COUNCIL AGENDA
April 20, 2015
6:00 P.M., Council Chambers

1. **Call To Order**
   Invocation
   Pledge of Allegiance

2. **Roll Call**

3. **Presentations**

4. **Finalization Of Consent Agenda**

5. **Reports And Communications**

   1. Joe Becker Stadium Update

   2. Deliotte Update

6. **Citizen Requests And Petitions**

7. **Public Hearings**

8. **Consent Agenda**

   1. Minutes Of The April 6, 2015 Meeting

      Documents: APR 6, 2015.DOCX

   2. COUNCIL BILL NO. 2015-258
      AN ORDINANCE approving the voluntary annexation by the City of Joplin of property located approximately 800 feet west of the intersection of 32nd Street and John Duffy Drive in Jasper County and Newton County, Missouri.

      Documents: SUMMARY SHEET CB 2015-258 VOL ANNEX 800 FT WEST OF 32ND AND JOHN DUFFY DR.DOC, CB 2015-258 VOL ANNEX 800 FEET WEST OF 32ND STREET AND JOHN DUFFY DR.DOC, COUNCIL BILL 2015-258 VOL ANNEX 800 FT WEST OF 32ND AND JOHN DUFFY DR.PDF

9. **Resolutions**

10. **Ordinances - Emergency**

    1. COUNCIL BILL NO. 2015-126
       AN ORDINANCE approving a Contract by and between the City of Joplin, Missouri, a Municipal Corporation, and Neosho Box and Wood Products, Inc. for the grinding of tree debris; hauling out some of the resulting wood chips; and authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

       Documents: SUMMARY SHEET TREE LIMB GRINDING.PDF, COUNCIL BILL 2015-126 TREE DEBRIS GRINDING.PDF, BID TABULATION FOR COUNCIL.PDF, FINAL CONTRACT FOR TREE LIMB GRINDING APRIL 2015.PDF, UPDATED BRUSH PILES APRIL 2015.PDF

    2. COUNCIL BILL # 2015-127
       AN ORDINANCE approving a change order with Blevins Asphalt in the amount of Twenty Eight Thousand Two Hundred Seventy Five and no/100 Dollars ($28,275.00) for the Mill & Overlay Project in the Recovery Zone project in the City of Joplin, Missouri providing how the cost shall be made and levied,

and containing an emergency clause;

Documents: SUMMARYSHEET - 2015-127 GSTA12-II_CHANGEORDER1.PDF, JOE BECKER PARKING LOT.PDF, CB 2015- 127 MILLING.PDF, CHANGE ORDER - BLEVINS.PDF

3. COUNCIL BILL NO. 2015 – 354
AN ORDINANCE approving the contract by and between the City of Joplin and Jordan Disposal for the demolition of the structure(s) and clearing of lot area located at 1810 S. Joplin. in the City of Joplin, Missouri, for the amount of Three Thousand Five Hundred and 00/100 Dollar ($3,500.00); providing how the cost thereof shall be paid; how the assessment thereof shall be made; and containing an emergency clause.

Documents: BID SHEET 1810 S JPL.PDF, CB 2015-354.PDF, POWERPOINT TEMPLATE.PDF, SUMMARY SHEET.PDF

4. COUNCIL BILL NO. 2015-355
AN ORDINANCE approving the contract by and between the City of Joplin and Nelson Demolition for the demolition of the structure(s) and clearing of lot area located at 2129 S. Willard. in the City of Joplin, Missouri, for the amount of Two Thousand One Hundred Ninety Nine and 00/100 Dollar ($2,199.00); providing how the cost thereof shall be paid; how the assessment thereof shall be made; and containing an emergency clause.

Documents: CB 2015-355.PDF, COPY OF 2129 S WILLARD.PDF, POWERPOINT TEMPLATE.PDF, SUMMARY SHEET 2015-355.PDF

5. COUNCIL BILL NO. 2015-356
AN ORDINANCE authorizing the City of Joplin to amend an Agreement with Joplin Area Habitat for Humanity dated on the 28th of July, 2010 to provide additional developer services related to the U. S. Department of Housing and Urban Development's Neighborhood Stabilization Program (NSP), authorizing the City Manager to execute said agreement on behalf of the City.

Documents: CB 2015-356.PDF, EXHIBIT A.PDF, EXHIBIT A AMENDMENT.PDF, SUMMARY SHEET - CB 2015-356.PDF

6. COUNCIL BILL NO. 2015-508
AN ORDINANCE amending the Annual Budget of the City of Joplin for the Fiscal Year 2014-2015 as adopted by Ordinance 2014-177 on October 20, 2014, to adjust appropriations and containing an emergency clause.

Documents: CB 2015-508 GREENSHEET BUDGET AMENDMENT GOLF MANAGER.PDF, CB 2015-508 ORDINANCE BUDGET AMENDMENT GOLF MANAGER.PDF

7. COUNCIL BILL NO. 2015-509
AN ORDINANCE approving a Contract by and between the City of Joplin and Guardian to provide disability insurance coverage for non-public safety City employees on behalf of the employer, the City of Joplin; authorizing the City Manager to execute said Contract by and on behalf of the City of Joplin; and containing an emergency clause.

Documents: CB 2015-509 SUMMARY OF DISABILITY INSURANCE GUARDIAN.PDF, CB 2015-509 ORDINANCE DISABILITY INSURANCE GUARDIAN.PDF, GUARDIAN LIFE INSURANCE SAMPLE CONTRACT.PDF

8. COUNCIL BILL 2015-604

AN ORDINANCE approving a contract with Emery Sapp and Sons for the Public Safety Training Grounds project in the amount of Two Million, Eighty-Six Thousand, Two Hundred Fifteen and 18/100 dollars ($ 2,086,215.18) in the City of Joplin, Missouri; providing how the cost shall be made and levied and containing an emergency clause.

Documents: FINAL BID TAB PSTF.PDF, SITE PLAN PUBLIC SAFETY GROUNDS.PDF, COJ AND EMERY SAPP AND SONS CONSTRUCTION CONTRACT.PDF, COUNCIL BILL 2015-604 PUBLIC SAFETY TRAINING GROUNDS.PDF, GREEN SHEET TRAINING GROUNDS.PDF

9. COUNCIL BILL 2015-605
AN ORDINANCE approving a contract amendment with Tri-State Engineering for construction management services in the amount of Seventy-Seven Thousand and Five Hundred and 00/100 Dollars ($77,500) providing how the cost shall be made and levied and containing an emergency clause.

Documents: AMENDMENT CONSTRUCTION CONTRACT TRI-STATE ENGINEERING PUBLIC SAFETY TRAINING GROUNDS.PDF, COUNCIL BILL 2015-605 CONTACT WITH TRI-STATE.PDF, GREEN SHEET CONTRACT WITH TRI-STATE.PDF

11. Ordinances - First Reading

1. COUNCIL BILL NO. 2015-507
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 to implement certain fee changes; and setting a date when this Ordinance shall become effective.

Documents: CB 2015-507 GREENSHEET PARKS ORD 86 GOLF COURSE FEES.PDF, CB 2015-507 SUMMARY OF GOLF FEE CHANGES.PDF, CB 2015-507 ORDINANCE PARKS ORD 86 GOLF COURSE FEES.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 as set forth in Section 610.021(1) RSMo, as amended, 2014. This meeting, record, and vote to be closed to the extent provided by law. The City 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)

CITY OF JOPLIN

CITY COUNCIL MEETING

MINUTES April 6, 2015

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

FLAG SALUTE – led by Mr. Woolston.

ROLL CALL – Answering Roll Call were: Melodee Colbert-Kean; Morris Glaze;; Benjamin Rosenberg; William Scearce; Gary Shaw; Ryan Stanley, Michael Woolston and Mayor Seibert. Also in attendance were City Manager Sam Anselm and City Attorney Peter Edwards. Motion by Mr. Woolston, Second by Mr. Glaze to excuse Mrs. Lewis. 8-0.

Mayor announced that due to technical difficulties, tonight's televised council meeting will be shown tomorrow evening at 7:15pm.

PRESENTATIONS
Missouri State Recognition

Southwest Missouri City Clerks will recognize Joplin's Assistant City Clerk Barbara Gollhofer upon obtaining her Certification as Continuing Missouri Registered City Clerk Classification from Missouri State University Office of Access and Outreach. City Clerks Julie Grillone from Washburn and Kim DeMoss from Webb City presented Joplin's Assistant City Clerk Barbara Gollhofer with a Certificate from the State MOCCFOA upon obtaining her Certification as Continuing Missouri Registered City Clerk Classification from Missouri State University Office of Access and Outreach. She was also recognized by the Southwest Missouri City Clerks Division on reaching her Certification as Continuing Missouri Registered City Clerk Classification.

Mayor Seibert recognized April as Fair Housing Month. Matt Moran, Director of Joplin Housing Authority, along with Pam Roychoudary and Tyler Overstreet and a group of students representing the Boys and Girls Club were presented a Proclamation from Mayor Seibert.

Mayor Seibert presented a Proclamation designating April 7, 2015 as National Service Recognition Day to Shelly Goerz, on behalf of Bright Futures USA and Retired and Senior Volunteer Program for Senior Corp.

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

CITIZEN REQUESTS AND PETITIONS

REPORTS AND COMMUNICATIONS

Discuss the recommendations for Schifferdecker Golf Course by Financial Oversight Committee Chairman John Groesbeck. Mr. Groesbeck presented to Council a report from the Financial Oversight Committee. A couple of recommendations were made.

1) To increase green fees by $2.00 for an 18 hole round of play and cart fees by $1.50
2) Hire a good Golf Course Manager to run youth programs, merchandising efforts, packaging and promotion program and tournament bookings. He hesitated using golf pro. He said you needed someone that runs the course and that would handle the merchandise managing side.

PUBLIC HEARINGS
Public Hearing Procedures read by City Clerk Barbara Hogelin

PUBLIC HEARING for Hope Valley Community Improvement District

ACTION

Mayor Michael Seibert opened the Public Hearing

Leslie Haase, Finance Director for the City of Joplin and Chris Williams, Attorney

Kevin Steele, 2702 Picher, appeared on behalf of this request.

Bill Pate, 111 S. Sergeant, appeared against this request.

The Public Hearing was closed.

The City Council took no action on this action.

PUBLIC HEARING for RESOLUTION NO. 2015-001- A RESOLUTION granting a Special Use Permit (First Request) to Natasha Russell for the operation of a family child care home located at 1415 South Michigan Avenue, in the City of Joplin, Jasper County, Missouri. (Planning and Zoning recommended approval for a two-year Special Use Permit)

Mayor Michael Seibert opened the Public Hearing

Natasha Russell, 1415 South Michigan appeared on behalf of this request.

No one appeared against this request.

The Public Hearing was closed.

Mr. Glaze introduced Resolution No. 2015-001 Motion by Mr. Glaze, Second by Mr. Scearce to Approve Resolution No. 2015-001. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston. 8. Nays: 0. Absent: 1, Lewis.

The Resolution was read as being RESOLUTION NO. 2015-001

A RESOLUTION granting a Special Use Permit (First Request) to Natasha Russell for the operation of a family child care home located at 1415 South Michigan Avenue, in the City of Joplin, Jasper County, Missouri.

PUBLIC HEARING for COUNCIL BILL NO. 2015-258

Mayor Michael Seibert opened the Public Hearing

Jimmer Pinjuv, 1042 Annaliese, Joplin MO appeared on behalf of this request

No one appeared against this request.

The Public Hearing was closed.

Mr. Scearce introduced Council Bill No. 2015-258 Motion by Mr. Scearce, Second by Mr. Glaze to Place Council Bill No. 2015-258 on First Reading and Pass to Second Reading. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston. 8. Nays: 0. Absent: 1, Lewis.

The Bill was read as being COUNCIL BILL NO. 2015-258

AN ORDINANCE approving the voluntary annexation by the City of Joplin of property located approximately 800 feet west of the intersection of 32nd Street and John Duffy Drive in Jasper County and Newton County, Missouri.

PUBLIC HEARING for COUNCIL BILL NO. 2015-259

Mayor Michael Seibert opened the Public Hearing

Patrick Tuttle, CVB Director appeared on behalf of the City of Joplin. Mr. Tuttle stated the one over-riding theme in all reasons is that Joplin's Main Street cannot be identified along Interstate 44. Per MoDOT, following the Federal Highway Standards, Main Street does not qualify for exit signage off of I-44 because Main Street does not touch I-44. He mentioned four points:

1) The impact the new Mercy Hospital will have on long-term development along South Main is just now being understood. We already know that giving directions to the hospital, with two differing roadway names adds to the confusion for loved-ones trying to reach their family members in times of dire stress.
2) Traveling between the two hospitals and the 32nd Street hospital corridor of medical offices, those that already exist and those surely to be developed, will be better connected through simpler directions.
3) From a tourism standpoint, plus in support of economic development for Downtown Joplin and all Main Street businesses, most of the promotion of commerce in Joplin is focused on Range Line and Exit 8 off of I-44. For maps and travel planning to show a directional connect and access off of I-49 and I-44 to MAIN STREET JOPLIN offer positive economic value.

4) A point grossly over looked, the main drive into the Joplin Regional Airport is accessed off of Main Street. Yet, all directions along I-44 take travelers to Exit 8, Range Line and through the most traveled part of the City.

Nils Ranum, 79 Canterbury Ln, appeared in opposition of the request. His thoughts were Gov. Hearnes had done a lot for the community and that Gov. Hearnes was a champion and had always been closely tied to the school system.

The Public Hearing was closed.

Mr. Woolston introduced Council Bill No. 2015-259 Motion by Mr. Woolston, Second by Mr. Shaw to Place Council Bill No. 2015-259 on First Reading and Pass to Second Reading. Voting in favor were Council Members: Seibert, Shaw, Stanley and Woolston. 4. Nays: 4. Colbert-Kean, Glaze, Rosenberg, Scearce, Absent: 1, Lewis.

The Bill Failed.

COUNCIL BILL NO. 2015-259 - AN ORDINANCE changing the name of Hearnes Boulevard, beginning at 33rd Street and extending south to the current City of Joplin south boundary, to "Main Street" in the City of Joplin, Newton County, Missouri. (Requested by City of Joplin. Planning and Zoning recommended approval).

CONSENT AGENDA - Motion by Mr. Scearce, Second by Mr. Glaze, to approve the Consent Agenda. Voting in favor were Council Members: Colbert-Kean, Glaze, Lewis, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

Minutes of the March 16, 2015 Council Meeting

ORDINANCES-EMERGENCIES
Mr. Shaw introduced Council Bill No. 2015-120. Motion by Mr. Shaw, Second by Mr. Stanley that Council Bill No. 2015-120 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-043

AN ORDINANCE approving the purchase of a property at 2727 E. 32nd Street, consisting of 0.931 acres located in the Southwest Quarter of the Southeast Quarter of Section 13, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri and authorizing the payment of One Hundred Eighty Thousand Five Hundred Eighty-eight and 00/100 dollars ($180,588.00) and containing an emergency clause.

Mr. Stanley introduced Council Bill No. 2015-121. Motion by Mr. Stanley, Second by Mr. Scearce, that Council Bill No. 2015-121 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-044

AN ORDINANCE approving by and between the City of Joplin and Tri-State Engineering Inc. an Agreement to provide professional services for the surveying and civil engineering services, not to exceed Eighty One Thousand Five Hundred and No/100 Dollars ($81,500.00) for the New Culvert System on Hill between Division and Mineral project in the City of Joplin, Missouri providing how the cost shall be made and levied, and containing an emergency clause.

Mr. Woolston introduced Council Bill No. 2015-122. Motion by Mr. Woolston, Second by Mr. Shaw, that Council Bill No. 2015-122 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-045

AN ORDINANCE approving by and between the City of Joplin and CJW Transportation Consultants, LLC. An Agreement to provide professional services for the surveying and civil engineering services, not to exceed Fifty Five Thousand Four Hundred and No/100 Dollars ($55,400.00) for the Ditch and Culvert Improvements at Peters Avenue from 9th St. to 12th St. project in the City of Joplin, Missouri providing how the cost shall be made and levied, and containing an emergency clause.

Mr. Scearce introduced Council Bill No. 2015-123. Motion by Mr. Scearce, Second by Mr. Stanley, that Council Bill No. 2015-123 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-046

AN ORDINANCE approving by and between the City of Joplin and TranSystems Corporation. an Agreement to provide professional services for the surveying and civil engineering services, not to exceed One Hundred Nine Thousand Six Hundred Two and No/100 Dollars ($109,602.00) for the Ditch Improvements along the east side of Euclid Avenue between Rolla St. and Odessa St. project in the City of Joplin, Missouri providing how the cost shall be made and levied, and containing an emergency clause.

Mr. Woolston introduced Council Bill No. 2015-124. Motion by Mr. Woolston, Second by Mr. Shaw, that Council Bill No. 2015-124 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-047

AN ORDINANCE approving a contract to Blevins Asphalt in the amount of One Million Four Hundred Fifty Four Thousand Five Hundred Thirty Six and no/100 Dollars ($1,454,536.00) for the Mill & Overlay Project in the Recovery Zone project in the City of Joplin, Missouri providing how the cost shall be made and levied, and containing an emergency clause.

Mr. Shaw introduced Council Bill No. 2015-125. Motion by Mr. Shaw, Second by Mr. Scearce, that Council Bill No. 2015-125 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-048

AN ORDINANCE approving a contract with Southard Construction in the amount of Thirty One Thousand Seven Hundred Fifty Two and 80/100 Dollars ($31,752.80) for the Murphy & Minnesota Intersection project in the City of Joplin, Missouri providing how the cost shall be made and levied, and containing an emergency clause and pending approval by MoDOT.

Mr. Stanley introduced Council Bill No. 2015-352. Motion by Mr. Stanley, Second by Mr. Shaw, that Council Bill No. 2015-352 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-049

AN ORDINANCE approving a development agreement between Wal-Mart Real Estate Business Trust and the City of Joplin for the relocation of the entrance into Cunningham Park/Swimming Pool parking lot and containing an emergency clause.

Mr. Scearce introduced Council Bill No. 2015-353. Motion by Mr. Scearce, Second by Mr. Stanley, that Council Bill No. 2015-353 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-050

AN ORDINANCE authorizing the City of Joplin to amend the Agreement with TriState Engineering for Civil Site Engineering Services to include additional stormwater improvements in the planning and coordination of the new library and associated infrastructure at 20th & Connecticut; authorizing the City Manager to execute said Amendment to the Agreement in substantially similar form; and containing an emergency clause.

Mr. Stanley introduced Council Bill No. 2015-451. Motion by Mr. Stanley, Second by Mr. Shaw, that Council Bill No. 2015-451 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-051

AN ORDINANCE authorizing the City of Joplin to enter into a Service Agreement with VaxCare Corporation, to provide third party immunization services to the Joplin Health Department; authorizing the City Manager to execute said Agreement by and on behalf of the City of Joplin, Missouri; and, containing an emergency clause.

Mr. Shaw introduced Council Bill No. 2015-504. Motion by Mr. Shaw, Second by Mr. Glaze, that Council Bill No. 2015-504 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw and Stanley 7, Nays: 0. Absent: 1, Lewis. Abstention: 1, Woolston.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-052

AN ORDINANCE approving a Petition to Establish the Hope Valley Community Improvement District and creating the Hope Valley Community Improvement District; and containing an emergency clause.

Mr. Stanley introduced Council Bill No. 2015-505. Motion by Mr. Stanley, Second by Mr. Shaw, that Council Bill No. 2015-505 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw and Stanley 7, Nays: 0. Absent: 1, Lewis. Abstention: 1, Woolston.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-053

AN ORDINANCE approving a Cooperative Agreement among the City of Joplin, Missouri, the Hope Valley Community Improvement District, and Hope Valley Development Group, Inc. and authorizing the City Manager to execute the Agreement; and containing an emergency clause.
Mr. Shaw introduced Council Bill No. 2015-506. Motion by Mr. Shaw, Second by Mr. Scearce, that Council Bill No. 2015-506 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw and Stanley 7, Nays: 0. Absent: 1, Lewis. Abstention: 1, Woolston.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-054

AN ORDINANCE approving a Tax Increment Financing Contract for the Hope Valley Tax Increment Financing Redevelopment Plan and authorizing the City Manager to execute the Contract; and containing an emergency clause.

Mr. Stanley introduced Council Bill No. 2015-606. Motion by Mr. Stanley, Second by Mr. Shaw, that Council Bill No. 2015-606 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-055

AN ORDINANCE authorizing the acceptance of a grant from the Missouri Department of Transportation (MoDOT) for assistance in promotion of Air Service at the Joplin Regional Airport; and, amending the Annual Budget of the City of Joplin for the Fiscal Year 2014-2015 as adopted by Ordinance 2014-177 on October 20, 2014, and containing an emergency clause.

Mr. Shaw introduced Council Bill No. 2015-607. Motion by Mr. Shaw, Second by Mr. Stanley, that Council Bill No. 2015-607 be approved on an emergency basis. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

The Council Bill was declared Adopted and entitled Ordinance No. 2015-056

AN ORDINANCE authorizing the acceptance of an Agreement by and between the City of Joplin and Crawford, Murphy & Tilly, INC. for Engineering Design Services for a GA Apron Rehabilitation at the Joplin Regional Airport on and emergency basis.

NEW BUSINESS
NEWS FROM THE PIO.

The City has reopened the tree limbs and brush drop-off program for this year. The location for drop off of these items will be open the third Saturday of the month through November 21, 2015, unless there is a weather event that warrants an earlier or different date being set. The hours are 8 a.m. to 2 p.m. This free drop-off service is for Joplin residents only and has no load limits. Commercial contractors will not be allowed to drop off tree limbs. Leaves, grass clippings, trash, etc. will not be accepted. The drop-off site is located at 1702 North Schifferdecker Avenue, six tenths of a mile north of Belle Center Road on the west side of Schifferdecker.

City Manager Sam Anselm said the workshop scheduled for Thursday, April 16, has been pushed back to 6:00pm due to the Arbor Day Proclamation Event planned for Spiva Park.

To celebrate Earth Day there will be a free tire drop off April 17th from 9-3 pm at the Joplin recycling Center located at 1310 West A. Up to 10 tires per household will be accepted.

Public Works Director introduced the new Assistant Public Works Director, Dan Salisbury, who coming to us from MODOT.

Mayor Seibert stated on March 26, 2015 the announcement KCU Medical and Biosciences was announced for Joplin to have a school here. Both hospital systems Mercy and Freeman collaborated on this effort. Dr. Larry McIntire and Rudy Farber were extremely committed on this worthwhile effort. This will change the way Joplin is viewed in the future and health care in our area.

Mayor Seibert also extended a thanks of gratitude to KZRG for the efforts in keeping the citizens informed during the storm.

Council Appointed Gary Nodler to the JSA Board and Jill Sullivan to Historic Preservation by a vote of 8-0-1.

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 and leasing, purchasing or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefore as set forth in Section 610.021(1) and (2) RSMo, as amended, 2014. This meeting, record, and vote to be closed to the extent provided by law. The City Council shall adjourn at the end of the session. Motion by Mr. Woolston, Second by Ms. Colbert-Kean to go in closed session. Voting in favor were Council Members: Colbert-Kean, Glaze, Rosenberg, Scearce, Seibert, Shaw, Stanley and Woolston 8. Nays: 0. Absent: 1, Lewis.

There being no further business the meeting adjourned at 9:05 p.m.

Respectfully submitted,

Barbara L. Hogelin, MMC/MPCC, City Clerk

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 6, 2015

Item: COUNCIL BILL NO. 2015-258
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: 3/9/2015

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "7 in favor, 0 absent"

SUMMARY/REQUEST:
Case 006-15: Located approximately 800 feet west of the intersection of 32nd Street and John Duffy Drive – A request for the voluntary annexation of approximately 20 acres of land into the corporate limits of the City of Joplin – Wildwood Ranch LLC (Jimmer Pinjuv).

STAFF SUMMARY:
The applicant is requesting to voluntarily annex approximately 20 acres of land located between 32nd Street and John Duffy Drive. This property is currently undeveloped.

Staff recommends approval of Case 006-15.

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Bolander stated that this is a request to annex approximately 20 acres of Wildwood Ranch into the City of Joplin. The unimproved curved right-of-way to the north is 32nd Street, with the gravel driveway going into the property being Annelise Lane. The City of Joplin has an agreement with the owner of this property to annex property into the City within a certain amount of time. Staff recommends approval of this annexation.

Mr. Duncan discussed several recent annexations in Wildwood Ranch and asked Mr. Bolander why they are not being packaged together. He replied that different developers are interested in developing parcels at different times. He understood Mr. Pinjuv is working with a potential buyer for the property in this request, with a previous request being made by a separate developer wanting to construct single-family homes. As developers become interested in these properties, they are requesting annexation.

Mr. Ramsour asked about the possibility that some developer will not want to be within the City

of Joplin. Mr. Bolander replied there is always some chance, but the City has an agreement that Wildwood Ranch has to come into the City of Joplin if they want City services.

PUBLIC COMMENT:
None.

P & Z Case 006-15
Wildwood Ranch LLC
(P & Z Recommended Approval)

COUNCIL BILL NO. 2015-258 ORDINANCE NO.

AN ORDINANCE approving the voluntary annexation by the City of Joplin of property located approximately 800 feet west of the intersection of 32nd Street and John Duffy Drive in Jasper County and Newton County, Missouri.

WHEREAS, pursuant to Section 71.012, RSMo., 2001, as amended, a verified Petition requesting annexation and signed by the owners of all fee interests of record in the tracts of real property described herein, was presented to the governing body of the City of Joplin, Missouri; and,

WHEREAS, pursuant to said Section, having referred this matter to the Planning and Zoning Commission for a Public Hearing thereon and having obtained the favorable recommendation and support of said annexation; and,

WHEREAS, having held a Public Hearing concerning the proposed annexation not less than fourteen (14) nor more than sixty (60) days after the Petition is received after first having given seven (7) days' notice of the Hearing in the Joplin Globe; and,

WHEREAS, after said Public Hearing, the City of Joplin determines that the annexation is reasonable and necessary to the proper development of the City of Joplin, and that the City of Joplin has the ability to furnish normal municipal services to the area to be annexed within a reasonable time; and

WHEREAS, having received no written objections to the proposed annexation within fourteen (14) days after the Public Hearing.

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

Section 1. That the following described tract of land be and the same is hereby annexed into the City of Joplin, Missouri, said tract of land described as follows, to-wit:

> All that part of the north half of the northeast quarter of section 24, township 27, range 34 and the south half of the southeast quarter of section 13, township 27, range 34 lying in Jasper and Newton County, Missouri, described as follows: commencing at the northeast corner of the northeast quarter of said section 24, thence N88° 40'30"W along the north line of said northeast quarter a distance of 2027.70 feet to the point of beginning; thence S00° 00'00"E a distance of 347.52 feet; thence N88° 50'39"W a distance of 269.81 feet; thence S01° 09'21"W a distance of 276.71 feet to a point on the north line of a road right-of-way conveyance in book 363 at page 881 in the newton county recorder's office; thence N88° 50'39"w along the north line of said road right-of-way conveyance a distance of 1098.54 feet; thence N01° 09'21"E a distance of 505.79 feet to a point on a

non-tangent curve to the left having a radius of 1645.00 feet and a chord bearing and distance of N76° 21 '11"E, 456.89 feet; thence along said curve to the left an arc distance of 458.37 feet to the beginning of a reverse curve to the right having a radius of 2955.00 feet and a chord bearing and distance of N77° 32'18"E, 941.65 feet; thence along said reverse curve to the right an arc distance of 945.68 feet; thence away from said reverse curve S00° 00'00"E a distance of 220.11 feet to the point of beginning.

Section 2. That the City Clerk is hereby authorized and directed to cause three (3) certified copies of this Ordinance to be filed with the Clerks of Jasper County and Newton County, Missouri.

Section 3. That this Ordinance shall be in full force and effect as of 12:01 a.m., on the First (1st) day of June, 2015.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of _____, 2015, by a vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Z&P Meeting: March 9, 2015
City Council Meeting: April 6, 2015

STAFF PLANNING REPORT
Voluntary Annexation

CASE 006-15: A request to voluntarily annex approximately 20 acres at 32nd street and John Duffy Drive.

LOCATION: Located approximately 800' west of the intersection of 32nd Street and John Duffy Drive.

APPLICANT: Wildwood Ranch Development

EXISTING CONDITIONS:

Zoning	Land Use	Property Size
N/A (Jasper County, MO)	Undeveloped	20 acres

DISCUSSION

The applicant is requesting to voluntarily annex approximately 20 acres of land located between 32nd St and John Duffy Drive. This property is currently undeveloped.

Staff recommends approval of Case 006-15.

ENCLOSURES:

Map of area to be annexed

BEFORE THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI

PETITION FOR VOLUNTARY ANNEXATION
PURSUANT TO 71.012, RSMO., 1994

TO WHOM IT MAY CONCERN:

Pursuant to the terms of V.A.M.S. 71.02, the undersigned, being all of the owners of fee interests of record in all tracts of real property attached hereto and incorporated herein as Exhibit "A", do hereby request the voluntary annexation of said land to the City of Joplin, Missouri.

Managing Member Wildwood Ranch L.L.C.

STATE OF MISSOURI)
) ss:
COUNTY OF JASPER)

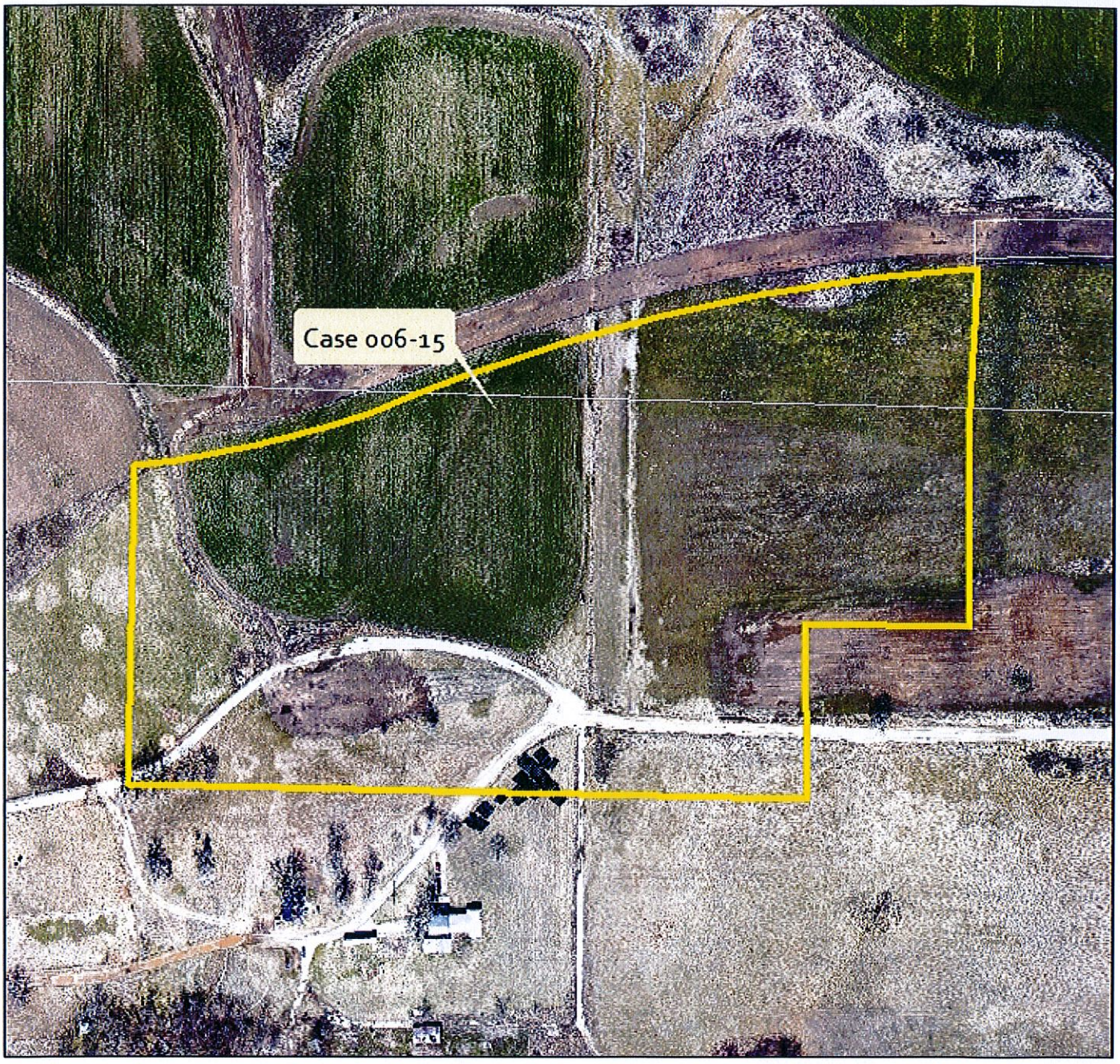
On this 23 day of February 2015, before me appeared James Pinjuv, to me known to be the Managing Member of Wildwood Ranch LLC, and the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors of the consideration stated therein and no other, and said Wildwood Ranch LLC acknowledged said instrument to be the free act and deed of said corporation, and that the allegations contained therein are true.

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

My commission expires: January 19, 2018

Teresa L Gilliam
Notary Public

TERESA L. GILLIAM
Notary Public - Notary Seal
State of Missouri
Commissioned for Newton County
My Commission Expires: January 19, 2018
Commission Number: 13798256



0 285 570 1,140 Feet

Case 006-15 A request for the voluntary annexation of approximately 20 acres of land generally described as 800 feet west of the intersection of 32nd street and John Duffy Drive - Wildwood Ranch.

N

Case 006-15: Located approximately 800 feet west of the intersection of 32nd Street and John Duffy Drive – A request for the voluntary annexation of approximately 20 acres of land into the corporate limits of the City of Joplin – Wildwood Ranch LLC (Jimmer Pinjuv).

Mr. Eastman opened the public hearing for Case 006-15.

Mr. Bolander stated that this is a request to annex approximately 20 acres of Wildwood Ranch into the City of Joplin. The unimproved curved right-of-way to the north is 32nd Street, with the gravel driveway going into the property being Annelise Lane. The City of Joplin has an agreement with the owner of this property to annex property into the City within a certain amount of time. Staff recommends approval of this annexation.

Mr. Duncan discussed several recent annexations in Wildwood Ranch and asked Mr. Bolander why they are not being packaged together. He replied that different developers are interested in developing parcels at different times. He understood Mr. Pinjuv is working with a potential buyer for the property in this request, with a previous request being made by a separate developer wanting to construct single-family homes. As developers become interested in these properties, they are requesting annexation.

Mr. Ramsour asked about the possibility that some developer will not want to be within the City of Joplin. Mr. Bolander replied there is always some chance, but the City has an agreement that Wildwood Ranch has to come into the City of Joplin if they want City services.

Mr. Eastman asked for comments from the commissioners and the audience, and none were received. He then closed the public hearing for Case 006-15.

MR. CORTEZ MOVED, SECONDED BY MR. DERMOTT, THAT CASE 006-15 BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL, BASED UPON THE COMMENTS RECEIVED IN THE PLANNING REPORT AND DURING THE PUBLIC HEARING. THE MOTION CARRIED, WITH MR. BROWN, MR. CORTEZ, MR. DERMOTT, MR. DUNCAN, MR. EASTMAN, MR. RAMSOUR, AND MR. SMITH VOTING "AYE" (7 IN FAVOR, 0 ABSENT).

Requested Council Meeting Date: April 20, 2015
Council Bills No. 2015 - 126

Item: Contract for Tree Limb Grinding

Originating Department: PUBLIC WORKS – RECYCLING

Attachments: 1) Council Bill No. 2015-126
2) Bid Tabulation
3) Contract between City of Joplin and Neosho Box and Wood Products, Inc.
4) Measured Drawing of Tree Debris

Recycling Department: Mary Anne Phillips
Department Head: Nicholas A. Heatherly
Finance Department: Leslie Haase
City Attorney: Peter C. Edwards
City Manager: Samuel L. Anselm

Recommended Action: Approval of Tree Limb Grinding Contract between the City of Joplin and Neosho Box and Wood Products of Neosho, Missouri.

Background:
Tree limbs and brush (tree debris)---generated by the 2014 Labor Day Wind Storm, city projects and monthly drop-off events---have been staged at the City's 40 acres processing site at 1702 North Schifferdecker Avenue. Historically, the City hires grinding contractors to process the tree debris for beneficial reuse, such as landscape mulch. Once limbs are processed into wood chips, generally they are made available to the public.

Discussion:
Bid requests were sent to fifteen grinding businesses, with five responding as outlined in the attached tabulation sheet. Bid specifications stated there was a minimum of 11,000 cubic yards of tree debris with the understanding that another measurement would be taken prior to issuing the contract and purchase order to establish the current amount to be processed. The bid specifications were for the grinding of tree debris with an option of purchasing and hauling out the resulting chips. Neosho Box and Wood Products, Inc. bid was for $1.65 per cubic yard for grinding. Some of the resulting chips will be purchased by Neosho Box and Wood Products for $0.25 per cubic yard. Some chips will be kept for potential giveaways and for Joplin Recycling Center patrons.

Should a weather event cause the City to execute another "tree debris clean up" and accumulate a minimum of 5,000 cubic yards of tree debris, Neosho Box and Wood has agreed to perform additional grinding services for the same bid price until October 31, 2015.

On April 7, 2015, the Engineering Division completed an updated measurement of the bid piles and determined there were approximately 18,256 cubic yards of tree debris. A contract and purchase order will be issued for $30,122.40 (18,256 cy x $1.65 cy).

Funding will come from the City Wide Clean Up Program line item in the Solid Waste Fund.

Recommendation: Staff recommends that approval of Council Bill 2015-126 be approved on an emergency basis. This action is necessary because the tree debris processing site is near capacity and it is important that the debris be reduced and removed so that the site is prepared for future weather events.

COUNCIL BILL NO. 2015-126 ORDINANCE NO.

AN ORDINANCE approving a Contract by and between the City of Joplin, Missouri, a Municipal Corporation, and Neosho Box and Wood Products, Inc. for the grinding of tree debris; hauling out some of the resulting wood chips; and authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

WHEREAS, 18,256 cubic yards of tree limbs and brush (tree debris) have accumulated at the City processing site at 1702 North Schifferdecker Avenue; and

WHEREAS, the City's FY2014-2015 budget provides for a City Wide Clean Up Program; and

WHEREAS, the City routinely contracts with grinding companies to process the tree debris into beneficial uses; and

WHEREAS, the Public Works Department received bids on March 24, 2015 from Neosho Box and Wood Products, Inc. (aka Natural Accents Landscape Distributor), Braik Brothers Tree Care, Hansen's Tree Service, AgriCycle and Smithey Environmental, with Neosho Box and Wood having the lowest and best bid at $1.65 per cubic yard; and

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

Section 1. That the contract by and between the City of Joplin, Missouri, a Municipal Corporation, and Neosho Box and Wood Products, Inc., a true and accurate copy of the same being attached hereto and incorporated herein be and the same is hereby approved in the amount of $30,122.40.

Section 2. That the City Manager is hereby authorized and directed to execute said Agreement by and on behalf of the City of Joplin, Missouri.

Section 3. That this Ordinance is an emergency within the meaning of Section 2.12 (1)(3) in that said ordinance provides for the immediate preservation of the public peace, property, health, safety or morals, and dealing with an appropriation, 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, the debris site is near capacity, therefore this council bill needs to be passed and accepted by the City Council so that the site is prepared for future weather events.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of _____, 2015, by a vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Grinding of Tree Debris with an option of Hauling Out Finished Wood Chips
Joplin Bid Package #2015-15
Bid Opening: March 24, 2015, 3PM

	BID PRICE PER CY GRINDING	BID PRICE PER CY FOR CHIPS	MINIMUM AMOUNT TO RETURN
Neosho Box and Wood Products, Inc. aka Natural Accents Landscape Distributor 850 Malcolm Mosby Drive, Neosho, MO	$1.65	$0.75	5,000 CY
Braik Brothers Tree Cares 8378 I-70 Drive SE, Columbia, MO	$1.70	no bid	5,000 CY
Hansen's Tree Service 104 Hansen Court, O'Fallon, MO	$1.75	$0.25	5,000 CY
AgriCycle 39 Old Elam Avenue, Valley Park, MO	$2.11	no bid	10,000 CY
Smithey Environmental P O Box 757, Sand Springs, OK	$3.00	no bid	5,000 CY
Damon Pursell Construction 300 North Church Road, Liberty, MO	no bid		
Springfield Pallet Co. 4867 N Farm Road 189, Springfield, MO	no bid		
Oldcastel Lawn and Garden 8500 South 620 Road, Miami, OK	no bid		
SRS, Inc. 307 Morgan Avenue, Mobile, Alabama	no bid		
St. Louis Composting, Inc. (Agricycle, Inc.) 39 Old Elam Avenue, Valley Park, MO	no bid		
Arbor Masters Tree & Landscape 8250 Cole Parkway, Shawnee, KS	no bid		
Nature's Fuel by GCD PO Box 128, Commerce, OK	no bid		
Jordan Disposal 300 North Black Cat Road, Joplin, MO	no bid		
Custom Tree Care 3722 SW Spring Creek Lane, Topeka, KS	no bid		
Neosho Tree Service 14331 Newt Drive, Neosho, MO	no bid		

Received By Mary Anne Phillips

Verified By Lindsay Dunn

CITY OF JOPLIN AND NEOSHO BOX AND WOOD PRODUCTS, INC.

AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2015, 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 the grinding of tree limb debris with an option of hauling out the finished wood chips. Contractor's performance shall be in accordance with specifications of Bid Package 2015-15 and all of the provisions of the Joplin City Code of 1998, as amended, and according to the City's Bid Specifications and the Contractor's Bid Response Form on file in the office of the Recycling Coordinator, Public Works Department. All of which are by reference made and part of this contract and to perform said work for the following prices to-wit:

Item	Unit	Quantity	Unit Price	TOTAL
Grinding of Tree Limbs as specified in bid request	Cubic Yards	18,256 cubic yards	$1.65	$30,122.40
Price paid to the City for resulting wood chips. Chips to be hauled out by Contractor or approved Subcontractor	Cubic Yards	To Be Determined	$0.25	To Be Determined

PROJECT NAME: Tree Debris Grinding with Option of Hauling Out Wood Chips by Neosho Box and Wood Products, Inc. of Neosho, Missouri

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, bid specifications, bid response form, and any applicable City ordinances and state and federal laws by October 31, 2015.

2. Prevailing Wages. Prevailing wages are not required for this agreement, because nothing is being constructed for public use or benefit.

3. Insurance Requirements. No permit required by this article shall be issued until and unless the applicant therefore, in addition to all other requirements set forth, shall file and maintain with the director of public works evidence of a satisfactory public liability insurance policy, covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than two million dollars ($2,000,000.00) for each person injured or killed, and in the amount of not less than two million dollars ($2,000,000.00) in the event of injury or death of two or more persons in any single accident, and in the amount of not less than one hundred thousand dollars ($100,000.00) for damage to property. Such policy may be written to allow the first five hundred dollars ($500.00) of liability for damage to property to be deductible. Should any such policy be cancelled, the director shall be notified of such cancellation by the insurance carrier in writing not less than ten (10) days prior to the effective date of such cancelation, and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing the policy the duty to give such notice. The City of Joplin shall be listed as a "certificate holder" and policy shall name the City as an "additional insured" before starting work on the agreement.

4. Performance, Labor, and Materials Payment Bond: Contractor shall furnish a performance bond of eighteen thousand one hundred fifty dollars ($18,150) based on the bid dollar amount of one dollar and sixty five cents ($1.65) per cubic yard and based on eleven thousand (11,000) cubic yards. Before entering on the work of said agreement, Neosho Box and Wood Products shall be licensed as a contractor of the City of Joplin, Missouri.

5. Contractor's Responsibility for Subcontractors. Contractor shall also provide a signed "payment bond," which deals with payments to subcontractors of eighteen thousand one hundred fifty dollars ($18,150) based on the bid dollar amount of one dollar and sixty five cents ($1.65) per cubic yard and based on eleven thousand (11,000) cubic yards. 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. 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. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

6. Should the contractor fail to complete said work on or before October 31, 2015, a penalty of one thousand and 00/100 dollars ($1,000.00) per calendar day shall be deducted from the contract amount until said work is completed to the satisfaction of the Director of Public Works.

7. 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.

8. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 7, 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.

9. Termination for Convenience of City. The City shall have the right at any time by 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.

10. 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.

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.

11. 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 performance of the work to be completed pursuant to this contract.

12. 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. Payment for work completed shall be invoiced by Contractor when work is completed with the purchase order number denoted on the invoice. The City will make payment within 30 days. Invoices for services shall be submitted to the City of Joplin Finance Department, 602 South Main Street, Joplin, Missouri 64801. Charges shall be based on completed services. The City of Joplin will not pay for additional fees or surcharges (disclosed or non-disclosed) as outlined in the bid specifications.

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

a. This Contract
b. Bid Plans and Specifications
c. Proposal/Bid Document
d. Bid Tabulation

e. Bid Bond
f. Performance Bond
g. Payment Bond
h. Insurance Certificate
i. Affidavit of Compliance for Federal Work Authorization Program
j. Measured Drawing of Tree Limb Debris dated April 7, 2015

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 Thirty Thousand One Hundred Twenty Two Dollars and Forty Cents ($30,122.40), said amount being subject to any approved addenda or change order.

14. 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. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in grinding and hauling activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

15. 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.

16. 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.

17. 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.

18. 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.

19. Notices. All notices required or permitted hereinunder and required to be in writing may be given by facsimile or by first class mail addressed to City at the address shown above and Neosho Box and Wood Products at 850 Malcolm Mosby Drive, Neosho, Missouri 64850. 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 facsimile 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.

20. 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.

21. Safety Training. Contractor shall ensure that operations of grinding and hauling wood chips shall be in accordance with OSHA safety programs, or similar program approved by the Department of Labor and Industrial Relations.

22. 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.

23. 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.

24. 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.

25. 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.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

City Attorney

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.

NEOSHO BOX AND WOOD PRODUCTS, INC. CONTRACTOR:

By: _____

Printed Name: _____

Title: _____

_____
Leslie Haase, Director of Finance

APPROVED AS TO FORM

CITY OF JOPLIN, MISSOURI

_____
Peter Edwards

By: _____

Nicholas A. Heatherly
Public Works Director



TOTAL APPROXIMATE CUBIC YARDS (YD³) FOR BRUSH PILES = 18,256 YD³

The City Of Joplin
Department of Public Works
Office of Engineering
602 S. Main Street, Joplin, MO 64801
Phone: 417-624-0820 Fax: 417-625-4738

CITY 40 BRUSH PILE MEASUREMENTS

PLAN VIEW FOR BRUSH PILE MEASUREMENTS

Project Number:	TBD
Designed By: N/A	Approved By: N/A
Drafted By: BL	Date: 4/7/15
Scale:	NTS
	SHEET 1

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 20, 2015
Council Bill No. 2015-127

Item: Change Order to Contract for the Mill & Overlay –Recovery Area Project: that Adds Asphalt Paving for ADA Compliance & Stormwater Conveyance

Originating Department: Public Works – Engineering

Attachments: 1) Project Map
2) Change Order
3) Council Bill No. 2015-127

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

Recommended Action: Approval of Change Order #1 to Construction Contract with Blevins Asphalt Company in the amount of $28,275.00 for adding asphalt paving for ADA compliance and stormwater conveyance to the Mill & Overlay Project in the Recovery Area.

Background: On April 6 Council Bill 2015-124 was approved which allowed the City to enter into a contract with Blevins Asphalt Company for asphalt overlay work in the recovery area. The total contract amount was $1,454,536.00 and is part of a State of Missouri Department of Economic Development Office of Administration Rebuild Damaged Infrastructure Program agreement which was approved by Council in March of 2014. Construction on the Joe Becker Stadium under a design build contract has proceeded to a point where the parking lots can be constructed. The parking lots are not part of the design build contract. To complete the parking lots hot mix asphalt is needed in some areas to provide a suitable surface for ADA requirements and to provide a durable surface where storm water will cross the parking lot.

Discussion: On Monday April 13 City staff received pricing from Blevins Asphalt Company for the hot mix asphalt work needed in the Joe Becker parking lots. The City's consultant Transystems and City staff reviewed the pricing and found it acceptable.

Recommendation: Staff recommends approval of Change Order #1 to Construction Contract with Blevins Asphalt Company in the amount of $28,275.00 for adding asphalt paving for ADA compliance and stormwater conveyance to the Mill & Overlay Project in the Recovery Area be approved on an emergency basis per Section 2.12 (6) of the Joplin City Charter.

N
W E
S

1 inch = 100 feet

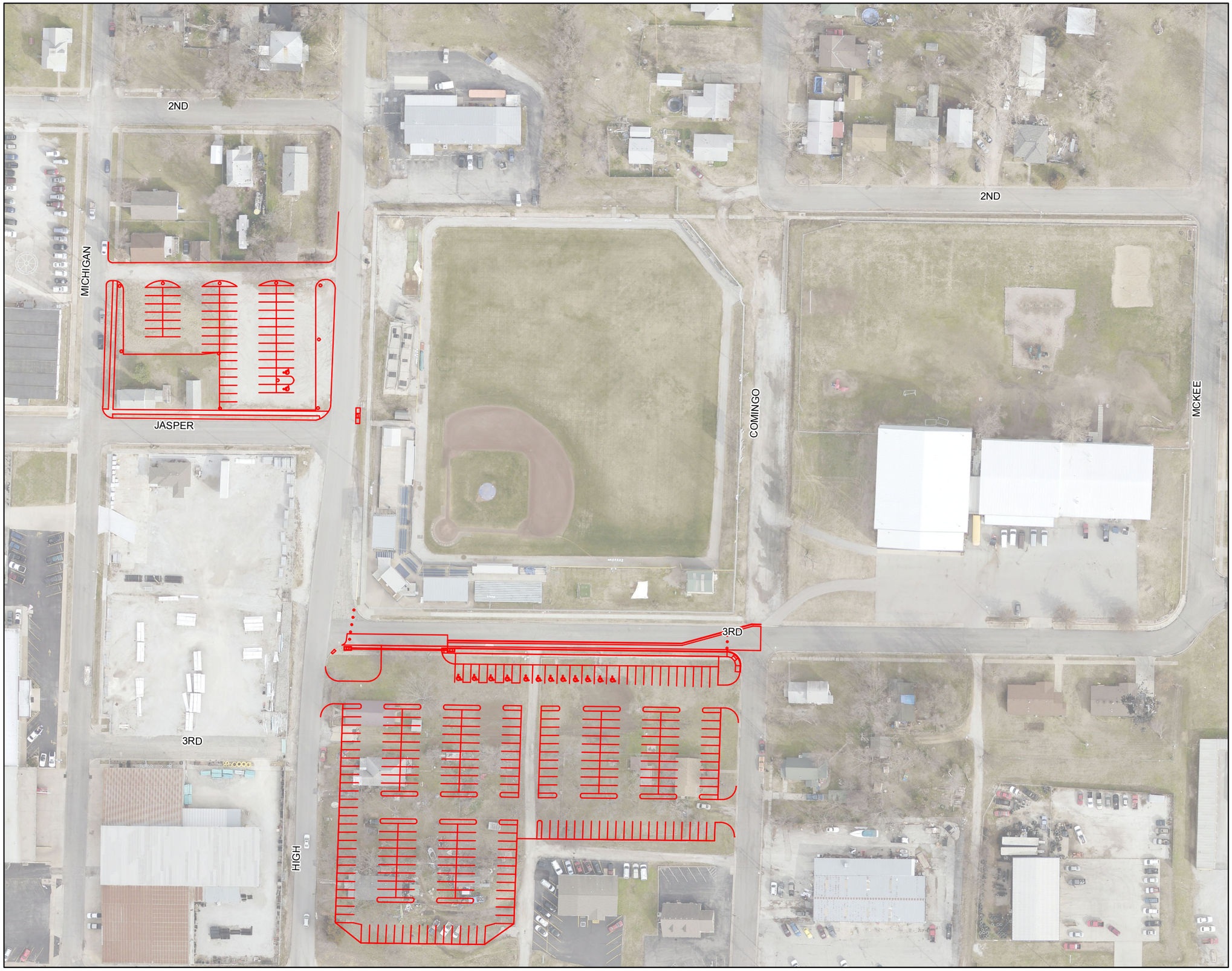
0 100 200 Feet

Legend

Joe Becker Parking Lots

PARKING LOT POLYLINES

- Continuous, 1, 90
- Continuous, 1, 50
- Continuous, 3, 140
- Continuous, 7, 140
- Continuous, 3, 50



COUNCIL BILL NO. 2015-127 ORDINANCE NO.

AN ORDINANCE approving a change order with Blevins Asphalt in the amount of Twenty Eight Thousand Two Hundred Seventy Five and no/100 Dollars ($28,275.00) for the Mill & Overlay Project in the Recovery Zone project in the City of Joplin, Missouri providing how the cost shall be made and levied, and containing an emergency clause;

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

Section 1. That the change order be awarded to Blevins Asphalt in the amount of Twenty Eight Thousand Two Hundred Seventy Five and no/100 Dollars ($28,275.00)for the Mill & Overlay Project in the Recovery Zone project.

Section 2. Upon the final approval and acceptance of the contractor's work under said contract in writing by the Director of Public Works, and his certification to that effect to the Director of Finance.

Section 3. That the Director of Public Works is hereby authorized to enter into a contract on behalf of the City of Joplin with said contractor.

Section 4. This ordinance is an emergency within the meaning 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 construction to begin immediately in the optimal construction time during the calendar year, and appropriations for this contract have been approved by the 2014-2015 budget.

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

_____, 2015 by a _____ vote.

_____

ATTEST: Michael L. Seibert, Mayor

_____

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

CHANGE ORDER

Sheet No. 1 of 2

Change Order No. 1
County Jasper
Route Various City Streets

To: Blevins Asphalt Contractor
You are hereby directed to make the following changes from the contract.

Project Designated Recovery Zone Overlay
Job No.

❖❖❖

SUBMITTED ENGINEER	DATE
APPROVAL PROJECT MANAGER	DATE
APPROVAL DIRECTOR OF PUBLIC WORKS	DATE

CLOSING DATE:	25-Mar-2015	DEPT:	Public Works
STARTING TIME	10:00 AM		
CLOSING TIME:	10:20 AM	BID OPENED BY:	Jeff Oliver, Kim Newhouse
Demolition		LOCATION:	1810 S. Joplin Ave

COMPANY	BIDS
96 Rental LLC	$15,600.00
BJHE	$4,200.00
B & D Yardbuilders	$7,700.00
Jordan/Gator	$3,500.00
Nelson's Tree Service	$3,849.00

COUNCIL BILL NO. 2015 – 354 ORDINANCE NO.

AN ORDINANCE approving the contract by and between the City of Joplin and Jordan Disposal for the demolition of the structure(s) and clearing of lot area located at 1810 S. Joplin. in the City of Joplin, Missouri, for the amount of Three Thousand Five Hundred and 00/100 Dollar ($3,500.00); providing how the cost thereof shall be paid; how the assessment thereof shall be made; and containing an emergency clause.

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

Section 1. That the contract with Jordan Disposal in the amount of Three Thousand Five Hundred 00/100 Dollars ($3,500.00) is hereby approved for the demolition of the structure(s) and clearing of lot area located at 1810 S. Joplin.

Section 2. The contractor will be paid in cash for the portion of the work performed by him, and this amount will be appropriated from the Revolving Public Improvement Fund, and will be evidenced by a special tax bill made and levied against 1810 S. Joplin and legally described as:

ALL OF LOT NUMBERED EIGHTY TWO (82) EX THE SOUTH 10 FT. IN MITCHELLS FIRST ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

Section 3: That the City of Joplin declares that this ordinance an emergency pursuant to Section 2.12 (1) of the Home Rule Charter in that it is an ordinance for the immediate preservation of the public peace, property, health, safety or morals. Specifically, this ordinance approves the award of contract to a demolition contractor for the demolition and removal of a structure determined to be dangerous by the Joplin Building Board, and because this structure has been deemed dangerous and a nuisance, its immediate removal is required to preserve public safety and health. The City Council herby declares that this ordinance shall be in full force and effect from after its passage.

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

_____, 2015, by a _____ vote.

_____ATTEST:
Michael L. Seibert – Mayor

_____
Barbara Hogelin – City Clerk

APPROVED AS TO FORM

:_____
Peter C. Edwards, City Attorney




COUNCIL BILL 2015-354
1810 S. JOPLIN





City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 20, 2015

Item: COUNCIL BILL NO. 2015-354
Originating Department: BUILDING REGULATIONS

Attachments: 1) Council Bill No. 2015- 354
2) Photograph of Property
3) Bid Tabulation

Building Regulations: Brian Wicklund	Date:
Planning and Community Development Manager: Troy Bolander	Date:
Finance Department: Leslie Haase	Date:
City Attorney: Peter C. Edwards	Date:
City Manager: Samuel L. Anselm	Date:

Recommended Action: Approval of Contract with Jordan Disposal to remove the structures and any remaining debris including foundation and footings located at 1810 S. Joplin.

Summary: The above listed address was "tagged" as a dangerous building on February 3, 2015. The structure was determined to be dangerous under sub sections of the Dangerous Building Code (Section 26-612, Joplin City Code). On March 20, 2015, an advertisement for bids was published in the Joplin Globe with bids being received on March 25, 2015. At that time bids were received as follows:

Jordan Disposal	$ 3,500.00
Nelson Demolition	$ 3,849.00
Big Johns	$ 4,200.00
B & D Yard builders	$ 7,700.00
96 Rental LLC	$ 15,600.00

A Special Tax Bill will be issued after the demolition is completed. The Special Tax Bill acts as a lien against the property until it is paid, with the owner having five years to pay off the assessment. The bill also is a personal debt of the owner.

Recommendation: City Staff recommends that the demolition contract be awarded to Jordan Disposal for the amount of $ 3,500.00 and that it be approved on an emergency basis within the meaning of section 2.12 (1) for the immediate preservation of public health and welfare.

COUNCIL BILL NO. 2015-355 ORDINANCE NO.

AN ORDINANCE approving the contract by and between the City of Joplin and Nelson Demolition for the demolition of the structure(s) and clearing of lot area located at 2129 S. Willard. in the City of Joplin, Missouri, for the amount of Two Thousand One Hundred Ninety Nine and 00/100 Dollar ($2,199.00); providing how the cost thereof shall be paid; how the assessment thereof shall be made; and containing an emergency clause.

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

Section 1. That the contract with Nelson Demolition in the amount of Two Thousand One Hundred Ninety Nine 00/100 Dollars ($2,199.00) is hereby approved for the demolition of the structure(s) and clearing of lot area located at 2129 S. Willard.

Section 2. The contractor will be paid in cash for the portion of the work performed by him, and this amount will be appropriated from the Revolving Public Improvement Fund, and will be evidenced by a special tax bill made and levied against 2129 S. Willard and legally described as:

ALL OF LOT NUMBERED ONE HUNDRED NINETY NINE (199) AND LOT NUMBERED TWO HUNDRED (200) IN BARTLETTS ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF. AND ALL THAT PART OF THE EAST 10 FEET OF VACATED WILLARD AVENUE LYING WEST OF THE ADJOINING SAID LOTS 199 AND 200

Section 3: That the City of Joplin declares that this ordinance an emergency pursuant to Section 2.12 (1) of the Home Rule Charter in that it is an ordinance for the immediate preservation of the public peace, property, health, safety or morals. Specifically, this ordinance approves the award of contract to a demolition contractor for the demolition and removal of a structure determined to be dangerous by the Joplin Building Board, and because this structure has been deemed dangerous and a nuisance, its immediate removal is required to preserve public safety and health. The City Council herby declares that this ordinance shall be in full force and effect from after its passage.

Passed by the Council of the City of Joplin, Missouri, this _____ day of _____, 2015, by a _____ vote.

_____
Michael L. Seibert – Mayor

ATTEST:

_____
Barbara Hogelin – City Clerk

APPROVED AS TO FORM

_____
Peter C. Edwards, City Attorney

CLOSING DATE:	25-Mar-2015	DEPT:	Public Works
STARTING TIME	10:00 AM		
CLOSING TIME:	10:20 AM	BID OPENED BY:	Jeff Oliver, Kim Newhouse
Demolition		LOCATION:	2129 S. Willard Ave.

COMPANY	BIDS
96 Rental LLC	$6,800.00
BJHE	$3,700.00
B & D Yardbuilders	$4,300.00
Jordan/Gator	$2,850.00
Nelson's Tree Service	$2,199.00


COUNCIL BILL 2015-355
2129 S. WILLARD







City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 20, 2015

Item: COUNCIL BILL NO. 2015-355
Originating Department: BUILDING REGULATIONS

Attachments: 1) Council Bill No. 2015- 355
2) Photograph of Property
3) Bid Tabulation

Building Regulations: Brian Wicklund	Date:
Planning & CD Director: Troy Bolander	Date:
Finance Department: Leslie Haase	Date:
City Attorney: Peter C. Edwards	Date:
City Manager: Samuel L. Anselm	Date:

Recommended Action: Approval of Contract with Nelson Demolition to remove the structures and any remaining debris including foundation and footings located at 2129 S. Willard.

Summary: The above listed address was "tagged" as a dangerous building on November 12, 2014. The structure was determined to be dangerous under sub sections of the Dangerous Building Code (Section 26-612, Joplin City Code). On March 20, 2015, an advertisement for bids was published in the Joplin Globe with bids being received on March 25, 2015. At that time bids were received as follows:

Jordan Disposal	$ 2,850.00
Nelson Demolition	$ 2,199.00
Big Johns	$ 3,700.00
B & D Yard builders	$ 4,300.00
96 Rental LLC	$ 6,800.00

A Special Tax Bill will be issued after the demolition is completed. The Special Tax Bill acts as a lien against the property until it is paid, with the owner having five years to pay off the assessment. The bill also is a personal debt of the owner.

Recommendation: City Staff recommends that the demolition contract be awarded to Nelson Demolition for the amount of $ 2,199.00 and that it be approved on an emergency basis within the meaning of section 2.12 (1) for the immediate preservation of public health and welfare.

COUNCIL BILL NO. 2015-356 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin to amend an Agreement with Joplin Area Habitat for Humanity dated on the 28th of July, 2010 to provide additional developer services related to the U. S. Department of Housing and Urban Development's Neighborhood Stabilization Program (NSP), authorizing the City Manager to execute said agreement on behalf of the City.

WHEREAS, the City of Joplin has completed activities under the HUD sponsored (NSP) Program.

WHEREAS, three (3) homes at 816 Grand, 1402 Pennsylvania, and 1206 Murphy have been constructed and remain unsold in the City's inventory, and as of March 31, 2015, $174,080 of NSP funds are in the City's account, subject to the payment of all City expenses and financial obligations that remain under said program.

WHEREAS, The City desires to transfer ownership of the three (3) identified city owned homes to Joplin Area Habitat for Humanity to be used for affordable housing projects and provide remaining NSP funds, after city administrative costs are paid, to Joplin Area Habitat for Humanity to build two (2) new affordable homes on a reimbursement basis.

WHEREAS, Joplin Area Habitat for Humanity desires to provide affordable housing for city residents by accepting this deed transfer and later will transfer the subject homes to income qualified families. Further, Joplin Area Habitat for Humanity desires to the improve the housing stock of the City of Joplin by constructing two (2) new affordable homes in the City in accordance with the contract amendment.

WHEREAS, the City of Joplin desires amends an agreement with Joplin Area Habitat for Humanity to provide additional developer services.

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

Section 1. That the City shall amend the Agreement between the City of Joplin and Joplin Area Habitat for Humanity approved on the 28th day of July, 2010 for Joplin Area Habitat for Humanity to provide additional developer services to the City.

Section 2. That the City Manager of the city of Joplin, Missouri, is hereby authorized to execute said Amendment, or amendment substantially similar in form, for and on behalf of the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____day of _____, 2015, by a vote of _____.

_____
Michael L. Siebert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter Edwards, City Attorney

CITY OF JOPLIN

State of Missouri Community Development Block Grant
Neighborhood Stabilization Program

BETWEEN
THE CITY OF JOPLIN, MISSOURI
AND
JOPLIN AREA HABITAT for HUMANITY

THIS AGREEMENT MADE this 28th day of July, 2010, by and between the City of Joplin, Missouri, hereinafter referred to as the "CITY", and Joplin Area Habitat for Humanity (JAHFH), a nonprofit corporation hereinafter referred to as the "DEVELOPER" and which is located at: 315 S. Blackcat Rd., Joplin, Missouri 64801

WITNESSETH

WHEREAS, the CITY is the recipient of Missouri Community Development Block Grant Neighborhood Stabilization Program Funds (CDBG-NSP) from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the DEVELOPER has been selected by the CITY, and has submitted a proposal for use of CDBG-NSP funds for a CDBG-NSP eligible project authorized under Division B, Title III of the Housing And Economic Recovery Act (HERA) of 2008;

NOW, THEREFORE in consideration of the mutual covenants and obligations herein contained, including the Attachments, and subject to the terms and conditions hereinafter stated, the parties hereto understand and agree as follows:

Section I – Definitions

A. **AGENCY** – is hereby defined as the Planning/Community Development Division, the CDBG Program administering agency of the City of Joplin. For the purpose of this Agreement and all administration of CDBG funds, the AGENCY shall act on behalf of the CITY in the execution and fiscal and programmatic control of this agreement. The term "Approval by the CITY" or like term used in this Agreement shall in no way relieve the DEVELOPER from any duties or responsibilities under the terms of this Agreement, or obligation State or local law or regulation.

B. **DIRECTOR** – is hereby defined as the Planning/Community Development Manager of the CITY.

C. **FEE** – is hereby defined as the amount of money the CITY agrees to pay and the DEVELOPER agrees to accept as payment in full for all the professional, technical and construction services rendered pursuant to this Agreement to complete the WORK as further defined in Section III SCOPE OF WORK, hereof.

D. **WORK** – is hereby defined as all the professional, technical and construction services to be rendered or provided by the DEVELOPER as described hereof.

E. **PROJECT** – is hereby defined as the construction of individual houses for low to moderate income families to support the PROGRAM.

F. **PROGRAM** – is hereby defined as the overall process which includes each PROJECT developed in accordance with this Agreement.

G. **CDBG** – is hereby defined as the Communtiy Development Block Grant Program as described in 24 CFR Part 570, under the authority of 42 U.S.C. 3535 (d) and 12701 - 12839.

Section II – Term

The DEVELOPER expressly agrees to complete all work required by this agreement in accordance with the timetable set forth.

Milestone	*Deadline*
Project Start Date	
Interim Milestones/Deadlines (list below):	
Start construction – Project # 1	Fall 2010
Start construction – Project # 2	Fall 2010
Project Completion Date	TBD

In addition, this project is subject to ongoing compliance requirements of CDBG for five years from the date project completion date; Except, for documents imposing Recapture/Resale restrictions which must be retained for five years after the affordability period terminates [92.508 (c)(2)]. During this compliance period, the DEVELOPER will assure continued compliance with CDBG requirements. Ongoing compliance requirements include monitoring units for principal residency and recapture of funds at time of resale.

Timely completion of the work specified in this agreement is an integral and essential part of performance. The expenditure of CDBG funds is subject to Federal deadlines and could result in the loss of the Federal funds. By the acceptance and execution of this agreement, it is understood and agreed by the DEVELOPER that the PROJECT will be completed as expeditiously as possible and that the DEVELOPER will make every effort to ensure that the project will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this contract and the revocation of CDBG funds.

Since it is mutually agreed that time is of the essence as regards this agreement, the DEVELOPER shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this agreement, in order to ensure that the PROJECT will be completed according to the timetable set forth.

In the event the DEVELOPER is unable to meet the above schedule or complete the above services because of delays resulting from ongoing compliance requirements, Acts of God, untimely review and approval by the CITY and other governmental authorities having jurisdiction over the PROJECT, or other delays that are not caused by the DEVELOPER, the CITY shall grant a reasonable extension of time for completion of the WORK. It shall be the responsibility of the DEVELOPER to notify the CITY in writing whenever a delay is anticipated or experienced, and to inform the CITY of all facts and details related to the delay.

Section III – Scope of Work

The DEVELOPER, in close coordination with the CITY, shall perform all services (the "WORK") necessary to assist in the development of the at least two (2) PROJECTS in full compliance with the terms of this Agreement and as specified in ATTACHMENT C.

It is understood that the DEVELOPER will provide a working budget and realistic timetable for each PROJECT located at 706 E. Pool, Joplin MO and 314 N. Cox, Joplin MO.

The aforementioned Work tasks will be performed in essentially the manner proposed in the Building Specifications (Attachment C). The aforementioned document will be considered to be a part and portion of this agreement for reference.

Section IV – Reimbursement of Expenses

A. Project expenses shall be paid based on vouchers for actual expenses incurred or paid. Requests for payment must be submitted by the DEVELOPER on an invoice containing the organization logo or letterhead, contain an itemized list of items to be reimbursed, total dollar amount requested, along with adequate and proper documentation of all eligible costs incurred in compliance with the actual cost of construction (570.201 & HERA II.H.). All such expenses shall be in conformance to the approved project budget. Budget revision and approval shall be required prior to payment of any expenses not conforming to the approved project budget.

B. The CITY shall pay the DEVELOPER, as maximum compensation for services required pursuant to the Scope of Work thereof,

Ninety-nine Thousand Dollars, Five Hundred, Thirty-one Dollars and Zero Cents ($ 99,531.00) of 2008 CDBG-NSP Funds. These funds will be divided into two project costs at approximately $49,765.50 per address to be used at 706 E. Pool, Joplin MO and 314 N. Cox, Joplin MO.

C. The CITY reserves the right to inspect records and project sites to determine that reimbursement and compensation requests are reasonable. The CITY also reserves the right to hold payment until adequate documentation has been provided and reviewed.

D. The DEVELOPER may submit a final invoice upon completion. Final payment shall be made after the CITY has determined that all services have been rendered, files and documentation delivered, and units have been placed in service in full compliance with CDBG regulations, including submission of a completion report and documentation of eligible occupancy, property standards and long-term use restrictions.

E. The CITY shall have the right to review and audit all records of the DEVELOPER pertaining to any payment by the CITY. Said records shall be maintained for a period of five years after the project completion date. Except, for documents imposing Resale/Recapture restrictions which must be retained for Five years after the affordability period terminates [92.508 (c)(2)].
The CDBG-NSP assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion.[92.254 (a)(4)].

HOME amount per-unit	Minimum period of affordability in years
Under $15,000	5
$15,000 to $40,000	10
Over $40,000	15

Section V – Project Requirements

The DEVELOPER agrees to comply with all requirements of the CDBG Program as stated in 24 CFR Part 570 and HERA, including but not limited to the following.

A. No CDBG project funds will be advanced, and no costs can be incurred, until the City has conducted an **Environmental Review** of the proposed project site as required under 24 CFR Part 58. The environmental review may result in a decision to proceed with, modify or cancel the project.

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of Environmental Review and receipt by the CITY of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part §58.

Further, the DEVELOPER will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction, prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the agreement.

B. The DEVELOPER will ensure that any expenditure of CDBG funds will be in compliance with the requirements at 570.201 & HERA II.H., and acknowledges that CDBG funds will only be provided as reimbursement for eligible costs incurred, including actual expenditures or invoices for work completed.

C. The designated CDBG-NSP assisted units of this PROJECT will meet the affordability requirements as found in 570.484. The DEVELOPER shall collect and maintain Project beneficiary information pertaining to household size, income levels, racial characteristics, and

the presence of female headed households in order to determine low and moderate-income benefit in a cumulative and individual manner. Income documentation shall be in a form consistent with **HOME** requirements as stated in the HUD ***Technical Guide for Determining Income and Allowances Under the HOME Program.***

D. In the selection of occupants for PROJECT units, the DEVELOPER shall comply with all nondiscrimination requirements of 24 CFR 570.912.

E. The DEVELOPER shall assure compliance with HERA II.I. as relates to Property Standards and Housing Quality Standards (HQS), Accessibility Standards under 24 CFR 92.251(a)(3) as applicable, and Lead Based Paint Requirements as found in 24 CFR 570.608 and 24 CFR Part 35.

F. The DEVELOPER shall assure that any NOTES and MORTGAGES recorded for homebuyers shall be in compliance with 24 CFR 92.254 and that the DEVELOPER will monitor each unit for principal residency (under 92.254(a)(3)) and resale/recapture (under 92.254 (a)(4) – (5)).

G. If any project under this agreement involves the construction or rehabilitation of 8 or more CDBG-assisted units, the DEVELOPER shall comply with the provisions of the Davis-Bacon Act (40 U.S.C. 276 a to a - 7) as supplemented by AGENCY of Labor regulations (29 CFR, Part 5), as amended.

H. the DEVELOPER will be monitored by the AGENCY for compliance with the regulations of 24 CFR 570 for the compliance period specified above. The DEVELOPER will provide reports and access to project files as requested by the AGENCY during the PROJECT and for Five (5) years after completion and closeout of the AGREEMENT.

Section VI – Repayment of Loan

A. All CDBG funds are subject to repayment in the event the PROJECT does not meet the PROGRAM requirements as outlined above.

B. It is understood that upon the completion of the PROGRAM, any CDBG funds reserved but not expended under this agreement will revert to the CITY.

C. Any CDBG funds that reduce the price of the property below the fair market value of the property shall be secured by a CDBG note and mortgage as required in 92.254(a)(5)(ii).

Section VII – Reserved

This section was intentional left blank

Section VIII – Procurement Standards

The DEVELOPER shall establish procurement procedures to ensure that materials and services are obtained in a cost-effective manner. When procuring for services to be provided under this agreement, the DEVELOPER shall comply at a minimum with the nonprofit procurement standards at 24 CFR 84.40 – 24 CFR 84.48.

In addition, it is understood that any DEVELOPER that can be considered to be a religious organization shall abide by all portions of 24 CFR 92.257 for Faith-based activities.

Section IX – Conflict of Interest Provisions

The DEVELOPER warrants and covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of its services hereunder. The DEVELOPER further warrants and covenants that in the performance of this contract, no person having such interest shall be employed.

CDBG conflict of interest provisions, as stated in 570.611, apply to the award of any contracts under the agreement and the selection of tenant households to occupy CDBG-NSP assisted units.

No employee, agent, consultant, elected official, or appointed official of the DEVELOPER may obtain a financial interest or unit benefits from a CDBG-NSP assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following:

1. Any interest in any contract, subcontract or agreement with respect to a CDBG-NSP assisted project or program administered by the DEVELOPER, or the proceeds thereunder; or

2. Any unit benefits or financial assistance associated with CDBG-NSP projects or programs administered by the DEVELOPER , including:

    - Occupancy of a rental housing unit in a CDBG-NSP assisted rental project;
    - Purchase or occupancy of a homebuyer unit in a HOME-assisted project;
    - Receipt of CDBG-NSP homebuyer acquisition assistance; or
    - Receipt of CDBG-NSP owner-occupied rehabilitation assistance.

This prohibition does not apply to an employee or agent of the DEVELOPER who occupies a CDBG-NSP assisted unit as the on-site project manager or maintenance worker.

In addition, no member of Congress of the United States, official or employee of HUD, or official or employee of the Participating Jurisdiction shall be permitted to receive or share any financial or unit benefits arising from the CDBG-NSP assisted project or program.

Prior to the implementation of the CDBG-NSP assisted activity, exceptions to these provisions may be requested by the DEVELOPER in writing to the CITY. The DEVELOPER must demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this policy will have no inside information or undue influence regarding the award of contracts or benefits of the CDBG-NSP assistance. The CITY may grant exceptions or forward the requests to HUD as permitted by 24 CFR 570.611(d), 85.36 and 84.42, as they apply.

Section X – City Responsibilities

The CITY shall furnish the DEVELOPER with the following services and information from existing CITY records and CITY files:

A. The CITY shall provide to the DEVELOPER information regarding its requirements for the PROJECT.

B. The CITY will provide the DEVELOPER with any changes in CDBG and/or HERA regulations or program limits that affect the project, including but not limited to income limits and rent limits.

C. The CITY will conduct progress inspections of work completed to protect its interests as lender and regulatory authority for the project, and will provide information to the DEVELOPER regarding any progress inspections or monitoring to assist it in ensuring compliance.

The CITY's review and approval of the WORK will relate only to overall compliance with the general requirements of this Agreement and CDBG regulations, and all CITY regulations and ordinances.

Nothing contained herein shall relieve the DEVELOPER of any responsibility as provided under this Agreement.

Section XI – Equal Employment Opportunity

During the performance of this contract, the DEVELOPER agrees as follows:

A. The DEVELOPER will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin(s). The DEVELOPER will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin(s). 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 DEVELOPER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer of the CITY setting forth the provisions of this nondiscrimination clause.

B. The DEVELOPER will, in all solicitations or advertisements for employees placed by or on behalf of the DEVELOPER, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

C. The DEVELOPER 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 by the CITY's contracting officer, advising the labor union or worker's representative of the DEVELOPER's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The DEVELOPER 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.

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

F. In the event the DEVELOPER is found to be in noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the DEVELOPER may be declared ineligible for further Government 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, regulations, or order of the Secretary of Labor or as otherwise provided by law.

G. The DEVELOPER will include the provisions of paragraphs (a) through (g) of this section 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 DEVELOPER will take such action with respect to any subcontract or purchase order as the AGENCY may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the DEVELOPER becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the AGENCY, the DEVELOPER may request the United States to enter into such litigation to protect the interest of the United States.

Section XII – Labor, Training & Business Opportunity

The DEVELOPER agrees to comply with the federal regulations governing training, employment and business opportunities as follows:

A. It is agreed that the WORK to be performed under this agreement is on a project assisted under a program providing direct Federal financial assistance from the US Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u, as well as any and all applicable amendments thereto. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given low and moderate income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the project area.

B. The DEVELOPER shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 Code of Federal Regulations and all applicable rules and orders of the AGENCY of Housing and Urban Development issued thereunder as well as any and all applicable amendments thereto prior to the execution of this contract as well as during the term of this contract. The DEVELOPER

certifies and agrees that it is under no contractual or other disability, which would prevent it from complying with these requirements as well as any and all applicable amendments thereto.

C. The DEVELOPER will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the CITY, take appropriate action pursuant to the subcontractor upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, in 24 Code of Federal Regulations.

The DEVELOPER will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 code of Federal Regulations and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with these requirements as well as with any and all applicable amendments thereto.

D. Compliance with the provisions of Section 3, the regulations set forth in 24 Code of Federal Regulations and all applicable rules and orders of the AGENCY of Housing and Urban Development issued thereunder prior to the execution of the contract shall be a condition precedent to federal financial assistance being provided to the PROJECT as well as a continuing condition, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the DEVELOPER or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by 24 Code of Federal Regulations as well as with any and all applicable amendments thereto.

Section XIII – Compliance with Federal, State & Local Laws

The DEVELOPER covenants and warrants that it will comply with all applicable laws, ordinances, codes, rules and regulations of the state local and federal governments, and all amendments thereto, including, but not limited to; Title 8 of the Civil Rights Act of 1968 PL.90-284; Executive Order 11063 on Equal Opportunity and Housing Section 3 of the Housing and Urban Development Act of 968; Housing and Community Development Act of 1974, as well as all requirements set forth in 24 CFR 570 of the COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM. The DEVELOPER covenants and warrants that it will indemnify and hold the City forever free and harmless with respect to any and all damages whether directly or indirectly arising out of the provisions and maintenance of this contract.

The DEVELOPER agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

The DEVELOPER further warrants and agrees to include or cause to be included the criteria and requirements of this section in every non-exempt subcontract in excess of $100,000.

The DEVELOPER also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

Section XIV – Suspension & Termination

In accordance with 24 CFR 85.43, suspension or termination may occur if the DEVELOPER materially fails to comply with any term of the award, and that the award may be terminated for convenience in accordance with 24 CFR 85.44.

If, through any cause, the DEVELOPER shall fail to fulfill in timely and proper manner its obligations under this contract, or if the DEVELOPER shall violate any of the covenants, agreements, or stipulations of this contract, the CITY shall thereupon have the right to terminate this contract by giving written notice to the DEVELOPER of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, the DEVELOPER shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder to the date of said termination. Notwithstanding the above, the DEVELOPER shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the contract by the DEVELOPER and the CITY may withhold any payments to the DEVELOPER for the purpose of setoff until such time as the exact amount of damages due the CITY from the DEVELOPER is determined whether by court of competent jurisdiction or otherwise.

Section XV – Termination for Convenience

In accordance with 24 CFR 85.44, awards may be terminated in whole or in part only as follows:

(a) The CITY with the consent of the DEVELOPER in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) The DEVELOPER upon written notification to the CITY, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the CITY determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the CITY may terminate the award in its entirety.

Section XVI – Default-Loss of Grant Funds

If the DEVELOPER fails in any manner to fully perform and carry out any of the terms, covenants, and conditions of the agreement, and more particularly if the DEVELOPER refuses or fails to proceed with the work with such diligence as will insure its completion within the time fixed by the schedule set forth in ATTACHMENT A of this agreement, the DEVELOPER shall be in default and notice in writing shall be given to the DEVELOPER of such default by the AGENCY or an agent of the AGENCY. If the DEVELOPER fails to cure such default within such time as may be required by such notice, the CITY, acting by and through the AGENCY, may at its option terminate and cancel the contract.

In the event of such termination, all grant funds awarded to the DEVELOPER pursuant to this agreement shall be immediately revoked and any approvals related to the PROJECT shall immediately be deemed revoked and canceled. In such event, the DEVELOPER will no longer be entitled to receive any compensation for work undertaken after the date of the termination of this

agreement, as the grant funds will no longer be available for this project.

Such termination shall not effect or terminate any of the rights of the CITY as against the DEVELOPER then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the CITY under the law and the note and mortgage (if in effect), including but not limited to compelling the DEVELOPER to complete the project in accordance with the terms of this agreement, in a court of equity.

The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof.

Section XVII – Reporting Responsibilities

The DEVELOPER agrees to submit any and all quarterly reports required by HUD or the CITY to the AGENCY on the following due dates: October 1, January 1, April 1, and July 1, next following the date of this agreement.

The AGENCY will send the DEVELOPER one reminder notice if the quarterly report has not been received thirty (30) days after the due date. If the DEVELOPER has not submitted a report thirty (30) days after the date on the reminder notice, the CITY will have the option to terminate the contract as described in this agreement. In addition, the DEVELOPER agrees to provide the AGENCY information as required to determine program eligibility, in meeting national objectives, and financial records pertinent to the project. Additional reporting requirements may be created by the AGENCY and effective when submitted to the DEVELOPER in writing.

Section XVIII – Inspection, Monitoring & Access to Records

The CITY reserves the right to inspect, monitors, and observe work and services performed by the DEVELOPER at any and all reasonable times.

The CITY reserves the right to audit the records of the DEVELOPER any time during the performance of this Agreement and for a period of five years after final payment and project closeout is made under this Agreement.

If required, the DEVELOPER will provide the AGENCY with a certified audit of the DEVELOPER's records representing the Fiscal Year during which the PROJECT is implemented, whenever the DEVELOPER expends $500,000 or more in a year, in Federal awards, pursuant to the requirements of OMB Circular A-133.

Access shall be immediately granted to the CITY, HUD, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the DEVELOPER or its contractors which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

Section XIX – General Conditions

A. All notices or other communication which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the

other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

City address --- 602 S. Main Street; Joplin, Missouri 64801

DEVELOPER address --- 315 S. Blackcat Rd., Joplin, Missouri 64801

B. Title and paragraph headings are for convenient reference and are not a part of this Agreement.

C. In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall rule.

D. No waiver or breach of any provision of this Agreement shall constitute a waiver of a subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

E. The parties hereto agree that this Agreement shall be construed and enforced according to the laws of the State of Missouri.

F. Should any provisions, paragraphs, sentences, words or phrases contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Missouri or the City of Joplin, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

G. The DEVELOPER shall comply with the provisions of the Copeland Anti-Kick-Back Act (18 U.S.C. 874) as supplemented in the AGENCY of Labor Regulations (29 CFR Part 3), as amended.

H. The DEVELOPER shall comply with the provisions of sections 103 and 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-330) as supplemented by AGENCY of Labor regulations (29 CFR, Part 5), as amended.

I. The DEVELOPER further warrants and agrees to include or cause to be included the criteria and requirements of paragraphs (G) through (H) of this section in every nonexempt subcontract. The DEVELOPER also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

J. The obligations undertaken by DEVELOPER pursuant to this Agreement shall not be delegated or assigned to any other person or agency unless CITY shall first consent to the performance or assignment of such service or any part thereof by another person or agency.

K. The Agreement shall be binding upon the parties hereto, their heirs, executors, legal representative, successors and assigns.

L. DEVELOPER shall indemnify and save CITY harmless from and against any negligent claims, liabilities, losses and causes of action which may arise out of DEVELOPER 's activities under this Agreement, including all other acts or omissions to act on the part of DEVELOPER ,

including any person acting for or on its behalf, and, from and against any orders, judgments, or decrees which may be entered, and from and against all costs, attorneys fees, expenses and liabilities incurred in the defense of any such claims, or in the investigation thereof.

M. DEVELOPER and its employees and agents shall be deemed to be independent contractors, and not agents or employees of the CITY, and shall not attain any rights or benefits under the civil service or pension ordinances of the CITY, or any rights generally afforded classified or unclassified employee; further they shall not be deemed entitled to compensation benefits as an employee of the CITY.

N. Funding for this Agreement is contingent on the availability of funds and continued authorization for program activities and is subject to amendment or termination due to lack of funds, or authorization, reduction of funds, and/or change in regulations.

O. Contractor represents and agrees that it is enrolled and participating a Federal Work Authorization Program ("FWAP") that ensures that all of its employees or agents have the legal right to work in the United States, as defined in 8 U.S.C.1324a(h)(3) and RSMo § 285.525-285.555, and that it will maintain this compliance for the entire duration of its contract with the City of Joplin. Contractor agrees that it does not knowingly employee any unauthorized alien in connection with the contracted services with the City. Contractor agrees to provide an Affidavit of Compliance stating that they are in enrolled and participating in a FWAP, and that Contractor does not knowingly employee any unauthorized aliens in connection with the contracted services, upon execution of this Agreement. Contractor agrees to hold harmless and indemnify the City for any liability due to Contractor's failure to maintain compliance with FWAP or for violations of the Missouri Unauthorized Alien Workers Act. Upon execution of each contract, an Affidavit (See Attachment B) will have to be signed by the principal of the contracting company.

IN WITNESS WHEREOF,

The City of Joplin and the DEVELOPER have caused their signatures to be hereunto affixed and duly attested.

FOR DEVELOPER

Joplin Area Habitat for Humanity: a Missouri Nonprofit Organization

By: _____ Date: 7-30-10

Scott Clayton
Executive Director

Attest: _____
Barbie Huff
Board Chair

FOR CITY

City of Joplin; a political subdivision of the State of Missouri

By: _____ Date: 7-29-10

Mark Rohr
City Manager

Attest: _____ 7-29-10

Troy Bolander
Planning / Community Development Manager

Attachment A

Project Time Schedule

Milestone	*Deadline*
Project start date	
Start construction – Project # 1	Fall 2010
Start construction – Project # 2	Fall 2010
Project completion date	TBD

Attachment B

STATE OF Missouri)
) ss.
COUNTY OF Jasper)

AFFIDAVIT OF COMPLIANCE
(Missouri Unauthorized Alien Workers Act)

My name is Scott Clayton (Name) and I am the Executive director (Title) of Joplin Habitat (Company Name). I hereby represent, affirm and certify to the City of Joplin that my company does not knowingly employ any person who is an unauthorized alien in connection with contracted services with the City. I further affirm that my company is actively enrolled and participating in a federal work authorization program with respect to all employees working in connection with the contract services provided to the City.

Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 2nd day of August, 200__.

Notary Public

My commission expires:

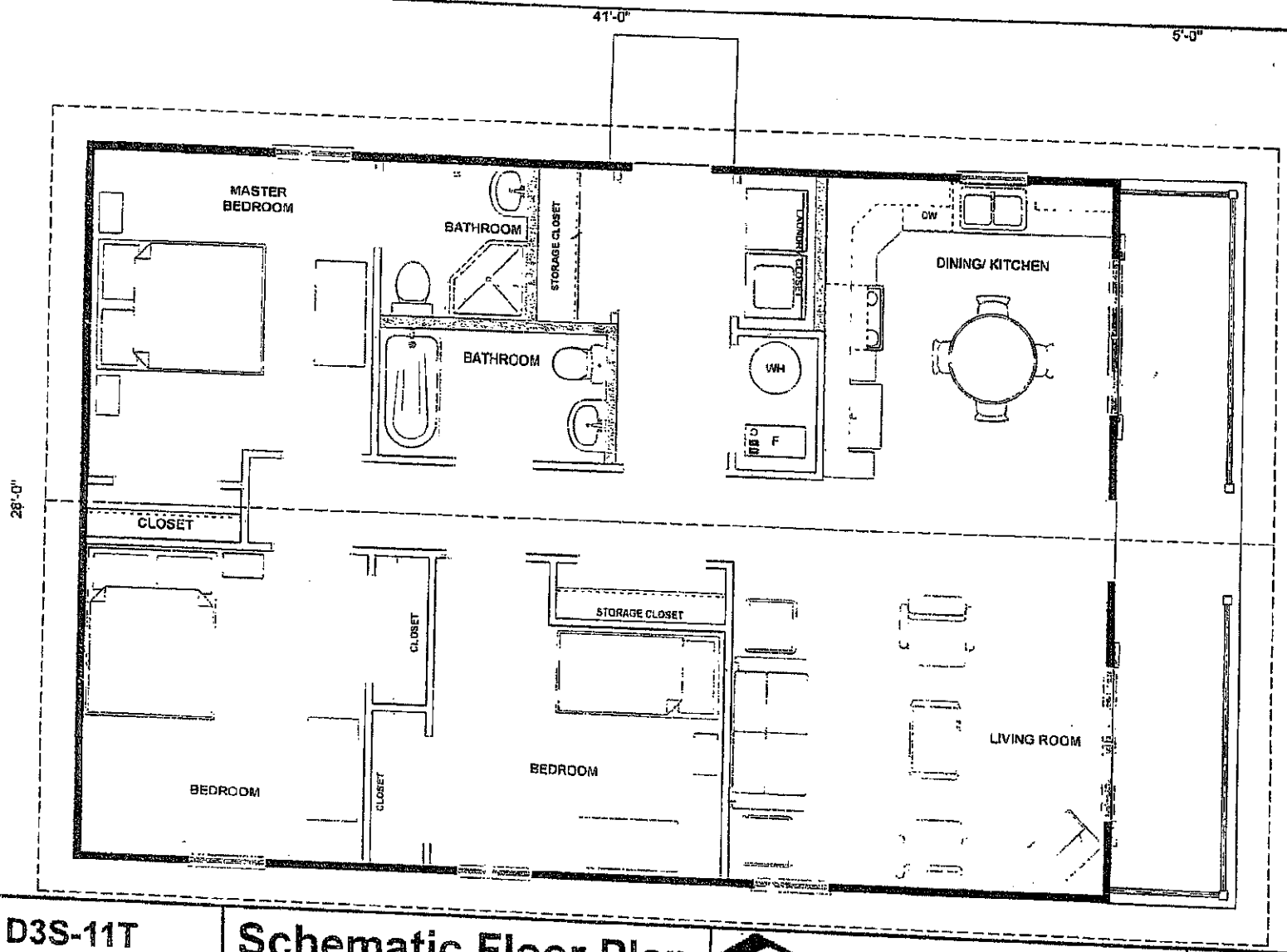
1st February, 2010

GLORIA J. BOTTOM
Notary Public - Notary Seal
State of Missouri
Commissioned for Jasper County
My Commission Expires: February 01, 2013
Commission Number: 09661618

Attachment C

BUILDING SPECIFICATIONS:

706 E. POOL
AND
314 N. COX



environmental initiative

D3S-11T

3-Bedroom Detached House

Schematic Floor Plan

Scale: 1/4" = 1'-0"

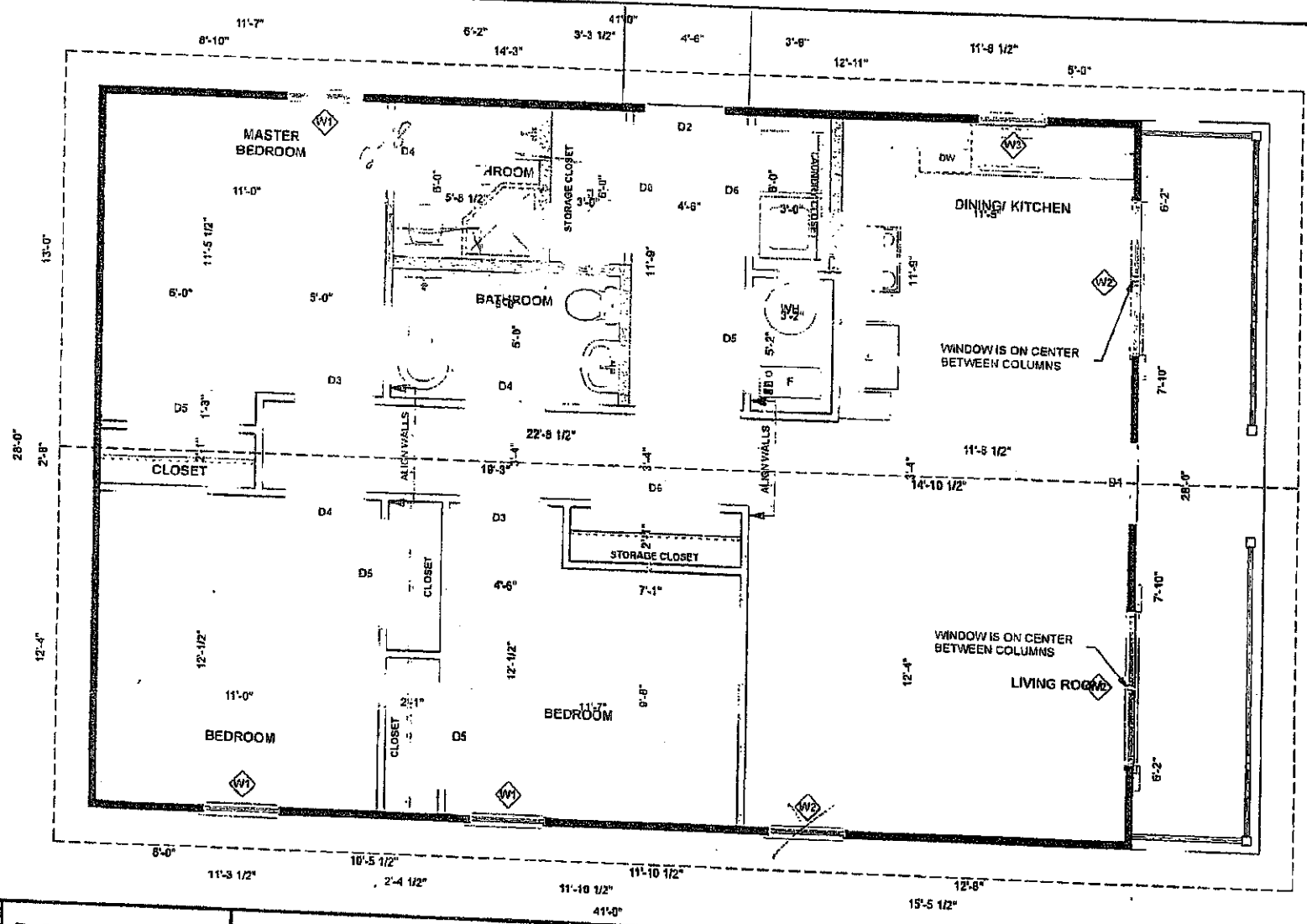
Habitat for Humanity®

Copyright 2005.
Habitat for Humanity International, Inc.
All rights reserved.

Revisions:

Page No.:

A - 1



environmental initiative

D3S-11T

3-Bedroom Detached House

Dimension Floor Plan

Scale: 1/4" = 1'-0"

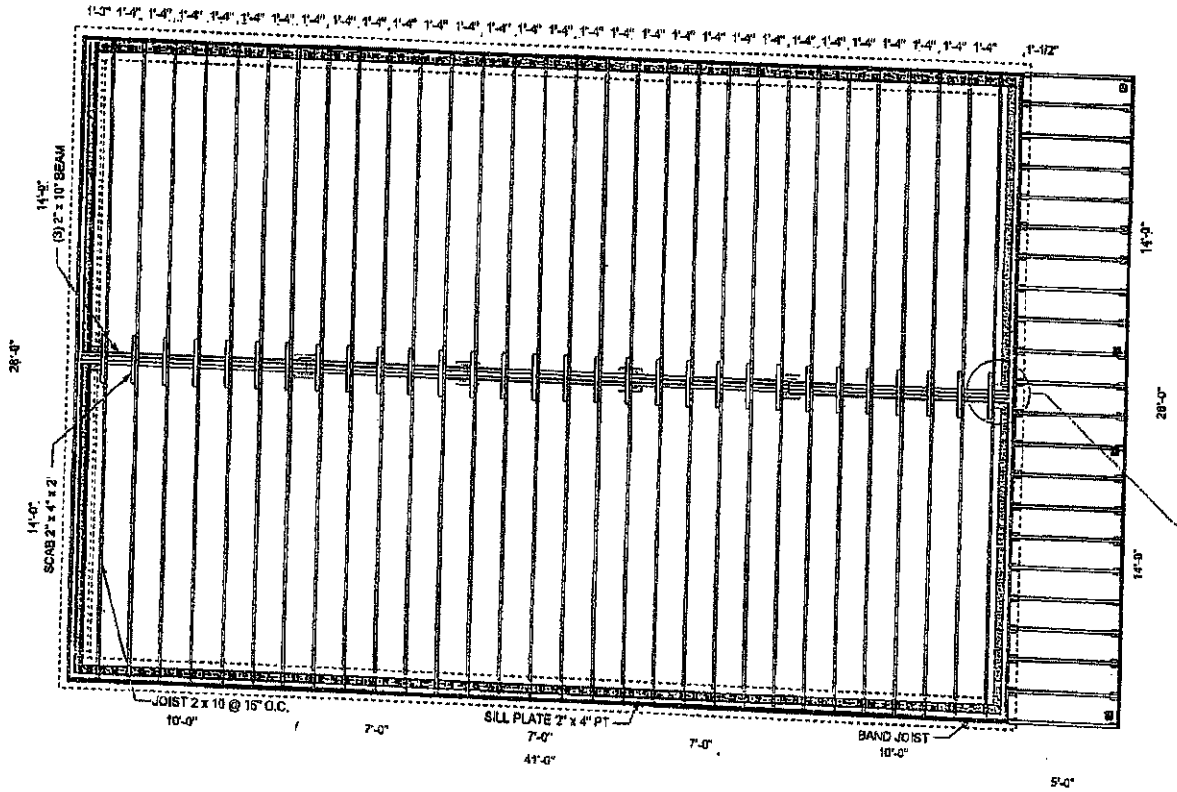
Habitat for Humanity®

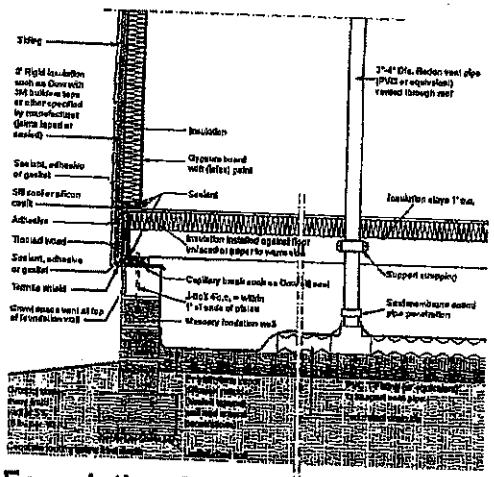
Copyright 2005.
Habitat for Humanity International, Inc.
All rights reserved.

Revisions:

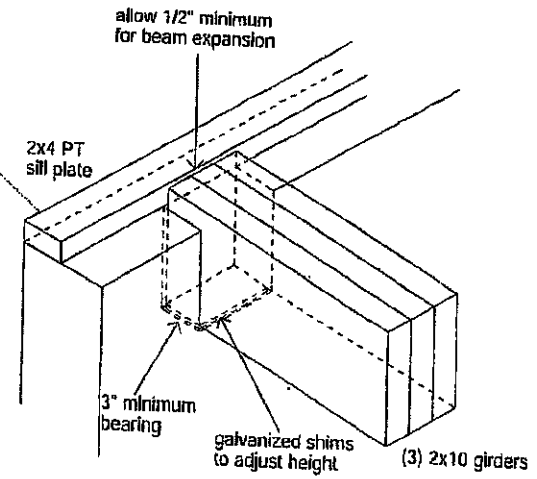
Page No.:

A - 2





Foundation Crawl Detail

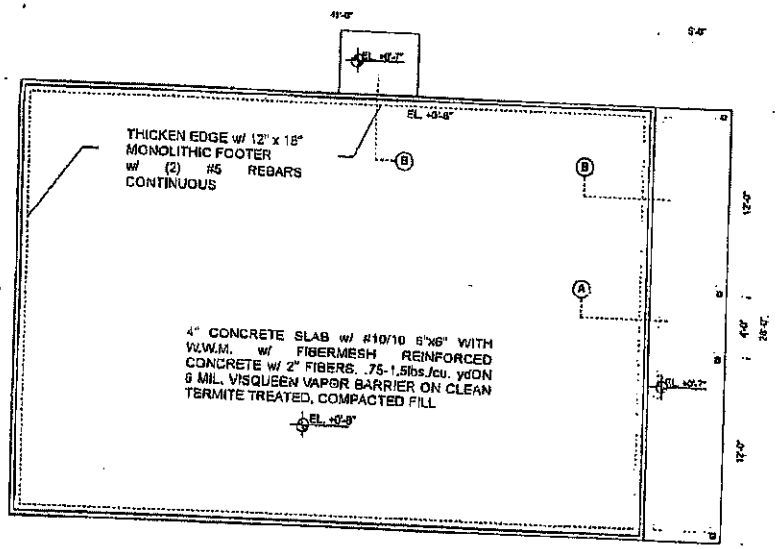


Beam Pocket Detail

environmental initiative

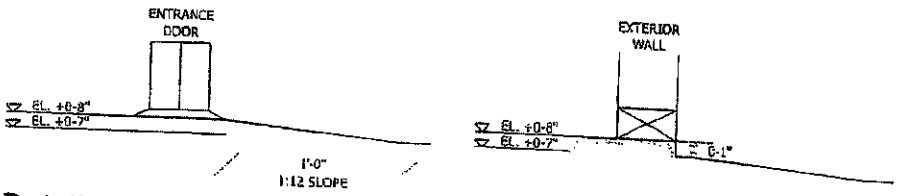
D3S-11T	**Foundation Crawl Plan**	Habitat for Humanity®	Revisions:
3-Bedroom Detached House	Scale: 3/16" = 1'-0"		Page No.: A - 3

Copyright 2005,
Habitat for Humanity International, Inc.
All rights reserved.



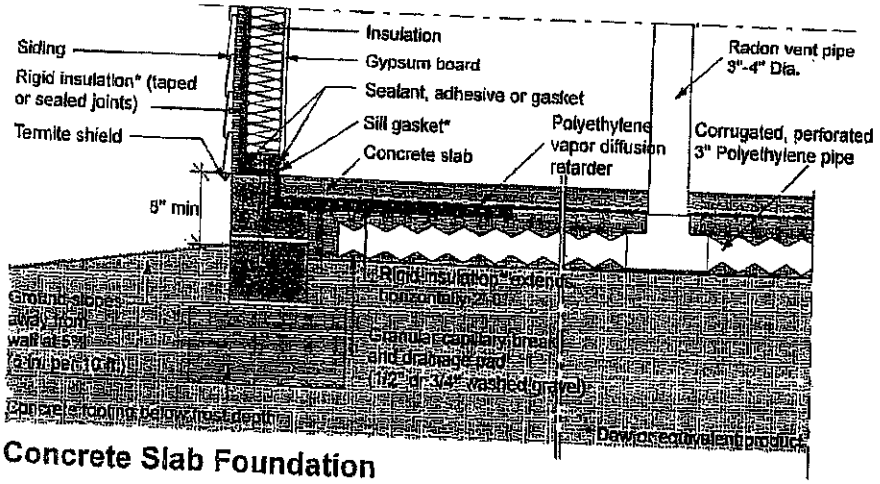
Monolithic Slab Foundation Plan

Scale: 1/8=1'-0"

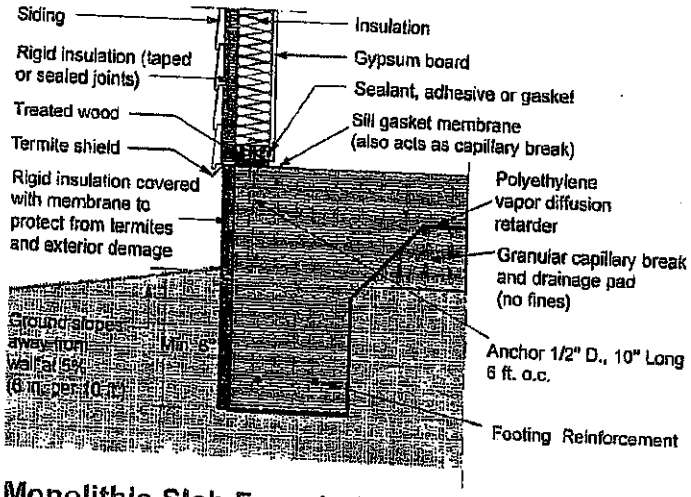


Detail A

Detail B



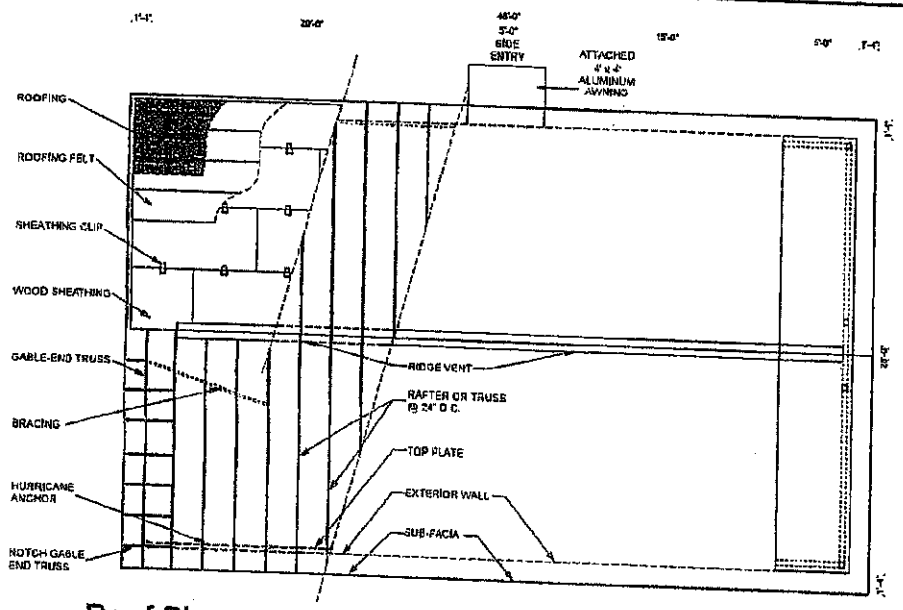
Concrete Slab Foundation



Monolithic Slab Foundation

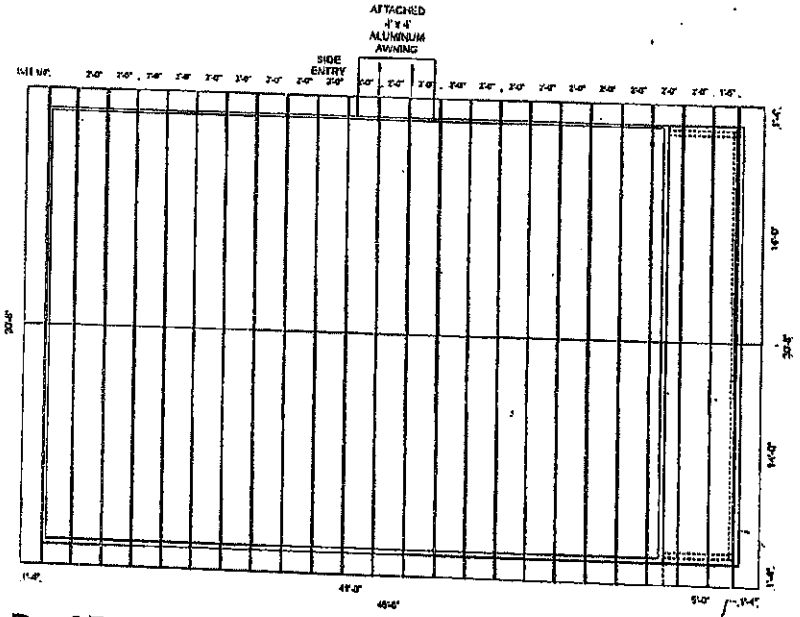
environmental initiative	D3S-11T	Foundation Slab on Grade	Habitat for Humanity™	Revisions: / Page No.: A - 4
	3-Bedroom Detached House	Scale: 3/16" = 1'-0"		

Copyright 2005,
Habitat for Humanity International, Inc.
All rights reserved.



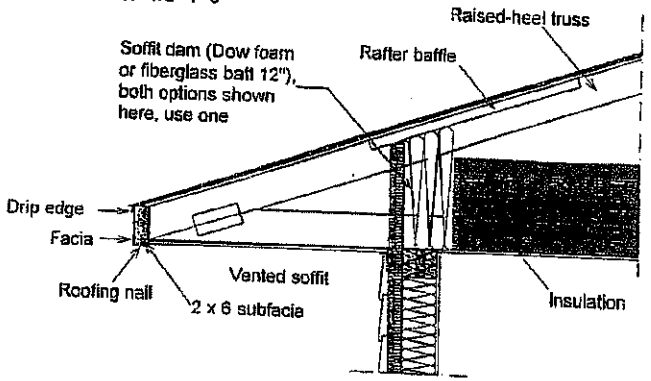
Roof Plan

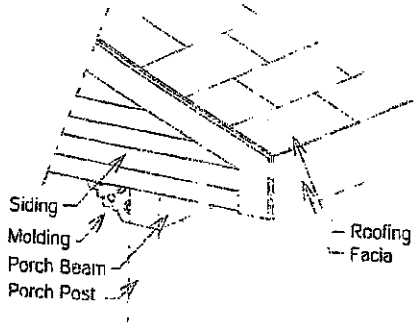
Scale: 1/8=1'-0"

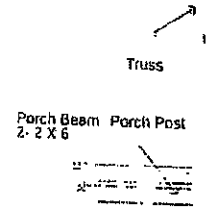


Roof Framing-Truss Layout Plan

Scale: 1/8=1'-0"





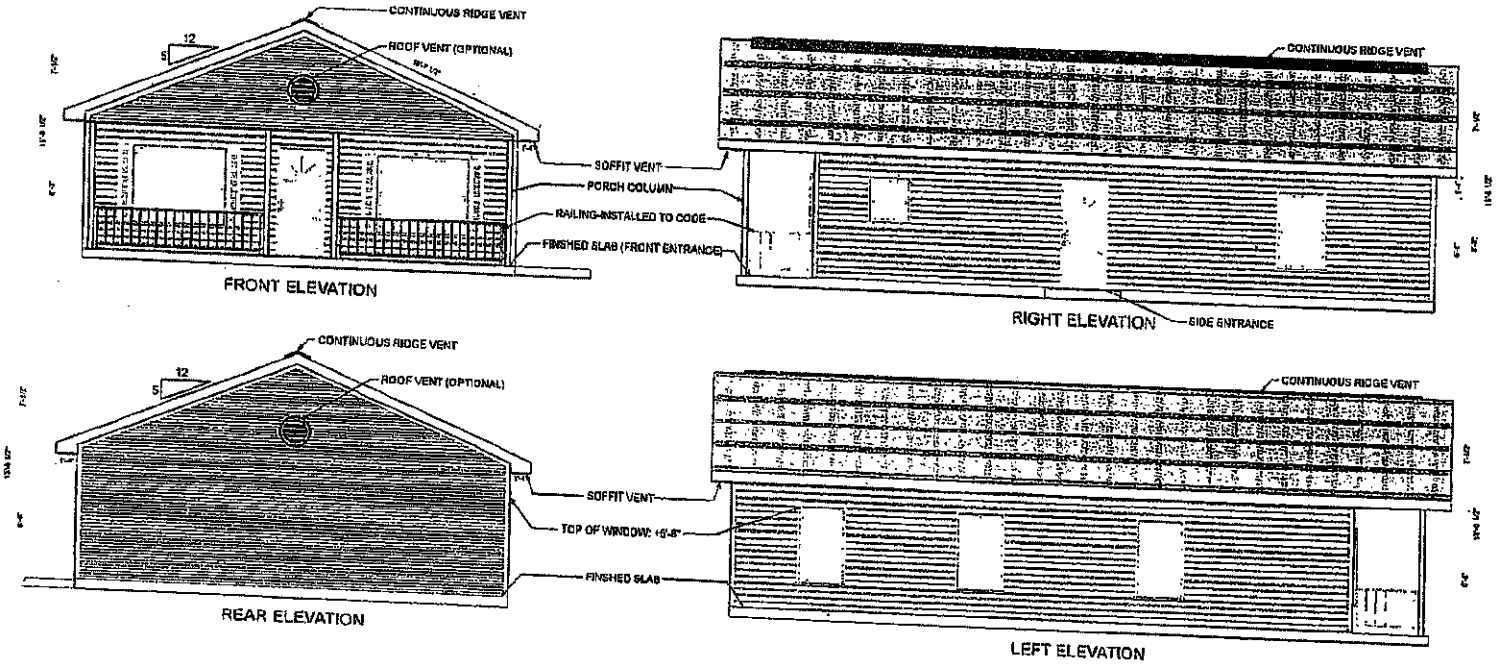


Porch Bean Corner Detail

Scale: 1/2"=1'-0"

environmental initiative	D3S-11T	Roof Framing Plan	Habitat for Humanity™	Revisions: / Page No.: A - 5
	3-Bedroom Detached House	Scale: 1/8" = 1'-0"		

Copyright 2005.
Habitat for Humanity International, Inc.
All rights reserved.



environmental initiative

D3S-11T

3-Bedroom Detached House

Elevations

Scale: 1/8" 1'-0"

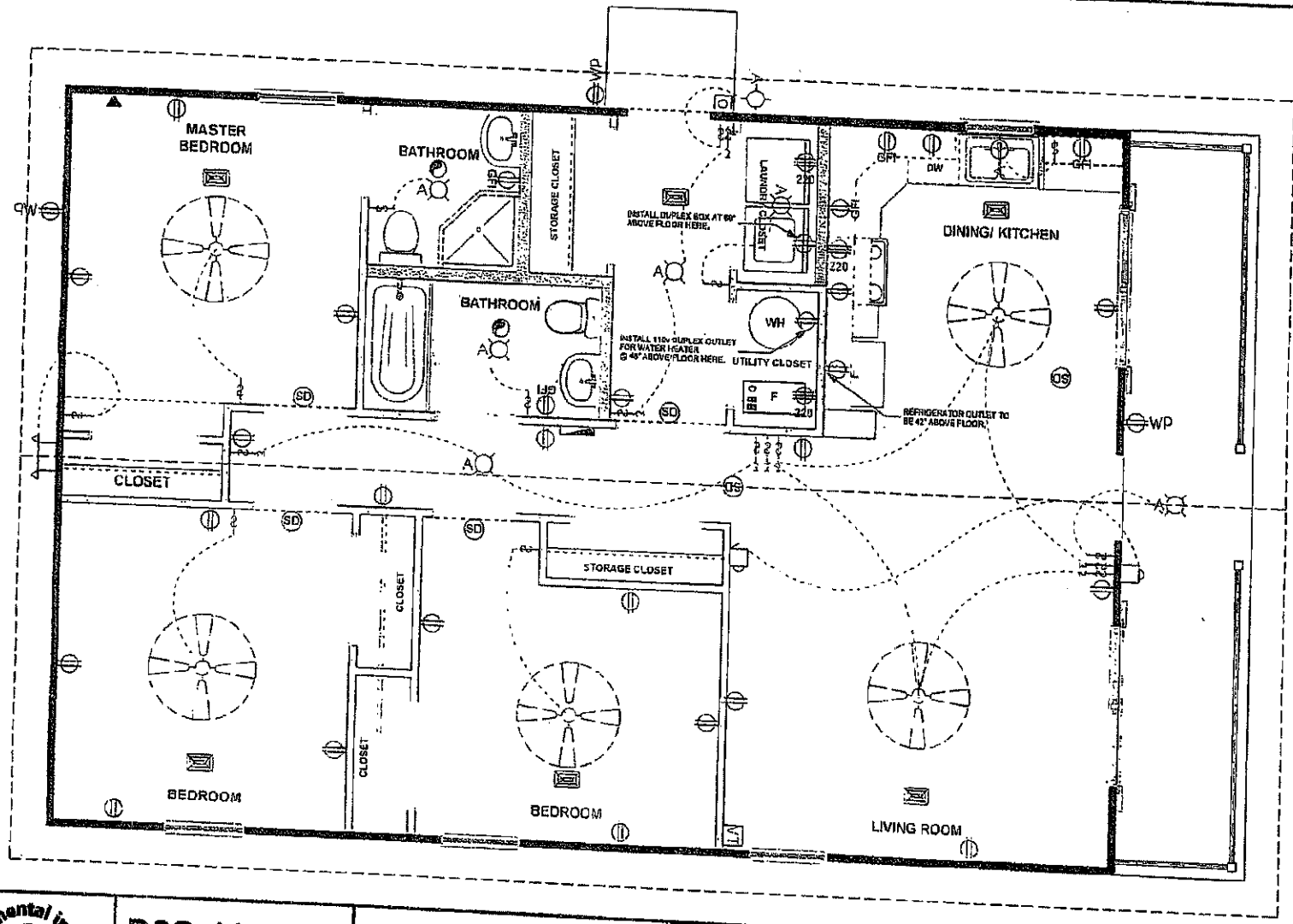
Habitat for Humanity®

Copyright 2005.
Habitat for Humanity International, Inc.
All rights reserved.

Revisions:

Page No.:

A - 6



LEGEND	
	RECEPTACLE DUPLEX OUTLET
GFI	GFI RECEPTACLE OUTLET
220	220-VOLT APPLIANCE OUTLET
WP	DUPLEX OUTLET WEATHERPROOF
	DUPLEX ELECTRIC SWITCH
	3-POLE ELECTRIC SWITCH
A	CEILING MOUNTED LIGHT FIXTURE
A	WALL MOUNTED LIGHT FIXTURE
	FLOURESCENT LIGHT FIXTURE
	CEILING FAN AND LIGHT FIXTURE
SD	SMOKE DETECTOR CEILING MOUNTED
	EXHAUST FAN
T	ELECTRIC THERMOSTAT
	DIFFUSSER
HVAC	HVAC UNIT
WH	ELECTRIC WATER HEATER
	SURFACE MOUNTED PANELBOARD
	DOOR BELL
	DISCONNECT SWITCH
	ELECTRIC METER PANEL
TV	TELEVISION OUTLET
	TELEPHONE OUTLET

environmental initiative

D3S-11T

3-Bedroom Detached House

Electrical Floor Plan

Scale: 1/4" = 1'-0"

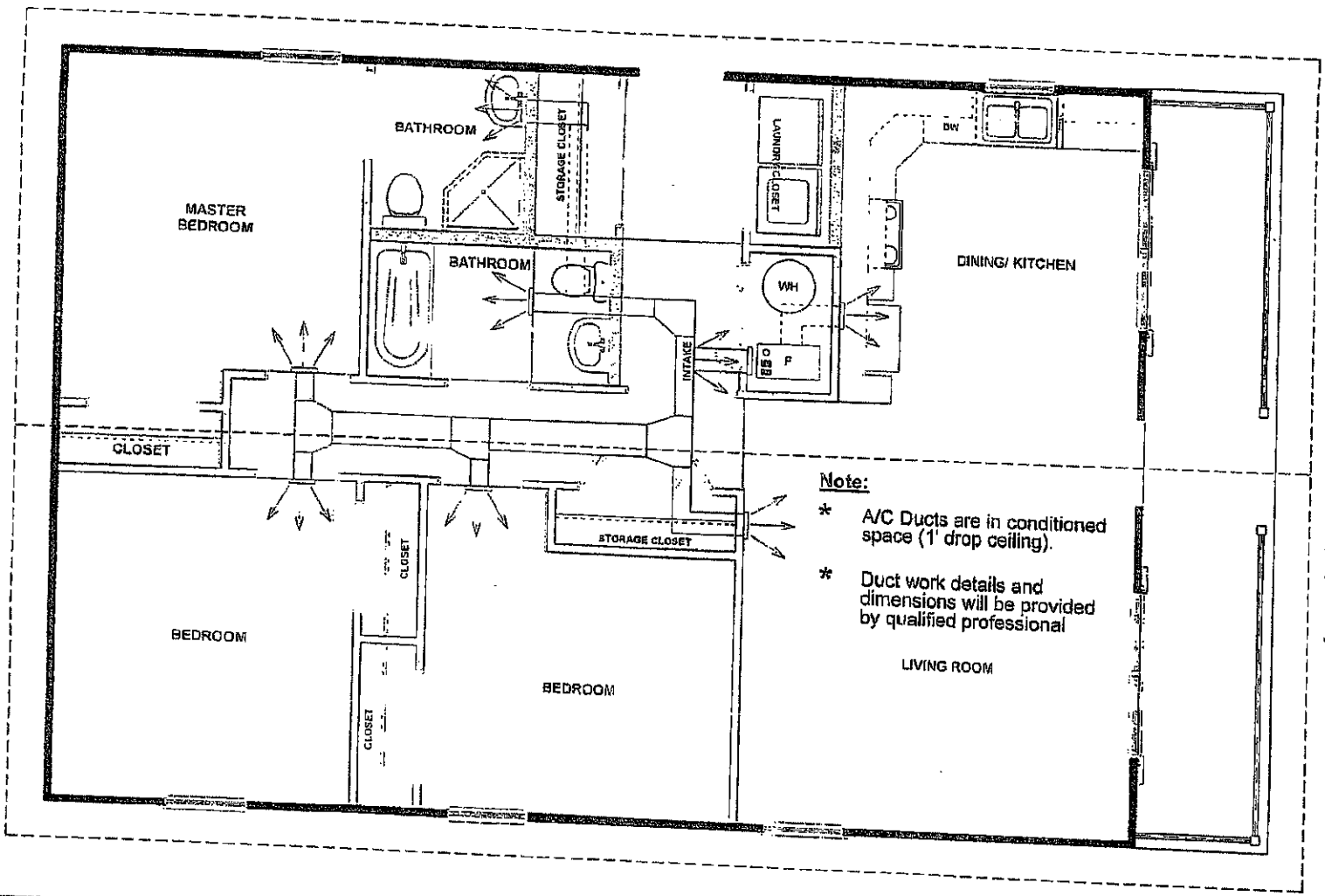
Habitat for Humanity™

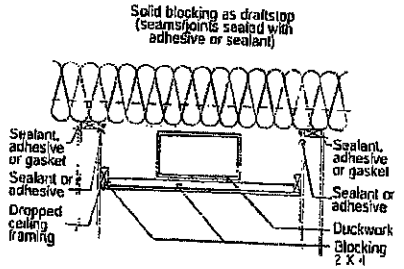
Copyright 2005.
Habitat for Humanity International, Inc.
All rights reserved.

Revisions:

Page No.:

A - 7



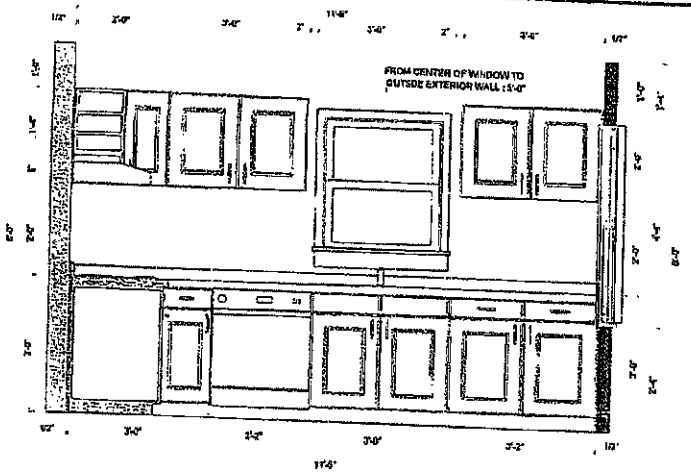


Drop Ceiling Detail
Scale: 1/2" = 1'-0"

environmental initiative

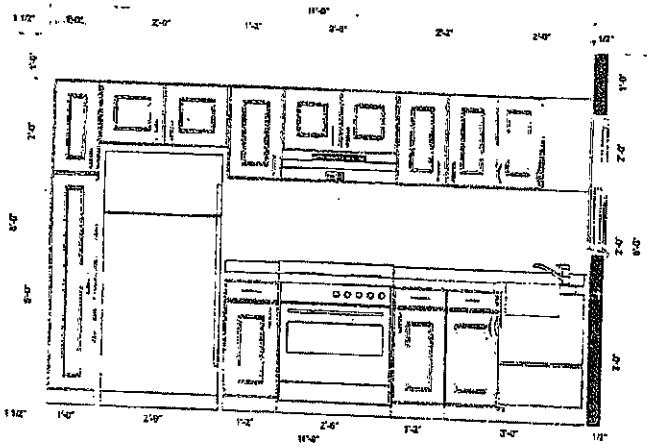
D3S-11T	**Mechanical Floor Plan**	Habitat for Humanity®	Revisions: / Page No.:
3-Bedroom Detached House	Scale: 1/4" = 1'-0"		**A - 8**

Copyright 2005,
Habitat for Humanity International, Inc.
All rights reserved.



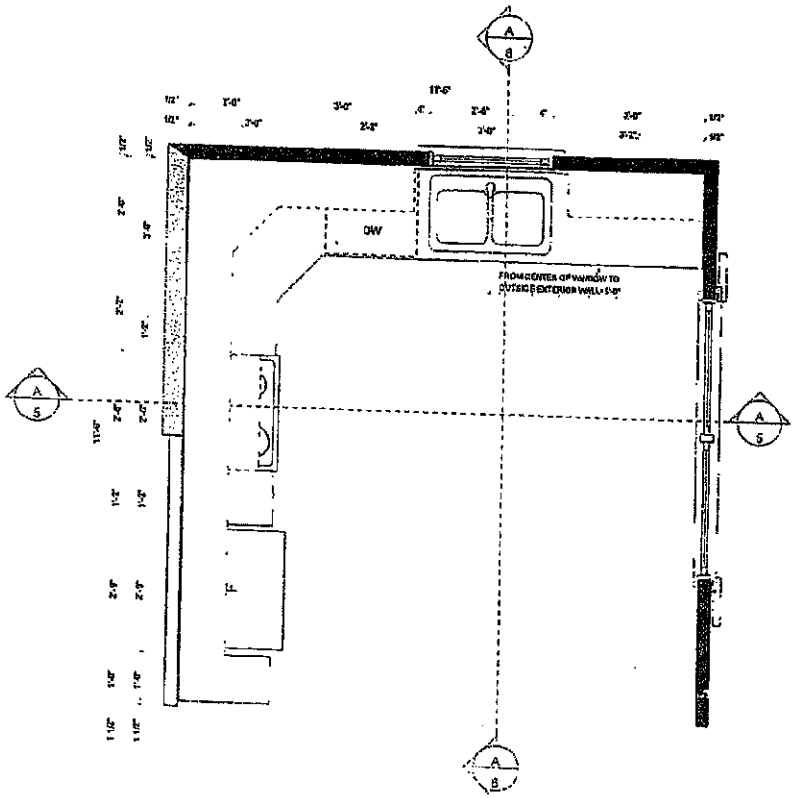
Elevation A-5

Scale: 3/8"=1'-0"



Elevation A-6

Scale: 3/8"=1'-0"



environmental initiative	D3S-11T	Kitchen Plan	Habitat for Humanity®	Revisions: / Page No.:
	3-Bedroom Detached House	Scale: 3/8" 1'-0"		A - 9

Copyright 2005,
Habitat for Humanity International, Inc.
All rights reserved.

AMENDMENT TO CONTRACT

THIS AGREEMENT made the _____ day of _____, 2015, between Joplin Area Habitat for Humanity (JAHFH), a nonprofit corporation which is located at: 5201 N. Main St., Joplin, Missouri 64801 (hereinafter called "DEVELOPER"), and **City of Joplin, Missouri,** a Missouri municipal corporation, whose address is 602 S. Main Joplin, Missouri (hereinafter called "CITY").

WHEREAS, Developer and City entered into a Contract dated June 4, 2010, a copy of which is attached hereto and incorporated herein by reference as Exhibit A;

WHEREAS, Developer and City desire to amend the Contract because the United States Department of Housing and Urban Development ("HUD") has issued updated suggested terms for Neighborhood Stabilization Program ("NSP") agreements between grantees and developers, and both parties agree that such suggested terms should be incorporated into the existing Contract between the parties.

That for and in consideration of the mutual covenants and promises between the parties hereto, the parties do hereby agree as follows, to-wit:

FOR VALUE RECEIVED, Joplin Area Habitat for Humanity and City of Joplin hereby amend their June 4, 2010 Contract in each and all of the following respects:

Section 1-Definitions

A. **AGENCY**-is hereby amended to read: "Planning, Development, and Neighborhood Service Division."

B. **DIRECTOR**-is hereby amended to Planning/Development and Neighborhood Services Director of the CITY.

Section 2-Term

The Milestone and Deadlines section of the agreement shall be amended to read as follows:

Additional Services of the Developer shall start on the _____day of _____, 20___ and end on the _____ day of _____ 20____ with all NSP funds allocated having been expended and houses sold, unless Grantee at its sole discretion approvals a later completion date. (2 year period of performance)

Section III-Scope of Work

The first paragraph of this section shall be deleted and amended to read as follows:
The DEVELOPER shall construct at least two (2) homes in accordance with the budget outlined in Exhibit A: Detailed Budget and Exhibit B: Additional Requirements-Plans. The DEVELOPER will used proceeds from the sale of the three homes deeded by the CITY to construct additional similar new homes as outlined later in this agreement.

Section IV-Reimbursement of Expenses

Paragraph B. shall be amended to read as follows: The CITY shall pay the DEVELOPER, as maximum compensation for services required pursuant to the Scope of Work thereof, One Hundred and Seventy Four Thousand Three Hundred and Ninety Five Dollars $174,080.00) of CDBG NSP funds in its accounts to construct two (2) new homes. (This amount is accurate as of 3/31/15 and the City of Joplin shall deduct from this amount all expenses associated with the NSP Program to maintain subject homes resulting from the program under its ownership and all closing costs to facilitate the transfer of subject properties to the Developer.) Funds will be provided on a reimbursement basis with documentation of expenses from the Developer. The average cost of each home shall not exceed $94,500.00. (Ninety Four Thousand and Five Hundred Dollars and no Cents). The CITY has agreed to donate three (3) homes constructed/rehabilitated under the NSP Program to the developer who will sell the homes to qualified homebuyers and will use proceeds from the sale of the homes to construct additional new homes in accordance with the terms of this agreement.

Section V-Project Requirements

The following items shall be added as Items I.

Eligible properties: Developer will acquire only properties in designated NSP target areas that are eligible under NSP for rehabilitation or redevelopment as affordable residential properties. Properties acquired must be abandoned or foreclosed upon, blighted, vacant lots, or vacant residential structures, as defined in the NSP program guidelines. Residential structures that are not blighted will be rehabilitated. A new home may be reconstructed on a vacant lot acquired or a vacant lot resulting from the acquisition and demolition of a building.

Designated target areas: Developer may carry out this activity only in the following NSP target area census tracts: Eligible block groups for this project include all of census tracts 101, 106, and 110 in the City of Joplin. The boundaries of these areas are from D Street and Main north to Turkey Creek, east to Range Line Road, south to 7th Street, West to St. Charles/Connecticut Avenue, south to 28th Street, west to Vermont Avenue, north to 26th Street, west to Main Street, north to 13th Street, west to Maiden Lane, north to Perkins Street, east to Porter Avenue, south to C Street, east to the point of beginning.

Income Eligibility Requirements: In accordance with section 2301(f)(3)(A) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110-329, the Developer will use all NSP funds to assist individuals and families whose incomes do not exceed 120 percent of area median income, unless otherwise required by the CITY. The Developer is also responsible for ensuring that 25 percent of the total grant is used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties to house individuals and families whose incomes do not exceed 50 percent of area median income, as required by HERA; in some cases, the Developer will use NSP

funding for individuals and families at or below 50 percent of area median income if required by provisions elsewhere in this agreement.

Section X-City Responsibilities

Paragraph D. shall be added which reads as follows:

The CITY agrees to deed to the developer in an "as is condition," at no cost, the following homes constructed/rehabilitated under the NSP program.

a. Home at 816 Grand, Joplin, Missouri-Lot 51, Conklin's First Addition, City of Joplin, Missouri, Jasper County, Missouri
b. Home at 1402 Pennsylvania, Joplin, Missouri-Lot 49,JC Cox Jr. 2nd Addition, City of Joplin, Missouri, Jasper County, Missouri.
c. Home at 1206 Murphy, Joplin, Missouri-Carters 1st Addition, Lot 259, City of Joplin, Missouri, Jasper County, Missouri.

The developer agrees to sell these homes to NSP Program qualified families and will use proceeds from the sale in accordance with NSP rules and regulations to build additional new homes as outlined in this agreement. The developer will insert NSP program deed restrictions and affordability requirements into the deed of all home subsidized under this contract, including the homes deeded under this paragraph to the developer.

Section VII-Reserved-shall be amended to read:

Section VII-Developer Staffing

The names and roles of Developer's key personnel (staff or contractors) executing the project are as follows:

- Chief Executive: Scott Clayton, Executive Director
- NSP Project Manager: Scott Clayton
- Construction Manager: Matt McGee
- Person in charge of marketing: Barbie Huff
- Property manager: Debra Eastburn
- Housing Counselor: Barbie Huff

- Financial staff person responsible for approving submission of NSP payment requests:
- Debra Eastburn

Any changes in the key personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee.

Section XIX-General Conditions Paragraph A-DEVELOPER address shall be amended to read: 5201 North Main, Joplin, Missouri 64801.

Exhibit A: Amended Detailed Budget

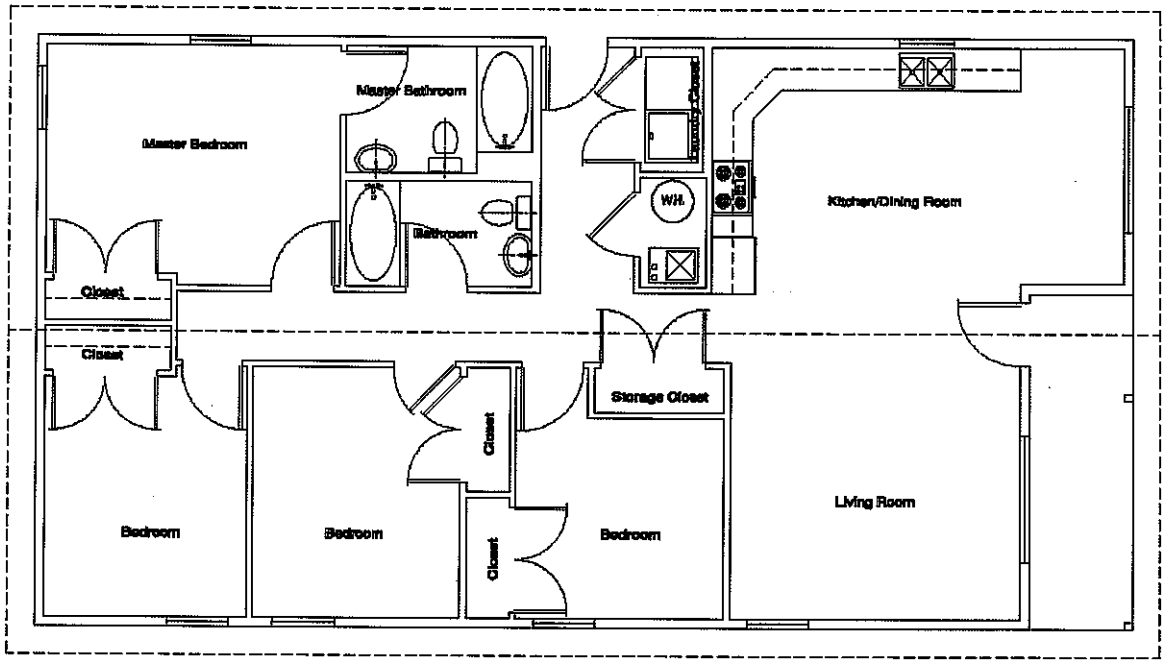
Exhibit A to Single-Family Developer Agreement

Cost sheet for 4 bedroom / 2 bathroom Habitat house

Excavation, backfill, & dirtwork	1,600
Foundation – poured crawl space / walkways	10,300
Framing – ¾ in sub flooring, 2'x6' exterior walls	13,700
Roofing – 15 lb. felt, Architectural Shingles, ridge vent	2,300
Soffit/Fascia – 6" Aluminum Fascia and 12" Aluminum Soffit	2,400
Windows–Single Hung, Energy Star	2,600
2 Exterior Doors – RH 6 Panel Metal, RH half-moon Metal	600
Siding & soffit– Vinyl	3,100
Electrical	5,400
Guttering	550
Interior Doors – 6 Panel Masonite	1,900
Interior Trim – 2 1/2 " colonial base, sheetrock returns w/ sill	800
Light Fixtures – Energy Star	900
HVAC – 2 ton 15 Seer	5,920
Insulation – blown in cellulose, blown in attic, 24" baffles; (R19 in exterior walls, R38 in attic)	2,100
Drywall – ½"	4,300
Plumbing	3,800
Cabinets – box	2,600
Flooring – carpet & linoleum	3,400
Appliances – Dishwasher Energy Star *(refrigerator and oven provided)*	400
Landscaping - seed & straw	600
Side deck	500
8' x 12' shed on concrete pad, shed to be bolted to pad	1,300
tornado shelter	2,600
12' x 18' driveway to alley access	1,000
Property lot	8,500
Survey, Appraisal, & Title fees	1,150
Temporary electric, trash container & disposal	900
Water/Sewer	280
Developer Fees	9,000
Total:	**94,500**

Exhibit B: Amended Additional Requirements

Proposed Floor Plan for New Home Construction by Joplin Area Habitat for Humanity
Plan A



Schematic Floor Plan
SCALE: 1/4" = 1'-0"

Revisions

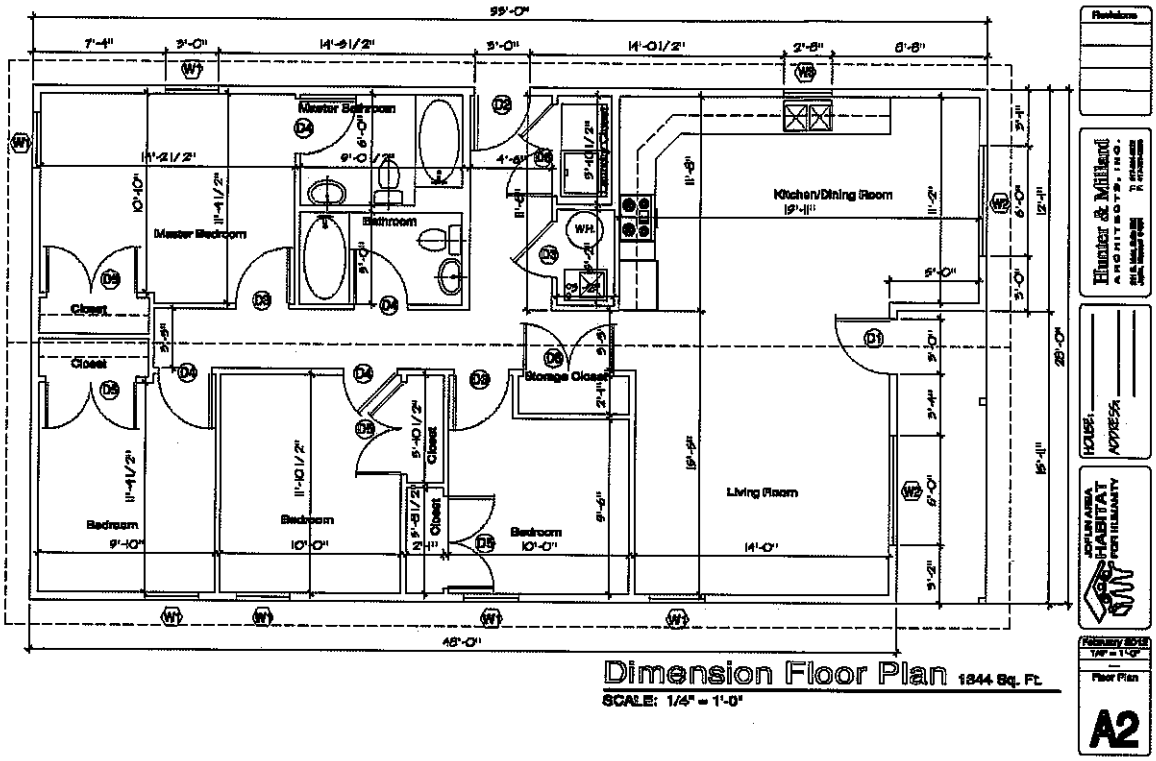
Hunter & Millard ARCHITECTS, INC.

HOUSE:
ADDRESS:

JOPLIN AREA HABITAT FOR HUMANITY

February 2012
1/4" = 1'-0"
Floor Plan
A1

Proposed Plan "B"



Section XVIIII-Additional Requirements

A. Workers' Compensation

The Developer shall procure and maintain, at his own expenses, during the contract time, in accordance with the provisions of the laws of the state of Missouri, Workmen's Compensation insurance, including occupational disease provisions, for all of his employees at the site of the project and in case any work is sublet, the Developer shall require each Subcontractor similarly to provide Workmen's Compensations insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the Developer. In case any class of employees engaged in hazardous work under this Contract at the site at the site of the project is not protected under Workmen's Compensation statute, the Developer shall provide, and shall cause each Subcontractor to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.

B. Insurance & Bonding

1. In General. The Developer, at his sole expense, shall purchase and maintain in full force and effect during the term of this Agreement and any renewals thereafter, policies of insurance as provided in this section naming Grantee as co-insured on all such policies. Developer shall furnish to Grantee binders or policies showing the insurance in force as the time of commencement of the present term.

2. Liability Insurance. Developer shall purchase and maintain in full force general liability insurance in an amount of not less than $1,000,000.00 per occurrence for injuries or death to persons and $100,000.00 per occurrence for damage to property. This insurance shall be written with an acceptable company authorized and licensed to do business in the State of Missouri and shall be written in a form acceptable to Grantee. Said insurance shall be taken out prior to beginning any operation and shall be kept in effect until all operations have been successfully terminated. Copies, or the originals as the case may be, shall be furnished to Grantee and shall be approved by Grantee before Developer begins performance under this agreement. Developer shall designate Grantee as an additional insured on all such policies and such policies shall provide for thirty (30) days written notice of cancellation to the Grantee. Further, Developer shall provide Grantee with additional insured endorsement page from each policy in a form acceptable to Grantee. Grantee reserves the right to approve or reject any deductible amounts in the required coverage, Developer shall provide at least ten (10) days prior notice to the Grantee before any termination or reduction in coverage. Liability insurance may be obtained through a separate policy or through the required policies described in subsection (c) below.

3. Property/Casualty and Builder's Risk Insurance. Prior to taking title to any NSP-assisted property, Developer will obtain a property and casualty or builder's risk insurance policy that insures the property for losses up to the amount of estimated replacement costs, which may not be less than the estimated amount of investment in the property as described

in the Project Budget. If the Project Budget is increased, the amount of coverage must be increased accordingly. If Developer cannot obtain insurance coverage in the total amount of investment in the property after making best efforts, Grantee at its sole discretion may give written approval of a lesser amount of coverage. Developer shall designate Grantee an additional insured on all such policies and such policies shall provide for thirty (30) days written notice of cancellation to Grantee. Further, Developer shall provide Grantee with additional insured endorsement page from each policy in a form acceptable to Grantee. Grantee reserves the right to approve or reject any deductible amounts in the required coverage, Developer shall provide at least ten (10) days prior notice to the Grantee before any termination or reduction in coverage.

Developer alone shall be responsible for investigation and payment of claims not covered by insurance. Grantee shall not in any way be responsible for payment of any claims determined to be Developer's responsibility under this Agreement.

This Agreement may also be terminated for convenience by mutual agreement between the Grantee and the Developer, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety. Such a termination shall only be carried out with the explicit written approval from HUD.

Section XX. Indemnification

a) CITY hereby agrees to hold Developer harmless against and from any and all loss, suits, causes of action, proceedings, costs, damages, liabilities and expense arising from the breach of any of CITY representations, warranties, covenants or agreements herein contained. Such costs and expenses shall include, without limitation, attorneys' fees and costs of litigation arising out of or relating to CITY'S breach.

b) Developer hereby agrees to hold CITY harmless against and from any and all loss, suits, causes of action, proceedings, costs, damages, liabilities and expense arising from the breach of any of Developer's representations, warranties, covenants or agreements herein contained, and from any injury or damage to Developer, or its agents which occur upon, or at the property, during the inspection period. Such costs and expenses shall include, without limitation, attorneys' fees and costs of litigation arising out of or relating to Developer's breach.

Section XXI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Developer agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24; 24 CFR Part 42 – Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD Assisted Programs; and 24 CFR 570.606 – Displacement, relocation acquisition, and replacement of housing. The Developer shall provide appropriate relocation assistance (URA

or section 104(d)) to eligible displaced persons as defined by applicable HUD and/or URA regulations that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for an NSP-assisted project. The Developer also agrees to comply with applicable Grantee or local ordinances, resolutions and policies concerning the displacement of persons.

The Developer will use NSP funds to demolish major structures or convert units from non-residential uses only with the prior written permission of Grantee. Permission for demolition of minor structures such as porches, sheds and garages shall be deemed to have been granted when Grantee approves the plans and specifications (which may also be called work write-ups) for a particular property that Developer is assisting with NSP funds.

Section XXII. TENANT PROTECTION REQUIREMENTS

The Developer agrees to comply with the Recovery Act provisions concerning tenant protections applicable to NSP acquisitions of foreclosed property. The Developer must document its efforts to ensure that the initial successor in interest (ISII) in a foreclosed upon dwelling or residential real property (typically, the ISII in property acquired through foreclosure is the lender or trustee for holders of obligations secured by mortgage liens) has provided bona fide tenants with the notice and other protections outlined in the Recovery Act. The Developer will not use NSP funds to finance the acquisition of property from any ISII that failed to comply with applicable requirements unless the Developer assumes the obligations of such ISII with respect to bona fide tenants. If the Developer elects to assume such obligations, it may only do so if the tenant is still occupying the property and will provide any tenant displaced as a result of the NSP funded acquisition with the assistance outlined in 24 CFR 570.606. If the Developer knows that the ISII did not comply with the NSP tenant protection requirements and vacated the property contrary to the NSP requirements, NSP funds cannot be used to acquire such properties.

Section XXIII. Lead-Based Paint

The Developer agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.487 or 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all NSP-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted. Documentation shall be retained in the files for compliance to the above statement.

Section XXIV. Historic Preservation

The Developer agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

Section XXV. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

Section XXVI. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

Section XXVII. WAIVER

The Grantee's failure to act with respect to a breach by the Developer does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

IN WITNESS WHEREOF,

The DEVELOPER and CITY have caused their signatures to be hereunto affixed and duly attested.

FOR DEVELOPER

Joplin Area Habitat for Humanity: A Missouri Nonprofit Organization

By: _____ Date_____
Scott Clayton
Executive Director

Attest:_____
Board Chair

FOR CITY

City of Joplin; a political subdivision of the State of Missouri

By:_____ Date_____
Troy Bolander
Director Planning, Development, and Neighborhood Services

Attest:

_____
Barbara Hoeglin
City Clerk

Approved as to form:

_____

Peter Edwards
City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 20, 2015

Item: Contract Amendment to a Contract Agreement by and between the City of Joplin and the Joplin Area Habitat for Humanity.

Originating Department: Planning, Development and Neighborhood Services

Attachments: 1) Amendment To Contract
2) Council Bill No. 2015-356

Planning & CD Director: Troy Bolander
Finance Department: Leslie Haase
City Attorney: Peter Edwards
City Manager: Sam Anselm

Recommended Action: Approval of Council Bill No. 2015-356

INTRODUCTION: This agenda item provides for an amendment to an agreement previously executed between the City of Joplin and Joplin Area Habitat for Humanity.

DISCUSSION:
The City wishes to amend this contract to transfer three (3) unsold city owned homes constructed under the HUD Neighborhood Stabilization Program (NSP) to Joplin Area Habitat for Humanity to provide housing for income qualified families. The city owned homes are located at 816 Grand, 1402 Pennsylvania, and 1206 Murphy. After all City of Joplin expenses related to this transfer are completed. The City will provide remaining (NSP) funding of less than $174,080 to Joplin Area Habitat for Humanity to construct (2) two new homes with a square footage of 1,344 for each home, on a reimbursement basis.

RECOMMENDATION:
City Staff recommends approval of Council Bill No. 2015-356.

City of Joplin — City Council Agenda Item

REQUESTED COUNCIL MEETING DATE: APRIL 20, 2015

ITEM: COUNCIL BILL NO. 2015-508
ORIGINATING DEPARTMENT: FINANCE DEPARTMENT

Department Head: Leslie Haase	**Date:**
Parks Director: Chris Cotten	**Date:**
City Attorney: Peter Edwards	**Date:**
City Manager: Sam Anselm	**Date:**

INTRODUCTION:
This Council Bill amends the adopted 2014-2015 Budget of the City of Joplin to add a golf manager position for the remainder of the fiscal year.

DISCUSSION:
In compliance with Charter regulations and accounting principles, the proposed adjustment is required to ensure that department expenditures do not exceed approved budget appropriations.

The Finance Committee has met over the last several months to evaluate the financial position of the Schifferdecker Golf Course and make possible recommendations to help improve the number of rounds at the course. Dr. Groesbeck, Finance Committee chair, reported the findings and recommendations of the golf course evaluation at the April 6, 2015 council meeting. The Committee had two immediate recommendations to help facilitate improvements at the course.

The first recommendation was to increase golf fees. The second recommendation was to hire a golf manager to manage the course and make additional recommendations and improvements to the course. The position starts at $38,093, plus benefits annually. This budget amendment increases wages to add the position with benefits for the remainder of the fiscal year.

This budget amendment increases expenditures by $32,500.00.

RECOMMENDATION:
City Staff recommends this Council Bill be approved on an emergency basis.

COUNCIL BILL NO. 2015-508 **ORDINANCE NO.**

AN ORDINANCE amending the Annual Budget of the City of Joplin for the Fiscal Year 2014-2015 as adopted by Ordinance 2014-177 on October 20, 2014, to adjust appropriations and containing an emergency clause.

WHEREAS, the City of Joplin, Missouri passed Ordinance 2014-177 on October 20, 2014, which estimated revenues and appropriated funds for the fiscal year 2014-2015, and

WHEREAS, the Council of the City of Joplin has accepted the recommendation of the Finance Committee to raise fees at the golf course and add a golf manager position, which requires an additional appropriation.

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

Section 1. That fiscal year 2014-2015 budgeted appropriations as adopted by Ordinance 2014-177 be amended by increasing appropriations by the total amount of Thirty-Two Thousand Five Hundred Dollars and No Cents ($32,500.00) to account number 410-6520-560-1010 for the purpose of adding a golf manager position for the remainder of the fiscal year.

Section 2. That the Director of Finance is hereby directed to make all necessary entries on the City records to show the increase in appropriations.

Section 3. This Ordinance is declared by the City Council to be an emergency within this meaning of Section 2.12 (4), of the Home Rule Charter of the City of Joplin, Missouri, in that said Ordinance deals with setting appropriations for the current fiscal year and as such shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day

of _____, 2015, by a _____vote.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
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: APRIL 20, 2015

ITEM: COUNCIL BILL NO. 2015-509

ORIGINATING DEPARTMENT: FINANCE DEPARTMENT
ATTACHMENT: SAMPLE CONTRACT WITH GUARDIAN; COUNCIL BILL

Finance Director: Leslie Haase	**Date:**
Human Resource Director: Dave Allgood	**Date:**
City Attorney: Peter Edwards	**Date:**
City Manager: Sam Anselm	**Date:**

INTRODUCTION:
This Council Bill approves disability insurance coverage for non-public safety employees.

DISCUSSION:
Through the budget process, the general employee group requested voluntary disability insurance coverage, which was approved by the Council. However, before this request could be implemented, public safety employees added disability insurance through the pension plan to augment disability benefits provided through the pension plan. As a result, public safety employees are now covered by plan provided disability insurance. In order to augment disability benefits provided through LAGERS for non-public safety employees, the City issued a bid for disability insurance through Segal Consulting. Guardian provided the lowest and best bid. After informal discussions with Council, it was determined that this benefit would be added by the City.

The rate quoted is $0.27 per $100 of covered monthly payroll. The provisions of the insurance are as follows:

- 50% benefit to $5,000 monthly benefit maximum
- 90 day elimination period
- Benefit duration-Social Security Normal Retirement Age
- Mental Health/Substance Abuse Limitation-24 months
- Survivor Benefit
- Inclusion of rehabilitation benefit, return to work incentive, and workplace modification benefit

The anticipated annual cost will be approximately $30,000.00 to be paid by the City. The effective date of this benefit will be May 1, 2015.

RECOMMENDATION:
City Staff recommends this Council Bill be approved on an emergency basis.

COUNCIL BILL NO. 2015-509 **ORDINANCE NO.**

AN ORDINANCE approving a Contract by and between the City of Joplin and Guardian to provide disability insurance coverage for non-public safety City employees on behalf of the employer, the City of Joplin; authorizing the City Manager to execute said Contract by and on behalf of the City of Joplin; and containing an emergency clause.

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

Section 1. That the Contract by and between the City of Joplin and Guardian to provide disability insurance coverage for non-public safety City employees on behalf of the employer, the City of Joplin.

Section 2. That the City Manager is hereby authorized and directed, upon recommendation and approval of the City Attorney, to execute said Contract, in substantially similar form, by and on behalf of the City of Joplin, Missouri.

Section 3. This Ordinance is declared by the City Council to be an emergency within this meaning of Section 2.12 (3)(4), of the Home Rule Charter of the City of Joplin, Missouri, in that said Ordinance approves disability coverage for non-public safety employees effective May 1, 2015.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day

of _____, 2015, by a _____ vote.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

(A) SCHEDULE OF INSURANCE AND PREMIUM RATES

This plan's classifications, and the option packages of benefits which are available to covered persons who are members of each classification, are shown below.

Class Description

Class 0001 ALL ELIGIBLE EMPLOYEES

Option Packages Available

Employees may choose from the benefit packages available to members of their class. The option packages are summarized in "Summary of Option Packages" below.

Members of Class 0001 may choose from benefit option packages A.

Summary of Option Packages

The following are summaries of the benefit option packages available. For a complete explanation of the benefits provided by this plan, including all limitations and exclusions, please read the entire plan.

Option A

Long Term Disability Income Insurance in the amount of 60% of an employee's insured earnings, rounded to the nearest dollar, if not already a multiple thereof, to a maximum monthly benefit of $10,000.00.

Option A **Schedule of Benefits**

Employee Long Term Disability Income Insurance

(A1) Own Occupation Period The maximum payment period.

Wording that appears for the Extended Own Occ option.

Available Options:
1 Year of Benefits Any Occ Thereafter
2 Years of Benefits Any Occ Thereafter
3 Years of Benefits Any Occ Thereafter
5 Years of Benefits Any Occ Thereafter
Extended Own Occ (for entire benefit period)
Any Occupation
Immediate ADL (Basic AbilityGuard)
2 Year Own Occ ADL thereafter (IAG)
Specialty Own Occupation
1 Year of Benefits Any Occ Thereafter with OR Definition
2 Years of Benefits Any Occ Thereafter with OR Definition
3 Years of Benefits Any Occ Thereafter with OR Definition
4 Years of Benefits Any Occ Thereafter with OR Definition
5 Years of Benefits Any Occ Thereafter with OR Definition
Extended Own Occ with OR Definition
Any Occupation with OR Definition
Specialty Own Occ with OR Definition

(A2) Elimination Period

For disability due to injury……[180]days
For disability due to sickness ……[180]days

Typically 90 or 180 days

Range is 30 – 720 days

SAMPLE

(A3) Maximum Payment Period See the following table:

Age When Disability Starts	Maximum Payment Period
Under Age 60	To age 65
Age 60	5.00 years
Age 61	4.00 years
Age 62	3.50 years
Age 63	3.00 years
Age 64	2.50 years
Age 65	2.00 years
Age 66	1.75 years
Age 67	1.50 years
Age 68	1.25 years
Age 69 or older	1.00 year

The Benefit Duration Used In This Chart Is:
To Age 65 Standard ADEA: RBD

Other Options:
2 Years to Age 70 Standard ADEA
5 Years to Age 70 Standard ADEA
10 Years to Age 70 Standard ADEA
SSNRA Standard ADEA: RBD
To age 70 Standard ADEA: RBD
65/5/70 Standard ADEA

(A4) Gross Monthly Benefit

Available Percentage Options:
30%, 35%, 40%, 45%, 50%, 55%, 60%, 65%, 66.67%, 70%

60% of the covered person's *insured earnings,* rounded to the nearest $1.000, if not already a multiple thereof, limited to a maximum of 10,000.00.

Note: We integrate the covered person's gross *monthly benefit* with certain other income he or she may receive. Read all of the terms of this *plan* to see what income we integrate with, and how.

(A5) Survivor Benefit

[3 or 6**]** times the last monthly benefit **[**after it is reduced by *disability earnings* the covered person received**]**.

Statement only appears when Net option is chosen.

(A6) Pension Supplement Benefit

Pension Plan Name:
Employer sponsored pension plan
COMFORT PENSION COMPANY
123 EASY AVE
ANAHEIM CA 92001

(A7) Proof of Insurability

Only appears when sold with EOI.

Proof of insurability requirements apply to the long term disability plan. Such requirements may apply to the full benefit amount of just part of it. When proof of insurability requirements apply, it means the covered person must submit to us proof that he or she is insurable, and we must approve the proof in writing before the insurance, or the specified part becomes effective. We require proof as follows:

When the covered person becomes insured under this plan, the amount of his or her first projected *gross monthly benefit* may be in excess of $2,000.00. In this case, the covered person must give us proof that he or she is insurable for the excess amount. The covered person is not entitled to the excess amount unless we approve that proof in writing.

At times, the covered person's projected *gross monthly benefit* may increase due to a change in his

SAMPLE

or her *insured earnings* or class. If such changes in any period of 12 months in a row result in a total increase in the covered person's projected *gross monthly benefit* of more than 15%, the covered person must give us proof that he or she is insurable for any increase in excess of 15%. The covered person is not entitled to the increased benefit unless we approve the proof in writing.

Any level of coverage that requires proof of insurability takes effect on the date we approve that proof in writing. However, the covered person must be *actively-at-work* on a full-time basis on that date. If he or she is not, the new level of coverage will take effect on the date he or she returns to *active work* on a full-time basis. But, the new level of coverage will not apply to a *recurring disability*

(A8) Monthly Revenue Protection Benefit

[$500.00 to $5,000.00]

The Business Income Protection Benefit may be reduced if the key employee's *monthly benefit* is reduced by *disability earnings*. Read all of the terms of this plan to see if the benefit will be reduced and how. This benefit is payable to the *employer*.

(A9) Changes in Insurance Amounts

Any increase or decrease in the amount of insurance on any individual shall become effective on the effective date of a change in the Employee's classification, except that any increase in the amount of insurance on an Employee eligible for benefits under an established benefit period shall become effective, in the case of an Employee not actively at work, on the day on which he returns to active work on a full-time basis (or the day on which his benefit period terminates, whichever is later).

In no event shall the insurance of an Employee who is not actively at work on a full-time basis be increased or decreased prior to the date such Employee returns to active work on a full-time basis.

SAMPLE

Long Term Disability Income Insurance

This insurance replaces part of a covered person's income if he or she becomes *disabled* due to a covered *sickness* or *injury*. What we pay is governed by all the terms of this *plan*.

All terms in italics are defined terms with special meanings. See the definitions section of this *plan*. Other terms with special meanings are defined where they are used.

(B) BENEFIT PROVISIONS

(B1) How Payments Start: To start getting payments from this plan, a covered person must meet all of the conditions listed below.

(a) he or she must: (i) become *disabled* while insured by this *plan*; and (ii) remain *disabled* and insured for this *plan*'s *elimination period*.
(b) he or she must provide proof of loss, as described in this *plan*'s Claim Provisions section.

Wording appears when Zero Day

Benefits accrue as of the first day following the end of the *elimination period*, subject to all *plan* terms.

Wording appears when Partial

A covered person can satisfy the *elimination period* while working, provided he or she is *disabled* as defined by this *plan*.

A covered person may not satisfy this *plan*'s *elimination period* while working.

(B2) Waiver of Premium: We waive a covered person's premiums for this insurance and for short term disability insurance, if included in the plan sponsor's plan of insurance while he or she is entitled to receive a monthly benefit payment from this plan.

(B3) When Payments End: A covered person's benefits from this plan will end on the earliest of the dates shown below:

(a) The date he or she is no longer *disabled.*

(b) The date he or she fails to provide proof of loss as required by this *plan*.

(c) The date he or she earns, or is able to earn, the maximum earnings allowed while *disabled* under this *plan.*

(d) The date he or she is able to perform the major duties of his or her *own occupation* on a full-time basis with *reasonable accommodation.*

Maximum Capacity

(e) After the *own occupation* period, the date he or she is able to perform the major duties of any *gainful work* on a full-time basis with *reasonable accommodation*.

(f) The date he or she has been outside of the United States and/or Canada for more than **[**2 months**]** in a **[**12 month**]** period.

(g) The date he or she dies.

(h) The end of the *maximum payment period.*

(i) The date no further benefits are payable under any provision in this *plan* that limits the *maximum payment period.*

(j) The date he or she is no longer receiving *regular and appropriate care* from a *doctor.*

SAMPLE

(k) The date payments end in accord with a *rehabilitation agreement.*

(l) The date he or she refuses to take part in a *rehabilitation program.*

Statement appears when Mandatory Rehab is chosen.

Benefit Duration

(B4) Maximum Payment Period: The maximum payment period is the longest time that benefits are paid by this plan for a covered person's disability. It is determined by the table shown below.

But, it may be less than that shown due to :(a) the nature of the covered person's *disability*; (b) the date the covered person was first treated for the cause of his or her *disability;* and (c) the length of time the covered person has been insured by this *plan.* See "Disabilities with a Limited Maximum Payment Period" and "Pre-Existing Conditions."

Age When Total Disability Starts	Maximum Payment Period
Under age 60	To age 65
Age 60	5.00 years
Age 61	4.00 years
Age 62	3.50 years
Age 63	3.00 years
Age 64	2.50 years
Age 65	2.00 years
Age 66	1.75 years
Age 67	1.50 years
Age 68	1.25 years
Age 69 or older	1.00 year

The Benefit Duration Used In This Chart Is:
To Age 65 Standard ADEA:RBD

Other Options:
2 Years to Age 70 Standard ADEA
5 Years to Age 70 Standard ADEA
10 Years to Age 70 Standard ADEA
SSNRA Standard ADEA: RBD
To age 70 Standard ADEA: RBD
65/5/70 Standard ADEA

(B5) Presumptive Disability: If a covered person suffers one of the losses listed below, we may pay a guaranteed minimum number of monthly benefit payments. The following terms must be met:

NOTE: Presumptive Disability is **not** a standard benefit.

(a) the loss must be due to an *injury* which occurs while the covered person is insured by this *plan*;

(b) the loss must occur within **[**90 days**]** of the date of the *injury*; and

(c) the covered person must survive this *plan*'s *elimination period*.

For Loss of:	Number of Monthly Benefit Payments
Both Hands	46
Both Feet	46
Entire Sight in Both Eyes	46
Hearing in Both Ears	46
Speech	46
One Hand and One Foot	46
One Hand and Entire Sight in One Eye	46
One Foot and Entire Sight in One Eye	46
One Arm	35
One Leg	35
One Hand	23
One Foot	23
Entire Sight in One Eye	15
Hearing in One Ear	15

Loss of:

(a) a hand or foot means it is completely severed at or above the wrist or ankle.

SAMPLE

(b) an arm or leg means it is completely severed at or above the elbow or knee.

(c) sight, speech or hearing means total and permanent loss thereof.

For covered multiple losses due to the same *injury*, payments will be made for the loss with the greatest number of monthly benefit payments. The amount we pay is determined according to the section, "Calculation of Monthly Benefit". We pay this amount even if the covered person returns to work. If the covered person dies before we've paid the guaranteed number of monthly benefit payments, we pay the balance to the covered person's estate. If the covered person remains *disabled,* as defined by this *plan,* after we've made the guaranteed minimum number of monthly benefit payments, *monthly benefits* may continue subject to all the terms of this *plan*.

(B6) Recurring Disability: Benefits from this *plan* end if a covered person ceases to be *disabled.* But, a later *disability* may be treated as a *recurring disability*, if all of the terms listed below are met:

(a) The covered person must return to *active work* right after his or her benefits end;

(b) The *disability* must recur less than six months after the covered person was last entitled to benefits;

(c) The later *disability* must be due to the same or related cause of the covered person's earlier *disability;*

(d) This *plan* must not end during the covered person's return to *active work;*

(e) The covered person must not become covered under any other similar group income replacement plan during the time he or she returns to *active work;*

(f) During the time the covered person returns to *active work,* he or she must: (i) stay insured by this *plan;* and (ii) premium payments must be made on his or her behalf; and

(g) The covered person's benefits must not have ended because he or she has used up the *maximum payment period.*

If the later *disability* is a *recurring disability,* the covered person will not need to complete a new *elimination period*. The *recurring disability* will be subject to all the terms of the *plan* in effect on the date the earlier *disability* began.

If all of the terms listed above are not met, the later *disability* will be treated as a new period of *disability*. The covered person will be required to complete a new *elimination period*. The new period of *disability* will be subject to all the terms of the *plan* in effect on the date the new period of *disability* occurs.

(B7) Calculation of Monthly Benefit: A covered person's benefit is governed by the terms of the *plan* in effect on the date *disability* occurs. Any changes to this *plan* that take place: (a) while the covered person is *disabled*; or (b) during a period of *active work* that occurs between an initial period of *disability* and a *recurring disability*; will not affect his or her benefit.

We calculate a covered person's *gross monthly benefit* according to the Schedule of Benefits. This plan includes proof of insurability requirements that must be met before: (a) a covered person's *gross monthly benefit*; (b) a portion thereof; or (c) increases in such amount; become effective. The Schedule of Benefits explains these requirements.

From the covered person's *gross monthly benefit*, subtract the amount of any income listed in Other Income Benefits that he or she receives or is entitled to receive. The result is his or her *monthly benefit*.

SAMPLE

From the Total Income Limit shown in the Schedule of Benefits, subtract the amount of any income listed in Other Income Benefits that he or she receives or is entitled to receive. If the resulting amount is less than his or her *gross monthly benefit,* that amount will be his or her *monthly benefit.* If the resulting amount is equal to or more than his or her *gross monthly benefit,* his or her *monthly benefit* is equal to his or her *gross monthly benefit.*

(B8) Redetermination: This *plan* redetermines *insured earnings* for each covered person on the date a change in a covered person's *insured earnings* occurs. Changes to a covered person's *insured earnings* are subject to any proof of insurability requirements of this *plan*. As of this *plan's* redetermination date, we use a covered person's *insured earnings* on record with us to: (a) set rates; (b) project benefit amounts and limits; and (c) calculate premium payable under this *plan.* However, the covered person must be *actively-at-work* on a full-time basis on that date. If he or she is not, we do not do this until the date he or she returns to *active work* on a full-time basis. But, changes in earnings will not apply to a *recurring disability.*

Wording appears when Anniversary is chosen.
Other Options: Immediate
Specific Date(s)

(B9) Other Income Benefits: A covered person may receive, or be entitled to receive, income shown in the list below. We will reduce his or her *gross monthly benefit* by such other income benefits to determine his or her *monthly benefit* from this *plan.*

- Commissions or monies: (1) received; (2) payable but deferred; or (3) paid after *disability* benefits start. This includes: (a) vested and nonvested renewal commissions; (b) bonuses; (c) royalties; (d) profit sharing; and (e) other distributions.
- Disability benefits from any mandated benefit act or law. This includes all temporary disability or state disability benefits required by law.
- Disability benefits from all group plans of: (1) the *plan sponsor;* or (2) the *employer*. This includes payments made by a group life insurance plan due to the covered person's *disability.* This does not include payments made from a group life insurance plan's: (a) accelerated death benefit; or (b) like provision that allows payment of such plan's proceeds due to terminal illness.
- Disability benefits from any other group plan; but, if the other group plan was in force prior to this *plan*, and the other group plan also deducts for disability benefits from any other group plan, we will not deduct these other group disability benefits.

(B9A)

- Disability benefits from any individual policy; but only to the extent that such income plus the amount of the covered person's gross monthly benefit is more than 100% of his or her insured earnings.
- Disability income from any other plan that a covered person is eligible to receive: (1) because he or she is employed by, or associated with: (a) the plan sponsor; or (b) the employer; or (2) because he or she is a member of any: (a) union; (b) fraternal benefit society; (c) association; or (d) other like organization; but only to the extent that such income plus the amount of the covered person's gross monthly benefit is more than 100% of his or her *insured earnings.*

Wording appears when Offset with Association IDI chosen.

This is an Optional provision.

SAMPLE

Wording appears for Offset Salary Continuation.

This is a standard provision.

(B9B)

- Income from a sick leave, salary continuance or Paid Time Off plan**,** but only to the extent that such income plus the amount of the covered person's *gross monthly benefit* is more than 100% of his or her *insured earnings*. This applies whether such plan is sponsored on a formal or informal basis. This includes donated, lump sum and recurrent payments of accrued sick leave benefits. But, if a covered person is working while *disabled*, we will account for such income as described in this *plan*'s "Adjustment of Monthly Benefit for Disability Earnings".

- Benefits as shown below from: (1) the United States Social Security Act; (2) the Railroad Retirement Act; or (3) any other like U.S. or Canadian plan or act.

  (a) All disability benefits for which: (i) the covered person is entitled; and (ii) his or her spouse and children are entitled due to the covered person's *disability;*
  (b) All unreduced retirement benefits for which: (i) the covered person is entitled; and (ii) his or her spouse and children are entitled due to the covered person's entitlement; and
  (c) All reduced retirement benefits paid to: (i) the covered person; and (ii) his or her spouse and children due to the covered person's receipt of such benefits.

We do not reduce the covered person's *gross monthly benefit* by the retirement benefits described in (b) and (c) above, to the extent that the covered person and his or her dependents were entitled to receive such income prior to the start of *disability*. We will reduce the *gross monthly benefit* by marginal increases in such income the covered person and his or her dependents were entitled to receive after *disability* begins.

We will reduce the covered person's *gross monthly benefit* by benefits referred to in (a), (b) and (c) above, net of attorney fees approved by the Social Security Administration.

We will reduce the covered person's *gross monthly benefit* by benefits referred to in (a), (b) and (c) above to which his or her spouse and children are entitled due to the covered person's receipt of, or entitlement for, disability benefits. We do this without regard to: (a) his or her marital status; (b) where he or she lives; (c) where his or her spouse lives; (d) where his or her child lives; or (e) any custody arrangements made on behalf of his or her child.

- Income of the type that is included in a covered person's *insured earning* for purposes of determining his or her *gross monthly benefit* under this *plan*.

- That portion of *retirement plan retirement benefits* which the *employer* funds.

- That portion of *retirement plan disability benefits* which the *employer* funds.

- *Retirement benefits* or *retirement plan disability benefits,* due to the covered person's *disability,* from any *government plan* other than those shown above.

- Disability benefits from any: (1) *no-fault motor vehicle* coverage; (2)

SAMPLE

motor vehicle financial responsibility act; or (3) like law.

- Payment or settlement, with or without admission of liability, from: (1) a Workers' Compensation law; (2) an occupational disease law; or (3) any other act or law of like intent. This includes: (a) the Jones' Act; (b) the Longshoreman's and Harbor Workers' Compensation Act; or (c) any Maritime doctrine of Maintenance, Wages or Cure. If the covered person receives a payment net of attorney fees approved by the Workers' Compensation Board or similar authority, we reduce our benefit by the net payment.

- Disability benefits from any third party when the covered person's *disability* is the result of the negligence or intentional tort liability of that third party.

- Unemployment compensation benefits.

- Payment from the covered person's *employer* as part of a termination or severance agreement

We integrate a covered person's *gross monthly benefit* with income shown above that he or she is entitled to receive without regard to the reason he or she is entitled to receive it.

Our right to reduce a covered person's benefit by such income shall not be negated by a transfer of claim liability to a third party. Payment by such third party by law, settlement, judgment, waiver or otherwise shall not negate our right.

(B10) Other Income Not Subject to Deduction: We will not reduce a covered person's *gross monthly benefit* by any income he or she receives or is entitled to receive from the list below.

- Deferred compensation arrangements such as 401(k), 403(b) or 457 plans;
- Profit sharing plans;
- Thrift plans;
- Tax sheltered annuities;
- Stock ownership plans;
- Individual Retirement Accounts (IRA), unless income received from this source was rolled over from a *retirement plan* while the covered person was *disabled* under this *plan*;
- Individual disability income plans;
- Credit disability insurance;
- Non qualified plans of deferred compensation;
- Pension plans for partners;
- Retirement plans of another employer not affiliated with this *plan*;
- Military pension and disability plans;
- A Guardian Critical Illness benefit.

Will **not** appear when Offset with Association IDI chosen

(B11) Lump Sum Payments of Other Income: Income with which we integrate may be paid in a lump sum. In this case, we take the equivalent monthly rate stated in the award into account when we determine a covered person's *monthly benefit*.

SAMPLE

If no monthly rate is given, we pro-rate the lump sum over the lesser of: (a) 60 months; or (b) the expected remaining number of months for which the covered person would be entitled to benefits from this *plan*, based on the proof of loss submitted to us.

If no monthly rate is given, we pro-rate the lump sum according to its nature and purpose.

(B12) Cost of Living Freeze: A covered person may receive a cost of living increase in other income with which we integrate. In this case, we do not further reduce his or her *monthly benefit* by the amount of such increase.

(B13) Application for Other Income: A covered person must apply for other income benefits to which he or she may be entitled. If these benefits are denied, the covered person must appeal until: (a) all possible appeals have been made; or (b) we notify him or her that no further appeals are required.

If we feel the covered person is entitled to receive such income benefits, we will estimate the amount due to him or her and his or her spouse and children. We will take this estimated amount into account when we determine the covered person's *monthly benefit.* But, we will not take this estimated amount into account if he or she signs our reimbursement agreement. In this agreement the covered person promises: (a) to apply for any benefits for which he or she may be eligible; (b) to appeal any denial of such benefits until all possible appeals have been made; and (c) to repay any amount we overpaid due to an award of such benefits.

If we do reduce the covered person's *gross monthly benefit* by an estimated amount, we will adjust his or her *monthly benefit* when we receive written proof: (a) of the amount awarded; or (b) that the other income benefits have been denied; and no further appeals are possible. If we underpaid the covered person, we pay the full amount of the underpayment in a lump sum.

Wording not included if zero-day

We will assist the covered person in applying for other income benefits.

(B14) Adjustment of Monthly Benefit for Disability Earnings: This *plan* will not pay benefits if a covered person works during the *elimination period*. We adjust the *monthly benefit* for *disability earnings* as follows.

Work Incentive

(B14A)

For each of the first **[**12 or 24 **]** months of payments, following the date the covered person first has *disability earnings*, add his or her *gross monthly benefit* and his or her *disability earnings*.

(a) If the sum is not more than 100% of the covered person's indexed *insured earnings,* we do not reduce his or her *monthly benefit.*

(b) If the sum is more than 100% of the covered person's indexed *insured earnings,* we reduce his or her *monthly benefit* by the amount over 100% of his or her indexed *insured earnings.*

Partial Offset Method

(B14B)

For each month thereafter, we pay the greater of the amount calculated under Method 1 or Method 2.

Method 1: Direct 50%

(a)If the covered person's *disability earnings* are less than 20% of his or her indexed *insured earnings,* we do not reduce his or her *monthly benefit.*

(b)If the covered person's *disability earnings* are 20% or more of his or her indexed *insured earnings,* we reduce his or her *monthly benefit* by 50% of his or her *disability earnings.*

SAMPLE

Method 2: ← Proportionate Loss

(a) Subtract the covered person's *disability earnings* from his or her indexed *insured earnings*.

(b) Divide the result in (a) above by the covered person's indexed *insured earnings*.

(c) Multiply the result in (b) above by the covered person's *monthly benefit*. This is the amount we pay.

If a covered person's *disability earnings* fluctuate widely from month to month, we may adjust his or her *monthly benefit* using an average *disability earnings* amount. The average *disability earnings* amount will be computed using the covered person's most current month's *disability earnings* and the prior two months *disability earnings*.

(B15) Maximum Allowable Disability Earnings: This *plan* limits the amount of income a covered person may earn, or may be able to earn, and still be considered *disabled*.

If the covered person's *disability earnings* are more than the limit shown below**,** payments from this *plan* will end. Payments from this *plan* will also end if he or she is able to earn more than the limit shown below:

(a) During the *elimination period* and the *own occupation* period, the limit is 80% of the covered person's indexed *insured earnings*.

(b) After this *plan* has paid benefits for 24 months in a row, the limit is **[**60% or 80%**]** of the covered person's indexed *insured earnings.* ← Earnings Cap

(B16) Indexing: We apply an indexing factor to a covered person's *insured earnings* on the date he or she has received 12 consecutive monthly payments and each anniversary thereafter. This factor increases the amount of income the covered person may earn and still be considered *disabled.* This adjustment does not increase his or her *gross monthly benefit, monthly benefit,* or any other benefit under this *plan.*

To make the first adjustment, we multiply the covered person's *insured earnings* by the indexing factor for that year. To make adjustments in each later year, we multiply the amount of his or her last indexed *insured earnings* by the indexing factor for the current year.

The indexing factor is the lesser of: (a) 10%; or (b) one-half of the *CPI-W* from the prior December.

(B17) Minimum Payment: The minimum monthly payment for *disability* under this *plan* is [$100.00]. ←

Additional Options:
$50.00
Lesser of 10% or $100
Greater of 10% or $50
Greater of 10% or $100
Greater of 15% or $100

SAMPLE

Mental/Nervous, Alcohol & Drug and Special Limitations

(C) Limitations and Exclusions

(C1) Disabilities with a Limited Maximum Payment Period: We limit the maximum payment period, if the covered person is disabled due to: (a) a mental illness; (b) drug or alcohol abuse; or (c) a specific condition listed below. However, if the covered person has a coexistent condition, not subject to the limitations in this section, which is disabling in and of itself, we will not limit benefits as described below.

Specific conditions appear when the **Special Limitations** option is chosen

The *maximum payment period* for all periods of *disability* due to: (a) a *mental illness*; (b) drug or alcohol abuse; or (c) a specific condition listed below; is **[**12 or 24 months**]**. This is a combined maximum for all such conditions and all periods of *disability*.

The specific conditions subject to a limited *maximum payment period* include the following:

- Musculoskeletal and connective tissue disorders including, but not limited to:
- Sprains or strains of joints and muscles
- Soft tissue conditions
- Repetitive motion syndromes or injuries
- Fibromyalgia
- Chronic fatigue conditions including, but not limited to:
    - Chronic fatigue syndrome
    - Chronic fatigue immunodeficiency syndrome
    - Epstein-barr syndrome
- Chemical and environmental sensitivities
- Headache
- Chronic pain, Myofascial pain
- Gastro-esophageal reflux disorder
- Irritable bowel syndrome
- Vestibular dysfunction, vertigo, dizziness

This limitation will not apply to disabilities caused or contributed to by the following conditions:

- Arthritis
- Ruptured intervertebral discs
- Spinal fractures
- Osteopathies
- Spinal tumors, malignancy or vascular malformations
- Radiculopathies, documented by EMG
- Spondylolisthesis, Grade II or higher
- Myelopathies

SAMPLE

- Demyelinating diseases
- Traumatic spinal cord necrosis

No benefits will be paid for *disability* due to a *mental illness* or drug or alcohol abuse if the covered person is not receiving treatment for the cause of the *disability* from a provider, or in a facility that is: (a) licensed by the state to provide treatment for such condition; and (b) accredited or approved by the Joint Commission on the Accreditation of Health Care Facilities or Medicare.

If payments under this *plan* would end due to the limits in this section, we may extend such payments, as shown below. But, the covered person must meet all of the following conditions: (a) he or she must be *disabled* due to a condition named above; (b) he or she must be an inpatient in a qualified institution because of his or her *disability;* and (c) he or she must have been treated as an inpatient for at least 14 days in a row. In such case, we extend payments until the earliest of: (i) 90 days from the date of his or her discharge; (ii) the end of this *plan's maximum payment period;* or (iii) the date his or her *disability* ends.

The term "qualified institution" means a legally operated hospital or other public or private facility licensed to provide inpatient medical care and treatment for the cause of the covered person's *disability.*

(C2) Pre-existing Conditions: A pre-existing condition is an *injury* or *sickness,* whether diagnosed or misdiagnosed, and any symptoms thereof, for which, in the look back period, a covered person:

(a) receives advice or treatment from a *doctor;*

(b) undergoes diagnostic procedures other than routine screening in the absence of symptoms or suspicion of disease process by a *doctor* ;

(c) is prescribed or takes prescription drugs; or

(d) receives other medical care or treatment, including consultation with a *doctor.*

Wording is for the 3/12 option. Other available options are:
12/12
6/24

The "look back period" is the **[**three**]** months before the latest of: (a) the effective date of the covered person's insurance under this *plan;* (b) the effective date of a change that increases the benefits payable by this *plan;* and (c) the effective date of a change in the covered person's benefit election that increases the benefit payable by this *plan.*

No benefits are payable for *disability*: (a) caused by; (b) contributed to by; or (c) resulting from; a pre-existing condition; unless the *disability* starts after the covered person completes at least one full day of *active work* after the date he or she is insured under this *plan* for **[**12**]** months in a row.

A covered person's *disability*: (a) caused by; (b) contributed to by; or (c) resulting from; a pre-existing condition may begin after: (a) a change which provides for an increase in the benefits payable by this *plan;* or (b) a change in his or her benefit election which increases the benefit payable by this *plan.* In this case, the covered person's benefit will be limited to the amount that would have been payable had the change not taken place. But, this limit does not apply if the covered person's *disability* starts after he or she completes at least one full day of *active work* after the change has been in force for **[**12**]** months in a row.

We do not cover any *disability* that starts before the covered person's insurance under this *plan.*

(C3) Prior Coverage Credit: If this *plan* replaces a similar income replacement plan the *plan sponsor* had with another insurer, the pre-existing condition provision may not apply to a covered person. This *plan* must start right after the old plan

Continuity of Coverage

SAMPLE

ends.

The pre-existing condition provision will be waived for any covered person who: (a) is *actively working* on the effective date of this *plan*; and (b) fulfilled the requirements of any pre-existing condition provision of the old plan.

If the covered person: (a) was covered under the old plan when it ended; (b) enrolls for insurance under this *plan* on or before this *plan*'s effective date; and (c) is *actively working* on the effective date of this *plan*; but (d) has not fulfilled the requirements of any pre-existing condition provision of the old plan; we credit any time used to meet the old plan's pre-existing condition provision toward meeting this *plan's* pre-existing condition provision.

But, we limit a covered person's *maximum monthly benefit* under this *plan* if: (a) it is more than the maximum monthly benefit for which he or she was insured under the old plan; (b) he or she becomes *disabled* due to a pre-existing condition; and (c) this *plan* pays benefits for such *disability* because we credit time as explained above. In this case, we limit the *maximum monthly benefit* to the amount the covered person would have been entitled to under the old plan.

We deduct all payments made by the old plan under an extension provision.

(C4) Exclusions: This *plan* does not pay benefits for *disability* caused by, or related to:

(a) declared or undeclared war, act of war, or armed aggression;

(b) service in the armed forces, National Guard, or military reserves of any state or country;

(c) a covered person taking part in a riot or civil disorder;

(d) a covered person's commission of, or attempt to commit a felony, for which he or she has been convicted;

(e) the covered person's voluntary use of any poison, chemical, prescription or non-prescription drug or controlled substance unless: (a) it was prescribed for him or her by a *doctor*; and (b) it was used as prescribed. In the case of a non-prescription drug, we do not pay for any loss resulting from or contributed to by the covered person's use in a manner inconsistent with package instructions. A controlled substance is anything called a controlled substance in Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended from time to time;

(f) intentional self-inflicted injuries;

We do not pay any benefits for any period of *disability:*

(1) during which the covered person is confined to a facility as a result of his or her conviction of a crime;

(2) during which the covered person is receiving medical treatment or care outside the United States or Canada unless expressly authorized by us;

(3) which starts before the covered person is insured by this *plan;* or

(4) during which the covered person's loss of earnings is not solely due to his or her *disability.*

SAMPLE

(D) Services

(D1) Social Security Assistance: This *plan* requires all *disabled* covered persons to apply for Social Security benefits. (See the "Application for Other Income" section of this *plan*.) If we believe a covered person to be eligible for such benefits, we may offer to assist him or her in applying for them. Receiving Social Security benefits will protect a covered person's earnings record for retirement and enable him or her to qualify for Medicare coverage after 24 months.

Services we can provide include:

(a) Help in completing the covered person's application for such benefits, and any related forms;

(b) Assistance finding suitable legal counsel; and

(c) Copies of medical and vocational data needed to file the covered person's claim.

We may also provide these and other services if a covered person's benefits are under review for possible termination by the Social Security Administration.

The covered person must apply for all income benefits for which he or she may be eligible, whether or not he or she uses our help. Using our help does not cancel the covered person's duties shown in the "Application for Other Income" section of this *plan.*

(D2) Rehabilitation and Case Management: We will review the covered person's *disability* to see if certain services are likely to help him or her return to *gainful work.* If needed, we may ask for more medical or vocational information.

When our review is complete, we may offer the covered person a *rehabilitation program.*

Statement appears when Mandatory Rehab is chosen.

We have the right to suspend or end his or her *monthly benefit* if he or she does not accept it.

The *rehabilitation program* will start when a written *rehabilitation agreement* is signed by: (1) the covered person; (2) us; and (3) the covered person's *employer,* if needed. The program may include, but is not limited to:

(a) vocational assessment of the covered person's work potential;

(b) coordination and transition planning with an employer for the covered person's return to work;

(c) consulting with the covered person's *doctor* on his or her return to work and need for accommodations;

(d) training in job seeking skills and resume preparation;

(e) retraining; and

(f) assistance with family care expenses a covered person incurs in order to participate in a *rehabilitation program*. (See the "Dependent Care Expenses" section of this *plan*.)

We have the right to determine which services are appropriate.

If the covered person accepts the *rehabilitation agreement,* we will pay an enhanced benefit. The enhanced benefit will be 110% of the *monthly benefit* that would otherwise be paid. This enhanced benefit will be payable as of the first *monthly benefit* after the *rehabilitation program* starts.

SAMPLE

We stop paying the enhanced benefit on the earliest of:

(a) The date the covered person's benefits from this *plan* end;

(b) The date the covered person violates the terms of the *rehabilitation agreement*;

(c) The date the covered person ends the *rehabilitation program*; and

(d) The date the *rehabilitation agreement* ends.

If the covered person ends a *rehabilitation program* without our consent, he or she must repay any enhanced benefits paid.

(D3) Dependent Care Expenses: While a covered person is participating in a *rehabilitation program*, we will pay a dependent care expense benefit, when all of the following conditions are met:

(a) the covered person incurs expense to provide care for a qualified dependent;
(b) the care is provided by a licensed provider other than a family member.

A qualified dependent is: (a) dependent upon the covered person for main support and maintenance; and (b) under the age of fourteen and a covered person's: (i) biological child; (ii) lawfully adopted child; (iii) stepchild; or (iv) any other child who is living with him or her in a regular parent-child relationship; or (c) a family member age 14 or over who is physically or mentally incapable of caring for him or herself.

The dependent care expense benefit will be the lesser of: (a) $350 per month per qualified dependent; not to exceed $1,000 per month for all qualified dependents combined; and (b) the actual monthly day care expense incurred by the covered person.

We will stop paying the dependent care expense benefit on the earlier of the date the covered person is no longer: (a) incurring dependent care expenses for a qualified dependent; (b) participating in a *rehabilitation program*; or (c) entitled to receive a *monthly benefit* from this *plan*.

(D4) Worksite Modification Benefit: In order to accommodate a covered person's *disability*, an employer may incur a cost to modify to his or her worksite. We may reimburse the employer, up to $2,500 for the cost of the worksite modification. We make this payment if we agree that the modification will enable the covered person to: (a) return to work; or (b) remain at work.

(D5) Early Intervention Services: This *plan* includes Early Intervention services as part of our disability management program. The intent of these services is to: (a) assist *disabled* persons in reaching better outcomes; and (b) support the *employer*'s absence management goals by promoting stay-at work and return-to work agendas where possible.

The key to success of an early intervention program is prompt notification of work absences which have the potential to exceed this *plan's elimination period.* With prompt notification, we are able to more effectively manage the potential claim.

When a covered person is *disabled* from one of the conditions listed below, a long term disability claim form should be completed as soon as possible following the date of *disability*. To facilitate an immediate intervention, the form should be submitted to us within one week of the date the covered person's *disability* begins.

- Chronic fatigue conditions, including Epstein-barr syndrome
- *Mental illness*
- Repetitive motion syndromes or injuries
- Fibromyalgia

SAMPLE

- Back pain/strain
- Neck pain/strain
- Chronic pain
- Diabetes
- Cardiovascular conditions

Upon receipt of the completed claim form, we will determine whether the claim is appropriate for Early Intervention services. The covered person will be notified of our decision. Examples of services, which we may provide, at our discretion, include, but are not limited to: (a) job accommodation; (b) ergonomic adjustments to workstations; (c) proactive case management consultations with a *disabled* covered person's *doctor* or other providers of medical care.

(E) Supplemental Benefits

(E1) Cost of Living Benefit: We apply a cost of living adjustment to a covered person's monthly benefit each year, if the terms below are met. This allows a covered person's monthly benefit to change with inflation. The cost of living benefit supplements this plan's monthly benefit after it is adjusted for disability earnings.

A covered person is eligible for a cost of living benefit when he or she is:

(a) entitled to receive a *monthly benefit* from this *plan*; and

(b) not able to perform two or more *activities of daily living,* on a routine basis, without help; or

(c) *cognitively impaired* and in need of verbal cueing to protect himself or herself or others.

Section of wording appears when COLA with ADL benefit chosen

We stop paying the cost of living benefit on the earlier of the date the covered person is no longer: (a) entitled to receive a *monthly benefit* from this *plan*; (b) unable to perform two or more *activities of daily living* on a routine basis, without help; or (c) *cognitively impaired* and in need of verbal cueing to protect himself or herself or others.

This benefit begins on the **[**July 1**]** that follows or coincides with the date the covered person is entitled to receive **[**48**]** monthly payments in a row from this *plan*.

Wording appears for 48 month delayed option.

This benefit begins on the **[**July 1**]** that follows or coincides with the date that the covered person has been *disabled* for **[**12**]** months in a row.

Wording appears for 12 month option.

It ends when the maximum number of cost of living adjustments has been made.

The maximum number of cost of living adjustments is **[**5 or 10**]**.

If unlimited adjustments this wording will not appear.

When we make a cost of living adjustment, we add a cost of living benefit to the covered person's *monthly benefit* after it is adjusted for *disability earnings.* How we do this is shown below.

(a) Take the covered person's *monthly benefit* for the month before he or she is first entitled to a cost of living adjustment; and adjust it for *disability earnings.*

(b) Multiply the amount in (a) by the current cost of living factor.

(c) Add the result in (b) to the *monthly benefit,* after it is adjusted for *disability earnings* that is currently payable.

SAMPLE

The cost of living factor is **[**3% or ½ CPI 6%**]**.

The cost of living adjustments may cause the covered person's benefit to be more than the maximum *monthly benefit.*

If the CPI-W drops, then the cost of living adjustment reflects the drop. But, the covered person's *monthly benefit* after it is adjusted for *disability earnings* will not be less than what it would have been in absence of this benefit.

This is an Optional benefit.

Wording reflects the Net & Survivor Lump Sum options.

Other available options are Gross & Lump Sum Estate.

(E2) The Survivor Benefit: We may pay a survivor benefit if a covered person dies after he or she: (a) had been *disabled* for at least six months in a row; and (b) was entitled to receive at least one full *monthly benefit*. When we receive proof of the covered person's death, we pay his or her eligible survivor a lump sum benefit.

We pay a benefit equal to **[**3 or 6**]** times the amount of the covered person's last *gross monthly benefit* after it is reduced by *disability earnings.* But, we first apply such benefit to reduce any overpayment he or she may owe us.

If the covered person has no eligible survivor, no survivor benefit is paid.

The covered person's eligible survivor is his or her spouse, if living.

If the covered person's spouse is not living, his or her eligible survivor is his or her: (a) unmarried child under age **[**20**]**; and (b) unmarried child under age **[**26**]** who is enrolled as a full-time student at an accredited school. If there is more than one such child when the covered person dies, this benefit will be paid to each child in equal shares.

Automatically included on AG09 contracts when Survivor Benefit is chosen.

(E3) Accelerated Survivor Benefit: If a covered person has a terminal illness, we may accelerate payment of this *plan's* survivor benefit.

For purposes of the accelerated survivor benefit, a terminal illness means a medical condition that is expected to result in the covered person's death within 12 months.

To receive an accelerated survivor benefit, the covered person must: (a) be entitled to receive a *monthly benefit* from this *plan*; (b) request this benefit in writing; and (c) provide written proof of terminal illness from a *doctor.* However, we will not pay an accelerated survivor benefit if there are less than 12 months remaining in the *maximum benefit period*.

If the covered person elects to receive an accelerated survivor benefit, no survivor benefit is payable upon his or her death.

(E4) Critical Care FMLA Benefit: A covered person may go on a family medical leave of absence to provide full-time care for a dependent. If so, he or she may be eligible for this benefit.

To start getting this benefit, the covered person must meet all of the conditions shown below:

(a) He or she must have been employed by the *employer* from whom he or she is requesting the leave for at least: (i) 12 months prior to the date the leave is to start; and (ii) 1250 hours of service during the prior 12 month period;

(b) He or she must be insured by this *plan* at the start of his or her leave;

(c) He or she must provide proof that the *employer* has approved his or her leave within the Federal Family and Medical Leave Act of 1993 guidelines;

(d) His or her leave must extend for at least 30 days;

(e) He or she must not be working on a full-time or part-time basis during his or her leave; and

(f) The purpose of his or her leave must be to permit him or her to provide full-

SAMPLE

time care for a dependent who suffers from a *sickness* or *injury.*

Subject to all the terms of this *plan,* we pay $500.00 per month while the covered person is on leave.

If the covered person's leave is for part of a month, we compute his or her payment as 1/30th of the benefit to which he or she would be entitled for the full month times the number of days he or she is on leave. Payment will not be made for more than 30 days in any month. This benefit is paid monthly, in arrears.

We stop paying this benefit on the earliest of the dates shown below:

(a) The date the covered person goes back to work on a full-time or part-time basis;

(b) The date the covered person becomes *disabled;*

(c) The date the covered person's employment with his or her *employer* ends;

(d) The date this *plan* ends;

(e) The date this *plan* is amended to end insurance for the covered person's class;

(f) The date the covered person's *employer* approved family medical leave ends; and

(g) The end of the maximum payment period for this benefit.

The lifetime maximum payment period for this benefit is 12 weeks.

This is an Optional benefit.

(E5) Pension Supplement Benefit: A covered person may become *disabled* while he or she participates in his or her *employer's* pension plan. If so, he or she may be eligible for this benefit.

The term "pension plan" means a retirement program which: (a) is sponsored by the *employer* for the benefit of employees; (b) is qualified under the Internal Revenue Code; and (c) accepts contributions on a covered person's behalf. The name of the pension plan into which we pay this benefit is **[**Pension Plan of ABC Company, Inc.**]**

To be eligible for this benefit, the covered person must meet all of the conditions shown below:

(a) He or she must be *disabled;*

(b) He or she must be entitled to receive a *monthly benefit* from this *plan;* and

(c) He or she must have been participating in his or her *employer's* pension plan for the six month period prior to the date he or she became *disabled;* and

(d) He or she must have been contributing to his or her *employer's* pension plan immediately before becoming *disabled.*

We start to pay this benefit after the last to occur of the following: (a) the end of the *elimination period*; (b) the date the covered person has been *disabled* for **[**six**]** months in a row; and (c) the date the covered person has received one full *monthly benefit* for *disability.*

Elimination Period is variable.

This benefit is paid to the pension plan administrator. It is paid on a monthly basis for deposit into the pension plan fund on the covered person's behalf. But, the pension plan administrator may not be able to accept third party contributions on the covered person's behalf. In this case, we will pay the benefit to the covered person for deposit in the pension plan.

Subject to all the terms of this *plan,* we pay the lesser of:

The amount of the covered person's monthly contribution to the pension plan just before the date he or she became *disabled;*

SAMPLE

(a) **[**1% to 15%**]** of the covered person's *insured earnings;* and

(b) $1,000.00.

We will stop making pension supplement benefit payments during any one calendar year when the total payments made reach the annual cap for deferred compensation established by the Internal Revenue Service.

When we reduce the covered person's *monthly benefit* by *disability earnings,* we also reduce this benefit. We reduce the amount otherwise payable by this benefit by 50%.

We stop paying this benefit on the earliest of the dates shown below:

(a) The date the covered person is no longer *disabled;*

(b) The date the covered person is no longer entitled to a *monthly benefit* from this *plan;*

(c) The date the covered person is no longer eligible to participate in the pension plan;

(d) The date the pension plan ends;

(e) The date the covered person retires or receives a *retirement benefit* from his or her *employer;* and

The end of the *maximum payment period.*

This is an Optional benefit.

➢ **(E6) Retirement Savings Benefit:** If a covered person is *disabled,* we may pay an extra benefit into his or her retirement savings account subject to all the terms below.

A retirement savings account means either: (a) an annuity or similar contract through The Guardian Insurance & Annuity Company, Inc (GIAC) that we establish on the covered person's behalf; or (b) a deferred annuity or similar retirement savings vehicle the covered person has established.

To start getting this benefit, the covered person must meet all of the conditions shown below:

(a) This *plan* must have paid benefits for his or her *disability* for at least **[** 0, 90, 120, 150, 180 **]** days in a row;

(b) He or she must be *disabled* and entitled to receive *monthly benefits* from this *plan;* and

(c) He or she must choose to receive this benefit.

We will make payments into the annuity or similar contract on a quarterly basis. The quarter will start with the date the covered person is first entitled to receive this benefit. Payments are made in arrears.

If the covered person does not already have a retirement savings vehicle, no payments will be made if he or she chooses not to accept and maintain the GIAC annuity or similar contract we offer.

The covered person should consult a tax advisor to discuss any tax issues related to his or her receipt of this benefit.

Subject to all the terms of this *plan,* we pay the lesser of: (a) **[**1% to 15%**]** of the covered person's quarterly earnings; and (b) $3,000.00. But, the minimum benefit per quarter is $150.

The term "quarterly earnings" means three times the amount of the covered person's *insured earnings.*

SAMPLE

We stop paying this benefit on the earliest of the dates shown below:

(a) The date the covered person is no longer *disabled,* as defined by this *plan*;

(b) The date the covered person is no longer entitled to receive a *monthly benefit* from this *plan*;

(c) The date the covered person retires;

(d) The date the covered person chooses to receive payments from the annuity or similar contract;

(e) The date the covered person surrenders the annuity or similar contract;

(f) the date the covered person or the *employer* start to make contributions on the covered person's behalf to a *retirement plan*;

(g) the date the covered person returns to work on a part-time or full-time basis; and

(h) The end of the *maximum payment period.*

(E7) Income Recovery Benefit (included on "and" contracts): This *plan* may pay an Income Recovery Benefit, if *monthly benefits* cease because a covered person is no longer *disabled*.

Section will not appear in "or" contracts.

To be eligible for the Income Recovery Benefit, the covered person must be:

(a) able to perform the major duties of his or her *own occupation*; or

(b) if this plan has already paid benefits for the *own occupation* period, able to perform the major duties of any *gainful occupation*; and

(c) working in his or her *own occupation* the same number of hours as he or she did prior to *disability*; and

(d) unable to earn this *plan's* maximum allowable *disability earnings,* due to the *sickness* or *injury* which caused the prior *disability.*

We pay this benefit monthly, in arrears. We determine the amount we pay in two steps. In step one, we compute the following: (a) the covered person's *gross monthly benefit* as of the last month he or she was *disabled* under the terms of this *plan;* less (b) any other income this plan integrates with that he or she is entitled to receive. In step two we make a current earnings adjustment. We add: (a) the covered person's *gross monthly benefit* as of the last month he or she was *disabled* under the terms of this *plan*; and (b) his or her current *disability earnings*. If such sum exceeds 100% of the covered person's *insured earnings*, we pay the amount in step one less the excess over 100%. If such sum does not exceed 100%, we pay the amount in step one.

We stop paying this benefit on the earliest of:

(a) the date the covered person is able to earn this *plan's* maximum allowable *disability earnings*;

(b) the date the covered person becomes *disabled*;

(c) the date the covered person stops working;

(d) the date 12 consecutive months after the first Income Recovery Benefit is paid; or

(e) the end of the *maximum payment period*.

We will not pay more than 12 monthly Income Recovery Benefit payments following any one period of *disability*, including any *recurrent disability*.

SAMPLE

This is an Optional benefit.

(E8) Health Plan Premium Benefit: This *plan* may pay a health plan premium benefit, according to the terms below.

To start getting this benefit, the covered person must meet all of the following conditions:

(a) He or she must be *disabled* and eligible to receive a *monthly benefit*;

(b) He or she must have been covered under a health plan prior to the date *disability* starts; and

(c) He or she must remain covered under a health plan: (i) for this *plan*'s *elimination period*; and (ii) while entitled to receive a *monthly benefit*; or

(d) He or she must have elected to continue his or her health plan coverage under the Federal Consolidated Omnibus Reconciliation Act (COBRA).

For purposes of this benefit, health plan means an *employer* sponsored plan that provides medical benefits to a covered person. The covered person is eligible for such health plan because of his or her employment by the *employer.*

The monthly health plan premium benefit is equal to the lesser of: (a) **[**$100.00 to $1,000.00**]**; or (b) the covered person's actual monthly contribution toward his or her health plan premium.

We pay this benefit to the covered person to be applied toward his or her premium for coverage under the *employer*'s health plan or COBRA.

We require proof that the covered person has remitted the premium for his or her coverage under the *employer*'s or COBRA health plan, on a monthly basis. Proof may take the form of a cancelled check, receipt, or other documentation acceptable to us. We pay this benefit when such proof is received and approved.

If the covered person is *disabled* for only part of a month, we prorate the monthly health plan premium benefit. We pay 1/30th of the monthly health plan premium benefit for each day he or she is *disabled*.

We stop paying this benefit on the earliest of the dates shown below:

(a) The date the covered person is no longer *disabled*;

(b) The date the covered person is no longer eligible for *monthly benefits* from this *plan*;

(c) The date the covered person is no longer covered under: (i) a health plan; or (ii) the Federal Consolidated Omnibus Reconciliation Act (COBRA); and

(d) The date we have paid **[**6, 12, 18 or 24**]** monthly health plan premium benefits in one period of continuous *disability*.

This is an Optional benefit.

(E9) Dental Plan Premium Benefit: If the covered person is insured under a Guardian sponsored dental plan, this *plan* may pay a dental plan premium benefit.

To start getting this benefit, the covered person must meet all of the following conditions:

(a) He or she must be *disabled* and eligible to receive a *monthly benefit*;

(b) He or she must have been covered under a Guardian sponsored dental plan prior to the date *disability* starts; and

(c) He or she must remain covered under a Guardian sponsored dental plan: (i) for this *plan*'s *elimination period*; and (ii) while entitled to receive a *monthly benefit*; or

(d) He or she must have elected to continue his or her dental coverage under the Federal Consolidated Omnibus Reconciliation Act (COBRA).

SAMPLE

The monthly dental plan premium benefit is equal to the lesser of: (a) **[**$50.00 to $500.00**]**; or (b) the covered person's actual monthly contribution toward his or her dental plan premium.

We pay this benefit to the covered person to be applied toward his or her premium for coverage under the *employer's* dental plan or COBRA. We require proof that the covered person has remitted the premium for his or her coverage under the *employer*'s or COBRA dental plan, on a monthly basis. Proof may take the form of a cancelled check, receipt, or other documentation acceptable to us. We pay this benefit when such proof is received and approved.

If the covered person is *disabled* for only part of a month, we prorate the monthly dental plan premium benefit. We pay 1/30th of the monthly dental plan premium benefit for each day he or she is *disabled*.

We stop paying this benefit on the earliest of the dates shown below:

(a) The date the covered person is no longer *disabled*;

(b) The date the covered person is no longer eligible for *monthly benefits* from this *plan*;

(c) The date the covered person is no longer insured for dental coverage under: (i) a Guardian sponsored dental plan; or (ii) the Federal Consolidated Omnibus Reconciliation Act (COBRA); and

(d) The date we have paid **[**6, 12, 18 or 24**]** monthly dental plan premium benefits in one period of continuous *disability.*

(E10) Converting This Group Long Term Disability Income Insurance

When Group Coverage Ends: When a person's coverage under this group long term disability income insurance *plan* ends, he or she may apply to convert his or her group coverage, subject to all the terms below.

The person whose coverage under this *plan* ends may apply to convert his or her coverage if he or she: (a) is not *disabled* as defined by this *plan* and (b) has been covered under this *plan* for at least 12 months in a row. To meet this 12 months requirement, we will include any time the person was covered under a similar group disability income replacement plan which this *plan* replaced. We do not include any time the person was *disabled,* as defined by this *plan.*

But, the person will not be eligible to apply for conversion if his or her coverage under this *plan* ends because: (a) he or she: (i) fails to make a required contribution; (ii) changes to a class not eligible under this *plan;* (iii) retires; or (iv) does not become insured again under this group *plan* after his or her *disability* ends.
The person will also not be eligible to apply for conversion if his or her coverage ends because: (a) this *plan* ends; or (b) this *plan* is amended to end coverage for all persons in a class.

How and When to Convert: The person whose coverage under this *plan* ends must apply to us in writing and pay any required premium for the converted coverage. He or she must do this within 31 days of the date his or her coverage under this *plan* ends.

The person applying for conversion does not have to provide proof of good health. But, issuance of the converted coverage may be subject to other underwriting criteria. The person, whose coverage under this *plan* ends, must give us details about all other disability income insurance: (a) that he or she has; (b) for which he or she has applied; and (c) for which he or she may become eligible under another plan within 31 days after his or her coverage under this *plan* ends.

SAMPLE

Guardian will not issue the converted coverage if such coverage would result in the person being overinsured by our standards.

Coverage Under the Conversion Policy: The person's converted coverage, if issued, will be effective on the date his or her coverage under this *plan* ends. The benefits, terms and conditions of the converted coverage will be those in use in the state where he or she then lives. These may be different from the benefits, terms and conditions of this *plan.*

The premium for the converted coverage will be that in effect for the person's age and class of risk on the date the converted coverage is issued.

(F) Claim Provisions

(F1) Authority: We have the sole discretionary authority to: (a) interpret the terms of this *plan*; and (b) determine a covered person's eligibility for: (i) coverage; and (ii) benefits under the *plan*. All such determinations are conclusive and binding, except that they may be modified or reversed by a court or regulatory agency with appropriate jurisdiction.

(F2) Notice: A covered person must send us written notice of his or her intent to file a claim under this *plan* as described in "Accident and Health Claims Provisions." For details, the covered person can call Guardian at **[**1-800-538-4583**]**.

(F3) Proof of Loss: When we receive a covered person's notice, we will provide him or her with a claim form for filing proof of loss. This form requires data from the *employer,* the covered person, and the *doctor(s)* treating the covered person for his or her *sickness* or *injury.* Proof of loss must be given to us within the time stated in "Accident and Health Claims Provisions." If the covered person does not receive a claim form within 15 days of the date he or she sent his or her notice, he or she should send us written proof of loss without waiting for the form.

Proof of loss, provided at the covered person's expense, consists of the following. Failure to provide this information may delay, suspend, reduce or terminate the covered person's benefits.

(a) The date *disability* began;

(b) The covered person's last day of *active work*;

(c) The cause of *disability*;

(d) The extent of *disability*, including limitations and restrictions preventing the covered person from performing the major duties of his or her *own occupation* and any *gainful occupation* ;

(e) If the covered person's occupation requires that he or she carry liability or malpractice insurance, any changes to such insurance that become effective on or after the date of *disability*;

(f) *Objective medical evidence* in support of the covered person's limitations and restrictions, beginning with the date *disability* began;

(g) The prognosis of *disability*;

(h) The name and address of all *doctors*, hospitals and health care facilities where the covered person has been treated for his or her *disability* since the date *disability* began;

(i) Proof that the covered person: (i) is currently; and (ii) has been receiving *regular and appropriate care* from a *doctor,* from the date *disability* began;

(j) Proof of *insured earnings*, and, if applicable, *disability earnings*;

SAMPLE

(k) Payroll or absence data from the *employer* for the three months prior to the date *disability* began, or other period we specify;

(l) Proof of application for all other sources of income to which the covered person may be entitled, that may affect his or her payment from this *plan;* and

(m) Proof of receipt of other income that may affect the covered person's payment from this *plan.*

The covered person must provide *objective medical evidence* from a *doctor* who is not him or herself, his or her spouse, child, parent, sibling or business associate.

Proof of *insured earnings* and *disability earnings* may consist of: (1) copies of the covered person's W-2 forms; (2) payroll records from the covered person's employer(s); (3) copies of the covered person's U.S. Individual Income Tax Returns; (4) copies of the U.S. income tax returns from any business in which the covered person holds an ownership or shareholder interest; (5) a statement from a certified public accountant; (6) copies of any income records accepted or required by the I.R.S; or (7) any other records we deem necessary.

Proof of loss and other claim data should be submitted to:

The Guardian Life Insurance Company of America
Group Long Term Disability Claims Department
P.O. Box 26025
Lehigh Valley, PA 18002-6025.

(F4) Authorization Required: The covered person must provide us with written, unaltered authorizations to obtain medical, financial, vocational, occupational, and governmental information required to determine our liability under this *plan*. The covered person must provide us with such authorizations as often as we may require, in order that they remain current. Failure to provide such authorizations may delay, suspend or terminate the covered person's benefits.

(F5) Right to Request Medical, Financial or Vocational Assessment: We may ask a covered person to take part in a medical, financial, vocational or other assessment that we feel is necessary to determine whether the terms of the *plan* are met. We may require this as often as we feel is reasonably necessary. We will pay for all such assessments. But, if the covered person postpones a scheduled assessment without our approval, the covered person will be responsible for any rescheduling fees. If the covered person does not take part in or cooperate with the assessment, we have the right to stop or suspend his or her payments under this *plan.*

(F6) Ongoing Proof of Loss: To continue to receive payments from this *plan,* a covered person must give us current proof of loss as often as we may reasonably require. Ongoing proof of loss must be provided to us within 30 days of the date we request it.

(F7) Payment of Benefits: We pay benefits to the covered person, if he or she is legally competent. If he or she is not, we pay benefits to the legal representative of his or her estate. Benefits are paid in US dollars.

We pay benefits once each month at the end of the period for which they are payable.

No benefits are payable for this *plan*'s *elimination period*.

Benefits to which the covered person is entitled may remain unpaid at his or her death. Such benefits may be paid at our discretion to: (a) his or her estate; or (b)

SAMPLE

his or her spouse, parents, children, or brothers and sisters.

(F8) Partial Month Payment: A covered person may be *disabled* for only part of a month. In this case, we compute his or her payment as 1/30th of the benefit to which he or she would be entitled for the full month times the number of days he or she is *disabled.* Payment will not be made for more than 30 days in any month.

(F9) Overpayment Recovery: If we overpaid a covered person, he or she must repay us in full. We have the right to reduce his or her payment or apply any benefits payable, including the minimum payment, toward recovery of the overpayment.

(G) Definitions

Active Work, Actively-At-Work or Actively Working: A covered person is able to perform and is performing all of the regular duties of his or her work for his or her *employer,* on a full-time basis at: (a) one of his or her ***employer's*** usual places of business; (b) some place where his or her ***employer's*** business requires him or her to travel; or (c) any other place he or she and his or her *employer* have agreed on for his or her work.

CPI-W: That part of the United States Department of Labor Consumer Price Index that measures the relative value of the cost of a typical urban wage earner's purchase of certain goods and services. If the Department of Labor stops publishing the *CPI-W,* we have the right to use some other similar standard.

Wording for "And" contracts

Disability or Disabled: These terms mean that a current *sickness* or *injury* causes physical or mental impairment to such a degree that the covered person is:

For Own Occ Plans.

(1) During the *elimination period* and the *own occupation* period, not able to perform, on a full-time basis, the major duties of his or her *own occupation*.

(2) After the end of the *own occupation* period, not able to perform, on a full-time basis, the major duties of any *gainful work*.

The covered person is not *disabled* if he or she earns, or is able to earn, more than this *plan's* maximum allowed *disability earnings*.

Wording only appears for Partial contracts.

The covered person is not *disabled* if he or she performs any work for wage or profit during the *elimination period*.

The covered person may be required, on average, to work more than 40 hours per week. In this case, he or she is not *disabled* if he or she is able to work for 40 hours per week. This limitation does not apply during the first 12 months a covered person works while disabled.

40 hour work week limit is standard on "and" contracts. Not included on "or' contracts.

Shaded text only appears for Extended Own Occ plans

Neither: (a) loss of a professional or occupational license; or (b) receipt of or entitlement to Social Security disability benefits; in and of themselves constitute *disability* under this *plan*.

Wording for "Or" contracts

Disability or Disabled: These terms mean a covered person meets either the Occupation Test or the Earnings Test as explained below.

Occupation Test of Disability

A covered person meets this test if he or she: (a) is not working in any occupation; and (b) has a current *sickness* or *injury* which causes physical

SAMPLE

or mental impairment to such a degree that:

(1) During the *elimination period* and the *own occupation* period, he or she is not able to perform, on a full-time basis, the major duties of his or her *own occupation*.

(2) After the end of the *own occupation* period, he or she is not able to perform, on a full-time basis, the major duties of any *gainful work*.

A covered person will not meet this test, if he or she is able to perform the major duties of: (a) his or her *own occupation*; or (b) any *gainful work*; with *reasonable accommodation*.

Earnings Test of Disability

For any month in which the covered person is working, he or she may meet this test, if: (a) he or she has a current *sickness* or *injury* which causes physical or mental impairment; and (b) such impairment causes the covered person to be unable to earn more than this *plan*'s maximum allowable *disability earnings*, in any occupation for which he or she is qualified by education, training or experience.

Neither: (a) loss of a professional or occupational license; or (b) receipt of or entitlement to Social Security disability benefits; in and of themselves constitute *disability* under this *plan*.

Disability Earnings: The monthly income a covered person earns from working while *disabled*. It includes salaries, wages, commissions, bonuses and any other compensation earned or accrued while working including pension, profit sharing contributions, sick pay, paid time off, holiday and vacation pay. When the covered person has an ownership interest in the business, *disability earnings* also includes business profits, attributable to him or her, whether received or not. It includes any income the covered person earns while *disabled* and returns to his or her *employer,* partnership, or any other similar business arrangement to cover any business or overhead expenses. If the covered person has the ability to work on a *part-time* or full-time basis, following the earlier of the date he or she: (a) has been terminated from employment with the *employer*; (b) has been *disabled* for 12 months in a row; or (c) has been offered a job or workplace modification by the *employer* and he or she does not return to work; *disability earnings* also includes *maximum capacity earnings*.

Doctor: Any medical practitioner we are required by law to recognize. He or she must: (a) be properly licensed or certified by the laws of the state where he or she practices; and (b) provide services that are within the lawful scope of his or her practice.

Interruption Period

Elimination Period: The period of time a covered person must be *disabled,* due to a covered *disability,* before this *plan's* benefits are payable.

Any days during which the covered person returns to work earning more than 80% of his or her *insured earnings* will not count toward the *elimination period.* If he or she is or becomes eligible under any other similar group income replacement plan while he or she is working during the *elimination period,* he or she will not be entitled to benefits from this *plan.*

We do not require a covered person to complete an *elimination period* if: (a) he or she was covered under a similar income replacement plan the *plan sponsor* had with another insurer on the day before this *plan* starts; (b) the covered person's *disability* would have been a recurring disability under the prior plan had it remained in effect.

SAMPLE

Employer: The business entity that employs a covered person and is: (a) the *plan sponsor;* or (b) associated with the *plan sponsor.*

Gainful Occupation or Gainful Work: Work for which a covered person is, or may become, qualified by: (a) training; (b) education; or (c) experience. When a covered person is able to perform such work on a full-time basis, he or she can be expected to earn at least **[** 60% or 80% **]** of his or her indexed *insured earnings* within 12 months of returning to work.

Percentage varies depending on plan design.

Government Plan: Any of the following: (1) the United States Social Security Act; (2) the Railroad Retirement Act; (3) the Canadian Pension Plan; or (4) any other plan provided under the laws of a state, province or any other political subdivision. It also includes: (a) any public employee retirement plan; or (b) any plan provided in place of the above named plan or acts. It does not include: (i) any Workers' Compensation Act or similar law; (ii) the Jones' Act; (iii) the Longshoreman's and Harbor Workers' Compensation Act; or (iv) the Maritime Doctrine of Maintenance, Wages, or Cure.

Gross Monthly Benefit: This *plan's monthly benefit* before it is integrated with other income and earnings.

Injury: A bodily *injury* due to an accident that occurs, independent of all other causes, while a covered person is insured by this *plan.* We will cover a *disability* caused by an *injury* when the *disability* starts within 90 days of the date of such *injury.*

Earnings Definition

Insured Earnings: Only a covered person's earnings from the *employer* will be included as *insured earnings.*

The covered person's *gross monthly benefit* may be limited due to proof of insurability requirements. In this case, only the part of his or her *insured earnings* that applies to the amount of his or her limited *gross monthly benefit* is used to calculate premiums due under this *plan.* We calculate benefit amounts and limits based on the amount of the covered person's *insured earnings* on record with us as of the Redetermination date immediately prior to the start of his or her *disability.* See the "Redetermination" and "Proof of Insurability" sections of this *plan.*

For Partners and S Corporation Shareholders:

Insured earnings means the sum of the amounts listed below, divided by 12.

(a) His or her compensation as an employee or S Corporation shareholder, as reported on his or her Federal Income Tax Return, Form 1040, for the prior calendar year, less the gross total of unadjusted employee business expenses as included on the corresponding Schedule A-Itemized Deductions;

(b) His or her non-passive income (loss) from trade or business as reported on Schedule E-Part II of his or her Federal Income Tax Return, Form 1040, for the prior calendar year, less any expenses incurred and reported elsewhere on his or her Return; and

(c) His or her contributions during the prior calendar year, deposited into a: (a) cash or deferred compensation plan, or salary reduction plan, qualified under IRC Section: 401(k); 403(b); 457; or similar plan; and (b) elective employee pre-tax deferrals to a Section 125 plan or flexible spending account.

The covered person may not have been a partner or S Corporation shareholder for the entire previous calendar year. In this case, the covered person's earnings are based on the monthly average of the sum of the listed amounts, averaged for the full number of months that he or she was a partner or an S Corporation shareholder during such calendar year.

SAMPLE

For Sole Proprietors:

Insured earnings means: (a) the average monthly net profit as determined from Schedule C – Part II of the covered person's Federal Income Tax Returns, Form 1040, for the prior two calendar years; plus (b) the covered person's average monthly contribution during the prior two calendar years deposited into a: (i) cash or deferred compensation plan, or salary reduction plan, qualified under IRC Section: 401(k); 403(b); 457; or similar plan; and (ii) a Section 125 plan or flexible spending account. Monthly net profit is calculated as gross income less total expenses. The covered person may not have been a sole proprietor for the previous two calendar years. In this case, we calculate average monthly net profit and average monthly contributions using the full number of months that he or she was a sole proprietor during such calendar years.

For Non Proprietors, Partners, and S Corporation Shareholders:

For Covered Persons Who Receive Base Salary Only:

Wording appears for the Standard Excluding Bonus & Commission option when chosen.

Insured earnings means a covered person's base monthly salary. *Insured earnings* also includes the covered person's contributions deposited into a: (a) cash or deferred compensation plan, or salary reduction plan, qualified under IRC Section: 401(k); 403(b); 457; or similar plan; and (b) elective employee pre-tax deferrals to a Section 125 plan or flexible spending account. *Insured earnings* does not include bonuses, commissions, overtime pay, expense accounts, stock options and any other extra compensation. If the covered person is paid hourly, we calculate monthly earnings based on actual hours worked or billed in the two months before the start of his or her *disability*. We do not include pay for hours worked or billed over 40 per week. Earnings based on excluded income and *employer* contributions deposited into such 401(k); 403(b); 457; or similar plan are excluded.

Wording appears for the Standard Including Bonus & Commission option when chosen. (Can allow a 12 or 24 month average)

For Covered Persons Whose Compensation Includes Commissions and Bonuses:

Insured earnings means: (a) a covered person's base monthly salary; plus (b) the average of his or her commissions and bonuses for the previous 24 months, or length of employment with the *employer*, if less. *Insured earnings* also includes the covered person's contributions deposited into a: (a) cash or deferred compensation plan, or salary reduction plan, qualified under IRC Section: 401(k); 403(b); 457; or similar plan; and (b) elective employee pre-tax deferrals to a Section 125 plan or flexible spending account. *Insured earnings* excludes overtime pay, expense accounts, stock options and any other extra compensation. If the covered person is paid hourly, we calculate monthly earnings based on actual hours worked or billed in the two months before the start of his or her *disability*. We do not include pay for hours worked or billed over 40 per week. Earnings based on excluded income and *employer* contributions deposited into such 401(k); 403(b); 457; or similar plan are excluded.

For Covered Persons Who Are Compensated on Less Than a 12 Month Basis:

Insured earnings means the covered person's average rate of monthly earnings determined from his or her annual contract salary. *Insured earnings* also includes the covered person's contributions deposited into a: (a) cash or deferred compensation plan, or salary reduction plan, qualified under IRC Section: 401(k); 403(b); 457; or similar plan; and (b) elective employee pre-tax deferrals to a Section 125 plan or flexible spending account. *Insured earnings* does not include bonuses, commissions, overtime pay, expense accounts, stock options and any other extra compensation. If the covered person is paid hourly, we calculate monthly earnings

SAMPLE

based on actual hours worked or billed in the two months before the start of his or her *disability*. We do not include pay for hours worked or billed over 40 per week. Earnings based on excluded income and *employer* contributions deposited into such 401(k); 403(b); 457; or similar plan are excluded.

For Covered Persons Whose Income Is Reported on a IRS Form 1099:

Insured earnings means the covered person's average rate of monthly earnings as figured from the 1099 form received from the *employer* for the prior calendar year, calculated as (a) minus(b), divided by 12 or the number of months the covered person worked for the *employer* during such calendar year, if less than 12.

(a) his or her earned income as reported on the 1099 form.

(b) business expenses, as reported on Schedule C - Part II of his or her Federal Income Tax Return, Form 1040.

Insured earnings also includes the covered person's contributions deposited into a: (a) cash or deferred compensation plan, or salary reduction plan, qualified under IRC Section: 401(k); 403(b); 457; or similar plan; and (b) elective employee pre-tax deferrals to a Section 125 plan or flexible spending account.

Earnings based on excluded income and *employer* contributions deposited into such 401(k); 403(b); 457; or similar plan are excluded.

For All Other Covered Persons:

W-2, Preceding Calendar Year:

Wording appears for the W-2 Definition AG09 option when chosen.

Insured earnings means the covered person's rate of monthly earnings as figured from the W-2 forms received from the *employer* for the prior calendar year. We include as earnings: (a) taxable earned income, including: (i) bonuses; (ii) commissions; and (iii) overtime pay; (b) elective employee pre-tax deferrals to a Section 125 plan or flexible spending account; and (c) contributions to a cash or deferred compensation plan, or a salary reduction plan, qualified under IRC Section 401(k), 403(b) or 457, as reported on the covered person's W-2 form. We do not include as earnings: (1) expense accounts and other extra compensation; (2) stock options exercised; or (3) *employer* contributions to a cash or deferred compensation plan or salary reduction plan. If the covered person was not employed by the *employer* for the entire prior calendar year, *Insured earnings* are based on the monthly average of the sum of the listed amounts, averaged for the full number of months that he or she was employed by the *employer,* during such calendar year.

Maximum Capacity Earnings: During the *own occupation* period, the income a covered person could earn if working to the fullest extent he or she is able to in his or her *own occupation.* After the *own occupation* period, the income a covered person could earn if working to the fullest extent he or she is able to in any *gainful occupation*. We decide the fullest extent of work a covered person is able to do based on objective data provided by any or all of the following sources: (a) his or her treating *doctor*; (b) impartial medical or vocational exams; (c) peer review specialists; (d) functional capacities exams; and (e) other medical and vocational specialists whose area of expertise is appropriate to the covered person's *disability*.

Maximum Payment Period: The longest time that benefits are paid by this *plan.*

Mental Illness: Means any mental disorder, regardless of cause, listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM) currently in use by the

SAMPLE

American Psychiatric Association (APA). If the APA stops publishing the DSM, we have the right to use some other similar standard. A *mental illness* may be: (a) caused by; (b) contributed to by; or (c) result in; physical, biological or chemical factors or symptoms. For purposes of this plan, *mental illness* does not include: (a) irreversible dementia caused by Alzheimer's disease, stroke, trauma or viral infection; or (b) any other condition not typically treated by a psychiatrist, clinical psychologist or other qualified mental health practitioner with psychotherapy or psychotropic drugs.

Monthly Benefit: This *plan's gross monthly benefit* reduced by other income. If a covered person is working while *disabled,* his or her *monthly benefit* will be further reduced based on the amount of his or her *disability earnings.*

No-Fault Motor Vehicle Coverage: A motor vehicle plan that pays disability or medical benefits no matter who was at fault in an accident.

Objective Medical Evidence: May include but is not limited to: (a) diagnostic testing; (b) laboratory reports; and (c) medical records of a *doctor*'s exam documenting: (i) clinical signs; (ii) presence of symptoms; and (iii) test results consistent with generally accepted medical standards supported by nationally recognized authorities in the health care field.

Wording appears for Own/Any Occ with Zero Day plans.

Own Occupation: Means the occupation: (a) the covered person is routinely performing immediately prior to *disability;* (b) which is the covered person's primary source of income prior to *disability;* and (c) for which he or she is insured under this *plan.* Occupation includes any employment, trade or profession that are related in terms of similar: (i) tasks; (ii) functions; (ii) skills; (iv) abilities; (v) knowledge; (vi) training; and (vii) experience; required by employers from those engaged in a particular occupation in the general labor market in the national economy. Occupation is not specific to a certain employer or a certain location.

Wording appears for Extended Own Occ with Zero Day plans.

Own Occupation: Means the occupation: (a) the covered person is routinely performing immediately prior to *disability;* (b) which is the covered person's primary source of income prior to *disability;* and (c) for which he or she is insured under this *plan.* Occupation includes any employment, trade or profession that are related in terms of similar: (i) tasks; (ii) functions; (ii) skills; (iv) abilities; (v) knowledge; (vi) training; and (vii) experience; required by employers from those engaged in a particular occupation in the general labor market in the national economy. Occupation is not specific to a certain employer or a certain location.

Wording appears for Specialty Own Occ with Zero Day plans.

Own Occupation: For a doctor, means the medical specialty or sub-specialty practiced by the doctor right before the start of *disability***,** provided: (a) he or she is certified in such specialty or sub-specialty by the American Board of Medical Specialties (ABMS); (b) he or she carries malpractice insurance covering the full range of duties performed in this specialty or sub-specialty; and (c) for the 24 months immediately prior to *disability*, at least 60% of his or her *insured earnings* was professional service fee income attributable to the practice of this specialty or sub-specialty.

NOTE: An Own Occupation definition will not appear for an Immediate Any Occ plan.

For all others, means the occupation: (a) the covered person is routinely performing immediately prior to *disability;* (b) which is the covered person's primary source of income prior to *disability*; and (c) for which he or she is insured under this *plan.* Occupation includes any employment, trade or profession that are related in terms of similar: (i) tasks; (ii) functions; (ii) skills; (iv) abilities; (v) knowledge; (vi) training; and (vii) experience; required by employers from those engaged in a particular occupation in the general labor market in the national economy. Occupation is not specific to a certain employer or a certain location.

SAMPLE

Part-Time: The ability to work and earn between 40% and 80% of *insured earnings* during the *own occupation* period and between 40% and 60% of *insured earnings* after the *own occupation* period.

Plan Sponsor: The *employer,* association, union, trustee, or other group to which this *plan* is issued.

Reasonable Accommodation: Any modification or adjustment to: (i) a job; (ii) an employment practice; (iii) a work process; or (iv) the work place; that an employer willingly provides. The modification or adjustment must make it possible for a *disabled* person to: (1) reach the same level of performance as a similarly situated non-disabled person; or (2) enjoy equal benefits and privileges of employment as are available to a similarly situated non-disabled person. The modification or adjustment must not place an undue hardship on the employer.

Recurring Disability: A later *disability* that: (a) is related to an earlier *disability* for which this *plan* paid benefits; and (b) meets the conditions described in "Recurring Disability."

Regular and Appropriate Care: Means, with respect to a covered person's: (a) disabling condition; and (b) any other condition which, if left untreated, would adversely affect his or her disabling condition; he or she (i) visits a *doctor* as frequently as medically required, according to generally accepted medical standards, to effectively manage these conditions; and (ii) is receiving the most appropriate treatment, according to generally accepted medical standards, designed to achieve maximum medical improvement in these conditions. Treatment must be provided by a *doctor*(s) whose specialty is most appropriate for the covered person's: (a) *disability*; and (b) any other conditions which left untreated would adversely affect the covered person's disabling condition; according to generally accepted medical standards. Generally accepted medical standards are those supported by nationally recognized authorities in the health care field including: the American Medical Association (AMA); the AMA Board of Medical Specialties; the Food and Drug Administration; the Centers for Disease Control; the National Cancer Institute; the National Institutes of Health; the Department of Health and Human Services; and any other agency of similar repute.

Rehabilitation Agreement: A formal agreement between: (a) a covered person; (b) us; and (c) the covered person's *employer,* if needed. It outlines the *rehabilitation program* in which the covered person agrees to take part.

Rehabilitation Program: A program of work or job-related training for a covered person that we approve in writing. Its aim is to restore his or her wage earning abilities.

Retirement Plan: A defined benefit or defined contribution plan funded wholly or in part by the *employer's* deposits for a covered person's benefit. The term does not include: (a) profit sharing plans; (b) thrift plans; (c) non-qualified deferred compensation plans; (d) individual retirement accounts; (e) tax sheltered annuities; (f) 401(k), 403(b), 457 or similar plans; or (g) stock ownership plans. *Retirement Plan* **"retirement benefits"** are lump sum or periodic payments at normal or early retirement. Some *retirement plans* make payments for disability (as defined by those plans) that start before normal retirement age. When such payments reduce the amount that would have been paid at normal retirement age, they are *retirement benefits.* When such payments do not reduce the normal retirement amount, they are **"disability benefits."**

Sickness: An illness or disease. Pregnancy is treated as a *sickness* under this *plan.*

We, Us, and Guardian: The Guardian Life Insurance Company of America.

SAMPLE

(H) RIDERS

Rider appears for Healthcare SIC codes of 8011 to 8049 and 8060 – 8069.

Infectious and Contagious Disease Benefit

Effective [August 1, 2011], this *plan's* group long term disability income insurance provisions are amended so that we pay a benefit to a non-disabled covered person who has an infectious and contagious disease. What we pay is subject to the terms below and to all the terms of the *plan.*

Definitions:

Infectious and Contagious Disease means a disease classified by the Centers for Disease Control and Prevention (CDC) as: (a) infectious and contagious; and (b) potentially life threatening to those who come in contact with the infected person.

When and How Infectious and Contagious Disease Benefit Payments Start: To start getting benefits under this rider, the covered person must meet all of the following terms:

(a) he or she must have an infectious and contagious disease;

(b) he or she must have been: (i) insured by this *plan*; and (ii) performing the major duties of his or her *own occupation* as a health care practitioner; prior to being diagnosed with an infectious and contagious disease;

(c) he or she must not be *disabled* as defined by this *plan*;

(d) his or her medical condition must be reasonably considered to pose a serious risk to those whom the covered person comes into contact with in the performance of his or her *own occupation*; and

(e) he or she must have been administratively relieved of performing one or more of the major duties of his or her *own occupation* by the *employer* or a state licensing board, with corresponding adjustment to his or her malpractice insurance; or

(f) he or she must provide written proof of loss of income at least equal to 20% of his or her *insured earnings* following disclosure of his or her medical condition.

What We Pay: We calculate the infectious and contagious disease benefit in the same manner as we calculate a *monthly benefit* under this *plan*.

Continued Eligibility for Infectious and Contagious Disease Benefit Payments: We require periodic proof that the covered person continues to be restricted in the performance of the major duties of his or her *own occupation* by the *employer* or a state licensing board. We require periodic proof that the covered person continues to suffer a 20% or more loss of income due to disclosure of his or her medical condition.

When the Infectious and Contagious Disease Benefit Payments End: We stop paying the infectious and contagious disease benefit on the earliest of the following dates:

(a) the date the covered person is *disabled* as defined by this *plan*;

(b) the date the covered person is reinstated by the *employer* or state licensing board in the performance of the major duties of his or her *own occupation,* with corresponding adjustment to his or her malpractice insurance ; or

(c) the date his or her current earnings are 80% or more of his or her *insured earnings*.

This rider is a part of this *plan*. Except as stated in this rider, nothing contained in

SAMPLE

this rider changes or affects any other terms of this *plan*.

Dated at __Anytown, USA_____ This __first_____ Day of __August_____, _2011___

ABC Company, Inc.

Full or Corporate Name of Policyholder

_____BY:



SPECIMEN

Witness

Second Vice President & Actuary, Group Insurance

The Guardian Life Insurance Company of America

SAMPLE

Critical Disability Supplement

Effective **[**August 1, 2011**]**, this *plan's* group long term disability income insurance provisions are amended so that we pay an added benefit if a covered person has a *functional disability*. What we pay is subject to the terms below and to all the terms of the *plan*.

Definitions:

Functional Disability means that, due to *sickness* or *injury*, a covered person is:

(a) not able to perform two or more activities of daily living, on a routine basis, without help; or

(b) *cognitively impaired* and needs verbal cueing to protect himself or herself or others.

Activities of Daily Living mean:

1. **Bathing:** the ability to wash in a tub or shower; or by taking a sponge bath; and to towel dry; with or without equipment or adaptive devices.

2. **Dressing:** the ability to put on and take off all clothes; and those medically necessary braces or prosthetic limbs usually worn; and also to fasten or unfasten them.

3. **Toileting:** the ability to get to and from and on and off the toilet; to maintain personal hygiene; and to care for clothes.

4. **Transferring:** the ability to move in and out of a chair or bed with or without equipment such as: canes; walkers; crutches; grab bars; or any other support devices.

5. **Continence:** the ability to control bowel and bladder function; or, in the event of incontinence, the ability to maintain personal hygiene.

6. **Eating:** the ability to get food into the body by any means once it has been prepared and made available.

Cognitively Impaired means a decline or loss in intellectual aptitude. Such loss may result from: (a) i*njury*; (b) *sickness*; (c) Alzheimer's disease; or (d) like forms of senility or irreversible dementia. It must be supported by clinical proof and standardized tests that precisely measure decline in the areas of: (i) short term memory; (ii) orientation to time, place and person; (iii) deductive or abstract reasoning; and (iv) judgement as it relates to awareness of safety.

Additional terms, not explained here, are defined in the *plan*.

When Critical Disability Supplement Coverage Starts: A person will be covered under this rider on the later of:

(a) the date this benefit takes effect; or

(b) the date he or she becomes covered under the *plan*.

When and How This Rider's Critical Disability Supplement Payments Start: To start getting payments under this rider, a covered person must meet all of the conditions shown below:

SAMPLE

(a) he or she must be *disabled* while insured by the *plan*;
(b) he or she must stay *disabled* for the *plan's elimination period*;
(c) he or she must have a *functional disability*: (i) while entitled to receive a *monthly benefit* from the *plan*; and (ii) that lasts at least 30 days in a row; and
(d) he or she must be receiving regular and appropriate care from a doctor.

We use an independent entity to assess the covered person's *functional disability*.

The covered person must also permit timely reassessments of his or her *functional disability* when we request them.

What We Pay: If a covered person meets the conditions stated above, we pay:

[10%, 20%, 30% or 40%**]** of his or her insured earnings. We round this amount to the nearest dollar. The monthly maximum for this benefit is **[**$500 to $5,000.00**]**.

When This Rider's Critical Disability Supplement Payments End: We stop paying this benefit on the earlier of:

(a) the date the covered person's *monthly benefits* from the *plan* end; or

(b) the date the covered person no longer has a *functional disability*.

When Critical Disability Supplement Coverage Ends: A person's coverage under this rider ends on the earlier of:

(a) the date the *plan* is changed to end this benefit; or

(b) the date his or her coverage under the *plan* ends.

This rider is a part of this plan. Except as stated in this Rider, nothing contained in this rider changes or affects any other terms of this plan.

SAMPLE

Lifetime Critical Disability (ADL) Benefit Payments

Effective **[**August 1, 2011**]**, this *plan*'s group long term disability income insurance provisions are amended so that payments under this *plan* may continue beyond the *maximum payment period*. But what we pay is subject to the terms below and all the terms of this *plan*.

Definitions:

Functional Disability or **Functionally Disabled** means, due to *sickness* or *injury*, a covered person is:

(a)not able to perform two or more activities of daily living on a routine basis, without help; or

(b)cognitively impaired and in need of verbal cueing to protect himself or herself or others.

Activities of Daily Living means:

1. **Bathing**: the ability to wash in a tub or shower; or by taking a sponge bath; and to towel dry; with or without equipment or adaptive devices.
2. **Dressing**: the ability to put on and take off all clothes; and those medically necessary braces or prosthetic limbs usually worn; and also to fasten or unfasten them.
3. **Toileting**: the ability to get to and from and on and off the toilet; to maintain personal hygiene; and to care for clothes.
4. **Transferring**: the ability to move in and out of a chair or bed with or without equipment such as: canes; walkers; crutches; grab bars; or any other support devices.
5. **Continence**: the ability to control bowel and bladder function; or, in the event of incontinence, the ability to maintain personal hygiene.
6. **Eating**: the ability to get food into the body by any means once it has been prepared and made available.

Cognitively Impaired means a decline or loss in intellectual aptitude. Such loss may result from: (a) *injury;* (b) *sickness;* (c) Alzheimer's disease; or (d) like forms of senility or irreversible dementia. It must be supported by clinical proof and standardized tests that precisely measure decline in the areas of: (i) short term memory; (ii) orientation to time, place and person; (iii) deductive or abstract reasoning; and (iv) judgment as it relates to awareness of safety. Cognitive impairment does not include decline or loss due to a *mental illness.*

Additional terms, not explained here, are defined in the *plan.*

When and How This Rider's Lifetime Critical Disability Benefit Payments Start: To start getting payments under this rider, a covered person must:

(a) have been insured under this long term disability *plan* for at least 24 consecutive months just prior to the start of his or her *disability*;

(b) become *disabled* before reaching age 60;

(c) remain continuously *disabled* and entitled to receive *monthly benefits* for this *plan*'s *maximum payment period*;

(d) have a functional disability upon reaching the end of the *maximum payment period*;

SAMPLE

(e) be receiving *regular and appropriate care* from a *doctor*; and

(f) make written request for this benefit within 30 days of the end of this *plan*'s *maximum payment period*.

We may use an independent entity to assess the covered person's functional disability. The covered person must take part in this assessment and any reassessments when we request them.

What We Pay: If a covered person meets the conditions stated above, we continue to pay a *monthly benefit*, subject to reduction for *disability earnings*. The monthly maximum for this benefit is $5,000.00.

When This Rider's Lifetime Critical Disability Benefit Payments End: Payments under this rider will end on the earliest of:

(a) the date the covered person is no longer functionally disabled;

(b) the date the covered person dies;

(c) the date the covered person is no longer receiving *regular and appropriate care* from a *doctor*;

(d) the date the covered person refuses to take part in an assessment of his or her impairment requested by us;

(e) the date five years following the date we have paid the first extended critical disability benefit payment; or

(f) the date the covered person fails to comply with any of the other terms of this *plan*.

This rider is a part of this *plan*. Except as stated in this rider, nothing contained in this rider changes or affects any other terms of this *plan*.

SAMPLE

Revenue Protection Benefit

Effective **[**August 1, 2011**]**, this long term disability income insurance *plan* is amended so that we pay a benefit to a key employee's *employer* to compensate for lost business revenue caused by the key employee's *disability*. What we pay is subject to the terms below and to all the terms of the *plan.*

Definitions:

Key Employee means a covered person:

(a) who earns at least $75,000 per year;

(b) who is under age 60; and

(c) whose employment is governed by a partnership agreement or sales or revenue production quotas ;and

(d) who submits proof of insurability and is approved by us for coverage under the revenue protection benefit rider .

Proof of Insurability means an application for insurance showing that a person is insurable.

When Coverage under the Revenue Protection Benefit Rider Starts: A key person will be covered under this rider on the later of:

(a) the date this benefit takes effect; or

(b) the date he or she becomes covered under the *plan* ; or

(c) the date we approve his or her proof of insurability.

When and How The Revenue Protection Benefit Starts: The *employer* is eligible to receive revenue protection benefit payments if: (a) the key employee is *disabled* as defined by this *plan*; and (b) the key employee is eligible to receive a *monthly benefit*.

What We Pay: The amount of the revenue protection benefit is shown in the Schedule. If this *plan* reduces a key employee's *monthly benefit* by *disability earnings*, we also reduce the revenue protection benefit in the same manner.

When the Revenue Protection Benefit Ends: We stop paying revenue protection benefits on the earliest of the following dates:

(a) the date the key employee is no longer *disabled* as defined by this *plan*;

(b) the date the key employee is no longer entitled to receive a *monthly benefit* from this *plan*;

(c) the date following the date we have paid **[**6, 12, 24 or 36**]** monthly revenue protection benefit payments;

(d) the date the *employer* terminates the key employee;

(e) the effective date of a key employee's buy-out or severance of ownership interest in the *employer*;

(f) the date the key employee retires or receives retirement benefits from the *employer*;

(g) the date this *plan* ends.

When Coverage under the Revenue Protection Benefit Rider Ends: A key person's coverage under this rider ends on the earlier of:

(a) the date the *plan* is changed to end this benefit; or

(b) the date his or her coverage under the *plan* ends.

SAMPLE

This rider is a part of this *plan*. Except as stated in this rider, nothing contained in this rider changes or affects any other terms of this *plan*.

SAMPLE

Spousal Disability Rider

Effective **[**August 1, 2011**]**, this *plan's* group long term disability income insurance provisions are amended so that we pay a benefit to a covered person if his or her eligible spouse has a functional disability. What we pay is subject to the terms below and to all the terms of the *plan*.

Definitions:

Eligible Spouse means a spouse who is legally married to a covered person.

Functional Disability or **Functionally Disabled** means, due to sickness or injury, a covered person's spouse is:

(a) not able to perform two or more activities of daily living, on a routine basis, without help; or

(b) cognitively impaired and in need of verbal cueing to protect himself or herself or others.

Activities of Daily Living means:

1. **Bathing**: the ability to wash in a tub or shower; or by taking a sponge bath; and to towel dry; with or without equipment or adaptive devices.

2. **Dressing**: the ability to put on and take off all clothes; and those medically necessary braces or prosthetic limbs usually worn; and also to fasten or unfasten them.

3. **Toileting**: the ability to get to and from and on and off the toilet; to maintain personal hygiene; and to care for clothes.

4. **Transferring**: the ability to move in and out of a chair or bed with or without equipment such as: canes; walkers; crutches; grab bars; or any other support devices.

5. **Continence**: the ability to control bowel and bladder function; or, in the event of incontinence, the ability to maintain personal hygiene.

6. **Eating**: the ability to get food into the body by any means once it has been prepared and made available.

Cognitively Impaired means a decline or loss in intellectual aptitude. Such loss may result from: (a) *injury*; (b) *sickness*; (c) Alzheimer's disease; or (d) like forms of senility or irreversible dementia. It must be supported by clinical proof and standardized tests that precisely measure decline in the areas of: (i) short term memory; (ii) orientation to time, place and person; (iii) deductive or abstract reasoning; and (iv) judgment as it relates to awareness of safety. Cognitive impairment does not include decline or loss due to a *mental illness*.

Additional terms, not explained here, are defined in the *plan*.

When and How the Spousal Disability Benefit Starts: To start getting payments under this rider, the following conditions must be met:

(a) The covered person's spouse is not currently working for wage or profit;

(b) The covered person's spouse must have a functional disability which lasts for at least 30 days in a row;

SAMPLE

(c) The covered person's spouse is receiving *regular and appropriate care* from a *doctor*;

(d) The covered person's spouse's functional disability must begin after the covered person has been insured under this long term disability income insurance *plan* for at least 24 months.

We use an independent entity to assess the covered person's spouse's functional disability.

Payment of Benefits: We pay this benefit monthly, in arrears. We pay benefits to the covered person, if he or she is legally competent. If he or she is not, we pay benefits to the legal representative of his or her estate.

No benefits are payable for the first 30 days that an eligible spouse is functionally disabled.

We pay no spousal disability benefit for any period in excess of 30 days in which the covered person's spouse is residing outside the United States.

What We Pay: Subject to all the terms of this plan, the monthly spousal disability benefit is equal to **[**$100.00 to $5,000.00**]**.

Continued Eligibility for the Spousal Disability Benefit: We may require periodic written proof of the covered person's spouse's continuing disability. We may require written proof of continuing *regular and appropriate care* by a *doctor*. Written proof must be provided to us within 30 days of the date we make each such request.

The covered person's spouse must also permit timely reassessments of his or her functional disability when we request them.

Spousal Disability Benefit Exclusions: We pay no spousal disability benefits for any functional disability caused by or resulting from:

(a) declared or undeclared war, act of war, or armed aggression;

(b) service in the armed forces, National Guard, or military reserves of any state or country;

(c) a covered person's spouse's taking part in a riot or insurrection;

(d) a covered person's spouse's commission of, or attempt to commit a felony, for which he or she has been convicted; or

(e) intentional self-inflicted injuries;

(f) *mental illness*; or

(g) voluntary use of any poison, chemical, prescription or non-prescription drug or controlled substance unless: (i) it was prescribed for the covered person's spouse by a doctor; and (ii) it was used as prescribed. In the case of a non-prescription drug, we do not pay for any loss resulting from the covered person's spouse's use in a manner inconsistent with package instructions. A controlled substance is anything called a controlled substance in Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended from time to time.

When the Spousal Disability Benefit Ends: We stop paying the spousal disability

SAMPLE

benefit on the earliest of the following dates:

(a) the date the spouse is no longer functionally disabled;

(b) the date the spouse joins the active work force on a part-time or full-time basis;

(c) the date we ask the spouse to take part in an assessment and he or she refuses;

(d) the date the spouse does not give us continuing proof of loss that we require;

(e) the date the spouse is no longer receiving regular and appropriate care by a doctor;

(f) the date **[**24, 36 or 60**]** months following the date the spouse was first eligible for the spousal disability benefit; or

(g) the day before the date the spouse reaches age 65.

This rider is a part of this *plan*. Except as stated in this rider, nothing contained in this rider changes or affects any other terms of this *plan*.

SAMPLE

Option A

(I)

ELIGIBILITY FOR DISABILITY INCOME REPLACEMENT COVERAGE

Option A

(I1)

EMPLOYEE COVERAGE
Eligible Employees

Subject to the Conditions of Eligibility set forth below, and to all of the other conditions of the plan, all of your employees who are in an eligible class will be eligible if they are active full-time employees.

For purposes of this plan, we will treat partners and proprietors like employees if they meet this plan's conditions of eligibility.

(I2)

Conditions of Eligibility

An employee is eligible for coverage if he or she is:

(a) legally working in the United States, or working outside the United States for a United States based employer in a country or region approved by us.

(b) regularly working at least the number of hours in the normal work week set by the employer (but not less than 30 hours per week), at:

(i) the employer's place of business;

(ii) some place where the employer's business requires the employee to travel; or

(iii) any other place the employee and the employer have agreed upon for performance of occupational duties.

Temporary or seasonal employees are not eligible.

Option A

(I3) Proof of Insurability Requirements: Part or all of an employee's insurance amounts may be subject to proof that he or she is insurable. The Schedule of Insurance explains if and when we require proof. An employee won't be covered for any amount that requires such proof until he or she gives the proof to us and we approve that proof in writing.

An employee whose active full-time service ends before he or she meets any proof of insurability requirements that apply to him or her will still have to meet those requirements if he or she is later re-employed by you or an associated company.

Option A

(I4) The Waiting Period: Employees in an eligible class are eligible for disability income replacement insurance under this plan after they complete the service waiting period established by the employer, if any.

Option A

SAMPLE

(I5) Multiple Employment: If an employee works for both you and a covered associated company, or for more than one covered associated company, we will treat him as if only one firm employs him. And such an employee will not have multiple coverage under this plan. But, if this plan uses the amount of an employee's earnings to set the rates, determine class, figure benefit amounts, or for any other reason, such employee's earnings will be figured as the sum of his earnings from all covered employers.

Option A

(I6) When Employee Coverage Starts

An employee must be fully capable of performing the major duties of his or her regular occupation for the employer on a full-time basis at 12:01 A.M. Standard Time for his or her place of residence on the date his or her coverage is scheduled to start. Also he or she must have met all of the conditions of eligibility which apply to him or her. If an employee is not fully capable of performing the major duties of his or her regular occupation on his or her scheduled effective date, we will postpone the start of his or her coverage. We will postpone coverage until he or she is so capable and is working his or her regular numbers of hours for one full day, with the expectation that he or she could do so for one full week.

Sometimes, a scheduled effective date is not a regularly scheduled work day. If the scheduled effective date falls: on a holiday; on a vacation day; on a non-scheduled work day; or during an approved leave of absence, not due to sickness or injury, of 90 days or less; and if the employee was performing the major duties of his or her regular occupation and working his or her regular number of hours on his or her last regularly scheduled work day, that employee's coverage will start on the scheduled effective date. However, any coverage or part of coverage for which an employee must elect and pay all or part of the cost, will not start if the employee is on an approved leave and such coverage or part of coverage was not previously in force for the employee under a prior plan which this plan replaced.

Whether an employee must pay all or part of the cost of employee coverage, he or she must elect to enroll and agree to make the required payments. If he or she does this on or before the eligibility date, or within 31 days of his or her eligibility date, coverage is scheduled to start on the eligibility date. However, if he or she elects to enroll and agrees to make the required payments more than 31 days after his or her eligibility date, his or her coverage won't start until he or she sends us proof that he or she is insurable. Once we've approved it, his or her coverage is scheduled to start on the effective date shown in the endorsement section of his or her application.

Any part of an employee's coverage which is subject to proof that he or she is insurable won't start unless he or she sends this proof to us, and we approve it in writing. Once we have approved it, that part of his or her coverage is scheduled to start on the effective date shown in the endorsement section of his or her application.

SAMPLE

Wording appears for the Rehire Provision – Only Upon Special Request

(I7)

If an employee was previously covered under this plan and his or her coverage ended due to a temporary layoff or leave of absence, he or she will be eligible for insurance under this plan on the date he or she returns to active full-time work, provided: (a) the employee returns to active full-time service within 6 months of the date his or her coverage ended; (b) the employee was covered under this plan on the day before his or her coverage ended; and (c) the employee enrolls for coverage within 31 days of the date he or she returns to active full-time work.

Upon return to active full-time work, a new effective date will be established according to the actively at work rules above. However, an employee will not be required to re-satisfy any portion of a pre-existing condition provision under this plan that he or she had met prior to termination of coverage.

Wording appears for Voluntary plans only.

Delayed Effective Date For Disability Coverage: With respect to this plan's disability insurance, if an employee is not actively at work on a full-time basis on the date his or her coverage is scheduled to start, due to sickness or injury, we'll postpone coverage for an otherwise covered loss due to that condition. We'll postpone such coverage until he or she completes 10 consecutive days of active full-time service without missing a work day due to the same condition.

Coverage for an otherwise covered loss due to all other conditions will start on he date the employee returns to active full-time service.

Option A for Class 0001

When Employee Coverage Ends

(I8) When Employee Coverage Ends: An employee's long term disability insurance under this plan will end on the first of the following dates:

- the date an employee's active full-time service ends for any reason, except as noted below under "Coverage During Temporary Layoff or Leave of Absence".
- the date an employee stops being an eligible employee under this plan.
- the date an employee is no longer working in the United States, or working outside the United States for a United States based employer in a country or region approved by us.
- the date the group plan ends, or is discontinued for a class of employees to which the employee belongs.
- the last day of the period for which required payments are made for the employee.

However, if an employee is disabled, as defined by this plan when his or her active full-time service ends, coverage remains in force during: (a) the elimination period, subject to premium payment, if: (i) the disability is not excluded under the plan; and (ii) benefits are not excluded due to application of this plan's pre-existing condition provision; and (b) the period for which benefits are payable under the plan.

SAMPLE

(I9)

Coverage During Temporary Layoff or Leave of Absence

If an employee's active full-time service ends because he or she is laid off or goes on a leave of absence you have approved, you may continue his or her insurance, subject to continued payment of premium, until the earlier of: (a) the end of the temporary layoff or employer approved leave of absence; and (b) **[**one, two or three**]** months following the date the temporary layoff or approved leave of absence begins. If an employee becomes disabled under this plan while his or her coverage is being continued during a temporary layoff or leave of absence, his or her eligibility for benefits will be governed by all the terms of this plan.

Option A

(I10)

An Employee's Right To Continue
Group Long Term Disability Income Insurance
During A Family Leave Of Absence

Important Notice: This section may not apply to your plan. The employee must contact you to find out if you must allow for a leave of absence under federal law. In that case the section applies.

(I11) Which Coverage Can Be Continued: Long term disability income coverage may be continued, under a uniform, non-discriminatory policy applicable to all employees. The employee must contact you to find out if he or she may continue this coverage.

(I12) If An Employee's Group Insurance Would End: Group long term disability income insurance may normally end for an employee because he or she ceases work due to an approved leave of absence. But, the employee may continue his or her group long term disability income insurance coverage if the leave of absence has been granted: (a) to allow the employee to care for a seriously injured or ill spouse, child or parent; (b) after the birth or adoption of a child; (c) due to the employee's own serious health condition; or (d) because of any serious injury or illness arising out of the fact that a spouse, child, parent, or next of kin, who is a covered servicemember, of the employee is on active duty (or has been notified of an impending call or
order to active duty) in the Armed Forces in support of a contingency operation. The employee will be required to pay the same share of the premium as he or she paid before the leave of absence.

(I13) When Continuation Ends: Insurance may continue until the earliest of the following:

- The date the employee returns to active work.
- The end of a total leave period of 26 weeks in one 12 month period, in the case of an employee who cares for a covered servicemember. This 26 week total leave period applies to all leaves granted to the employee under this section for all reasons.
- The end of a total leave period of 12 weeks in: (a) any 12 month period, in the case of any other employee; or (b) any later 12 month period in the case of an employee who cares for a covered servicemember.
- The date on which the employee's insurance would have ended had the

SAMPLE

employee not been on leave.

- The end of the period for which the premium has been paid.

Definitions: As used in this section, the terms listed below have the meanings shown below:

- **Active Duty:** This term means duty under a call or order to active duty in the Armed Forces of the United States.

- **Contingency Operation:** This term means a military operation that: (a) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (b) results in the call or order to, or retention on, active duty of members of the uniformed services under any provision of law during a war or during a national emergency declared by the President or Congress.

- **Covered Servicemember:** This term means a member of the Armed Forces, including a member of the National Guard or Reserves, who for a serious injury or illness: (a), is undergoing medical treatment, recuperation, or therapy; (b) is otherwise in outpatient status; or (c) is otherwise on the temporary disability retired list.

- **Next Of Kin:** This term means the nearest blood relative of the employee.

- **Outpatient Status:** This term means, with respect to a covered servicemember, that he or she is assigned to: (a) a military medical treatment facility as an outpatient; or (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

- **Serious Injury Or Illness:** This term means, in the case of a covered servicemember, an injury or illness incurred by him or her in line of duty on active duty in the Armed Forces that may render him or her medically unfit to perform the duties of his or her office, grade, rank, or rating.

Option A

(I14)

Definitions

Option A

Employee means a person who works for the employer at the employer's place of business, and whose income is reported for tax purposes using a W-2 form.

Class 0001

Full-time means the employee regularly works at least the number of hours in the normal work week set by the employer (but not less than 30 hours per week), at his employer's place of business.

Option A

Plan means the Guardian group plan purchased by the employer, except in the provision entitled "Coordination of Benefits" where "plan" has a special meaning. See that provision for details.

SAMPLE

Option A

Proof or Proof of Insurability means an application for insurance showing that a person is insurable.

Option A

We, Us, Our and **Guardian** mean The Guardian Life Insurance Company of America.

Option A

You and **Your** means the employer who purchased this plan.

SAMPLE

NOTES

SAMPLE

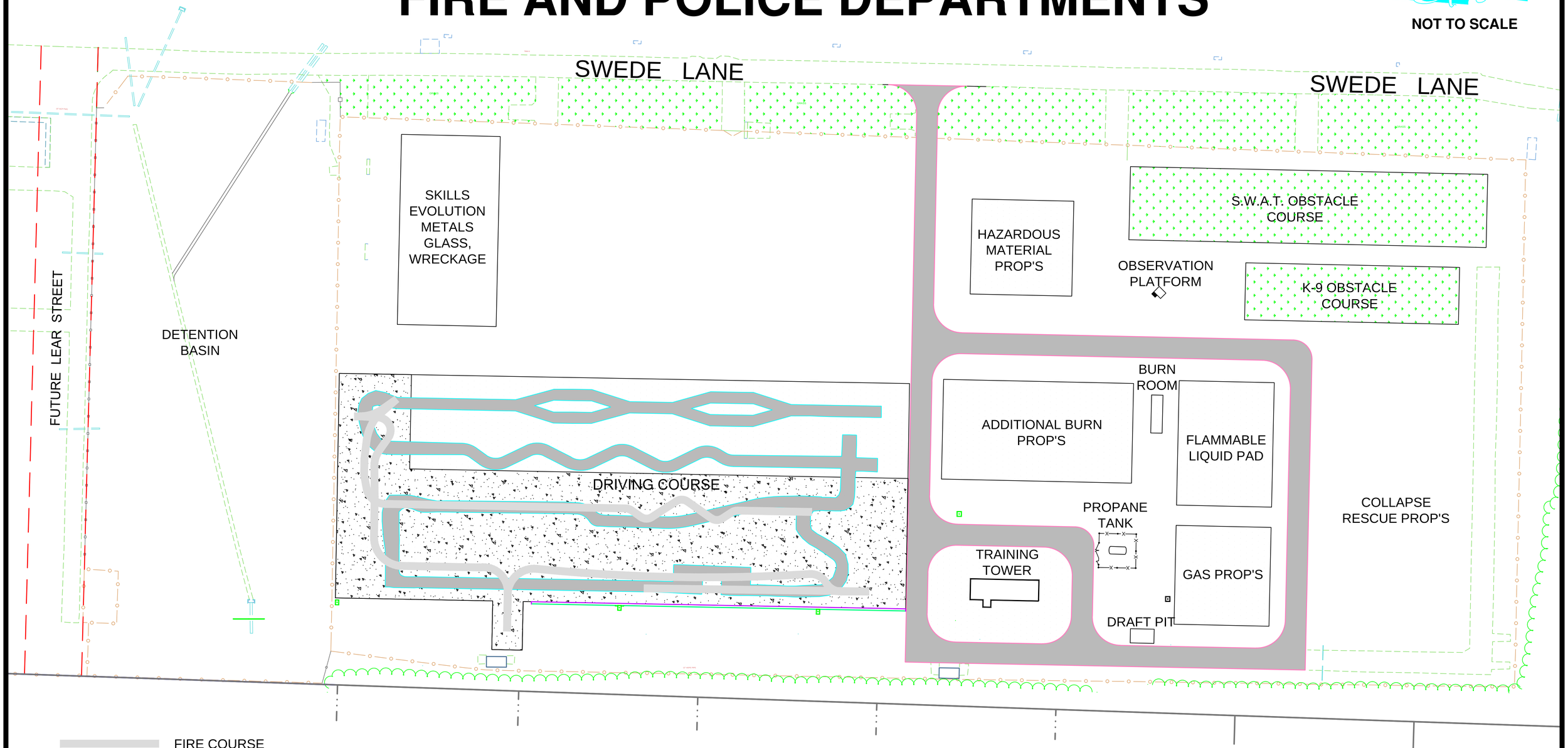
Joplin Public Safety Training Facility

City of Joplin NO. 14023 BID OPENING: Wed. 03/20/15 2 pm (Training Center- Old Airport Terminal)			TSE JOB	Emery Sapp 5350 E. State Highway Springfield, MO 65803 417-833-9915		Branco Enterprised, Inc. 12033 E. Hwy 86 Neosho MO 64850 417-451-5250		Crossland Construction Co. P.O. Box 45 Columbus, KS 66725 620-429-1414	
	Part 1 - TSE	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL ESTIMATED PRICE	UNIT PRICE	TOTAL ESTIMATED PRICE	UNIT PRICE	TOTAL ESTIMATED PRICE
1-1	MOBILIZATION	LS	1	$64,930.00	$64,930.00	$71,400.00	$71,400.00	$70,000.00	$70,000.00
1-2	GRADING & SITE PREPARATION	LS	1	$140,000.00	$140,000.00	$112,225.00	$112,225.00	$109,800.00	$109,800.00
1-3	UTILITIES REMOVAL	LS	1	$6,800.00	$6,800.00	$6,200.00	$6,200.00	$2,200.00	$2,200.00
1-4	REMOVAL OF FENCE (4')	LF	275	$1.50	$412.50	$4.00	$1,100.00	$1.50	$412.50
1-5	REMOVAL OF GRAVEL (STOCKPILE)	LS	1	$15,440.00	$15,440.00	$49,600.00	$49,600.00	$48,500.00	$48,500.00
1-6	ABANDON EXISTING MANHOLE	EACH	7	$1,018.00	$7,126.00	$700.00	$4,900.00	$1,100.00	$7,700.00
1-7	REMOVAL OF ASPHALT PAVEMENT	SY	12,050	$0.30	$3,615.00	$0.30	$3,615.00	$0.30	$3,615.00
1-8	4" THICK ASPHALTIC CONCRETE MIXTURE PG64-22 (SP125C) 6" AGG.BASE	SY	5,825	$23.00	$133,975.00	$19.25	$112,131.25	$19.30	$112,422.50
1-9	7" THICK ASPHALTIC CONCRETE MIXTURE PG64-22 (3" SP125C & 4"SP250C) 6" AGG.BASE	SY	5,090	$33.00	$167,970.00	$31.40	$159,826.00	$31.50	$160,335.00
1-10	5" THICK LIGHT DUTY CONCRETE PAVEMENT W/4" AGG.BASE	SY	6,190	$40.00	$247,600.00	$37.00	$229,030.00	$38.30	$237,077.00
1-11	8" THICK HEAVY DUTY CONCRETE PAVEMENT W/4" AGG.BASE	SY	10,200	$47.00	$479,400.00	$48.00	$489,600.00	$43.50	$443,700.00
1-12	2'-6" STANDARD CURB & GUTTER	LF	403	$28.00	$11,284.00	$23.00	$9,269.00	$26.00	$10,478.00
1-13	STRAW WATTLES	LF	1225	$2.00	$2,450.00	$4.00	$4,900.00	$3.80	$4,655.00
1-14	INLET PROTECTION	EACH	9	$30.50	$274.50	$220.00	$1,980.00	$220.00	$1,980.00
1-15	CONCRETE WASHOUT BASIN	EACH	1	$1,225.00	$1,225.00	$130.00	$130.00	$540.00	$540.00
1-16	CONSTRUCTION ENTRANCE	EACH	1	$1,560.00	$1,560.00	$2,180.00	$2,180.00	$2,200.00	$2,200.00
1-17	ROCK CHECK DAM	EACH	2	$700.00	$1,400.00	$550.00	$1,100.00	$550.00	$1,100.00
1-18	CONCRETE CURB INLETS (5.5x4)	EACH	2	$3,935.00	$7,870.00	$3,600.00	$7,200.00	$2,500.00	$5,000.00
1-19	CONCRETE JCT. BOX (5.5x4) SOLID LID	EACH	1	$3,080.00	$3,080.00	$3,550.00	$3,550.00	$2,500.00	$2,500.00
1-20	12" CLASS III RCP	LF	60	$40.00	$2,400.00	$35.00	$2,100.00	$77.00	$4,620.00
1-21	24" CLASS III RCP	LF	234	$58.00	$13,572.00	$52.00	$12,168.00	$70.00	$16,380.00
1-22	30" CLASS III RCP	LF	712	$76.00	$54,112.00	$73.00	$51,976.00	$73.00	$51,976.00
1-23	12" RCP FLARED END SECTION	EACH	2	$440.00	$880.00	$675.00	$1,350.00	$271.00	$542.00
1-24	30" RCP FLARED END SECTION	EACH	1	$705.00	$705.00	$1,050.00	$1,050.00	$542.00	$542.00
1-25	CONCRETE DROP INLET 5.5x5	EACH	2	$3,440.00	$6,880.00	$3,630.00	$7,260.00	$2,820.00	$5,640.00
1-26	1000 GALLON UNDERGROUND PROPANE TANK	LS	1	$7,165.00	$7,165.00	$6,900.00	$6,900.00	$9,850.00	$9,850.00
1-27	1-1/4" GAS LINE & FITTINGS	LF	440	$21.00	$9,240.00	$21.00	$9,240.00	$3.00	$1,320.00
1-28	GAS RISERS & APPURTENANCES	EACH	5	$291.00	$1,455.00	$1,280.00	$6,400.00	$675.00	$3,375.00
1-29	4' CHAIN LINK FENCE W/GATES	LF	130	$23.50	$3,055.00	$23.00	$2,990.00	$23.20	$3,016.00
1-30	NO ITEM								
1-31	25'x15' DRAFT PIT W/PIPING	LS	1	$61,640.00	$61,640.00	$25,100.00	$25,100.00	$41,000.00	$41,000.00
1-32	NO ITEM								
1-33	FIRE DEPARTMENT MONUMENTS	EACH	30	$36.00	$1,080.00	$49.00	$1,470.00	$30.00	$900.00
1-34	POLICE DEPARTMENT MONUMENTS	EACH	251	$36.00	$9,036.00	$36.00	$9,036.00	$30.00	$7,530.00
1-35	CABLE FENCE OBSTACLE	LF	1475	$4.48	$6,608.00	$5.00	$7,375.00	$4.80	$7,080.00
1-36	OBSTACLE COURSE BERMUDA SOD	AC	1.6	$12,500.00	$20,000.00	$15,700.00	$25,120.00	$21,600.00	$34,560.00
1-37	8" BASE ROCK INCLUDING REMOVAL OF 8" UNSUITABLE SOIL	SY	8200	$7.32	$60,024.00	$7.60	$62,320.00	$7.50	$61,500.00
1-38	6" BASE ROCK INCLUDING REMOVAL OF 6" UNSUITABLE SOIL	SY	5460	$5.58	$30,466.80	$5.70	$31,122.00	$5.60	$30,576.00
1-39	8" BASE ROCK	SY	8200	$6.33	$51,906.00	$6.15	$50,430.00	$6.00	$49,200.00
1-40	6" BASE ROCK	SY	5460	$4.84	$26,426.40	$4.65	$25,389.00	$4.60	$25,116.00
1-41	NO ITEM								
1-42	REMOVAL REPLACEMENT UNSUITABLE MATERIAL	CY	10000	$9.50	$95,000.00	$16.30	$163,000.00	$16.00	$160,000.00
1-43	TENSAR TRIAX GEO-GRID TX140	SY	27305	$1.70	$46,418.50	$2.50	$68,262.50	$2.40	$65,532.00
1-44	DISTRIB EXIST ROCK 3" W/WEED MAT	LS	1	$61,820.00	$61,820.00	$57,800.00	$57,800.00	$56,600.00	$56,600.00
1-45	CLEAN ROCK INFILL & DISTRIB	TON	200	$12.00	$2,400.00	$16.50	$3,300.00	$17.00	$3,400.00
1-46	30' TAPERED ALUM POLE W/APPURT	EACH	9	$1,480.00	$13,320.00	$1,880.00	$16,920.00	$2,115.00	$19,035.00
1-47	CONCRETE LIGHT POLE BASE W/APPURT	EACH	9	$1,012.50	$9,112.50	$1,100.00	$9,900.00	$828.00	$7,452.00
1-48	LED LIGHT FIXTURE AUTOBAHN SER ABT2 SINGLE W/WIRELESS CONTROLERS	EACH	4	$1,304.79	$5,219.16	$1,500.00	$6,000.00	$1,013.00	$4,052.00
1-49	LED LIGHT FIXTURE AUTOBAHN SER ABT2 DOUBLE W/WIRELESS CONTROLERS	EACH	5	$2,501.08	$12,505.40	$1,750.00	$8,750.00	$1,980.00	$9,900.00
1-50	POST HEAD PEDESTAL CONNECTION (200 AMP)	EACH	3	$1,328.67	$3,986.01	$1,380.00	$4,140.00	$1,110.00	$3,330.00
1-51	POST HEAD PEDESTAL CONNECTION (100 AMP) W/4-20A GFCI	EACH	1	$1,358.06	$1,358.06	$1,250.00	$1,250.00	$1,300.00	$1,300.00
1-52	3#8 (G) TYPE UF CABLE	LF	1595	$7.05	$11,244.75	$4.00	$6,380.00	$7.00	$11,165.00
1-53	3#1/0 & 1#6 (G) TYPE USE CABLE	LF	520	$15.57	$8,096.40	$10.20	$5,304.00	$20.00	$10,400.00
1-54	3#6 (G) TYPE UF CABLE	LF	150	$7.98	$1,197.00	$5.10	$765.00	$8.50	$1,275.00
1-55	ELECTRICAL PVC CONDUIT	LF	300	$11.00	$3,300.00	$4.00	$1,200.00	$10.30	$3,090.00
1-56	5/8" DIA COPPERWELD GRND ROD	LF	110	$23.00	$2,530.00	$4.00	$440.00	$8.00	$880.00
1-57	SEEDING	AC	1.4	$1,950.00	$2,730.00	$2,850.00	$3,990.00	$2,830.00	$3,962.00
1-58	TEMPORARY SEEDING	AC	1	$1,000.00	$1,000.00	$1,420.00	$1,420.00	$1,415.00	$1,415.00
1-59	CONSTRUCTION STAKING	LS	1	$6,400.00	$6,400.00	$10,000.00	$10,000.00	$5,500.00	$5,500.00
1-60	SWPPP DOCUMENTATION & MANAGEMENT	LS	1	$3,950.00	$3,950.00	$16,400.00	$16,400.00	$2,160.00	$2,160.00
		TOTAL (PART 1) =			**$1,954,650.98**		**$1,993,953.75**		**$1,949,386.00**
	Part 2 - DETENTION POND	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL ESTIMATED PRICE	UNIT PRICE	TOTAL ESTIMATED PRICE	UNIT PRICE	TOTAL ESTIMATED PRICE
2-1	MOBILIZATION	LS	1	$12,045.00	$12,045.00	$11,600.00	$11,600.00	$32,000.00	$32,000.00
2-2	REMOVAL OF FENCE (4')	LF	1110	$1.50	$1,665.00	$4.00	$4,440.00	$1.50	$1,665.00
2-3	REMOVE EXISTING PIPING & STRUCTURE	LS	1	$450.00	$450.00	$2,980.00	$2,980.00	$2,200.00	$2,200.00
2-4	STRAW WATTLES	LF	265	$2.00	$530.00	$4.00	$1,060.00	$3.80	$1,007.00
2-5	INLET PROTECTION	EACH	1	$20.00	$20.00	$220.00	$220.00	$220.00	$220.00
2-6	ROCK CHECK DAM	EACH	1	$450.00	$450.00	$550.00	$550.00	$550.00	$550.00
2-7	RECTANGLULAR NOTCH WEIR WALL	LS	1	$5,965.00	$5,965.00	$5,200.00	$5,200.00	$4,875.00	$4,875.00
2-8	3' WIDE CONCRETE LINED SWALE	LF	230	$24.50	$5,635.00	$20.50	$4,715.00	$32.50	$7,475.00
2-9	4' CHAIN LINK FENCE	LF	565	$11.68	$6,599.20	$11.00	$6,215.00	$11.50	$6,497.50
2-10	NO ITEM								
2-11	GRADING & SITE PREPATATION UNCLASSIFIED	LS	1	$29,255.00	$29,255.00	$32,000.00	$32,000.00	$32,000.00	$32,000.00
2-12	SEEDING	AC	3.6	$1,950.00	$7,020.00	$2,850.00	$10,260.00	$2,830.00	$10,188.00
2-13	TEMPORARY SEEDING	AC	1	$1,000.00	$1,000.00	$1,425.00	$1,425.00	$1,415.00	$1,415.00
2-14	RIP RAP PAD	SF	1100	$2.00	$2,200.00	$1.60	$1,760.00	$1.70	$1,870.00
2-15	SLOPE PROTECTION OUTFALL SCOURSTOP	SY	225	$60.00	$13,500.00	$53.00	$11,925.00	$14.50	$3,262.50
2-14	CONSTRUCTION STAKING	LS	1	$6,400.00	$6,400.00	$2,700.00	$2,700.00	$2,200.00	$2,200.00
		TOTAL (PART 2) =			**$92,734.20**		**$97,050.00**		**$107,425.00**
		TOTAL (PART 1 & 2) =			**$2,047,385.18**		**$2,091,003.75**		**$2,056,811.00**
	Part 3 - WOODEN OBSTACLES & PLATFORM	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL ESTIMATED PRICE	UNIT PRICE	TOTAL ESTIMATED PRICE	UNIT PRICE	TOTAL ESTIMATED PRICE
3-1	SWAT OBSTACLES PROPS	LS	1	$21,164.00	$21,164.00	32000	$32,000.00	22,500	$22,500.00
3-2	K-9 OBSTACLES PROPS	LS	1	$14,707.00	$14,707.00	13000	$13,000.00	16,100	$16,100.00
3-3	10x8 WOODEN OBSERVATION PLATFORM	LS	1	$2,959.00	$2,959.00	2200	$2,200.00	4,600	$4,600.00
		TOTAL (PART 3) =			**$38,830.00**		**$47,200.00**		**$43,200.00**
	7% ENGINEERING & PUBLICATION (NOT INCLUDED)				**$0.00**		**$0.00**		**$0.00**
					$2,086,215.18		**$2,138,203.75**		**$2,100,011.00**
	Yellow highlighted cells denote corrected math errors found in original Bid Forms								

PUBLIC SAFETY TRAINING FACILITY

FIRE AND POLICE DEPARTMENTS

NOT TO SCALE



CITY OF JOPLIN, MISSOURI

TRI-STATE ENGINEERING

Professional Engineers & Land Surveyors
702 South Main - Joplin, Missouri 64801
403 W. First St., Ste. 300 - Claremore, OK 74017
Mailing Address
P.O. Box 1867 - Joplin, Missouri 64802
Phone (417) 781-0643 - FAX (417) 781-4714
TOLL FREE 1-866-781-0643
www.tristate-engineering.com

Copyright, 2015, Tri-State Engineering, Inc.

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of April, 2015, by the parties identified above.

WITNESSETH: That whereas, Emery Sapp & Sons, Inc. (hereafter referred to as the Contractor) has become the selected bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

Public Safety Training Grounds

The City and Contractor agree to the following:

1. Contract Price, 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. The City shall issue a Notice to Proceed within thirty (30) days of this Agreement and Contractor shall complete all of the work for the project within One Hundred Eighty (180) days from the Notice to Proceed. The total contract price for this Project shall not exceed Two Million Eighty Six Thousand Two Hundred Fifteen and 18/100 DOLLARS ($2,086,215.18).

2. Prevailing Wages. 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.

3. 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 Department – 602 S. Main St., 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, 2014, 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 Five Hundred Thousand and no/100 Dollars ($2,500,000.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) 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 Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) 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 Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) 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.

4. 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 Two Million Eighty Six Thousand Fifteen and 18/100 DOLLARS ($2,086,015.18) (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.

5. Contractor's responsibility for subcontractors. 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. 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. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

6. 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.

7. 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 Five Hundred Dollars ($500.00) 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.

8. 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.

9. 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.

10. Termination for Convenience of City. The City shall have the right at any time by 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.

11. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices shall be provided by Contractor during construction.

12. 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.

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.

13. 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.

14. Payment. The City will pay the Contractor on a schedule that is proportionate to the progress made on the project, which shall constitute full and complete compensation for the Contractor's work provided hereunder. Such compensation will be paid in progress payments (less five percent (5%) 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.

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

a. This Contract
b. All Change Orders
c. Request For Proposal – Tri-State Engineering, Inc. Project Code / Number 14023
f. Contractor's Proposal
g. Addendum #1 for Contractor's Proposal 3-12-15
h. Addendum #2 for Contractor's Proposal 3-17-15
i. Drawings and Plans
j. Statement of Bidder's Qualifications
k. Acknowledgment
l. Bid Bond
m. Performance Bond
n. Payment and Material Bond
o. Instructions to Bidders
p. Non-collusion Affidavit
q. 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 scope of work under this Agreement involves the above-mentioned RFP.

16. Subsurface Conditions. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

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.

_____

Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____

Peter Edwards, City Attorney

CONTRACTOR:

By: _____

Printed Name: _____

Title: _____

CITY OF JOPLIN, MISSOURI

By: _____

Samuel L. Anselm, City Manager

COUNCIL BILL NO. 2015-604 ORDINANCE NO.

AN ORDINANCE approving a contract with Emery Sapp and Sons for the Public Safety Training Grounds project in the amount of Two Million, Eighty-Six Thousand, Two Hundred Fifteen and 18/100 dollars ($ 2,086,215.18) in the City of Joplin, Missouri; providing how the cost shall be made and levied and containing an emergency clause.

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

Section 1. That the contract be awarded to Emery Sapp and Sons for the Public Safety Training Grounds Project in the amount of Two-Million, Eighty-Six Thousand, Two Hundred Fifteen and 18/100 dollars ($2,086,215.18) in the City of Joplin, Missouri.

Section 2. That the City Manager is hereby authorized and directed to execute said Contract by and on behalf of the City of Joplin, Missouri.

Section 3. That this Ordinance, dealing generally with public safety and a current expenditure of the City of Joplin, is an emergency within the meaning of Section 2.12(1)(6)(3) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, shall be in full force and effect immediately from and after its adoption and approval. Specifically this ordinance deals with a construction project that is time sensitive and needs to be started in the optimal construction season.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2015, by a _____ vote.

_____
Michael Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

I hereby certify that a sufficient amount is available in the Fire Training center building acquisitions Fund Account No. 001-6275-510-8005, to pay the amounts called for on the basis of the lowest and best bid received by the Fire Department.

_____
Leslie Haase, Finance Director

City of Joplin City Council Agenda Item

Requested Council Meeting Date: April 20, 2015

ITEM: COUNCIL BILL

ORIGINATING DEPARTMENT: FIRE DEPARTMENT
ATTACHMENTS: Council Bill No. 2015-604 ,Bid Tabulation ,Contract Agreement, Site Plan

FIRE CHIEF JAMES FURGERSON:	**DATE:**
CITY MANAGER SAM ANSELM	**DATE:**
CITY ATTORNEY PETER EDWARDS:	**DATE:**
FINANCE DIRECTOR LESLIE HAASE	**DATE:**

BACKGROUND:
In 2006 the citizens of Joplin voted on and passed the Public Safety Sales Tax. One of the projects listed was a Public Safety Training Center. We have begun the process of designing and preparing to for construction of the training center. The Public Safety Tower construction has already begun and the next phase in the process is ready to begin. Construction of the training grounds.

DISCUSSION:
The training grounds will consist of all of the other essential props that we need for training. This will include an 18000 square foot driving pad that will be utilized by both the Police and Fire Departments. There will also be two prop areas set up for the Police a K-9 training area and a Swat obstacle course. Additionally there will be other training areas for Fire Department usage a special operations area which includes building collapse rescue training, trench collapse and other technical rescue training scenarios, Hazardous Material training area, and an area for the outdoor burn props.
On March 20, 2015 bids were opened for the construction of the training grounds including a detention pond. It was determined that the bid from Emery Sapp and Sons was the lowest and best bid and met the City's bid specifications.

RECOMMENDATION:
To not delay construction staff recommends approval of this Council Bill on an emergency basis.

AMENDMENT TO CONTSTRUCTION CONTRACT

THIS AGREEMENT made the _____ day of _____, 2015, between **Tri-State Engineering,** a Missouri corporation, with offices at 702 S. Main St., Joplin, Missouri (hereinafter called the "Contractor"), and **City of Joplin, Missouri,** a Missouri municipal corporation, whose address is 602 S. Main St. Joplin, Missouri (hereinafter called the "Owner").

WHEREAS, Contractor and Owner entered into a Construction Contract approved by City Council on February 3, 2014, a copy of which is attached hereto and incorporated herein by reference as Exhibit A;

WHEREAS, Contractor and Owner desire to amend the Contract because the original contract did not include construction management services, which is vital to this project due to the nature of work and types of soils that are located on the land.

That for and in consideration of the mutual covenants and promises between the parties hereto, the parties do hereby agree as follows, to-wit:

1. FOR VALUE RECEIVED, the City of Joplin and Contractor hereby amend their February 3, 2014 Contract in each and all of the following respects:

a. By contracting for engineering services to be performed by Contractor in exchange for Twelve Thousand Five Hundred and 00/100 Dollars ($12,500.00). Engineering services shall include but not be limited to preparation of plans for site lighting and electrical. Preparation of plans for obstacles. Redesign to reduce overall project costs. This shall include reduction of pad size and alternate soils stabilization. Preparation of record drawings based on contractor mark ups.

b. By contracting for construction phase services to be performed by Contractor in exchange for Sixty Thousand and 00/100 Dollars ($60,000.00). Construction phase services shall include but not be limited to the review of shop drawings, schedules, pay requests, and a Resident Project Representative. The parties anticipate six pay requests. Construction time for the project is estimated at 6 months. The parties estimate the RFR will spend 4 hours per day for 120 days during construction.

c. By contracting for geotechnical services to be performed by Contractor in exchange for Five Thousand and 00/100 Dollars ($5,000.00).

d. Construction testing services and fulltime construction observation shall be considered additional services.

2. The original bid and contract specifications remain the same. In all other respects, the parties affirm, ratify and readopt the February 3, 2014 Contract's original terms and provisions.

IN WITNESS WHEREOF, the parties have hereunto set their hands this _____ day of April, 2015.

OWNER:

City of Joplin, Missouri

_____ _____

Samuel L. Anselm, City Manager Date

CONTRACTOR:

Tri-State Engineering, Inc.

_____ _____

By: Clayton Cristy Date

COUNCIL BILL NO. 2015-605 ORDINANCE NO.

AN ORDINANCE approving a contract amendment with Tri-State Engineering for construction management services in the amount of Seventy-Seven Thousand and Five Hundred and 00/100 Dollars ($77,500) providing how the cost shall be made and levied and containing an emergency clause.

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

Section 1. That the contract be amended to Tri-State Engineering for construction management, design and geo-technical services in the amount of Seventy-Seven Thousand and Five Hundred and 00/100 Dollars ($77,500) in City of Joplin, Missouri.

Section 2. That the City Manager is hereby authorized and directed to execute said Contract by and on behalf of the City of Joplin, Missouri.

Section 3. That this Ordinance, dealing generally with public safety and a current expenditure of the City of Joplin, is an emergency within the meaning of Section 2.12(1)(6)(3) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, shall be in full force and effect immediately from and after its adoption and approval. Specifically this ordinance deals with a construction project that is time sensitive and needs to be started in the optimal construction season.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2015, by a _____ vote.

_____
Michael Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

I hereby certify that a sufficient amount is available in the Fire Training center building acquisitions Fund Account No. 001-6275-510-8005, to pay the amounts called for on the basis of the lowest and best bid received by the Fire Department.

_____
Leslie Haase, Finance Director

City of Joplin City Council Agenda Item

Requested Council Meeting Date: April 20, 2015

ITEM: COUNCIL BILL

ORIGINATING DEPARTMENT: FIRE DEPARTMENT
ATTACHMENTS: Council Bill No. 2015-605, Contract Agreement

FIRE CHIEF JAMES FURGERSON:	**DATE:**
CITY MANAGER SAM ANSELM	**DATE:**
CITY ATTORNEY PETER EDWARDS:	**DATE:**
FINANCE DIRECTOR LESLIE HAASE	**DATE:**

BACKGROUND:
In 2006 the citizens of Joplin voted on and passed the Public Safety Sales Tax. One of the projects listed was a Public Safety Training Center. We have begun the process of designing and preparing to for construction of the training center. The Public Safety Tower construction has already begun and the next phase in the process is ready to begin. Construction of the training grounds.

DISCUSSION:
On February 3, 2014 City Council approved Council Bill 2014-104 a contract for design and consulting services with Tri-State Engineering. This contract did not include construction management services which is vital to this project due to the nature of work and types of soils that are located on the land.

RECOMMENDATION:
It is recommended that an amendment be made to the contract not to exceed the amount of $77,500 for construction management services, engineering and geotechnical services that were not included in the first contract.

City of Joplin — City Council Agenda Item

REQUESTED COUNCIL MEETING DATE: APRIL 20, 2015

ITEM: COUNCIL BILL NO. 2015-507
ORIGINATING DEPARTMENT: FINANCE DEPARTMENT

Department Head: Leslie Haase	**Date:**
Parks Director: Chris Cotten	**Date:**
City Attorney: Peter Edwards	**Date:**
City Manager: Sam Anselm	**Date:**

INTRODUCTION:
This Council Bill increases various fees at Schifferdecker Golf Course as recommended by the Finance Committee.

DISCUSSION:
The Finance Committee has met over the last several months to evaluate the financial position of the Schifferdecker Golf Course and make possible recommendations to help improve the number of rounds at the course. Dr. Groesbeck, Finance Committee chair, reported the findings and recommendations of the golf course evaluation at the April 6, 2015 council meeting. The Committee had two immediate recommendations to help facilitate improvements at the course.

The first recommendation was to increase golf fees. The fees have not been increased since 2009. The Finance Committee reviewed the fees at other local courses and Schifferdecker prices are much lower than the surrounding courses. Therefore, the Committee recommended increasing green fees by $2.00 and increasing cart fees by $1.50. As a result other fees will need to be adjusted accordingly, such as the season pass. Please see the summary of fee changes for all of the proposed changes to the golf course fees. Additionally, the language tying the fee increase to the Consumer Price Index has been removed, as the fees for the golf course must be reflective of the cost to run the course.

The fee changes will be effective on June 1, 2015.

RECOMMENDATION:
City Staff recommends this Council Bill be approved on first reading.

CITY OF JOPLIN
GOLF COURSE FEE CHANGE SUMMARY
20-Apr-15

DESCRIPTION	CURRENT FEE	PROPOSED FEE	PROPOSED CHANGE	OTHER COMMENTS
Green Fees-Weekdays	11.50	13.50	2.00	
Green Fees-Weekends	14.50	16.50	2.00	
Green Fees-Seniors-Weekdays	7.75	9.75	2.00	
Green Fees-Seniors-Weekends	10.00	12.00	2.00	
Single Annual Pass	525.00	600.00	75.00	Removed option for addtl family member at reduced rate
Senior Annual Pass	425.00	500.00	75.00	Plus Weekend/Holiday Green Fee-$9.75
Single Annual Pass with Cart	1,050.00	1,225.00	175.00	Installment Payments-$1,337.00
Senior Annual Pass with Cart	850.00	1,025.00	175.00	Installment Payments-$1,138.00
Junior Annual Pass	-	90.00	90.00	Plus Weekend/Holiday Green Fee-$8.25
Family Annual Pass	-	900.00	900.00	
Family Annual Pass with 1 Cart	-	1,525.00	1,525.00	Installment Payments-$1,634.00; Second Cart for additional $575.00
Student Green Fees	6.25	8.25	2.00	
League Green Fees	7.75	9.75	2.00	
25-Play Pass	235.00	320.00	85.00	Removed option for 10-play pass
9-hole Twilight Green Fee-Weekdays	7.75	9.75	2.00	
9-hole Twilight Green Fee-Weekends	-	12.00	12.00	
Pull Cart Rental	2.50	2.50	-	
Power Cart Rental-18 Hole	10.50	12.00	1.50	
Power Cart Rental-9 Hole	5.25	6.75	1.50	

COUNCIL BILL NO. 2015-507 **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 to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the Finance Committee evaluated the financial position of the Schifferdecker Golf Course, and,

WHEREAS, the Finance Committee recommending increasing golf course fees, and,

WHEREAS, the City determined that the cost of these services exceed revenues, and,

WHEREAS, the Council of the City of Joplin desires to change certain fees and establish new fees to meet the reasonable expenditures of these functions.

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 to read as follows:

"Sec. 86-5. Fees at Schifferdecker Golf Course.

(a) Fees and charges at Schifferdecker Golf Course are as follows:

(1) *Green fees generally.* The green fees shall be $13.50 per player per 18 holes, except on week-ends and holidays, when the green fees shall be $16.50 per player per 18 holes.

(2) *Green fees for senior citizens.* The green fees for senior citizens shall be $9.75 per player per 18 holes, except on week-ends and holidays, when the green fees for senior citizens shall be $12.00 per player per 18 holes.

(3) *Season passes.*

a. The single annual pass fee shall be $600.00 per person per year.

b. Senior citizen single annual pass fee shall be $500.00 per person per year. Senior citizen passes shall be for weekdays only and a week-end fee or holiday fee with an annual pass shall be a green fee of $9.75.

c. A single annual pass with unlimited cart use fee shall be $1,225.00 per person per year, if paid in full. The fee shall be $1,337.00 per person per year, if paid in installments. The terms and conditions of installment

payments shall be set by the director of the parks and recreation department.

d. A senior citizen annual pass with unlimited cart use fee shall be $1,025.00 per person per year, if paid in full. The fee shall be $1,138.00 per person per year, if paid in installments. The terms and conditions of installment payments shall be set by the director of the parks and recreation department.

e. A student (also known as "junior" or "youth") annual pass fee shall be $90.00 per person per year. Student passes shall be for weekdays only and a week-end fee or holiday fee with an annual pass shall be a green fee of $8.25. Qualifications for participation shall be set by the director of the parks and recreation department.

f. A family annual pass (up to four individuals) fee shall be $900.00 per family per year. A family annual pass with one (1) unlimited cart use fee shall be $1,525.00, if paid in full. The fee shall be $1,634.00 per family per year, if paid in installments. The fee for an additional unlimited cart use shall be an additional $575.00 per person per year, if paid in full. The additional unlimited cart use shall be an additional $682.00 per person per year, if paid in installments. The terms and conditions of installment payments shall be set by the director of the parks and recreation department.

(4) *Green fees for students.* The green fees for qualified students (also known as "junior" or "youth") shall be $8.25. Qualifications for participation shall be set by the director of the parks and recreation department.

(5) *Green fees for leagues.* The green fees for league play shall be $9.75. To be eligible for league play, each league team must be sponsored by a company or not-for-profit organization chartered by the state, each league must consist of a minimum of ten players, and each league must provide a roster of all players, which shall be checked each week of play.

(6) *Summer season passes.* The summer season pass fee (25 play pass) shall be $320.00 per person. The pass may be used by such person to play 18 holes of golf twenty-five (25) times.

(7) *Nine-hole twilight green fee.* The nine-hole twilight green fee shall be $9.75 on weekdays and $12.00 on week-ends. The twilight time shall be set by the director of the parks and recreation department.

(8) *Pull cart rental.* The pull cart rental charge shall be $2.50 per day.

(9) *Power cart rental.* The power cart rental charge shall be $12.00 per 18 holes per seat. The power cart rental charge shall be $6.75 per 9 holes per seat.

(10) *Private powered golf carts.* No privately owned powered golf cart will be permitted for use at the Schifferdecker Municipal Golf Course. Except that any physically handicapped person may utilize a powered golf cart that has been modified or constructed so as to be accessible. The term "Physically Handicapped", as employed in this subsection shall include any of the disabilities as described in RSMo., 301.142.1 and 301.071, as may be amended from time to time.

(11) *High School annual fee.* The high school annual fee shall be $500.00 per school. Qualifications for participation shall be set by the director of the parks and recreation department.

(b) The director of parks and recreation may in his discretion temporarily reduce fees in an attempt to equalize the number of played rounds during the course of any given business day. Such "specials" shall be available to all persons seeking to utilize the course during the appropriate day and time.

(c) For purposes of this section "Family" is defined as a maximum of two adults and dependent children residing at one residence. "Dependent" has the same meaning as "dependent" under Federal Income Tax Law. A person shall not be considered a dependent under this section unless the person was claimed as a dependent on their Federal Income Tax Filing for the most recent tax reporting period.

(d) For purposes of this section, "Senior Citizen" shall mean any person permanently and totally disabled from employment at any age, or any person age 60 and above.

(e) For purposes of this section, "Student", "Junior", or "Youth" shall mean any person under the age of 18."

Section 2. That this ordinance shall become effective on June 1, 2015.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2015.

_____
Michael L. Seibert, Mayor

ATTEST:

_____

Barbara L Hogelin, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney