c.** Bid Plans and Specifications
- **d.** City of Joplin Standard Specifications (10-13-2015 Revised Edition)
- **e.** Special Conditions
- **f.** Proposal
- **g.** Statement of Bidder's Qualifications
- **h.** Acknowledgment
- **i.** Performance Bond
- **h.** Payment and Material Bond
- **k.** Instructions to Bidders
- **l.** Non-collusion Affidavit
- **m.** Notice to Proceed

Notice to Contractors: This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein. The Contractor agrees to perform all of the work described in the contract documents and to comply with the terms and conditions defined therein for a total sum of Seven Hundred Ninety Five Thousand One Hundred Ninety and 0/100 ($795,190.00) dollars, said amount being subject to any approved addenda or change order.

26. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable.

27. Flood Disaster Protection: This contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L.93-234). Nothing included as a part of this contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act. Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

28. Environmental Compliance: For contracts of amounts in excess of $150,000, the Contractor shall agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

a) A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.

b) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

c) A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.

d) Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

29. Procurement of Recovered Materials. The Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

30. Lead Based Paint Poisoning Prevention Act. Required the Secretary of Health, Education, and Welfare (now Health and Human Services) to prohibit lead-based paint in residential structures constructed or rehabilitated by the Federal government or with Federal assistance. Major components included: defining lead-based paint chips as the primary health hazard of lead-based paint, setting the level of lead in blood warranting concern at 60 µg/dL, requiring abatement standards that were less rigorous compared to today's standards, and Defining lead-based paint as paint containing more than 1 percent lead by weight.

31. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Joplin, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of R.S.Mo. Section 105.450 et seq. shall not be violated.

a. The Contractor covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

32. Assignment. The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement.

33. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification attached herein. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

a. The Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.
b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

34. Anti-Kickback Back Rules. The Contractor shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that the Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Contractor shall report all suspected or reported violations to the Federal awarding agency.

35. Nondiscrimination. The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

a. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

c. No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

36. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a. If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 R.S.Mo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

37. Notices. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

38. Statement that Project Federally Funded: It is understood that this contract is funded in whole or in part with CDBG-DR funds through the City of Joplin Community Development Block Grant Program as administered by HUD and is subject to those regulations and restrictions normally associated with federally-funded programs and any other requirements that the state may prescribe.

39. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the final grant report is submitted by the City to HUD. The City of Joplin, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly

authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to this specific contract, for the purpose of audits, examinations, and making excerpts and transcriptions.

a. All of the reports, information, data, etc., prepared or assembled by the Contractor under this Contract are confidential, and the Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

40. Federal Labor Standards Provisions. The contractor shall comply with the Federal Labor Standards Provisions pursuant to the U.S. Department of Housing and Urban Development Form 4010 and the Office of Labor Relations.

41. Equal Employment Opportunity. During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

   Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

c. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

d. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

f. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

i. Contractor shall ensure that the hours of minority and female employment and training must be substantially uniform throughout the length of the contract and throughout each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hour performed.

42. Women and Minority Business: The Contractor will use its best efforts to afford small businesses, minority business enterprises, women's business enterprises (including Section 3 businesses) and veteran –owned businesses the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans and American Indians. The Sub recipient and/or borrower may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation. The contractor must demonstrate to the City of Joplin's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the City of Joplin contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

a) Evidence of a "good faith effort" includes, but is not limited to:
b) The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development,
c) The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
d) The Contractor shall actively solicit and shall provide the City of Joplin with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media.

43. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

44. Civil Rights Act of 1968. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin.

45. Section 3 of the Housing and Urban Development Act of 1968

a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected by before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
f) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
g) The Contractor shall assist the City of Joplin in obtaining all necessary documentation to support Section 3 goals. The Contractor will complete and submit the Section 3 tables in Attachment A in the Architect's required periodic reporting to the City. Frequently Asked Questions related to Section 3 are also included in Attachment A.

46. Section 109(a) of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, shall also apply to any such program or activity.

47. Section 110 of the Housing and Community Development Act of 1974

a) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a--276a-5): Provided, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

b) Subsection (a) of this section shall not apply to any individual that--
   i. performs services for which the individual volunteered;
   ii. does not receive compensation for such services; or
   iii. is paid expenses, reasonable benefits, or a nominal fee for such services; and
   iv. is not otherwise employed at any time in the construction work.

48. Affirmative Action for Handicapped Workers (Section 503 of the Rehabilitation Act of 1973 (USC793))

a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and to otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of the applicants and employees.

e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

49. Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his handicap in benefiting from any program or activity receiving Federal financial assistance. All recipients must certify to compliance with all provisions of this Section.

50. Age Discrimination Act of 1975. No person in the United States, on the basis of age, be excluded from participation in, be denied benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

51. Authorized Employees. Contractor acknowledges that Section285.530, RSMo, 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 is not knowingly in violation of subsection 1 or Section 285.530, RSMo, 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 to work in the United States.

52. Interest of Contractor and Employees. The Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this

Contract, no person having any such interest shall be employed.

53. Conflict of Interest.

a) No member of the governing body of the City and no other officer, employee, agent of the City and no other public official of the locality while employed or for one year thereafter, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

b) No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

54. Affidavit for Contracts Over $5,000.00. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

55. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a) If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b) A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

56. City Benefits. The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

57. Inspection. The authorized representative and agents of the City of Joplin and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

58. Reporting Requirements. The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Owner.

59. Occupational License. The Contractor shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained and that the Contractor is current on any City taxes is verified.

60. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus $100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

61. Compliance with Laws. Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

a. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

62. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

63. Remedies. Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breech thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

64. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be adjudicated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

65. General Conditions. The Contractor agrees to comply with the General Conditions attached herein.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

CONTRACTOR:

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

By: _____

Printed Name: _____

Title: _____

_____
Leslie Haase, Director of Finance

CITY OF JOPLIN, MISSOURI

APPROVED AS TO FORM

_____
Peter Edwards, City Attorney

By: _____
Nicholas A. Heatherly, Public Works Director

APPROVED AS TO CDBG-DR

_____
Troy Bolander, *Director of Planning, Development & Neighborhood Services*

City of Joplin City Council Agenda Item

REQUESTED COUNCIL MEETING DATE: MARCH 6, 2017

ITEM: COUNCIL BILL NO. 2017-505
ORIGINATING DEPARTMENT: FINANCE DEPARTMENT

Department Head: Leslie Haase
Director of Parks: Paul Bloomberg
City Attorney: Peter Edwards
City Manager: Sam Anselm

INTRODUCTION:
This Council Bill corrects an error in the Schifferdecker Golf Course fees made with the ordinance change on December 19, 2016.

DISCUSSION:
The City changed the green fees for senior citizens to $11.25 during the week and $13.50 on weekends on March 21, 2016. However, when the other golf fees were updated on December 19, 2016, an error was made on the senior citizen green fees. The rate included was the previous rate of $9.75 during the week and $12.00 on the weekend. As a result, the rate changes made in March of 2016 were omitted in December. This council bill corrects the error and reinstates the rates as they were set in March.

The City will be reviewing all user fees this year, which will be presented to council during the budget review.

The fee changes will be effective on May 1, 2017.

RECOMMENDATION:
City Staff recommends this Council Bill be approved on first reading.

COUNCIL BILL NO. 2017-505 ORDINANCE NO.

AN ORDINANCE amending Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin, by amending Section 86-5, Fees at Schifferdecker Golf Course, to implement certain fee language changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City increased the Golf Course Fees on March 21, 2016 as set forth in Ordinance 2016-055; and,

WHEREAS, the City changed the Golf Course Fees on December 19, 2016 as set forth in Ordinance 2017-001; and,

WHEREAS, an error was made on Ordinance 2017-001 and the City desires to correct the error.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. That Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, of Chapter 86, Parks and Recreation, be amended in Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin be enacted to read as follows:

"Sec. 86-5. Fees at Schifferdecker Golf Course.

…

(a)

(2) *Green fees for senior citizens.* The green fees for senior citizens shall be $11.25 per player per 18 holes, except on week-ends and holidays, when the green fees for senior citizens shall be $13.50 per player per 18 holes.

…"

Section 2. That this ordinance shall become effective on May 1, 2017.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this

_____ day of _____, 2017.

_____

Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney